

LEGAL NOTICE NO.19/1995

REGULATIONS ON MINING OPERATIONS

PART I

GENERAL

1. Short Title

These Regulations may be cited as the "Mining Operations Regulations No.19/1995".

2. Definitions

In these Regulations, unless the context requires otherwise:

1. definitions provided in Article 2 of the Mining Proclamation No. 68/1995 shall apply.
2. "Proclamation" means the Mining Proclamation NO.68/1995.

PART II

LICENSES RELATED TO MINING OPERATIONS

CHAPTER I

APPLICATIONS FOR LICENSES

3. Application For a Prospecting License

An application for a prospecting license shall be submitted in the specified form and include the following particulars:

- 1) where the applicant is a natural person:
 - a) his full name, place and date of birth,
 - b) profession; and
 - c) place of residence and address.

- 2) where the applicant is a legal person:
 - a) its name, nationality, legal form, and capital;
 - b) address of its head office, name and address of its representative in Eritrea;
 - c) the following documents duly certified by the appropriate officer of such entity:
 - 1) copies of its memorandum and articles of association;
 - 2) copy of the latest annual report of the board of directors, if any;
 - 3) copies of the balance sheet, profit and loss statements and auditor's reports for the previous three years, if any;
 - 4) a list of the names of the board of directors, showing the address and nationality of each, if any; and any other person authorized to sign on behalf of the applicant in the context of mining operations and other activities relating to Eritrea;
 - 5) a plan and description of the proposed area of prospecting;
 - 6) any license, or other mining right the applicant currently

holds or has previously held in Eritrea;

- 7) description showing the applicant's financial situation, technical competence and experience;
- 8) the work programme and expenditure the applicant proposes to carry out and incur during the term of the license; and
- 9) such other information as the Licensing Authority may reasonably request.

4. Application for an Exploration License

An application for exploration license shall include the following particulars:

- 1) All information specified under Article 3 of these regulations;
- 2) The identity number of the applicant's prospecting license, if any, on which the application is based ; and
- 3) A report summarizing the geological information known to the applicant regarding the minerals and the area for which the license is requested.

5. Application for Mining License

- 1) An application for a mining license shall be submitted in the specified form and include the following particulars:

- a) all information specified under Article 3 of these Regulations;
- b) the identity of the applicant's exploration license, on which the application is based;
- c) the period for which the license is sought;
- d) details of the deposit, including proved, estimated and inferred reserves, and the physical and chemical, mineralogical and technical characteristics of the minerals;
- e) a description and plan of the proposed license area, at an appropriate scale, indicating the geographical coordinates of the turning points along its boundaries and the distance between them as defined by an official boundary survey, and showing all important landmarks, buildings, topographic and other physical features;
- f) proposed development and production programme and other information as reasonably required by the Licensing Authority.
- g) a feasibility study indicating estimates of sales revenues, capital and operating costs, depreciation and other deductions, estimated profits and cash flow;
- h) summary programme of employment and training;

- i) details of infrastructure requirements; and
 - j) environmental impact assessment report if requested by the Licensing Authority.
2. An application for an artisanal mining license shall be submitted in the specified form and include the following particulars:
- a) the applicant's full name, address, date and place of birth;
 - b) the minerals and the area for which the license is requested; and
 - c) such other information as the Licensing Authority may reasonably request.

6. Fees to accompany applications for Licenses

An application for a license under this part shall be accompanied by the specified Application fee and the specified rental for the first year of the license.

CHAPTER II

ISSUING OF LICENSE

7. Registration, Notice and Verification of Applications

- 1) Each application for a license, if complete and in the proper form, shall, in the order received, immediately be noted in the register maintained in the office of the Licensing Authority for such purpose, and each applicant

shall upon such registration be given a receipt indicating the date and number thereof.

- 2) Within 14 days following the registration of each application for prospecting, exploration and mining licenses, a notice thereof shall be published by the applicant in a newspaper which has wide circulation in Eritrea.
- 3) The applicant shall bear all cost necessary for such publication and shall lodge a copy of the advertisement with the Licensing Authority.
- 4) Within thirty days after publication of the notice as specified in sub-article 2 of this Article, the Licensing Authority shall verify all information submitted by the applicant.

8. Lodging Of Objections

- 1) During the thirty days period specified in Article 7(4) of these Regulations, any person may file at the office of the Licensing Authority a written objection to the grant of such license.
- 2) The Licensing Authority shall upon the expiry of the thirty days promptly hear and decide upon all objections forwarded to it under sub-article(1) of this Article.

9. Grant and Registration of License

- 1) If, upon the expiry of the thirty days period specified in Article 7(4) of these Regulations, no objection to the application has been filed at its office, the

Licensing Authority shall, following verification of all information submitted in connection with the application grant to the applicant the license for the area sought, or for that part of the area and the minerals which are not reserved or excluded in accordance with Article 6 of the Proclamation and Article 12 of these Regulations, provided, however, that no license shall be granted unless the applicant:

- a) has demonstrated to the Licensing Authority in the application that he has the necessary financial and technical resources to meet the obligations relating to the license requested; and
 - b) has proposed or agreed to a work programme and expenditure or development and production programme, as the case may be, costing not less than the prescribed minimum expenditure commitment and acceptable to the Licensing Authority.
- 2) Where an objection to the application has been filed pursuant to Article 8 of these Regulations, the granting of the license shall be deferred pending a decision by the Licensing Authority. If the decision of the Licensing Authority is against the submitted objection then a license shall be issued to the applicant subject to sub-article 1 of this Article.
- 3) If the Licensing Authority decides to approve the application for a license it shall enter such decision in a register kept for

that purpose, and notify the applicant in writing.

- 4) As specified under Article 43 (1) of the Proclamation the power to issue all types of mining licenses shall be vested in the Licensing Authority.

10. Rejection of License

- 1) If the Licensing Authority determines that the application or the information supplied in connection therewith is materially inadequate, it shall so notify the applicant, setting out the reasons for its decision.
- 2) The applicant shall be permitted to consult with the Licensing Authority in order to provide all evidence in support of his position, and be afforded a time not less than thirty days to overcome the objections of the Licensing Authority and shall be entitled to amend or complete his application, but the boundaries of the land applied for shall not be changed.
- 3) If, following such consultation and the expiry of such time, the Licensing Authority still believes that the application or the information supplied or the resources available to the applicant are materially insufficient to justify the grant of a license, it shall so notify the applicant.
- 4) In the event of an adverse decision the applicant shall be entitled to the recourse specified in Article 46(2) of these Regulations.

11. Shape of Licenses and Discovery Certificate Areas

- 1) The shape of an area for an exploration license shall be rectangular with the longer side not exceeding twice the length of the shorter side and its boundaries shall run north-south and east-west.
- 2) The shape of an area for a mining license including artisanal license shall be, as far as it is practical, rectangular with the longer side not exceeding twice the length of the shorter side and its boundaries shall be oriented at the applicant's discretion.
- 3) The shape of the area reserved under a Discovery Certificate shall be a square the boundaries of which shall run north-south and east-west with the discovery marker positioned in its centre, at the point where two diagonal lines drawn from opposite corners intersect.

12. Size of License and Discovery Certificate areas

- 1) The maximum area to be covered by a single license shall be:
 - a) 100 km² for a prospecting license
 - b) 50 km² for an exploration license;
 - c) 10 km² for a mining license;
 - d) 5,000 m² for an artisanal mining license;
 - e) 1 km² for the area reserved under a Discovery Certificate.

- 2) An artisanal mining licensee may not hold more than two licenses at any one time.
- 3) The Licensing Authority may by directive revise and fix the maximum and minimum sizes of the area to be covered by a license specified in this Article.

13. Excluded Areas

- 1) Unless the Licensing Authority decides otherwise, no license shall be issued for any area which is within 100 meters of a site of archaeological, cultural or religious importance or a public building, railway, highway, airport, dam, reservoir, pipeline, factory or other Government installation.
- 2) Unless the Licensing Authority decides otherwise, no person shall prospect on land which is within 100 meters of a municipal area, village community or cemetery.

14. Replacement and Issuance of Copies of Licenses

- 1) Subject to the specified fee a licensee may request from the Licensing Authority a copy of the license. Upon receiving such request, the Licensing Authority shall issue and deliver such certified copy to the licensee.
- 2) The licensee may apply to the Licensing Authority for the replacement of a license which has been lost or destroyed. Upon receiving such request, the Licensing Authority shall issue and deliver replacement of such license to the licensee.

CHAPTER III

Renewal, Transfer and Revocation of Licenses

15. Renewal of an Exploration License

- 1) An application for the renewal of an exploration license shall be made in the specified form ninety days before the end of its then present term, and shall include the following particulars:
 - a) any change in the information submitted in applying for the original license or a prior renewal thereof;
 - b) annual reports containing the information as specified by these Regulations;
 - c) details of the work programme and expenditure that the applicant proposes to carry out and incur during the renewal period;
 - d) part of the license area to be relinquished as indicated on the specified form in accordance with Article 11 of the Proclamation; and
 - e) such other information as the Licensing Authority may reasonably request.

- 2) Unless the Licensing Authority agrees otherwise, an area to be relinquished as stated in sub-article 1(d) of this Article shall be comprised as far as practical of multiples of one square kilometre but not less than one square metre so designed to maintain a rectangular shape for

the license area to be renewed. If the license area is 1 square kilometre or less then no relinquishment is required.

- 3) After verifying the documents attached with the application and upon payment of the prescribed renewal fees and rental by the applicant, the Licensing Authority shall renew the exploration license in accordance with Article 10(1) and (2) of the Proclamation.

16. Renewal of a Mining License

- 1) An application for the renewal of a mining license shall be made in the specified form one hundred eighty days prior to the expiry of the then-present term of the License; and shall include the following particulars:
 - a) any change in the information submitted in applying for the original license or a prior renewal thereof;
 - b) details, including a plan, indicating the remaining proved, estimated and inferred reserves of the deposit; and
 - c) such other information as the Licensing Authority may reasonably request.
- 2) After verifying the documents attached with the application and upon payment of the prescribed renewal fees and rentals by the applicant, the Licensing Authority shall as appropriate renew the license in accordance with Article 17 of the Proclamation.

17. Renewal of an Artisanal Mining License

- 1) An application for the renewal of an artisanal mining license shall be made in the specified form thirty days prior to the expiration of the then-present term of the license and shall include the following particulars:
 - a) any change in the information submitted in applying for the original license or a prior renewal thereof; and
 - b) such other information as the Licensing Authority may reasonably request.
- 2) After verifying the documents attached with the application and upon payment of the prescribed fees and rentals by the applicant, the Licensing Authority shall renew the license in accordance with Article 15(1) of the Proclamation.

18. Transfer, Assignment, Encumbrance and Inheritance

- 1) An application for the transfer or assignment of an exploration license, the right to obtain a mining license in accordance with Article 10(3) of the Proclamation as well as an application to transfer or assign a mining license in accordance with Article 16(2) of the Proclamation shall be in the specified form and include the following particulars:
 - a) with regard to the proposed transferee or assignee, all information required under Article 3 of these

- Regulations except (2)(c), 5, and 8;
- b) an undertaking by the proposed transferee or assignee to comply with all the terms and conditions of the license, including the applicable work programme and minimum expenditure condition or the development and production programme and any other undertakings of the licensee; and
 - c) all details of the contractual, economic and financial terms and conditions of the proposed transfer or assignment.
- 2) An application for the encumbrance of a mining license in accordance with Articles 16(2) of the Proclamation shall be in the specified form and include the following particulars:
- a) with regard to the proposed beneficiary of such encumbrance, all information required under Article 3 of these Regulations except (2)(c) 5, and 8;
 - b) the nature, terms and conditions of the security interest proposed to be granted; and
 - c) the condition under which the proposed security interest would be realized, including such safeguards as the Licensing Authority may require to assure the financial and technical qualifications of the eventual acquirer of the

license and his undertaking to respect the terms and conditions of the license, the development and production programme and any other undertaking of the licensee.

- 3) An application for the proposed transfer of a mining license by inheritance in accordance with Article 16(2) of the Proclamation shall be in the specified form and contain the following particulars:
 - a) the legal proceedings relating to the determination of the heirs of the licensee and, with regard to such heirs, all information required under Article 3 of these Regulations;
 - b) details of the applicant's financial situation, technical competence and experience; and
 - c) an undertaking by the heirs to comply with all the terms and conditions of the license, including the development and production programme and any other undertaking of the licensee.
- 4) In accordance with Article 14(3) of the Proclamation:
 - a) an application for transfer, assignment or encumbrance of an artisanal mining license shall be in the specified form and include all information with regards to the proposed transferee, assignee or beneficiary of such encumbrance as specified

under article 5(2) of these Regulations; and

- b) an application for proposed transfer of an artisanal mining license by inheritance shall contain the legal proceedings relating to the determination of the heirs and, with regard to such heirs, all information required under article 5(2) of these Regulations.

19. Revocation and Suspension

- 1) The Licensing Authority may, in accordance with Article 41 of these Regulations revoke or suspend any license as a result of infractions committed by the licensee.
- 2) In addition to the provision of sub-article 1 of this Article an artisanal mining license may be revoked pursuant to Article 15(2) of the Proclamation.

PART III

Discovery

20. Notice of Discovery

- 1) Any person who makes a discovery of minerals or a deposit in an area not the subject of a license or license application shall immediately place a marker at the location of the minerals discovered. The marker shall be of 1800 millimetres high and made of durable material such as iron pipe or star picket and shall bear the name of the discoverer and the

date of discovery by means of a legible note protected from the weather by a thick and durable container affixed to the marker.

- 2) Any person who makes a discovery of minerals or a deposit shall submit a notice of discovery to the Controller indicating the location and nature of such discovery, and submit samples of the minerals discovered.
- 3) The Licensing Authority may, where appropriate, cause the award of prizes to a person who filed a notice of discovery.
- 4) All notices required to be filed by this Article shall be in the form and manner prescribed by the Licensing Authority.

21. Verification and Certification

- 1) Upon being notified of the discovery, the Licensing Authority shall verify the nature of the minerals submitted and the location of the marker placed by the discoverer, and shall confirm that the area in question for one square kilometre centred on the marker has not been the subject of a previous discovery certificate issued for the discovery of the minerals claimed and is not subject to an existing license or application therefore and the area has not been reserved or excluded.
- 2) Where the discovery is verified and in accordance with Article 13 sub-articles (1) to (4) of the Proclamation and with sub-article (1) of this article the area is open for license application, the Licensing Authority shall issue a

Discovery Certificate in respect of land described in Articles 11 and 12 of these Regulations to the discoverer which is valid for twelve months from its date of issue.

22. Rights and Obligations of a holder of a Discovery Certificate

- 1) A person who holds a Discovery Certificate shall have the right to be granted an exploration license if, during the term of validity of such certificate, he files an application for such license which meets the requirements of the application, notably as regards the financial and technical capability to explore for the minerals discovered.
- 2) During the term of validity of the Discovery Certificate, the discoverer may prospect for the minerals or the deposit he has discovered, but he may not remove or dispose of such minerals.

PART IV

RIGHT AND OBLIGATIONS OF LICENSEES

CHAPTER I

RIGHTS

23. Infrastructure and Other Construction

- 1) All infrastructure and other facilities of the licensee shall conform to appropriate design and technical norms and be constructed, maintained and operated in a manner to assure their safe and efficient use, in

accordance with applicable directives.

2) If the licensee requires construction of infrastructure which is to be used by other persons for commercial purposes then as mutually agreed among the parties or as determined by the Licensing Authority any of the following alternative arrangements may apply:

- a) The original licensee funds, constructs and retains ownership of the infrastructure facility, operates and maintains it and provides services to the other users under license by the Government for a guarantee fee payable by the other users sufficient to service interest, depreciation and operating and maintenance costs, which are allocated by the Licensing Authority on the basis of capacity requirements and use.
- b) The original licensee and the other persons which will make commercial use of the infrastructure facilities share the cost of construction, operation and maintenance of the infrastructure on the basis of their capacity requirements and use, and hold an undivided share of ownership of the infrastructure asset in question under the terms of joint venture agreement for its specific establishment and use.

- c) The original licensee and all other potential users contribute their share of the cost of construction of such infra-structure to Government on the basis of their respective capacity requirements. Government will design, build, own, maintain and operate the facility and provide the services required in return for a user's fee which in aggregate should at a minimum cover the annual maintenance and operation costs of the facility.
- 3) The annual depreciation for infrastructure facilities shall be computed by dividing the amount of as yet undepreciated capital cost of such infrastructure by the number of years remaining of the term of the licensee's license or four years whichever the lesser and in particular:
- a) if option (a) in sub-article (2) of this article is adopted the infrastructure facility will be owned by the original licensee who shall account for the other parties' capital contributions, fees and charges received but who will have the benefit of deducting the total annual depreciation of the infrastructure facility from his gross income;
 - b) if option (b) in sub-article (2) of this article is adopted each joint venture participant shall capitalise the cost of his individual undivided share of ownership of the infrastructure asset

and shall deduct each year from his gross income depreciation proportional to his share of ownership as well as his share of maintenance and operating costs; and

- c) if option (c) in Sub-article (2) of this article is adopted the original licensee and other users shall capitalise and depreciate their respective capital contributions to Government for the construction of the infrastructure facility and expend annually the usage fees and charges levied by Government.

24. Disposal of Minerals Obtained During Prospecting and Exploration

- 1) If the holder of a prospecting or an exploration license desires to retain or dispose of any minerals obtained in the course of operations, he shall so apply to the Licensing Authority.
- 2) The Licensing Authority may authorize the removal of minerals from the license area, subject to such conditions as it may impose, and it may authorize the applicant to retain and dispose of the minerals in respect of which application is made on payment of the prescribed fees or royalties, if any.

25. Aerial Photographs and Data

- 1) If the licensee desires to take aerial photographs, he shall first obtain the written permission of

the Licensing Authority and other appropriate Government offices as indicated to him by the Licensing Authority.

- 2) The licensee shall promptly file with the Licensing Authority prints of all such photographs taken pursuant to sub-article (1) of this Article.
- 3) The public shall have access, to all available non-confidential maps and data in the office of the Licensing Authority.

CHAPTER II

OBLIGATIONS

26. Delimitation of Boundaries

- 1) Prior to applying for a mining license, the applicant shall delimit the area for which the application is sought. Delimitation shall be by markers placed at each turning point along the boundary of the area and along each straight segment at intervals of not less than 300 metres.
- 2) Markers placed at each turning point along a boundary shall be durable material preferably iron pipes or star pickets and project at least 1800 millimetres above the ground and be securely fixed into the ground. Markers along each segment of the boundary shall be of durable material preferably iron pipes or star pickets or metal and shall project at least one meter above the ground and be securely fixed into the ground.

- 3) To each turning point marker shall be fixed a sign indicating the name of the applicant and eventually, the registration number of his license.
- 4) In the event of a dispute the Licensing Authority may cause the delimitation of boundaries of an area subject to an application for a license or a license area to be examined and verified by an official designated for that purpose by the Licensing Authority and may also require that a Government surveyor confirm such boundary.
- 5) The applicant or the licensee, as the case may be, shall assist the Licensing Authority in such verification.
- 6) If the surveyor determines that the boundaries do not accurately reflect the area requested in an application or specified in the license, the description of such boundaries shall be adjusted accordingly to reflect the actual position of the boundary marker and the applicant or licensee, as the case may be, shall pay for the cost of the survey.
- 7) For the purpose of this Article an Artisanal Mining License should be regard as a mining license.

27. Work Programmes and Expenditure

- 1) The work programme and expenditure proposed by the applicant for an exploration license shall correspond to an appropriate level of operations, taking into account the area for which the application is applied, the type of minerals

and the potential nature of operations and eventual deposits which may be concerned, and meet minimum work and expenditure requirements.

- 2) If the work programme and expenditure proposed meet the specified requirements, as stated in sub-article 1 of this Article the Licensing Authority shall approve them. If the Licensing Authority believes that the work programme is technically inadequate it shall so notify the applicant, stating the reasons for its opinion to improve the work programme.
- 3) If the licensee fails in any year to fulfil the minimum work programme or expenditure obligation, an amount equal to such unfulfilled obligation should be immediately paid to the Government in order to satisfy the deficiency as specified by directive. The Licensing Authority may take such amount from any guarantee provided by the licensee.
- 4) If the licensee performs work or incurs expenditure in any year in excess of that for which he is obligated, such excess shall be credited towards expenditure obligations, for the next succeeding annual period, provided that at least a minimum agreed work programme and related expenditure is carried out in the succeeding year, if applicable.

28. Development and Production Programmes

- 1) The development and production programme proposed by the applicant for a mining license shall specify the manner in which the applicant proposes to equip and mine the deposit.
- 2) The programmes shall be consistent with the objectives specified in Article 24 of the Proclamation, unless a departure therefrom is justified and receives the prior written approval of the Licensing Authority, and shall provide for the development and production of minerals at the optimum rate consistent with the nature and characteristics of the deposit, projected market conditions and other economic and technical factors.
- 3) If the proposed development and production programme meets the requirements stated in sub-article 2 of this Article the Licensing Authority shall approve them. If the Licensing Authority believes that the programme is materially inadequate taking into account all relevant circumstances, it shall so notify the applicant, stating the reasons for its opinion to improve the proposed development and production programme.

29. Employment and Training

- 1) The licensee shall promote the employment of Eritrean nationals as specified in Article 25(1) of the Proclamation. If an Eritrean national cannot be found with qualifications and skills suitable to fill a position the licensee may employ a qualified foreign

national. The Licensing Authority shall assist the licensee in obtaining all necessary Government permissions for the entry and sojourn of foreign nationals and their dependents in Eritrea.

- 2) The level of employment and training shall be commensurate with the nature and extent of operations and shall not impair their efficient and economic conduct.
- 3) The holder of an exploration license shall submit annually to the Licensing Authority, within thirty days prior to the end of each calendar year, the programme for employment and training to be followed during the following year. Such programme shall not, in principle, be extensive, unless provided otherwise by agreement.
- 4) The holder of a mining license shall submit annually to the Licensing Authority, within sixty days prior to the end of each calendar year, the proposed programme for employment and training to be followed during the next year.
- 5) The Licensing Authority shall notify the licensee, within thirty days after the receipt of the proposed programme, if it believes the programme submitted to it pursuant to sub-article 4 of this Article is materially inadequate stating the reasons for its opinion to improve the programme.
- 6) All employment and training programmes submitted pursuant to this article shall be detailed by

category of employee; unskilled, skilled, clerical, technical and management.

30. Health, Safety and Environmental Protection

- 1) The licensee shall provide his agents and employees with appropriate work clothing and protective equipment and shall ensure that they are properly trained or otherwise qualified for the work.
- 2) The licensee shall also provide appropriate health and medical facilities, commensurate with the level and nature of operations, and he shall follow all necessary procedures for the safe and prudent transport, storage, handling and use of explosive and chemicals.
- 3) The licensee shall immediately notify the Licensing Authority of any act or occurrence which has resulted in loss of life or serious injury to any person or which may jeopardize any property, the environment or operations and shall immediately take such steps as are necessary to mitigate the impact of such situation.
- 4) Prior to expiration or termination of the license, the licensee shall fill, close, block or otherwise render safe all tunnels, pits and other installations of a potentially dangerous nature.
- 5) The holder of a mining license shall progressively restore or reclaim the land covered by the license and, if applicable, a lease so that, prior to

termination of the license, the area has been completely restored or reclaimed for beneficial future use, except if such progressive restoration or reclamation is not feasible as determined by the Licensing Authority in writing or the Licensing Authority approves otherwise.

- 6) The holder of an artisanal mining license shall take all environmental protection measures commensurate to his operations; in particular he shall fill pits and plant trees and shall not be allowed to use mercury or similar materials in his operation.

31. Books, Records and Reports

- 1) The licensee shall maintain in Eritrea during the term of the license:
 - a) records with regard to weekly changes pertaining to:
 - i) all operations;
 - ii) all employees (by category), labour conditions and accidents;
 - iii) inventories of all minerals produced, stored, treated, transported, exported and sold; and
 - iv) inventories of all equipment, machinery and other material physical assets.
 - b) duplicate and or residual or split samples of minerals taken from the license area

and copies of all assays, other analyses and technical and other reports relating to the minerals in the license area, except for duplicate samples collected during routine grade control operations in mining.

- 2) The holder of a prospecting license shall submit to the Licensing Authority annually within thirty days after the end of the year a report which documents all information as specified by directives.
- 3) An exploration licensee shall submit annually, within 30 days after the end of the year, a report which documents all information as specified in these Regulations.
- 4) The holder of a mining license shall submit to the Licensing Authority on a calendar-quarter basis, within thirty days after the end of the period to which it relates, a report which summarizes:
 - a) all operations, including the nature of geological work and the progress and results thereof, and the conditions relating to production of minerals and any change in the reserves and delineated resources of the deposit;
 - b) the total number of working days for each category of employee, as specified in Article 29 sub-article 6 of these Regulations, and labour conditions and accidents;

- c) an inventory of all minerals produced, stored, treated, transported, sold and exported (including f.o.b or other prices obtained) and destination and nationality of buyers for all exports; price received for all sales;
 - d) inventory of equipment, machinery or other material physical assets and any change therein; and
 - e) such other information as the Licensing Authority may reasonably request.
- 5) The licensee shall also prepare and submit to the Licensing Authority annually within thirty days after the end of the calendar year to which it relates, a report containing a summary of the same information as required under sub-article 3 of this Article.

32. Presentation of License

The licensee or his agent or employee shall produce the license or a copy thereof certified by the Licensing Authority whenever so required by an appropriate public officer, lawful occupant of the license area or the area covered by a lease or other interested person.

PART V

FEES, RENTALS, ROYALTIES AND OTHER PAYMENTS

33. License Fees

- 1) The license fees to be paid by an applicant for a license pursuant to Article 36 of the Proclamation shall be as follows:
 - a) Prospecting License.....Birr 500
 - b) Exploration License.....Birr 1500
 - c) Mining LeaseBirr 6000
 - d) Artisanal Mining License.....Birr 100
 - e) Discovery Certificate....Birr Nil

- 2) The renewal fee to be paid by an applicant for renewal of a license pursuant to Article 36 of the Proclamation shall be as follows:
 - a) Exploration License...Birr 1000
 - b) Mining License.....Birr 3000
 - c) Artisanal Mining License.....Birr 100

34. Rentals

The annual rentals to be paid by a licensee, pursuant to Article 37 (1) of the Proclamation, for each square kilometre of the license area or any part thereof shall be as follows:-

- 1) Prospecting license.....Birr 50
- 2) Exploration license.....Birr 200
- 3) Mining License.....Birr 600
- 4) Artisanal Mining License
 - a) Precious Minerals...Birr 100
 - b) Other Minerals.....Birr 50

35. Royalty

- 1) The royalty to be paid by a licensee pursuant to Article 34(1) of the Proclamation shall be as follows:-
 - a) for precious minerals.....5%
 - b) for metallic and non-metallic minerals, including construction minerals.....3.5%
 - c) for geothermal deposits & mineral water.....2%
- 2) Royalties payable under sub-article (1) of this Article shall be computed and levied ad valorem at the production site and shall be paid on a calendar-quarter basis within thirty days after the end of the period to which they relate.
- 3) Notwithstanding sub-article (1) of this Article, a lesser rate of royalty may be provided by agreement where it becomes necessary to encourage mining investments in areas given development priority.
- 4) The Licensing Authority may, in circumstances it deems appropriate, cause the reduction, suspension or waiver of the imposition of royalty by requesting Government to take such action.

36. Other Payments

- 1) Birr 10 shall be payable, per page, for registration of documents in accordance with Article 46 of the Proclamation.

- 2) Birr 5 shall be payable, per page, for copies of records of cases heard in accordance with Article 48 of the Proclamation.
- 3) Birr 10 shall be payable for services provided in accordance with Article 14 of these Regulations.

37. Penalties

Any amount payable in accordance with Article 34 and 35 of these Regulations, which is not paid when due may be subject to a fine of 1% for each month or part thereof that such amount remains unpaid, without prejudice to any other recourse that the Licensing Authority may have for late or non payment under the provision of part VI of these Regulations.

PART VI

INFRACTIONS AND SANCTIONS

38. Primary Infractions

- 1) Any person who:
 - a) without prejudice to sub-article (2) of Article 4 of the Proclamation undertakes mining operations without having obtained the appropriate license;
 - b) makes a false statement or fraudulent misrepresentation in connection with the application relating to a license or fails to give notice of a discovery pursuant to Article 12 of the Proclamation and Article 20(2) of these Regulations;
or

- 2) any Licensee who:
 - a) conducts mining operations in a reckless, grossly negligent or wilfully improper manner;
 - b) commits repeated violations of obligations relating to environment, health, safety of mining operations; or
 - c) fails repeatedly and materially to meet administrative and fiscal obligations;

shall be guilty of a primary infraction.

39. Secondary Infractions

A licensee who:

- 1) fails to maintain books and records or other documents or materials required or maintains books and records which are materially incorrect or incomplete, fails to file reports or other document or fails to give notices required;
- 2) conducts mining operations in a negligent manner or in a way which endangers the health or safety of any person, the environment or a deposit, fails to observe good mining practices generally, or fails to observe an obligation of a license;
- 3) fails to make any payment when due to the Government; or
- 4) fails to grant a duly authorized official of the Licensing Authority entry into the license area, the area covered by a lease

or access to any other site or premises of the mining operations or to his books, records, other documents or materials, or fails to carry out a lawful order or instruction of such official;

Shall be guilty of a secondary infraction.

40. Administration Infractions

Any licensee who:

- 1) fails to maintain books and records in a complete, accurate and current manner, excluding such deficiencies which are materially incorrect or incomplete;
- 2) fails in a timely manner to file all reports and other documents or to give notices required; or
- 3) fails to carry out mining operations in a proper and prudent manner or to observe regulations or directives, but which failure does not endanger the health or safety of any person, the environment or a deposit;

Shall be guilty of an administrative infraction.

41. Sanctions

- 1) The sanctions for an act or an omission which constitutes a primary infraction under Article 38 of these Regulations may include the immediate revocation of the license to which the infraction is related and fine not exceeding 5,000 birr, and if the person commits another act or omission which constitutes a

further such infraction, the amount of the fine shall be doubled.

- 2) If the licensee after being given notice of the infraction immediately takes remedial action to correct an action or omission which constitutes a secondary infraction under Article 39 of these Regulations, the applicable sanction shall be a fine not exceeding 2,000 Birr. If, however, the person concerned cannot or does not take remedial action, the amount of the fine shall be doubled. In addition, if the licensee does not take remedial action or if the infraction results in an imminent or continuing danger to the health and safety of any person, the environment or a deposit, the Licensing Authority may immediately order the licensee to suspend his mining operations pending correction of the infraction, and the license shall be suspended until such act, omission or condition is rectified.
- 3) If the licensee does not immediately take remedial action after being given notice of an act or omission which constitutes an administrative infraction under Article 40 of these Regulations or if the infraction is not capable of remedy, he shall be subject to a fine not exceeding 500 birr.
- 4) If any act or omission which constitutes a secondary or an administrative infraction is of a continuing or repeated nature, the Licensing Authority may deem it to constitute a primary or a secondary infraction, respectively,

and the licensee concerned shall be subject to the sanctions thus applicable.

- 5) Any person who violates the provisions of these Regulations other than those stated in this Article shall be subject to the penalties provided for under Article 50(5) of the Proclamation.

PART VII

MISCELLANEOUS

42. Forms to Be Used

The forms to be used for the purposes of the Proclamation and these Regulations shall be provided in the first schedule to these Regulations and shall be completed in accordance with the directions and instructions printed on them.

43. Dispute Settlement Procedures

- 1) The following procedures shall be applicable in hearing and deciding case falling under the jurisdiction of the Licensing Authority pursuant to Article 48(1) of the Proclamation:
 - a) The person complaining shall file with the Licensing Authority a complaint form as specified memorandum summarizing the dispute and supporting his allegations. The form shall state the nature of the complaint and the relief sought.
 - b) Upon receipt of the complaint form, the Licensing Authority shall give notice thereof to

the adverse party, forwarding a copy of the form received, and it shall indicate to both parties the time and place at which the dispute shall be heard.

- c) At the time and place designated by the Licensing Authority the parties shall attend and state their case before it and submit evidence in support thereof. The Licensing Authority shall take note of all evidence given. The Licensing Authority may adjourn the hearing to any other time and place and may at the original hearing or any adjournment thereof proceed in the absence of either party.
- d) The Licensing Authority may, at any time subsequent to the filing of a dispute and prior to its decision thereof, cause to be seized, retained and safeguarded any minerals or other property subject to the dispute or it may require a party to provide a guarantee for its value.
- e) The Licensing Authority shall inform all parties of its decision regarding the dispute and shall provide each party with a copy of the record of such proceedings.
- f) The Licensing Authority may transmit a copy of its decision and the record regarding the hearing related thereto to the court of competent jurisdiction over the subject matter of the

decision, and the court shall enforce the decision to the extent provided by law.

g) Fees and costs in connection with any such proceeding may be imposed upon the losing party.

h) The Civil Procedure Code of Eritrea regulating proceedings before a court of first instance in civil matters shall apply to proceedings before the Licensing Authority without prejudice to the provisions of this sub-article.

2) The Licensing Authority shall keep a record of all disputes, their proceedings and its decisions relating thereto.

44. Reduction or Extension of Time

Notwithstanding any provision of these Regulations which may specify a period of time within which an act is to be performed, the Licensing Authority may for good cause provide for a shorter or longer period, provided that such reduction or extension shall not jeopardize the rights of a licensee or endanger his ability to perform the duties and obligations pursuant to the license or under the proclamation.

45. Government Assistance to Licensees

The Licensing Authority may, where it deems appropriate provide support and assistance to holders of artisanal and mining licenses and the holders of Discovery Certificates in the following manner:

- 1) identify and delimit deposits and reserve the minerals and the areas concerned for operations to be undertaken by such licensees;
- 2) provide technical and administrative assistance, support and training;
- 3) assist in obtaining financial support for such operations;
- 4) assist in the voluntary formation and the functioning of mining cooperatives; and
- 5) advise on the treatment, transportation, storage and marketing of minerals produced by such licensees.

46. Powers and Duties of the Controller

- 1) The Controller shall have the primary responsibility with regard to the technical and administrative supervision of mining operation in accordance with directives issued by the Licensing Authority and such other duties as are specified under the Proclamation.
- 2) Without prejudice to delegations specially given to other officials of the Licensing Authority and the provision of sub-article 3 of this Article the Controller is hereby vested with all powers necessary to implement the provisions of these Regulations in accordance with directives issued by the Licensing Authority. However, any complaint against the decision of the Controller may be submitted to the Head of the Licensing Authority.

- 3) Except where the Controller or any other officer of the Licensing Authority has been specifically delegated, all disputes submitted in accordance with Article 42 of these Regulations shall be heard and decided upon by the Head of the Licensing Authority.

47. Effective Date

These Regulations shall enter into force on the date of their publication in the Gazette of Eritrean Laws.

**Done at Asmara, this 20th day of March, 1995.
Government of Eritrea.**