

PROCLAMATION NO. 68/1995 A PROCLAMATION TO PROMOTE THE DEVELOPMENT OF MINERAL RESOURCES.....1

PART I GENERAL.....1

1. Short Title 1
2. Definitions 1
3. Scope of Application 3

PART II MINING RIGHTS.....3

CHAPTER 1 GENERAL 3

4. Requirements of mining Rights 3
5. Eligibility for mining Rights 3
6. Reserved and Excluded Areas and Minerals 4
7. Government Mining Operations 4

CHAPTER 2 PRE-DEVELOPMENT RIGHTS 4

SECTION 1 PROSPECTING AND EXPLORATION 4

8. Prospecting License 4
9. Exploration License 4
10. Duration And Renewal 5
11. Relinquishment of Portion of License area 5

SECTION 2 DISCOVERY 7

12. Notification of Discoveries 7
13. Discovery system 7

CHAPTER 3 DEVELOPMENT RIGHTS..... 7

SECTION 1 ARTISANAL MINING..... 7

14. Artisanal Mining License 7
15. Duration and Renewal 8

SECTION 2 MINING 8

16. Mining License 8
17. Duration and Renewal 9

SECTION 3 MINERAL WATER, GEOTHERMAL DEPOSITS AND CONSTRUCTION MINERALS 9

18. Mineral Water and Geothermal Deposits 9
19. Construction Minerals 9

CHAPTER 4 RIGHTS AND OBLIGATIONS OF LICENSEE 10

20. Possession and Use of Land 10
21. Use of Construction Minerals, Water and Timber 10
22. Other Occupants 11
23. Infrastructure and Other Construction 11
24. Conduct of Mining operations 12
25. Employment, Training and Local Supply 13
26. Delimitation of Areas 13
27. Books, Records and Reports 13

CHAPTER 5 COMMON PROVISIONS FOR LICENSES..... 14

28.	Applications	14
29.	Surrender	14
30.	Boundaries	14
31.	Granting Licenses	14
32.	Title to Sale and Export of Minerals.....	14
33.	Liability on Surrender	15

PART III FINANCIAL REGIME15

34.	Royalty	15
35.	Taxes	15
36.	Fees	15
37.	Rentals.....	15
38.	Customs Duties and Taxes.....	16
39.	Exchange Control.....	16
40.	Other Incentives	17
41.	Participation	17
42.	Guarantee	17

PART IV ADMINISTRATION18

43.	Responsibility of the Licensing Authority.....	18
44.	Inspection of Mining Operations	18
45.	Registration and Representation of Licensees	19
46.	Registration of Licenses & Leases.....	19
47.	Confidentiality	19
48.	Settlement of Disputes	20
49.	Termination of Mining Rights	20
50.	Infractions and Sanctions.....	21

PART V MISCELLANEOUS21

51.	Existing Mining Right.....	21
52.	Inapplicable Laws	22
53.	Effective Date	22

PROCLAMATION NO.69/1995 PROCLAMATION TO PROVIDE FOR PAYMENT OF TAX ON INCOME FROM MINING OPERATIONS23

1.	Short Title	23
2.	Definitions	23
3.	Tax	24
4.	Determination of Taxable Income	24
5.	Determination of Gross Income.....	24
6.	Determination of Costs	24
7.	Revenue Expenditure.....	25

8.	Depreciation.....	25
9.	Reinvestment Deduction.....	25
10.	Permitted Losses.....	26
11.	Transfer of Interest.....	26
12.	Dividend Tax.....	26
13.	Taxes on Services, Leases and Licenses.....	26
14.	Application of other Laws.....	27
15.	Power to Issue Directives.....	27
16.	Effective Date.....	27

LEGAL NOTICE NO.19/1995 REGULATIONS ON MINING OPERATIONS28

PART I GENERAL.....28

1.	Short Title.....	28
2.	Definitions.....	28

PART II LICENSES RELATING TO MINING OPERATIONS.....28

CHAPTER I APPLICATIONS FOR LICENSES.....28

3.	Application For a Prospecting License.....	28
4.	Application for an Exploration License.....	29
5.	Application for Mining License.....	29
6.	Fees to accompany applications for Licenses.....	30

CHAPTER II ISSUING OF LICENSE.....31

7.	Registration, Notice and Verification of Applications.....	31
8.	Lodging of Objections.....	31
9.	Grant and Registration of License.....	31
10.	Rejection of License.....	32
11.	Shape of Licenses and Discovery Certificate Areas.....	32
12.	Size of License and Discovery Certificate areas.....	33
13.	Excluded Areas.....	33
14.	Replacement and Issuance of Copies of Licenses.....	33

CHAPTER III RENEWAL, TRANSFER AND REVOCATION OF LICENSES34

15.	Renewal of an Exploration License.....	34
16.	Renewal of a Mining License.....	34
17.	Renewal of an Artisanal Mining License.....	35
18.	Transfer., Assignment, Encumbrance and Inheritance.....	35
19.	Revocation and Suspension.....	37

PART III DISCOVERY37

20.	Notice of Discovery.....	37
21.	Verification and certification.....	37
22.	Rights and Obligations of a Holder of a Discovery Certificate.....	38

PART IV RIGHT AND OBLIGATIONS OF LICENSEES38

CHAPTER I RIGHTS38

23.	Infrastructure and Other Construction	38
24.	Disposal of Minerals obtained During Prospecting and Exploration	39
25.	Aerial Photographs and Data	40

CHAPTER II OBLIGATIONS.....40

26.	Delimitation of Boundaries	40
27.	Work Programmes and Expenditure	41
28.	Development and Production Programmes.....	41
29.	Employment and Training.....	42
30.	Health, Safety end Environmental Protection.....	42
31.	Books, Records and Reports	43
32.	Presentation of License	44

PART V FEES, RENTALS, ROYALTIES AND OTHER PAYMENTS44

33.	License Fees	44
34.	Rentals.....	45
35.	Royalty	45
36.	Other Payments	46
37.	Penalties	46

PART VI INFRACTIONS AND SANCTIONS.....46

38.	Primary Infractions.....	46
39.	Secondary Infractions	47
40.	Administration Infractions	47
41.	Sanctions	47

PART VII MISCELLANEOUS.....48

42.	Forms to Be Used.....	48
43.	Dispute Settlement Procedures	48
44.	Reduction or Extension of Time	49
45.	Government Assistance to Licensees.....	50
46.	Powers and Duties of the Controller.....	50
47.	Effective Date	50

PROCLAMATION No. 68/1995

A PROCLAMATION TO PROMOTE THE DEVELOPMENT OF MINERAL RESOURCES

WHEREAS, all mineral resources are public property which can make a significant contribution to the economic development of the country and that the state shall ensure the conservation and development of the resources for the benefit of the people;

WHEREAS, prospecting, exploration and exploitation of mineral resources should be carried out in accordance with appropriate technology and sound principles of resource management and to develop national expertise in the mining industry;

WHEREAS, recognizing the significant role of private investment in the capital formation, technology acquisition and marketing of minerals; and

WHEREAS, to achieve these ends it is essential to promulgate a new law on mining operations;

NOW, THEREFORE it is hereby proclaimed as follows:

PART I GENERAL

1. SHORT TITLE

This proclamation may be cited as the “Mining Proclamation No. 68/1995”

2. DEFINITIONS

In this Proclamation unless the context provides otherwise:

1. “**agreement**” means a contract between the Government and a licensee in order to prospect, explore and/or mine for minerals;
2. “**artisanal mining**” means, unless otherwise specified by directive issued by the Minister, non-mechanized mining operations of, an essentially manual nature carried out by Eritrean individuals or groups of such persons;
3. “**construction minerals**” means sand, gravel, stone (marble, granite, basalt etc) clay, including non-metallic minerals used for construction

purposes and such other minerals as the Minister may, by directive so designate;

4. “**controller**” means an officer authorized by the Licensing Authority to control Mining Operations;
5. “**deposit**” means any natural concentration of minerals found on or within a specified area of the earth's crust;
6. “**to explore**” means to undertake all acts to search for, appraise and evaluate a deposit, by using different methods of studies (geological, geochemical and geophysical) relating to surface and subsurface geology and structure, excavation, boring and drilling, analysis of the physical and chemical properties of minerals and examination of the economic feasibility of developing and exploiting a deposit;
7. “**Government**” means the Government of Eritrea;
8. “**License**” means a license issued pursuant to this Proclamation to prospect and explore or mine for minerals;
9. “**license area**” means any area which is the subject of a license;
10. “**licensing Authority**” means the Ministry of Energy, Mines and Water Resources;
11. “**to mine**” means to undertake all acts to develop, extract and remove minerals from a deposit, including their storage, treatment, processing (excluding smelting and refining), transportation and/or disposal;
12. “**mineral water**” means water containing minerals with healthful properties and water such as brines from which minerals may be extracted on an economic basis;
13. “**minerals**” means any naturally occurring mineral substance of potential economic value forming part of or found on or within the earth's crust, including salt, mineral water and geothermal deposits, but excluding petroleum, natural gas and oil shale as defined in Articles 5 and 7 of Proclamation No. 40/1993;
14. “**Minister**” and “**Ministry**” means the Minister and the Ministry of Energy, Mines and Water Resources;
15. “**mining operations**” means all acts carried out to prospect, explore and mine for minerals;
16. “**person**” means any natural or legal person;

17. “**precious minerals**” means precious metals such as platinum, gold and silver and precious stones such as diamonds, rubies, emeralds and sapphires and such other minerals as the Minister may, by directive so designate;
18. “**to prospect**” means to undertake on or above the surface of the earth all acts to search for mineral occurrences in order to ascertain the possible presence of minerals including the geological and structural characteristics of the land;
19. “**Regulations**” means the Mining Regulations No.19/1995.

3. SCOPE OF APPLICATION

This Proclamation shall apply to and govern the conduct of all mining operations and related activities within the territory of Eritrea.

PART II MINING RIGHTS

CHAPTER 1 GENERAL

4. REQUIREMENTS OF MINING RIGHTS

1. Without prejudice, to Article 21(1) and 22 of this proclamation and subject to sub-article 2 of this Article, no person may prospect, explore or mine unless he is the holder of a granted license.
2. Any Eritrean may prospect without a license provided the land is not the subject of an existing license or application thereof.

5. ELIGIBILITY FOR MINING RIGHTS

1. Without prejudice to sub-article 2 of this Article, any person, who satisfies the requirements of license set out in this Proclamation, Regulations, and Directives to be issued under this proclamation may acquire a license provided that he possesses the required financial resources, technical competence, professional skill and experience necessary to fulfil the obligations under the license.
2. No person is required to possess financial resources, technical competence, professional skill and experience in order to acquire an artisanal mining license.

3. No person whose license has been revoked except as provided for under Article 16(2) of this Proclamation may hold another license for 5 years following such revocation.

6. RESERVED AND EXCLUDED AREAS AND MINERALS

The Government may designate any area or mineral as reserved or excluded for particular mining operations and exclude any area from mining operations particularly as it regards sites of historical, cultural or religious interest and public buildings, infrastructure and other installations.

7. GOVERNMENT MINING OPERATIONS

The Government may undertake some mining operations that are vital for overall economic growth either by itself or in partnership with private investors.

CHAPTER 2 PRE-DEVELOPMENT RIGHTS

SECTION 1 PROSPECTING AND EXPLORATION

8. PROSPECTING LICENSE

1. A prospecting license grants an exclusive right to prospect for the minerals within the license area. Prospecting license may not be transferred, assigned, encumbered or inherited.
2. A prospecting license is valid for a period of one year and may not be renewed.
3. Upon his discovery of indications of minerals within the license area, the licensee shall have the right to be granted an exploration license, provided that,
 - a. he has fulfilled all obligations under the prospecting license;
 - b. meets all requirements in connection with the application for an exploration license; and
 - c. he is not in breach of any provisions of this Proclamation, Regulations or directives issued hereunder which constitute grounds for suspension or revocation of the prospecting license.

9. EXPLORATION LICENSE

1. An exploration license grants an exclusive right to explore for all minerals within the area specified in the license other than construction material, mineral water and geothermal deposits.
2. The license area shall, unless the Licensing Authority specifies otherwise, be of rectangular shape as specified in the regulations.
3. An exploration license, and the licensee's right to obtain a license pursuant to Article 10 sub-article 3 of this Proclamation may be transferred or assigned with the prior approval of the licensing Authority if it is satisfied that the incoming party has the financial and technical resources to meet the obligations of the license.

10. DURATION AND RENEWAL

1. An exploration license is valid for an initial period of three years and may be renewed twice for additional terms of one year each. The Licensing Authority may further allow extension of renewal periods where the licensee documents the necessity for additional advanced exploration activity or provides information on other circumstances which justify an extension of the duration of the license.
2. The licensee shall have the right to renew the license, provided he has fulfilled the obligations specified in the license, meets all requirements in connection with the application for the renewal and is not in breach of any provision of this Proclamation which constitutes grounds for suspension or revocation of the license.
3. The licensee shall have the right to be granted a mining license in the event that he determines a mineral deposit within the license area which may be mined on an economically viable basis, provided that, he:
 - a) has fulfilled all obligations under the exploration license;
 - b) meets all requirements in connection with the application for such a mining license; and
 - c) is not in breach of any provisions of this Proclamation, Regulation or directives issued hereunder which would constitute grounds for suspension or revocation of the exploration license.

11. RELINQUISHMENT OF PORTION OF LICENSE AREA

1. In applying for each renewal of an exploration license, the licensee shall indicate the portion of the license area, to be relinquished, which shall not be less than one quarter of the original license area unless the minimum size specified in the Regulations has been reached.

2. The form, orientation and other details regarding relinquishments shall be specified in the Regulations.

SECTION 2 DISCOVERY

12. NOTIFICATION OF DISCOVERIES

Any person who discovers indications or existence of minerals shall immediately notify the controller in writing the location and nature of such discovery as required by Article 20 of the Regulations.

13. DISCOVERY SYSTEM

1. Any person who, while prospecting on land that is not the subject of a license or of an application for a license, discovers indications of minerals or a deposit of minerals which had not been previously discovered, shall immediately mark the location of the discovery, and within 7 days notify the Controller about the discovery.
2. If the discovery is proven to the satisfaction of the Licensing Authority, then the discoverer shall have a preferential right to obtain an exploration license in respect of an area specified in the regulations with the discovery mark being at the point where two diagonal lines drawn from opposite corners of the license would intersect. The period during which such an application can be made shall be specified in a discovery certificate issued by the Licensing Authority and shall not exceed 12 months from the notification of the discovery.
3. Upon receipt of advice of a discovery, the Controller shall indicate on plans held at the Licensing Authority's office the extent of the discovery area which shall not include any ground already held under license or the subject of a prior license application.
4. The fees and expenditure obligations for an exploration license obtained as a result of an application by the holder of a discovery certificate shall be as specified in the Regulations.

CHAPTER 3 DEVELOPMENT RIGHTS

SECTION 1 ARTISANAL MINING

14. ARTISANAL MINING LICENSE

1. An artisanal mining license may be granted in respect to part of the surface area of an existing exploration license provided that:-

- a) the artisanal mining license is restricted to construction minerals to a depth of five metres and/or mineral water and geothermal deposits.
 - b) the Licensing Authority is satisfied that the activities of the artisanal miner will not interfere with the operations of the existing license.
2. An artisanal mining license may be granted for minerals other than construction minerals, mineral water and geothermal deposits if the land in question is not the subject of any existing license or prior license application provided that mining in the artisanal license is restricted to a depth of 5 metres.
 3. An artisanal mining license may be transferred, assigned, encumbered or inherited subject to the approval of the Licensing Authority.

15. DURATION AND RENEWAL

1. An artisanal mining license shall be valid for one year and may be renewed indefinitely for like periods.
2. The Licensing Authority may, after giving 90 days prior written notice, cancel an artisanal mining license where it is considered that the deposit requires more advanced exploration and mining method for the best development of its economic potential.
3. The Licensing Authority may at the request of the artisanal licensee, grant an exploration or mining license provided the artisanal licensee shows that he has the necessary technical and financial resources to engage in the advanced exploration and mining as prescribed by the Licensing Authority.
4. Where an artisanal license is revoked and the artisanal licensee is not granted an exploration or mining license over the area of the former, the Licensing Authority shall determine an appropriate amount of compensation which shall be promptly paid to the licensee for the loss he incurred due to the revocation of the license.

SECTION 2 MINING

16. MINING LICENSE

1. A mining license grants an exclusive right to mine for the specified minerals within the license area. The license shall cover the area reasonably necessary to carry out mining operations. The form and boundary of the area shall be as specified in the Regulations.
2. A mining license may be transferred, assigned or encumbered and inherited with the prior approval of the Licensing Authority.

3. Suspension of mining operations under the license for more than 180 days shall be grounds for revocation of a mining license.

17. DURATION AND RENEWAL

1. A mining license shall be valid for a maximum period of twenty years or the life of the deposit whichever is shorter. The license may be renewed subject to subarticle 2 of this Article for a maximum period of ten years for each renewal.
2. The licensee shall have the right to renew the license, provided he can demonstrate the continued economic viability of mining the deposit, has fulfilled the obligations specified in the license and is not in breach of any provision of this Proclamation, Regulations or Directives issued hereunder which constitutes grounds for suspension or revocation of the license.

SECTION 3 MINERAL WATER, GEOTHERMAL DEPOSITS AND CONSTRUCTION MINERALS

18. MINERAL WATER AND GEOTHERMAL DEPOSITS

1. A legitimate occupant of land may produce and use for non-commercial purpose, without charge and with prior notification to the Licensing Authority, mineral water from the area he occupies, provided that the area is not reserved or excluded pursuant to Article 6 of this Proclamation and, provided further, that he does not disturb or damage the adjacent occupants' land or property.
2. A mining license granted for the extraction of mineral water may specify the amount and rate of production, which shall generally be limited to that which permits the renewal of the water aquifer, and the horizon or depth from which the water may be extracted. A license for brines may specify conditions of production and of extraction and disposal of minerals produced and of the use and disposal of the water remaining.
3. A mining license granted for a geothermal deposit may limit the volume of water and the calorific content which may be extracted, it may also fix conditions on the extraction and disposal of by-products and on the production, use and reinjection of water in order to preserve the deposit.

19. CONSTRUCTION MINERALS.

1. A legitimate occupant of land, may produce and use for non commercial purpose, free of charge and without permission of the Licensing Authority, construction minerals from the area he occupies, provided that the area is not reserved or excluded pursuant to Article 6 of this Proclamation and, provided

further, that he does not disturb or damage the adjacent occupants' land or property.

2. Any person may produce and use for non-commercial purpose without charge and with prior permission of the Licensing Authority, construction minerals for the construction and maintenance of roads, dams, airports, schools, hospitals and other non-commercial public works.
3. The provisions of Articles 22 and 24 Sub Articles (3) and (4) of this Proclamation shall apply to the mining operation of construction minerals conducted pursuant to Sub Article (2) of this Article.

CHAPTER 4 RIGHTS AND OBLIGATIONS OF LICENSEE

20. POSSESSION AND USE OF LAND

1. The licensee may enter and occupy the land covered by the license during its term.
2. The licensee may use the land of the license area for activities in support of mining operations and may grow crops and graze livestock for consumption by himself, his agents and employees and their dependents.
3. The holder of a mining license may also request from the appropriate authority a lease for land outside of the license area which may be required in connection with mining operations. The terms and conditions of such lease shall be determined by the appropriate authority and its duration shall be the same as that of the license including any renewals thereof.

21. USE OF CONSTRUCTION MINERALS, WATER AND TIMBER

1. The licensee may remove and use construction minerals required for mining operations which are found within the license area or within the land covered by a lease, provided that no other license has been issued to another person for such minerals.
2. The licensee may use surface and subsurface water found in the license area and the area of a lease for consumption by himself, his agents, employees and their dependents. A licensee may also use surface water for mining operations, provided that such use does not result in a substantial reduction of the amount of water available to satisfy the need of other users or, unless authorized pursuant to directive, result in the pollution thereof. A licensee shall not construct a dam or divert any watercourse without the prior approval of the appropriate Government Authority.

3. The holder of an exploration or mining license may cut and use, from the license area and the area of lease, timber which is necessary for mining operations. The licensee shall comply with the applicable laws regarding the cutting of timber and reforestation and must submit a restoration plan as may be specified by directive.
4. The holder of a prospecting and artisanal mining license shall cut and use only such timber as is strictly necessary for access to the areas in which mining operations are carried out.

22. OTHER OCCUPANTS

1. The licensee shall take proper precaution not to interfere with other legitimate occupants of the license area, the land covered by a lease and adjacent land.
2. Notwithstanding the provision of sub-article 1 of this Article, if the licensee's mining operations require that the other occupant be displaced, the licensee shall attempt to negotiate the compensation payable to such occupants. If the occupants refuse to be displaced or to agree on the compensation, the Licensing Authority may cause the expropriation of immovable property, if any, and the eviction of such occupants from the area of the licenses mining operations.
3. A licensee shall, if he damages, injures or destroys any installations or other property of another legitimate occupant of the license area, the land covered by a lease or adjacent land, pay to the occupant compensation representing the value of such damage, destruction or injury as agreed by the parties or as assessed by the Licensing Authority.

23. INFRASTRUCTURE AND OTHER CONSTRUCTION

1. The holder of an exploration mining license may construct, operate and maintain within the license area and the area covered by a lease all infrastructure necessary for operations including facilities for roads, communications and power. The licensee may also, with the prior written approval of the Licensing Authority and in consultation with other authorities of the Government, construct such facilities outside of the areas covered by the license and a lease.
2. The licensee may use the existing infrastructure if its use by such licensee shall not impair the existing and approved use thereof by other persons.
3. The Licensing Authority may require the licensee to cooperate and contribute financially in the construction and maintenance of infrastructure to be used jointly with another licensee or other authorised persons within the areas covered by his license or lease if such joint use of the infrastructure is deemed to be to the economic benefit of all parties concerned. The allocation of the

costs of construction and maintenance of such infrastructure shall be determined by the Licensing Authority on the basis of proportional use.

4. The Licensing Authority may require the licensee to permit other persons to use infrastructure of the licensee, provided that such use does not impede mining operations.
5. The Licensing Authority may impose on such person stated under sub-article 4 hereof a fee payable to the licensee if the use of such infrastructure is for commercial purposes. The fee imposed shall be based on the extent of that person's use in proportion to the total use of such infrastructure by all other such persons and the licensee provided that the licensee shall have a preferential right to capacity utilisation of the infrastructure.
6. Notwithstanding sub-article 4 of this article in circumstances of national emergency, the Government may also require the licensee to permit another person or the Government to use temporarily the infrastructure of the licensee, subject only to the payment of compensation in the event of damage including loss of production thereto.
7. The licensee may construct within the area covered by the license or a lease all industrial, administrative, residential, medical and other buildings and facilities necessary for mining operations.
8. All constructions by the holder of a prospecting, an exploration or an artisanal mining license shall be of a temporary nature and shall be removed prior to the termination of the license or to the relinquishment of the area on which such construction is located unless otherwise required by the Licensing Authority.
9. Notwithstanding the provisions of Article 49(2) of this Proclamation, all constructions of a permanent nature built by a holder of a mining license may, upon the termination of the license, either be removed by the licensee or at the request of the Licensing Authority be abandoned and become the property of the Government free of charge.

24. CONDUCT OF MINING OPERATIONS

The licensee shall:

1. promptly commence and carry out mining operations in a prudent, diligent and efficient manner, in accordance with appropriate technology and good practices generally accepted in the international mining industry;
2. comply with all work programmes and expenditure obligations unless a departure therefrom is justified and receives the prior written approval of the Licensing Authority, and avoid the performance of work or the incurring of expenditure which is not required;

3. conduct mining operations in such a manner as to ensure the health and safety of his agents, employees and other persons, and to minimize damage or pollution to the environment; and
4. conduct mining operations in accordance with applicable regulations and directives.

25. EMPLOYMENT, TRAINING AND LOCAL SUPPLY

The licensee shall,

1. give preference to the employment of Eritrean nationals, provided that such persons have the required qualifications or skills;
2. give employees the training and education necessary to carry out mining operations effectively and efficiently and comply with appropriate training programmes;
3. give preference to domestic goods and services, where they are readily available at competitive prices and are of comparable quality.

26. DELIMITATION OF AREAS

The applicant for a mining license shall delimit by official survey the boundaries of the area for which the license is sought. The same obligation shall apply with regard to the application for a lease.

27. BOOKS, RECORDS AND REPORTS

The licensee shall:

1. maintain records of mining operations and submit reports and other documents periodically to the Licensing Authority, the form, content and manner of which shall be specified in the Regulations;
2. maintain all financial, accounting, employment, commercial and other books and records and comply with all other reporting and filing obligations under the appropriate laws;
3. make available all books and records for inspection by the Licensing Authority and other duly authorized officials.

CHAPTER 5

COMMON PROVISIONS FOR LICENSES

28. APPLICATIONS

An application for a license or for its amendment, renewal, transfer, assignment, encumbrance or inheritance shall be in the form and contain the information specified by Regulations and directives issued to implement this Proclamation.

29. SURRENDER

1. A licensee may, upon giving prior notice to the Licensing Authority, surrender all or any part of the license area, provided that the licensee has fulfilled all obligations under the license and is in compliance with the provisions of this Proclamation and the Regulations or directives issued thereunder.
2. Upon surrender of part or the whole of the license, the licensee shall vacate the surrendered portion of the license area.

30. BOUNDARIES

The license area shall comprise all of the land within its boundaries and all subsoil thereunder to an indefinite depth within the vertical planes passing through each boundary.

31. GRANTING LICENSES

1. An artisanal mining license may be granted over a license if the Licensing Authority considers that the activities of the artisanal miner will not unduly interfere with the licensee's operations.
2. A license may be granted over an artisanal mining license on the condition that the licensee shall make every reasonable endeavour not to interfere with the artisanal miner's operations.

32. TITLE TO SALE AND EXPORT OF MINERALS

1. The holder of a prospecting or an exploration license may remove, transport, analyze and, with the prior written consent of the Minister, export samples of minerals for testing, provided that a comparable sample is maintained in Eritrea. However, such minerals shall remain the property of the Government, and the licensee shall return such exported samples to Eritrea, unless otherwise authorized to dispose of them upon the prior written consent of the Minister.
2. The holder of an artisanal or mining license shall obtain title to the minerals specified in the license upon their extraction.

3. The holder of a mining license shall have the right to sell the minerals locally or export all minerals specified in the license.

33. LIABILITY ON SURRENDER

Any person who surrenders or relinquishes his license or lease shall not be released from the liability of performing the duties imposed upon him and due to be performed by him prior to the date of surrender or relinquishment of the license or lease.

PART III FINANCIAL REGIME

34. ROYALTY

1. The licensee shall pay royalty for all minerals produced.
2. The rates and manner of such payment, unless specified by agreement shall be as determined by Regulations issued hereunder. The Regulation may specify the conditions under which the rate and manner of royalty payment shall be determined by agreement.
3. The Licensing Authority may, in circumstances it deems appropriate, cause the reduction, suspension or waivers of the imposition of royalty by requesting the appropriate Government body.

35. TAXES

1. The licensee shall pay income tax in accordance with the Mining Tax Proclamation No.69/1995.
2. The compensation received, according to their contract of employment, by expatriate employees of the licensee or his contractor shall be subject to the payment of income tax at a flat rate of 20%.

36. FEES

The licensee shall pay filing fees in connection with the application for a license and for the renewal, transfer and other dealing thereof. The amount and manner of payment such fees shall be determined by Regulations issued hereunder.

37. RENTALS

1. The licensee shall pay annually in advance to the Licensing Authority rental based on the surface of the license area. Such rentals shall be specified by Regulations issued hereunder and may be adjusted; such adjustments shall only apply to licenses issued after the date of the adjustment.

2. The licensee shall also pay annually in advance to the appropriate authority a rental for the area covered by a lease. Such rental shall be fixed in the instrument granting the lease and shall remain fixed during its term, unless the instrument provides otherwise.

38. CUSTOMS DUTIES AND TAXES

1. The holder of a license and his contractor shall pay 0.5 percent duty on all imports into Eritrea of equipment, machinery, vehicles and spare parts (excluding sedan cars and their spare parts) necessary for mining operations.
2. All goods imported pursuant to, sub-article 1 of this Article may be re-exported, free of all export duties and taxes, but may subject to the provisions of Articles 23(9) and 49(2), be disposed of with payment of duty and tax thereon in accordance with the applicable laws.
3. The holder of a license is entitled to export, free of all duties and taxes, all minerals produced pursuant to his license.

39. EXCHANGE CONTROL

1. A holder of mining license producing exportable minerals may:
 - a) open and operate a foreign currency account in banks in Eritrea in accordance with the regulations of the Bank of Eritrea;
 - b) retain abroad in an external account a portion of his foreign currency earning as may be determined by directives to be issued by the Bank of Eritrea and pay from the retained earnings where foreign currency may not be readily available by the Bank of Eritrea for the following purposes;
 - 1) to import equipment necessary for the mining operations;
 - 2) for services, leases and licenses to be paid for in foreign currency in accordance with agreements entered into;
 - 3) for reimbursement of loans and debt services due legally to financial institutions outside Eritrea;
 - 4) for compensation payable to foreign employees who are not permanently resident in Eritrea, and
 - 5) for such other activities which contribute to the process and enhancement of the mining operations.

2. A holder of a mining license producing exportable minerals may make the following remittances out of Eritrea in the currency of investment or in an approved currency at the prevailing rate of exchange on the date of remittance:
 - a) profits and dividends accruing from mining investment;
 - b) principal and interest on a foreign loan;
 - c) fees, royalties or any other payments accruing pursuant to a technology or management agreement relating to the mining investment;
 - d) proceeds from any sales of assets including those derived upon the liquidation or winding up of the mining business of a foreign investor or enterprise voluntarily or due to bankruptcy; and
 - e) payment from the sale or transfer of shares of a mining investment or acquisition in part or in whole of a mining operation by a domestic investor.
3. Expatriates employed in a Mining operation may remit salaries and other payments accruing from their employment in accordance with the foreign exchange regulations of Eritrea

40. OTHER INCENTIVES

The rates of royalty and rentals to be determined under Articles 34 and 37(1) of this Proclamation shall be in such a manner as to encourage investment in minerals given priority of development and mineral development areas.

41. PARTICIPATION

Without prejudice to the provisions of Article 7 of this Proclamation, the Government may acquire without cost to it a participation interest of up to ten percent of any mining investment. Additional equity participation not exceeding a total of 30 per cent including the ten percent above may also be provided to Government by agreement which shall specify the percentage, timing, financing, resulting rights and obligations and other details of such participation.

42. GUARANTEE

The Licensing Authority may require the applicant for a license, or renewal or for the transfer, assignment or encumbrance of a license to provide a cash, bank or other guarantee to secure the applicant's obligations with regard to rehabilitation of the mining area progressively or at the end of mining operations. The conditions of such a guarantee shall be determined by directives to be issued by the Minister.

PART IV ADMINISTRATION

43. RESPONSIBILITY OF THE LICENSING AUTHORITY

1. All types of mining licenses shall be issued by the Licensing Authority.
2. The Licensing Authority has the power to:
 - a) issue, suspend or cancel a License pursuant to this Proclamation and Regulations and directives issued hereunder;
 - b) ensure that a licensee has the financial resources and technical competence necessary to fulfil the obligations under the license;
 - c) either by competitive bidding or direct negotiation, enter into agreements on behalf of the Government;
 - d) inspect and ensure that mining operations are carried out in accordance with this Proclamation, Regulations and directives issued hereunder and any agreement;
 - e) collect and audit royalties, rentals and other fees payable pursuant to this Proclamation;
 - f) require an applicant for a mining license to submit an environmental impact study before the granting of the license; and
 - g) without prejudice to prior commitment of the licensee, require that a licensee sell all or a portion of his minerals to the Government, to a legal person owned by it, or to another Eritrean person subject to the payment of the international market price prevailing at the time of the sales transaction.
3. The Minister may issue directives and prepare model contracts to serve as basis for the negotiation of agreements in order to give effect to the provisions of this Proclamation.

44. INSPECTION OF MINING OPERATIONS

An officer, duly authorized by the Licensing Authority may, at all reasonable times but so as not to unreasonably impede or obstruct the mining operations, enter, inspect and examine any place, works, machinery and equipment occupied or used in or in connection with mining operations.

45. REGISTRATION AND REPRESENTATION OF LICENSEES

1. Unless otherwise permitted or determined by the Ministry, the licensee shall be registered in the Registry of Trade with the appropriate authority and shall maintain an office in Eritrea during the entire term of the license.
2. The licensee shall not be required to obtain any other authorization or permission from any other Government office in order to produce, sell or export minerals covered by the license or to import any goods or to enter into contract for the acquisition of licenses of any intellectual property required for mining operations.
3. The provision of sub-article 2 of this Article shall not relieve the licensee from complying with other obligations of customs and bank formalities.
4. The licensee that is not a natural person shall also maintain, during the term of the license a representative who is authorized to act on its behalf and shall notify the Licensing Authority of the identity of such representative or any change thereof.

46. REGISTRATION OF LICENSES & LEASES

The Licensing Authority shall establish a Register in which shall be entered details of each license applied for and the subsequent grant/refusal of that license. license and any relevant conditions. Every instrument under which such license is transferred, assigned, relinquished, encumbered or otherwise dealt with shall be presented to the Licensing Authority for registration within 90 days after the date thereof (or within such further time as the Licensing Authority may allow) or it shall otherwise become null and void. The Licensing Authority shall record in the Register Summary details of every such instrument and also record any other action taken which affects the tenure or conditions of the license. The register shall be open for public inspection at all reasonable times.

47. CONFIDENTIALITY

1. Except as provided in Article 46 of this Proclamation all information submitted in applications reports and other filings pursuant to this Proclamation shall be kept confidential.
2. Notwithstanding the provision of sub-article 1 of this Article:
 - a) Government officials may request access on a confidential basis to such information for their Official duties, and in such capacity permit access to accountants professional consultants and legal counsel.
 - b) The Government may compile and distribute information, geographic or geological maps statistics and reports and other documents where

the identity of licensee is not disclosed or apparent and his interests are in no way adversely affected.

3. This confidentiality obligation shall end upon the termination of the license to which information relates or as such otherwise specified by agreement.

48. SETTLEMENT OF DISPUTES

1. The Licensing Authority may, in accordance with procedures to be laid down by regulations, examine and decide disputes between licensees, as well as between a licensee and a third party concerning rights arising from licenses. The Licensing Authority shall have the power to determine and enforce compensation to be paid by one party to the other.
2. A decision of the Licensing Authority made pursuant to sub-article 1 of this Article may be appealed to the court of competent jurisdiction; within 60 days in accordance with the provision of the Eritrean Civil Procedure Code.
3. The Licensing Authority shall have the power to administer oaths in any proceeding before it.
4. Any dispute, controversy or claim between the government and the licensee arising out of, or relating to the agreement or the interpretation, breach or termination thereof shall, to an extent possible, be resolved through negotiations.
5. In the event that agreement cannot be reached through negotiations, the case shall be settled by arbitration in accordance with the as laid down by the procedures the Licensing Authority or as specified in the agreement. An arbitral award shall be final and binding upon the Parties.

49. TERMINATION OF MINING RIGHTS

1. The licensee's right to conduct mining operations shall terminate if:
 - a) the licensee relinquishes the whole area or surrenders the license;
 - b) the license is revoked by the Ministry pursuant to the provisions of this Proclamation or Regulations issued pursuant to this Proclamation;
 - c) the license expires without being renewed; or
 - d) without prejudice to the right of heirs, the licensee dies or where the licensee is not a natural person, it is liquidated or declared bankrupt.
2. Upon the termination of a mining license, the Government may, unless an agreement specifies otherwise, acquire all of the immovable and movable property used in mining operations at a price equal to the then undepreciated

and unamortised value of such assets, as shown in the financial books of account of the licensee. If the Government does not exercise such right, within 90 days the licensee shall be free to dispose of such assets to another person in accordance with applicable laws.

3. The Government shall have the option to either take over at no cost to it any asset that may not have been disposed of by way of sale within a period of one year from the termination of the mining license or to require the licensee to remove such assets and rehabilitate the mining license area.
4. The holder of a license or a lease may be required, on surrender or revocation, to fence and safeguard to the satisfaction of the Licensing Authority, any pits and such other works in the license and/or lease area so that the health, life and property of persons may not be endangered.

50. INFRACTIONS AND SANCTIONS

1. If a licensee, or any other person fails to comply with the requirements of this Proclamation, Regulations or directive issued pursuant to this Proclamation or with the obligations the license applicable to such person, he shall be guilty of an infraction under this Proclamation.
2. An infraction may result in revocation or suspension of the license and/or in the imposition of a fine. The classification of infractions and the sanctions applicable to each category, in addition to those which may be applicable under the Penal Code of Eritrea shall be specified by Regulations.
3. Officials of the Licensing Authority or any other person shall report all infractions to the Controller. A report of any infractions shall include a statement of the facts and all available evidence in support of such statement.
4. The Controller shall immediately notify the licensee of the infraction reported, and the licensee shall take immediate remedial action, if such infraction is capable of remedy.
5. Any person who violates the provisions of this Proclamation or Regulations or directives issued hereunder is guilty of an offence and liable, upon conviction, to punishment under the provisions of the Penal Code.

PART V MISCELLANEOUS

51. EXISTING MINING RIGHT

1. All mining rights existing before entry into force of this Proclamation shall remain valid and shall be governed by the terms of their respective agreements,

provided, however, that if such terms are inconsistent with the provisions of this Proclamation, the Licensing Authority shall undertake negotiations with the holder of such right so that the terms of such right shall, in so far as practicable, be revised to conform to the provisions of this Proclamation.

2. Notwithstanding the provision of sub-article 1 of this Article, the holder of mining rights issued before entry into force of this Proclamation may be entitled to incentives under this Proclamation, provided, however, the holder of mining rights shall be willing to negotiate with the Licensing Authority regarding the agreement which is inconsistent with this Proclamation.

52. INAPPLICABLE LAWS

1. Unless otherwise provided by agreement, the provisions of the Civil Code of Eritrea regarding Administrative Contracts shall not be applicable to such agreements that may be concluded between the Government and the licensee.
2. Any law, Regulations, directives or practices which are inconsistent with this Proclamation shall not apply with respect to matters provided for in this Proclamations.

53. EFFECTIVE DATE

This Proclamation shall enter into force on the date of its publication in the Gazette of Eritrean Laws.

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

PROCLAMATION No.69/1995

PROCLAMATION TO PROVIDE FOR PAYMENT OF TAX ON INCOME FROM MINING OPERATIONS

WHEREAS, the payment of tax on income from mining operations calls for particular tax treatment,

NOW, THEREFORE it is hereby Proclaimed as follows:

1. SHORT TITLE

This Proclamation may be cited as the "**Mining Income Tax Proclamation No. 69/1995**".

2. DEFINITIONS

In this Proclamation unless the context requires otherwise:

1. all definitions set forth in Article 2 of the mining Proclamation No.68/1995 shall apply.
2. "**accounting year**" means the year ending on 31 December, according to the Gregorian Calendar.
3. "**affiliate**" means any person who directly or indirectly controls or is controlled by or under direct or indirect common control of another person, with "control" meaning the power to direct or administer the management and policies of such person, or the ownership of 50 per cent or more of the voting rights in such persons.
4. "**capital expenditure**" means expenditure, other than pre-production costs, incurred for operations, the useful life or the benefits of which extend beyond the accounting year in which the expenditure is incurred.
5. "**commencement of production**" means the commencement of regular production for commercial purposes from the license area of the licensee.
6. "**income**" means all revenue credited or received from mining operations within Eritrea, irrespective of where it is credited or received.
7. "**pre-production costs**" means all expenditure incurred before the date of commencement of production in establishing the mine and other facilities necessary to carry out mining operations.

8. **“revenue expenditure”** means an expenditure incurred for mining operations, other than capital expenditure and pre-production costs.

3. TAX

1. A holder of a mining license shall pay income tax on the taxable income at the rate of 38 percent.
2. Income tax shall be calculated for each accounting year and shall be paid within 90 days after the end of such year.
3. A holder of an artisanal mining license shall pay income tax on taxable income in accordance with directives issued by the Minister.

4. DETERMINATION OF TAXABLE INCOME

Taxable income shall be computed on a historical accrual accounting basis by subtracting from gross income for the accounting year in question all allowable revenue expenditure, depreciation, reinvestment deduction and permitted losses.

5. DETERMINATION OF GROSS INCOME

Gross income shall include all revenue actually received from mining operations, provided that such revenue resulted from a transaction with a person who was not an affiliate. If any revenue was received from an affiliate, the Licensing Authority may adjust such amount to reflect revenue that would have been received based on market prices for a similar transaction carried out at the time at arms-length or shall use such other provisions as may be determined by agreement.

6. DETERMINATION OF COSTS

1. All capital expenditure, pre-production costs and revenue expenditure shall be entered in the books of account of the licensee as the actual amount of such expenditure, provided that they arose as a result of a transaction with a person who was not an affiliate. If any expenditure was paid to an affiliate, the Licensing Authority may adjust such amount to reflect the proper expenditure that would have been paid at the time based on market prices for similar arms-length transactions or shall use such other provision as may be determined by agreement.
2. If the licensee has received a contribution to capital in the form of physical assets, services or expenditure, such contribution shall be valued at the market value of the assets or services on the date they were contributed.
3. The value of such assets and services and the amount of such expenditure contributed to capital shall be treated by the licensee as capital expenditure or pre-production costs, as the case may be, and shall be depreciated in accordance with Article 8 of this Proclamation.

7. REVENUE EXPENDITURE

Revenue expenditure shall be comprised of all costs and expenses incurred after the date of commencement of production which are not capital expenditure, and shall include the following:

1. cost of geological, geochemical and geophysical surveys and studies and related services carried out anywhere in Eritrea in the context of mineral exploration and mining operations in general;
2. cost of production, including extraction, storage, treatment, transport and sale of minerals;
3. cost of restoration of land within a license area and an area covered by a lease, including the cost of filling, closing or blocking or generally rendering safe all installations used in mining operations;
4. general administrative expenses and management and professional commissions and services, lease licensing and other fees incurred within and outside of Eritrea for mining operations, provided that the amounts expended were for services actually rendered or property actually provided and correspond to amounts normally paid by other persons in similar transactions;
5. interest payments on loans used exclusively to finance mining operations, excluding those to prospect and explore, provided that the interest rate is fixed on a reasonable commercial basis and reflects that which would normally be paid by another person with a similar credit rating and equity: debt ratio as the tax payer in question for similar financing and that the loan has been previously approved on this basis by the Licensing Authority;
6. all fees, rentals, royalties and other taxes paid to the Government, except taxes payable pursuant to this Proclamation.

8. DEPRECIATION

All capital expenditure and pre-production costs shall be depreciated. Depreciation of such expenditure and costs for any accounting year shall commence when the related assets are installed and ready for use and shall be calculated on a historical cost basis using the straight-line method over a useful life of four consecutive years with no residual value left at the end of the fourth year.

9. REINVESTMENT DEDUCTION

1. The licensee shall be entitled to deduct from his taxable income for each accounting year an amount equal to five percent of gross income. This amount is to be reinvested in other mining operations, or in other investments within Eritrea approved by the Licensing Authority.

2. If any part of such amount is not reinvested by the licensee by the end of the second accounting year following that in which it was deducted, it shall be included in the gross income of that second accounting year.

10. PERMITTED LOSSES

1. Any financial, loss, resulting from the mining operations of a licensee in an accounting year may be carried forward and deducted from gross income in the ten accounting years which follow the year in which the loss is incurred.
2. The amount of any loss or damage to physical assets or other liability, except fines and penalties, which is not covered by insurance may be deducted from gross income in the accounting year in which such loss or damage occurred or became known or such liability was paid.

11. TRANSFER OF INTEREST

1. If any licensee transfers or assigns wholly or partially any interest in a license, the consideration he receives for such transfer or assignment shall be taxable income to the extent that such consideration exceeds the amount of his unrecovered expenditure in that part of the interest transferred, regardless of whether recovery has been through dividends received or through deduction of revenue expenditure, depreciation, reinvestment deduction or permitted losses, as the case may be.
2. If a person acquires wholly or partially any interest in a license the consideration he pays with such acquisition shall represent his cost and shall, to the extent that it represents the transferor or assignor licensee's unrecovered expenditure, be treated as capital expenditure to be depreciated in accordance with Article 8 of this Proclamation.

12. DIVIDEND TAX

There shall be no tax on dividends declared and distributed from taxable income after deduction of income tax.

13. TAXES ON SERVICES, LEASES AND LICENSES

1. The licensee who contracts for services, the lease of movables or the licensing of intellectual property from a person who is not a resident of Eritrea or who is temporarily present in Eritrea shall pay the taxes on behalf of such person. Such taxes shall be paid quarterly, within 20 days after the end of the period to which the payment relates.

2. Expenditure paid under sub-article 1 of this article shall be at the rate of 10% (ten percent) on the amount paid, less all charges for mobilization and demobilization.
3. For the purpose of this article, a person is temporarily present in Eritrea if he performs work in the country for more than 183 days in any accounting year.

14. APPLICATION OF OTHER LAWS

The tax laws presently in force in Eritrea shall not apply to matters provided for in this Proclamation.

15. POWER TO ISSUE DIRECTIVES

The Minister of Finance in consultation with the Minister of Energy, Mines and Water Resources shall have the power to issue directives necessary for the effective implementation of this Proclamation.

16. EFFECTIVE DATE

This Proclamation shall enter into force on the date of its publication in the Gazette of Eritrean Laws.

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

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 RELATING 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 licence.
- 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 subarticle 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 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.

b)	Exploration License	Birr	1500
c)	Mining Lease	Birr	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)	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 nonmetallic 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 subarticle (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.**