

Proclamation No.651 /2009

**A PROCLAMATION TO PROMOTE AND REGULATE  
TRANSACTIONS OF PRECIOUS MINERALS**

WHEREAS the promotion and regulation of transactions of precious minerals require a separate legal frame work;

NOW, THEREFORE, in accordance with Article 55(1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

**PART ONE**

**GENERAL**

**1. Short Title**

This Proclamation may be cited as the “Transaction of Precious Minerals Proclamation No. 651 /2009”.

**2. Definitions**

In this Proclamation unless the context requires otherwise:

- 1/ “precious minerals” means metals such as gold, platinum and silver and precious and semi-precious stones (gem stones) such as diamond, rubies, emeralds, sapphires, opal, and includes other minerals as the Ministry may, by directives, so designate;
- 2/ “transaction” means any activity related to the purchase, custody, transport, crafting, refining, sale or export of precious minerals or products of precious minerals for commercial purposes;
- 3/ “crafting” means the processing of precious minerals into finished products by means of smithery or lapidary;
- 4/ “smithery” means smelting, molding and other similar activities of metallic precious minerals to the end product for the use of customers;
- 5/ “lapidary” means the cutting, moulding, polishing and any other similar activities carried out on precious stones to shape them to be ready for use;
- 6/ “refining” means the process of taking out of impurities or separation of different associated metals from any metallic precious minerals to increase their carat amount or purity;
- 7/ “personal use” means the custody, transport, export or import of precious minerals by individuals for non commercial purposes which are in their final shape ready for ornamental purposes which may not exceed:
  - a) 100 grams for gold and other precious metals;

- b) 30 grams for precious stones;
- c) 100 grams for semi precious stones;
- 8/ “license” means any precious minerals transaction license issued pursuant to the provisions of this Proclamation.
- 9/ “licensing authority” means the appropriate regional organ with respect to the licenses referred to in sub-articles (1) of Article 5 of this Proclamation and the Ministry with respect to the licenses referred to in sub-articles (2) & (3) of the same Article;
- 10/ “Ministry” means the Ministry of Mines and Energy;
- 11/ “region” means any Regional State referred to in Article 47 of the Constitution of the Federal Democratic Republic of Ethiopia and includes the Addis Ababa and Dire Dawa city administrations;
- 12/ “Bank” means the National Bank of Ethiopia;
- 13/ “budget year” means the budget year commencing from July 1<sup>st</sup> and ending June 30<sup>t</sup> according to the Ethiopian Calendar;
- 14/ “person” means any natural or juridical person;
- 15/ any expression in the masculine gender includes the feminine.
- 16/ “Certificate of Competence” means a permit issued by the Ministry of Mines and Energy to prove the capability of an applicant for Precious Mineral Trade or Export License

**3. Scope of Application**

1. This Proclamation shall apply to govern the conduct of all transactions of Precious Minerals within the territory of Ethiopia.
2. Any person who has been issued a license in accordance with the appropriate mining laws is not required to have a Certificate of Competence or License issued pursuant to this proclamation in order to sell locally or export abroad the precious minerals it produces

**PART TWO**  
**PRECIOUS MINERALS TRANSACTION LICENSES AND CERTIFICATE OF**  
**COMPETENCES**

**4. Requirement of License and Certificate of competence**

No person shall carry out the transaction of precious minerals unless he is registered in the appropriate government office and is a holder of an appropriate and valid license or Certificate of Competence as appropriate.

**5. Types of Licenses**

The following licenses may be issued pursuant to this Proclamation:

- 1/ precious minerals brokerage license;
- 2/ precious minerals crafting license;
- 3/ precious minerals refining license;

**6. Types of Certificate of Competence**

The following Certificate of Competence may be issued pursuant to this Proclamation;

1. Precious Mineral Trade Certificate of competence
2. Precious Mineral Export Certificate of Competence

**7. Precious Minerals Brokerage License**

A precious minerals brokerage license grants to the holder of the license the right to purchase, hold for sale purposes, transport and forthwith sale precious minerals locally.

**8. Precious Minerals Crafting License**

A precious minerals crafting license grants to the holder of the license the right to purchase, hold and transport precious minerals in an amount to be specified by directives of the Bank, carry out smithery or lapidary and sale its product locally or abroad pursuant to the directives of the Bank. The holder of such License may engage in purchase or maintenance of used or broken or damaged jewelleryes and report periodically every month about its activities.

9. **Precious Minerals Refining License**

A precious minerals refining license grants the license holder the right to engage in refining precious metallic minerals produced locally or imported.

10. **Precious Mineral Trade Certificate of Competence**

A holder of the Precious Mineral Trade Certificate of Competence upon acquiring the Proper Trade License from the Appropriate Government body grants to the holder of the License the right to Purchase in bulk and retail sale of finished Precious Minerals locally.

11. **Precious Mineral Export Certificate of Competence**

A Precious Mineral Export Certificate of Competence upon acquiring the Trade License from the Appropriate Government body grants to the holder of the Certificate the right to purchase, custody, and Export the following precious minerals pursuant to the directives of the Bank

a/ gold and silver which are in their final shape

b/ other precious minerals other than gold and silver in raw, semi processed or in their final shape

12. **Eligibility for Licesne and Certificate of Competence**

1/ Any person who qualifies to carry out trade in accordance with the Commercial Code of Ethiopia or a cooperative society established in accordance with the appropriate law and satisfies the requirements of license or Certificate of Competence set out in this Proclamation and regulations and directives issued hereunder may acquire any license referred to in Article 5 or a Certificate of Competence referred to in Article 6 of this Proclamation.

2/ Notwithstanding the provisions of sub-article (1) of this Article:

a) the licenses referred to in sub-articles (1) of Article 5 and the Certificate of competence referred in sub-Article (1) of Article 6 of this Proclamation may not be issued to foreign investors;

b) no person whose license has been revoked pursuant to this Proclamation may hold another license for two years following such revocation.

(c) Any Person who has been granted with Certificate of competence in accordance with Article 6 of this proclamation may acquire a License from the appropriate government body upon fulfillment of the requirement set for such License.

**13. Application for License**

An application for license shall be made in writing and contain the following;

- 1/ where the application is for Precious Mineral Brokerage License
  - a/ name, address, and nationality of the applicant
  - c/ demonstrate that he or his employee technical capacity or experience in the area of Precious Mineral identification
  - c/ the type of Precious Minerals he/she wish to export
  - d/ the location of the areas where he/she would be collecting the Precious minerals
  - e/ Business plan to be performed during the license period
2. Where the application is for Crafting License
  - a/ Items specified under (a) and (b) of sub-Article 1 of this Article
  - b/ financial and technical preparation as regards the production of jewelers or gem products
  - c/ business plan including waste management
3. Where the application is for Precious Minerals Refining;
  - a/ Items specified under (a) and (b) of sub-Article 1 of this Article
  - b/ financial and technical preparation to build a Refining facility
  - c/ business plan including waste management

**14. Application for Certificate of Competence**

An application for Certificate of Competence shall be in writing and contain the following;

1. Where the application is for Precious Mineral Trade Certificate of Competence
  - a/ Items specified under (a) and (b) of sub-Article 1 of Article 12
  - b/ demonstrates his or his employees technical capacity or experience in the area of precious Minerals property identification
  - c/ shown to have the proper testing machine or mechanism to prove to consumers or customers the quality of the precious Minerals he wish to trade
  - d/ proper business location with the required preparation to trade precious minerals.
  - e/ Business plan to be performed during the license period

2. Where the application is for Precious Minerals Export Competence of Competence
  - a/ Items specified under (a) and (b) of sub-Article 1 of Article 12
  - b/ demonstrates his or his employees technical capacity or experience in the area of precious Minerals property identification.
  - c/ legal source of the Precious Minerals he wish to export.
  - d/ if he is engaged in the Crafting of Precious Minerals, shall present his appropriate license number.
  - e/ if known to him at the time of application, his potential markets or any contractual commitment entered.
  - g/ Business plan to be performed during the license period

**15. Issuance of License and Certificate of Competence**

The licensing authority as appropriate shall issue a license or a certificate of Competence after ascertaining that the applicant has fulfilled the requirements of the license or the Certificate of Competence and upon payment of the prescribed license fee.

**16. Validity Period of License and Certificate of Competence**

All licenses or Certificate of Competence shall be valid for one year from the date of issuance:

**17. Renewal of License and Certificate of Competence**

- 1/ All licenses or a Certificate of Competence may be renewed every year for similar periods if the licensee or the holder of the Certificate of Competence as appropriate meets all requirements in connection with the application for renewal and is not in breach of any provision of this Proclamation or regulations or directives issued hereunder which constitutes grounds for the revocation and upon the payment of the prescribed fee:
- 2/ All License or Certificate of Competence shall be renewed at the end of every license period
- 3/ Any licensee or holder a Certificate of Competence who wishes to renew his license shall produce tax clearance certificate for the then budget year.

**18. Obligation of Licensees**

- 1/ Any licensee shall:
  - a) maintain books and records regarding precious minerals purchased, deposited, processed, sold or exported;
  - b) report all transactions carried out to the licensing authority within 30 days from the end of each budget year;
  - c) comply with all operational, safety and health standards set forth by the Ministry or other appropriate government authorities.
  - d/ may not hoard Precious Minerals.
- 2/ The holder of a precious minerals brokerage license:
  - a) shall in every budget year, supply gold and silver to the Bank in an amount determined by Agreement and
  - b) notwithstanding to the provisions (a) of sub-Article 2 of this article sell other Precious Minerals locally to appropriate legally licensed persons
  - c) may not carry out or smithery or lapidary or export precious minerals.
  - d) Shall prove the legal source and area production of the Precious Mineral he carries on brokerage
- 3/ The holder of a precious minerals crafting license may:
  - a) not buy raw gold and silver from any source other than the Bank; or
  - b) not transfer the gold and silver it buys from the Bank to any other person in its raw form.
  - c/ where the crafting is Precious Minerals other than gold and silver make sure that the source of the raw Precious Mineral is legal
  - d/ put an identifiable mark of its own on each Precious Mineral product it produces
  - e/ Make sure that all customers identify the mark, know or understand the quality and quantity of the product it produces before buying and provide written proof to that effect
  - h/ may not engage in the refining of Precious Minerals
- 4/ The holder of a precious minerals refining license may not engage in:
  - a) carry on smithery of precious minerals; or
  - b) bulk or retail sale of precious minerals.
  - c/ Communicate wrong information and carry on the refining activity below the required standard

19. **Obligation of the holder of Certificate of Competence**

1. All holder of Certificate of competence shall not hoard Precious Minerals
2. The holder of Precious Mineral Trade Certificate of Competence shall;
  - a/ upon receipt of products for retail make sure that all product it receives has got the proper mark of the Precious Mineral Craft Licensee
  - b/ not alter or other wise blend with other types of Mineral the Precious Mineral brought for retail sale from the Precious Mineral Craft License holder.
  - c/ make sure that the customer able to understand the quality and quantity of product it sales and provide proof to that effect.
  - d/ not carry out brokerage, Smithery or Lapidary.
3. The holder of Precious Mineral Export Certificate of Competence
  - a/ when the export is raw precious Mineral should demonstrate the legal source of the raw precious mineral
  - b/ when the export is finished or semi finished precious mineral apart from demonstrating the legal source is required to show the name and license number of the licensee who/which processed the Minerals.
  - c/ shall present the laboratory approval on the quality and quantity of the precious mineral to be exported
  - d/ shall respect all the Bank laws, regulations and directives upon export of the Precious Minerals
  - e/ may not carry out Smithery or Lapidary.
  - f/ where his exports are gold and silver should be processed and in the final shape

20. **Transfer of License**

- 1/ the business of Refining, crafting, license may be transferred or inherited with the prior notification of the licensing authority.
- 2/ the business of precious minerals brokerage license may not be transferred or inherited.
- 3/ The appropriate trade registration and license law shall be applicable to the transfer of Precious Minerals Trade and Export licenses



**21. Revocation of License and Certificate of Competence**

- 1/ A license issued pursuant to this Proclamation may be revoked where the holder of the license:
  - a/ obtained the license or the Certificate of Competence on the basis of providing false information;
  - b/ fails to renew the license or the Certificate of Competence within the prescribed time limit;
  - c/ fails to maintain books and records as required by this Proclamation and regulations and directives issued hereunder as well as by other relevant trade and tax laws;
  - d/ engage in activities not specified in the license;
  - e/ contravenes the provisions of this Proclamation or regulations or directives issued hereunder or the terms of the license and agreements.
- 2/ The conditions of revocations of Licenses provided above under this article mutatis mutandis apply to the revocation of Certificate of Competence

**22. Holding and Presentation of License and Certificate of Competence**

- 1/ Any person issued with a license or a Certificate of Competence pursuant to this Proclamations shall have the obligation to hold his license or the Certificate of Competence at all times while performing his business.
- 2/ An inspector assigned by the licensing authority or the Ethiopian Revenues and Customs Authority shall have the right to request any licensee at any time to present his license.

**23. Fees**

Fees payable for the issuance and renewal of licenses or Certificate of Competence pursuant to this Proclamation shall be determined in accordance with the regulations to issued by the Council of Ministers.

**PART THREE**

**MISCELLANEOUS PROVISIONS**

**24. Temporary Export of Samples of Precious Minerals**

- 1/ a holder of a Precious Minerals Crafting License shall have the right to temporarily export samples of gold and silver for the purpose of promotion

or semi process or process them to their final shape in accordance with directives of the Bank.

- 2/ the holder of Export Certificate of Competence may temporarily export gold silver for promotional purposes in accordance with directives of the Bank
- 3/ notwithstanding with the provision of sub Article 1 and 2 of this Article the temporary export of other precious minerals for promotion purposes by a holder of a Precious Mineral Export Certificate of competence or by Precious Minerals Crafting License holder for processing, semi processing or promotion shall be in accordance with the following procedure;
  - a/ the applicant shall produce a bank guarantee equivalent to twice the amount of their current world market price where they are quoted in the international market or in the absence of such price in an amount to be specified by the Bank.
  - b/ The Ministry shall certify the type, quality and quantity of samples of precious minerals before export and upon their return.
  - c/ Where a licensee fails to return samples of precious minerals exported within 90 days from the date of their export, the bank guarantee provided pursuant to sub-article (1) of this Article shall be forfeited to the Ministry.
  - d// Where, upon certification by the Ministry, samples of precious minerals are found to be not identical with the exported samples, the provisions of sub-article (3) of this Article shall apply.

## **25. Powers and Duties of the Licensing Authority**

- 1/ The licensing authority shall have the powers and duties to issue, cancel Licenses and ensure the observance of the provisions of this Proclamation and regulations and directives issued hereunder in the conduct of transactions of precious minerals.
- 2/ The Ministry shall:
  - a) Set and enforce standards in which smithery, lapidary and refining activities are carried out;
  - b) Conduct laboratory test and inspection on import and export of precious minerals;
- 3/ The Ministry may delegate any of its powers and duties under this Proclamation to the appropriate federal or regional organs.

## **26. Responsibility of the Bank**

The terms and conditions the holder of the precious Mineral Crafting License buys Gold and Silver shall be as provided in the Bank Proclamation No. 591/2000 and the Gold directives issued there under:

## **27. Prohibition**

The following acts are prohibited

- 1/ Any person conducting transaction of Precious Minerals without having the appropriate License or Certificate of Competence
- 2/ Any holder of a License or Certificate of competence undertaking activities not envisaged in the license or Certificate of Competence
- 3/ Any brokerage licensee selling gold and silver to another person other than the Bank or sales a wrong quality gold and silver to the Bank or in any form mislead the Bank in the sale of Precious Minerals
- 4/ Any holder of the Precious Mineral Trade Certificate of competence selling of Precious mineral, not produced in the appropriate craft license holder, blending of craft product with other alloys with a view of compromising the quality or quantity of the product, selling to customers in a way they could not understand or know they are buying in terms of quality and quantity and not providing written proof of the description.
- 5/ Any holder of Crafting License buying raw Gold and Silver other than from the Bank or transferring the same in raw form to any other person
- 6/ hoarding of Precious minerals by any Licensee or holder of Certificate of Competence
- 7/ A holder of an Export Certificate of Competence or precious minerals Craft License not returning Precious Minerals he/she temporarily exported for promotion purpose in violation of the provisions of this proclamations
- 8/ Any holder of a Precious Mineral Crafting License producing or selling of craft products without having the proper producer mark on it or transferring products without letting customers to clearly understand the quality and quantity of the product and not providing a written proof of the description.
- 9/ Any holder of the Export Certificate of Competence exporting precious minerals without having the laboratory result and meeting the proper export standard
- 10/ Undertaking the crafting activity or business without having due technical preparation as required in the nature of the business and according to the appropriate provision of this proclamation
- 11/ violating the various safety and environmental operating standards set by the directives of the Ministry or other appropriate government body
- 12/ Any holder of the Precious Minerals Refining License communicating wrong results of refining or conducting the refining below the required standard.

## **28. Penalty**

- 1/ Any Person who is engaged in the transaction of Precious mineral without having the proper License or Competence or Certificate his Precious Minerals and any associated equipment or machine shall be confiscated and unless punishable with greater penalty as per any other relevant law shall be penalized by a fine of 10, 000 and an imprisonment of not less than five years

- 2/ a/ Any holder of a Licensee or a Certificate of Competence who is engaged in a business or activity not envisaged in his License or Certificate of competence
- b/ violating the various safety and environmental operating standards set by the directives of the Ministry or other appropriate government body
- c/ A holder of an Export Certificate of Competence or precious minerals Craft License not returning Precious Minerals he/she temporarily exported for promotion purpose in violation of the provisions of this proclamations
- unless punishable with greater penalty as per any other relevant law shall be penalized with a fine of 30, 0000 birr and an imprisonment of not less than seven years.
3. a/ Any holder of brokerage licensee selling gold and silver to another person other than the Bank or sales a wrong quality gold and silver to the Bank or in any form mislead the Bank in the sale of Precious Minerals
- b/ Any holder of Crafting License buying Gold and Silver other than from the Bank or transferring the same in raw form to any other person
- unless punishable with greater penalty as per other appropriate laws his property shall be confiscated and his business will be closed and shall be penalized with a fine of 50,000 birr and an imprisonment of fifteene years
- 4/ a/ Any holder of the Precious Mineral Trade Certificate of competence selling of Precious mineral, not produced in the appropriate craft license holder, blending of craft product with other alloys with a view of compromising the quality or quantity of the product, selling to customers in a way they could not understand or know they are buying and not providing written proof of the description.
- b/ Any holder of a Craft License producing or selling of craft products without having the proper producer mark on it or transferring products without letting customers to clearly understand the quality and quantity of the product and not providing a written proof of the description.
- c/ Any holder of an Export Certificate of Competence exporting precious minerals without having the laboratory result and meeting the proper export standard

- d/ Undertaking the crafting activity without having due technical preparation as required in the nature of the business and according to the appropriate provision of this proclamation
- e/ Any holder of the Precious Minerals Refining License communicating wrong results of refining or conducting the refining below the required standard.

unless punishable with greater penalty as per other appropriate laws shall be punishable with a fine of 40, 000 birr and an imprisonment of ten years.

**29. Transitory Provisions**

Any existing business related to the transaction of precious minerals before the entry in to force of this Proclamation shall continue to operate; provided however, that it shall be required to obtain, upon fulfilling the requirements, the appropriate license or Certificate of Competence from the licensing authority within six months from the effective date of this Proclamation.

**30. Inapplicable Laws**

No law, regulations, directives or practices shall, in so far as it is inconsistent with the provisions of this Proclamation, have effect with respect to matters governed by this Proclamation.

**31. Power to issue Regulations and Directives**

- 1/ The Council of Ministers may issue regulations necessary for the implementation of this Proclamation.
- 2/ The Ministry may issue directives necessary for the implementation of this Proclamation and regulations issued pursuant to sub-article (1) of this Article.

**32 Effective Date**

This Proclamation shall come in to force on the ..... day of ....., 2009.

Done at Addis Ababa, this ....., day of ....., 2009.

GIRMA WOLDEGIORGIS  
PRESIDENT OF THE FEDERAL DEMOCRATIC  
REPUBLIC OF ETHIOPIA