

## **Import and export activities of rough diamonds within the scope of Kimberley Process Certification System (KPCS) | Law n.º 5/2015, of 15 January**

### **1 - What is the Kimberley Process Certification System (KPCS)?**

The Kimberley Process Certification Scheme (KPCS) is a set of minimum requirements that rules international trade of rough diamonds between the members of the Kimberley Process (also known as participants).

For further information, visit:

<http://www.kimberleyprocess.com/>

[http://eeas.europa.eu/blood\\_diamonds/index\\_en.htm](http://eeas.europa.eu/blood_diamonds/index_en.htm)

### **2 - What are conflict diamonds?**

Conflict diamonds are rough diamonds that are introduced in international trade in order to obtain money to finance armed conflicts and civil wars.

### **3 - What does Kimberley Act no. 5/2015 of January 15 stipulate?**

Kimberley Act no. 5/2015 of January 15 lays down the legal formalities that comply with EC Regulation no. 2368/2002 of 20 December 2002, regulating the access and exercise of the import and export activities of rough diamonds and the expert-classifier-evaluator of rough diamonds.

### **4 - What do I need to become a diamond trader in Portugal?**

The exercise of import and export activities of rough diamonds requires the issuance of license and compliance with suitability requirements.

### **5 - How do I obtain a trading license?**

The application for the issuance of a license to carry out import and export activities of rough diamonds is addressed to the Directorate-General for Economic Activities (DGAE), in an electronic form, available online at the Single Point of Contact at *gov.pt*. To complete the application, the applicant is required to provide the following information:

- Identification of the holder (name / firm or company name, nationality or mention of resident status);
- Indication of the tax domicile (natural person) or address of the head office (legal person);
- Declaration of beginning of activity (natural person), code of permanent certificate (legal person);
- Certificate of criminal record of the holder (natural person);

- Criminal record certificate for each of the administrators, directors or managers (legal person);
- Written declaration, under honor, that the suitability requirements are met (for a natural person or for each of the directors, officers or managers, if a legal person).

#### **6 - Where can I submit the register form in case the Single Point of Contact is out of order?**

The application for the issuance of a license for the exercise of import and export activities of rough diamonds is addressed to the Directorate-General for Economic Activities, through the electronic address, [autorizacoes.dcsr@dgae.gov.pt](mailto:autorizacoes.dcsr@dgae.gov.pt) accompanied by the same elements described above, in 5.

#### **7 - What are the suitability requirements to become a diamond trader in Portugal?**

In order to become a licensed diamond trader, the applicant must provide evidence that (company's director(s) or sole trader) have not been convicted of the misdemeanour and/or crimes described below:

- conviction for felonious Bankruptcy,
- crimes against property,
- drug trafficking,
- money laundering,
- corruption,
- forgery,
- bribery and influence peddling,
- customs crimes as described in Chapter III Section II of the Customs Act no. 15/2001 of June 5.

In case there was a conviction for the misdemeanour and/or crimes described above, the company's director(s) or sole trader, must provide evidence that a five-year period has elapsed over the misdemeanour and/or that the crime conviction has been expunged.

#### **8 - How long does it take for the license to be issued?**

Five working days.

#### **9 - What information the licensed diamond trader is obliged to report to the Register Office?**

The licensed diamond trader must report to the Directorate-General for Economic Activities, within 30 days:

- Change of administrators, directors or managers, which must be instructed with the respective criminal record certificates;
- the appointment or replacement of Director(s),
- the change of business name, constitutional documents and fiscal domicile,

- the cessation of business activity.

The information must be provided through the Single Point of Contact or, if this is not available, by e-mail to the following address: [autorizacoes.dcsr@dgae.gov.pt](mailto:autorizacoes.dcsr@dgae.gov.pt)

#### **10 - What fees can the diamond trader be obliged to pay?**

- The license to operate as a diamond trader is free of charge.
- To issue a KPCS certificate Tax and Customs Authority will charge the amount of which is fixed by order of the member of the government responsible for the area of finance.

#### **11 -When does the expert-classifier-evaluator intervene?**

The expert-classifier-evaluator intervenes in the diamond import and export procedures, when the customs verification is carried out.

#### **12 - For how long it is required to keep certificate copies and clients' records?**

Five years.

#### **13 - What are the fines or penalties for diamond trading in Portugal?**

- the absence of a license is an administrative infraction punishable in the amount ranging from €5,000 to € 25,000, if the diamond trader is a sole trader or from €10,000 to €100, 000, if the diamond trader is a company,
- the license is automatically revoked whenever the suitability requirements are not fulfilled and constitutes an administrative infraction punishable in the amount ranging from €2,500 to € 12,500, if the diamond trader is a sole trader or from € 7,500 to €75,000, if the diamond trader is a company,
- Diamond smuggling constitutes an administrative infraction if the tax credit does not exceed the amount of €15,000 or the crime proceeds do not exceed the amount of €50 000,
- Diamond smuggling is a crime punishable between 3 and 8 years in prison.

#### **14 -What obligations do licensed entrepreneurs have?**

Concerning general and specific duties to prevent and combat money laundering and terrorist financing, the duties, among others, of control and training, which require the possession of, respectively, a prevention manual suitable for the activity and a certificate proving attendance of a certified training action, information that can be found in Regulation No. 1191/2022, of 26 December.