

Council Regulation (EC) No 2368/2002 of 20 December 2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds

CHAPTER VI

GENERAL PROVISIONS

Article 19

- 1 Member States may designate one or more authorities in their territory as Community authority and may attribute different tasks to them.
- 2 Member States designating a Community authority shall provide the Commission with the information showing that their designated Community authorities can reliably, timely, effectively and adequately fulfil the tasks required by this Regulation.
- 3 Member States may limit the number of points where the formalities provided for in this Regulation can be completed. They shall notify the Commission thereof. Based on the information provided under paragraphs 1 and 2 and in accordance with the procedure referred to in Article 22(2), the Commission shall maintain in Annex III a list of Community authorities, their location and the tasks entrusted to them.
- 4 Community authorities may ask an economic operator to pay a fee for the production, issue and/or validation of a certificate and for a physical inspection in accordance with Articles 4 and 14. Under no circumstances shall the amount of that fee exceed the costs incurred by that competent authority for the operation concerned. No levies or similar duties shall be charged in relation to such operations.
- 5 Member States shall notify the Commission of the option they choose under Articles 4(5) and 12(3) or of subsequent changes.
- 6 The Commission may amend the specifications of the Community certificate with a view to improving its security, processing and functionality for the purposes of the KP certification scheme.

[^{F1}Article 20

On the basis of relevant Information provided to the Chair of the KP certification scheme and/or by participants, the Commission may amend the list of participants and their competent authorities.]

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 254/2003 of 11 February 2003 amending Regulation \(EC\) No 2368/2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds.](#)

[^{F2}Article 21

- 1 The Union, including Greenland, shall be a participant in the KP certification scheme.
- 2 The Commission, which represents the Union, including Greenland, in the KP certification scheme, shall aim to ensure optimal implementation of the KP certification scheme, in particular through cooperation with participants. To this end, the Commission shall, in

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particular, exchange information with participants on international trade in rough diamonds and, where appropriate, cooperate in monitoring activities and in the settlement of any disputes that may arise.]

Textual Amendments

- F2** Substituted by [Regulation \(EU\) No 257/2014 of the European Parliament and of the Council of 26 February 2014 amending Council Regulation \(EC\) No 2368/2002 as regards the inclusion of Greenland in implementing the Kimberley Process certification scheme.](#)

Article 22

1 In the performance of its duties under Articles 8, 10, 15, 16, 17 and 19, the Commission shall be assisted by a Committee (hereinafter referred to as ‘the Committee’).

2 Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at ten working days.

3 The Committee shall establish its rules of procedure.

[^{F2}Article 23

The Committee referred to in Article 22 may examine any question concerning the application of this Regulation. Such questions may be raised either by the chairman or by a representative of a Member State or Greenland.]

Textual Amendments

- F2** Substituted by [Regulation \(EU\) No 257/2014 of the European Parliament and of the Council of 26 February 2014 amending Council Regulation \(EC\) No 2368/2002 as regards the inclusion of Greenland in implementing the Kimberley Process certification scheme.](#)

Article 24

1 Any natural or legal person providing services directly or indirectly related to the activities covered by Articles 3, 4, 6, 7, 11, 12, 13, 17 or 18 shall exercise due diligence for establishing that the activities for which it provides services comply with the provisions of this Regulation.

2 The participation, knowingly and intentionally, in activities, the object or effect of which is, directly or indirectly, to circumvent the provisions of this Regulation shall be prohibited.

3 The Commission shall be notified of any information suggesting that the provisions of this Regulation are being, or have been, circumvented.

Article 25

Information supplied in accordance with this Regulation shall be used only for the purposes for which it was provided.

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Information which is by nature confidential or which is provided on a confidential basis shall be covered by the obligation of professional secrecy. It shall not be disclosed by the Commission without the express permission of the person providing it.

Communication of such information shall however be permitted where the Commission is obliged or authorised to do so, in particular in connection with legal proceedings. Such communication must take into account the legitimate interests of the person concerned that his or her business secrets should not be divulged.

This Article shall not preclude the disclosure of general information by the Commission. Such disclosure shall not be permitted if this is incompatible with the original purpose of such information.

In the event of a breach of confidentiality, the originator of the information shall be entitled to obtain that it be deleted, disregarded or rectified, as the case may be.

Article 26

Compliance with this Regulation does not discharge any natural or legal person from compliance, fully or partially, with any other obligation under other Community or national legislation.

Article 27

Each Member State shall determine the sanctions to be imposed where the provisions of this Regulation are infringed. Such sanctions shall be effective, proportionate and dissuasive and shall be capable of preventing those responsible for the infringement from obtaining any economic benefit from their action.

Pending the adoption, where necessary, of any legislation to this end, the sanctions to be imposed where the provisions of this Regulation are infringed shall, where relevant, be those determined by the Member States in order to give effect to Article 5 of Regulation (EC) No 303/2002.

Article 28

This Regulation shall apply:

- (a) within the Community territory, including its airspace, or on board any aircraft or any vessel under the jurisdiction of a Member State;
- (b) to any national of a Member State, and to any legal person, entity, or body which is incorporated or constituted under the law of a Member State.

Article 29

1 This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

2 The Commission shall report annually or at any other time as necessary to the Council on the implementation of this Regulation and the need for a review or repeal of the Regulation.

[^{F13} Articles 3, 4, 5, 10, 11, 12, 13, 14, 15 and 18 shall apply from 1 February 2003.]

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Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 254/2003 of 11 February 2003 amending Regulation \(EC\) No 2368/2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds](#).

Changes to legislation:

There are outstanding changes not yet made to Council Regulation (EC) No 2368/2002. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- Regulation words substituted by [S.I. 2019/844 reg. 3\(2\)\(a\)](#)
- Regulation words substituted by [S.I. 2019/844 reg. 3\(2\)\(b\)](#)
- Regulation words substituted by [S.I. 2019/844 reg. 3\(2\)\(c\)](#)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Art. 1 words omitted by [S.I. 2019/844 reg. 4\(3\)](#)
- Art. 1 words substituted by [S.I. 2019/844 reg. 4\(2\)](#)
- Annex 2-5 omitted by [S.I. 2019/844 reg. 30](#)
- Art. 2(c) words substituted by [S.I. 2019/844 reg. 5\(2\)](#)
- Art. 2(f) substituted by [S.I. 2019/844 reg. 5\(3\)](#)
- Art. 2(g) substituted by [S.I. 2019/844 reg. 5\(4\)](#)
- Art. 2(o)-(q) omitted by [S.I. 2019/844 reg. 5\(5\)](#)
- Art. 3 words omitted by [S.I. 2019/844 reg. 6](#)
- Art. 4(1) substituted for Art. 4(1)-(3) by [S.I. 2019/844 reg. 7](#)
- Art. 5(3) words omitted by [S.I. 2019/844 reg. 8](#)
- Art. 6 omitted by [S.I. 2019/844 reg. 9](#)
- Art. 7 omitted by [S.I. 2019/844 reg. 10](#)
- Art. 8(1) words omitted by [S.I. 2019/844 reg. 11\(2\)\(b\)](#)
- Art. 8(1) words substituted by [S.I. 2019/844 reg. 11\(2\)\(a\)](#)
- Art. 8(2) omitted by [S.I. 2019/844 reg. 11\(3\)](#)
- Art. 9 omitted by [S.I. 2019/844 reg. 12](#)
- Art. 10(1) omitted by [S.I. 2019/844 reg. 13\(2\)](#)
- Art. 10(2) words substituted by [S.I. 2019/844 reg. 13\(3\)\(a\)](#)
- Art. 10(2) words substituted by [S.I. 2019/844 reg. 13\(3\)\(b\)](#)
- Art. 11 words omitted by [S.I. 2019/844 reg. 14\(2\)](#)
- Art. 11(a) words inserted by [S.I. 2019/844 reg. 14\(3\)](#)
- Art. 11(a) words substituted in earlier amending provision [S.I. 2019/844, reg. 14\(3\)](#) by [S.I. 2020/1473 reg. 3](#)
- Art. 12(1)(a)(i) word omitted by [S.I. 2019/844 reg. 15\(2\)](#)
- Art. 12(1)(a)(ii) omitted by [S.I. 2019/844 reg. 15\(3\)](#)
- Art. 12(5) word omitted by [S.I. 2019/844 reg. 15\(4\)](#)
- Art. 13 words substituted by [S.I. 2019/844 reg. 16\(2\)](#)
- Art. 13 words substituted by [S.I. 2019/844 reg. 16\(3\)](#)
- Art. 14(3) words omitted by [S.I. 2019/844 reg. 17](#)
- Art. 15(1) omitted by [S.I. 2019/844 reg. 18\(2\)](#)
- Art. 15(2) substituted by [S.I. 2019/844 reg. 18\(3\)](#)
- Art. 16(1) words substituted by [S.I. 2019/844 reg. 19\(2\)\(a\)](#)
- Art. 16(1) words substituted by [S.I. 2019/844 reg. 19\(2\)\(b\)](#)
- Art. 16(2) omitted by [S.I. 2019/844 reg. 19\(3\)](#)
- Art. 17(1) words substituted by [S.I. 2019/844 reg. 20\(2\)\(a\)](#)
- Art. 17(1) words substituted by [S.I. 2019/844 reg. 20\(2\)\(b\)](#)
- Art. 17(2)(a) words omitted by [S.I. 2019/844 reg. 20\(3\)\(a\)](#)
- Art. 17(2)(a)(ix) words inserted by [S.I. 2019/844 reg. 20\(3\)\(b\)](#)
- Art. 17(2)(a)(ix) words substituted in earlier amending provision [S.I. 2019/844, reg. 20\(3\)\(b\)](#) by [S.I. 2020/1473 reg. 4](#)
- Art. 17(2)(b)(ii) words substituted by [S.I. 2019/844 reg. 20\(3\)\(c\)](#)
- Art. 17(2)(c) words omitted by [S.I. 2019/844 reg. 20\(3\)\(d\)](#)

- Art. 17(3) words omitted by S.I. 2019/844 reg. 20(4)(a)
- Art. 17(3) words omitted by S.I. 2019/844 reg. 20(4)(b)
- Art. 17(4) substituted by S.I. 2019/844 reg. 20(5)
- Art. 17(5)(b) omitted by S.I. 2019/844 reg. 20(6)
- Art. 17(6) words omitted by S.I. 2019/844 reg. 20(7)(a)
- Art. 17(6) words omitted by S.I. 2019/844 reg. 20(7)(b)
- Art. 17(6) words omitted by S.I. 2019/844 reg. 20(7)(c)
- Art. 17(7) omitted by S.I. 2019/844 reg. 20(8)
- Art. 17(8) words omitted by S.I. 2019/844 reg. 20(9)(a)
- Art. 17(8) words substituted by S.I. 2019/844 reg. 20(9)(b)
- Art. 17(9) omitted by S.I. 2019/844 reg. 20(10)
- Art. 17(10) words substituted by S.I. 2019/844 reg. 20(11)
- Art. 18 words omitted by S.I. 2019/844 reg. 21(2)
- Art. 18 words substituted by S.I. 2019/844 reg. 21(3)
- Art. 19(1) omitted by S.I. 2019/844 reg. 22(2)
- Art. 19(2) words substituted by S.I. 2019/844 reg. 22(3)
- Art. 19(3) omitted by S.I. 2019/844 reg. 22(4)
- Art. 19(4) words substituted by S.I. 2019/844 reg. 22(5)
- Art. 19(5) omitted by S.I. 2019/844 reg. 22(6)
- Art. 19(6) omitted by S.I. 2019/844 reg. 22(7)
- Art. 20 words substituted by S.I. 2019/844 reg. 23
- Art. 21-23 omitted by S.I. 2019/844 reg. 24
- Art. 24(3) omitted by S.I. 2019/844 reg. 25
- Art. 25 words omitted by S.I. 2019/844 reg. 26
- Art. 26 words omitted by S.I. 2019/844 reg. 27
- Art. 28 words substituted by S.I. 2019/844 reg. 28
- Art. 29 substituted by S.I. 2019/844 reg. 29