



THE EAST AFRICAN COMMUNITY

**THE EAST AFRICAN COMMUNITY CUSTOMS
MANAGEMENT (AMENDMENT) BILL, 2022**

MEMORANDUM

The object of this Bill is to amend the East African Community Customs Management Act to streamline and rationalise customs administration, operations and procedures; and to provide for related matters.

The Bill seeks to harmonise the provisions of the Act with the improved customs operational procedures adopted by the Community.

Article 12(3) of the Protocol on the Establishment of the East African Community Customs Union, empowers the Council to review the Common External Tariff and approve measures designed to remedy any adverse effects which a Partner State may experience during implementation of the Protocol or in exceptional circumstances. The Bill seeks to provide some of the measures that the Council may approve to remedy adverse effects on a Partner State, including waiving duty on specified goods where there is a shortfall in the production of those goods in the Community.

East African Community Customs Management (Amendment) Bill, 2022

The Bill further seeks to rationalise the Act with the initiatives adopted by the Community to facilitate trade.

In order to facilitate trade particularly through courier services, the Bill seeks to change the customs value of imported goods from USD 1.5 to USD 50 by providing that no customs duty should be collected on imported goods of a value equivalent to fifty dollars or less.

Whereas Part VXi of the East African Community Customs Management Act, 2004 provides for the application of information technology in customs formalities and procedures, the Act requires in several provisions that certain information is provided in writing or in a prescribed form. The Bill seeks to give functional equivalence of electronic information and to recognise global digitalisation by providing a general provision permitting electronic transactions in customs administration and management.

The Bill also seeks to extend the preferential tariff treatment provided by the Act to goods from SADC and COMESA until the coming into force of the Tripartite Agreement between the Community, SADC and COMESA which will facilitate free trade in the Tripartite.

HON. ADAN MOHAMED, EGH
Chairperson
Council of Ministers

THE EAST AFRICAN COMMUNITY CUSTOMS
MANAGEMENT (AMENDMENT) BILL, 2022

ARRANGEMENT OF CLAUSES

Clause

1. Short title
2. Amendment of the East African Community Customs Management Act, 2004
3. Amendment of section 4 of the principal Act
4. Amendment of section 5 of the principal Act
5. Amendment of section 14 of the principal Act
6. Amendment of section 26 of the principal Act
7. Amendment of section 33 of the principal Act
8. Amendment of section 34 of the principal Act
9. Amendment of section 47 of the principal Act
10. Amendment of section 48 of the principal Act
11. Amendment of section 50 of the principal Act
12. Amendment of section 78 of the principal Act
13. Amendment of section 108 of the principal Act
14. Amendment of section 109 of the principal Act
15. Amendment of section 112 of the principal Act
16. Amendment of section 114 of the principal Act
17. Insertion of new section 114A
18. Amendment of section 122 of the principal Act
19. Replacement of section 124 of the principal Act
20. Amendment of section 139 of the principal Act
21. Insertion of new section 140A
22. Amendment of section 144 of the principal Act

23. Amendment of section 167 of the principal Act
24. Amendment of section 175 of the principal Act
25. Amendment of section 187 of the principal Act
26. Amendment of section 190 of the principal Act
27. Amendment of section 203 of the principal Act
28. Amendment of section 218 of the principal Act
29. Amendment of section 234 of the principal Act
30. Amendment of section 251 of the principal Act

A Bill for an Act

ENTITLED

**THE EAST AFRICAN COMMUNITY CUSTOMS
MANAGEMENT (AMENDMENT) ACT, 2022**

An Act of the Community to amend the East African Community Customs Management Act to streamline and rationalise customs administration, operations and procedures; and to provide for related matters.

ENACTED by the East African Community and assented to by the Heads of State.

1. This Act may be cited as the East African Community Customs Management (Amendment) Act, 2022. Short title.

2. The East African Community Customs Management Act, 2004, in this Act referred to as the principal Act, is amended in section 2 (1)— Amendment of the East African Community Customs Management Act, 2004.

- (a) in the definition of the word “agent” by substituting the words “or vessel” wherever they occur, with the words “vessel or goods”;

- (b) by substituting for the definition of “bonded warehouse” with the following definition—

“bonded warehouse” means any warehouse or other place licensed by the Commissioner for the deposit of dutiable goods on which duty has not been paid or any other goods under customs control;

- (c) in the definition of “export duties” by repealing the word “customs” wherever it occurs;
- (d) in the definition of “import duties” by repealing the word “customs” wherever it occurs;

Amendment
of section
4 of the
principal
Act.

- 3.** Section 4 of the principal Act is amended in subsection (1) by substituting paragraph (e) with the following new paragraph—

“(e) compilation, dissemination and publication of customs and trade statistics and information;”

Amendment
of section
5 of the
principal
Act.

- 4.** Section 5 of the principal Act is amended by inserting immediately after subsection (3), the following new subsection—

“(3a) A Commissioner may deploy customs officers at the first point or port of entry in another Partner State for the purposes of implementing customs operations in accordance with this Act.”

Amendment
of section
14 of the
principal Act

- 5.** Section 14 of the principal Act is amended—

- (a) in subsection (3) by substituting the word “owner” with the words “license holder”;

- (b) in subsection (4) by substituting the words “owner or operator” wherever they occur, with the words “license holder”;
- (c) in subsection (5) by substituting the words “owner or operator” with the words “license holder”.
6. Section 26 of the principal Act is amended—
- Amendment
of section
26 of the
principal
Act.
- (a) in subsection (2) by inserting immediately after the word “owner” the words “or operator”;
- (b) in subsection (3) by inserting immediately after the word “shed”, the word “or its operator”;
- (c) in subsection (4) by inserting immediately after the words “shed owner”, the word “or operator”;
- (d) in subsection (5) by inserting immediately after the word “shed”, the words “or its operator”;
- (e) in subsection (5) by inserting immediately after the word “shed”, the words “or its operator”.
7. Section 33 (5) of the principal Act is amended—
- Amendment
of section
33 of the
principal
Act;
- (a) by substituting the word “importer” with the word “owner”;
- (b) in the proviso, by substituting the words “enter into a bond”, with the words “furnish security”.
8. Section 34 of the principal Act is amended in subsection (1)—
- Amendment
of section
34 of the
principal
Act.
- (a) by substituting the words “twenty-one” with the words “fourteen”;

(b) by inserting immediately after paragraph (e), the following new paragraph—

“(f) any other regime authorised by the customs laws”;

Amendment
of section
47 of the
principal
Act.

9. Section 47(2) of the principal Act is amended by inserting immediately after the word “book”, the words “or an electronic record”.

Amendment
of section
48 of the
principal
Act.

10. Section 48 (2) of the principal Act is amended by inserting immediately after the word “book”, the words “or an electronic record”.

Amendment
of section
50 of the
principal
Act.

11. Section 50 (1) of the principal Act is amended by inserting immediately after paragraph (g), the following new paragraph—

“(h) any other regime authorised by the customs laws”

Amendment
of section
78 of the
principal
Act.

12. Section 78 of the principal Act is amended in subsection (5) (a) by substituting the word “agree” with the word “conform”.

Amendment
of section
108 of the
principal Act.

13. Section 108 of the principal Act is amended in subsection (2)(d) by substituting the word “surety” with the word “bond”.

Amendment
of section
109 of the
principal Act.

14. Section 109 of the principal Act is amended in subsection (1) by repealing the words “under it”

Amendment
of section
112 of the
principal
Act.

15. Section 112 of the principal Act is amended in subsection (2) by substituting the expression “31st December, 2019” with the words “the coming into force of the Tripartite Agreement between the Community, SADC and COMESA.”

16. Section 114 of the principal Act is amended—

Amendment
of section
114 of the
principal
Act.

- (a) in subsection (1) by substituting the word “Duty” with the words “Import duty”;
- (b) in subsection (2) by substituting the word “Duty” with the words “Import duty”.

17. Part X of the principal Act is amended by inserting immediately after section 114, the following new section—

Insertion of
new section
114A.

Use of
exempted
goods
according to
conditions
for
exemption

“114A. (1) Goods exempted from import duty under section 114 shall be used in accordance with the purpose and conditions for exemption specified in the Fifth Schedule.

(2) A person who intends to change the use or purpose of goods exempted from import duty shall seek approval from the Commissioner.

(3) A person who uses goods exempted from import duty under this Act in contravention of the conditions and purpose of the exemption, without the approval of the Commissioner, commits an offence and is liable on conviction to imprisonment not exceeding three years or a fine not exceeding twenty thousand dollars.

18. Section 122 of the principal Act is amended—

Amendment
of section
122 of the
principal
Act.

- (a) by inserting immediately after subsection (1), the following new subsection—

“(1a) Notwithstanding subsection (1) the Council shall issue directives on the applicable import duty *ad valorem* values for used goods.”

- (b) in subsection (7) by substituting the words “when an accepted by the proper officer” with the words “at the time the goods are entered”;
- (c) by inserting immediately after subsection (7), the following new subsection—

“(8) In determining the customs value of the goods, where the cost of insurance cannot be ascertained, the Commissioner shall apply the insurance cost at a rate prescribed by the Council.”

Replacement of section 124 of the principal Act.

19. For section 124 of the principal Act, there is substituted the following—

“**124.** Where the customs value of imported goods is equivalent to fifty dollars or less, no duty shall be collected.”

No duty in respect of goods of a value less than fifty dollars

Amendment of section 139 of the principal Act.

20. Section 139 of the principal Act is amended by inserting immediately after the word “zone” the words “or any other schemes approved by the Council”.

Insertion of new section 140A.

21. The principal Act is amended by inserting immediately after section 140, the following new section—

“**140A.** (1) For the purposes of Article 12(3) of the Protocol, the measures approved by the Council may include temporarily waiving duty on specified goods where there is a shortfall in the production of those goods in the Community.

Review of Common External Tariff to remedy adverse effects on Partner States

(2) The request by a Partner State to the Council to temporarily waive duty under subsection (1) shall be—

- (a) submitted at least three months prior to consideration by the Council; and
- (b) supported by evidence of the production levels of the specified goods.

(3) A temporary waiver granted by the Council under this section shall not exceed one year.”

22. Section 144 of the principal Act is amended in subsection (1) by inserting immediately after paragraph (b), the following new paragraph—

Amendment
of section
144 of the
principal
Act.

“(c) of any duties in respect of goods that have been exported or transferred to another Partner State prior to their release from customs control.”

23. Section 167 (1) of the principal Act is amended —

Amendment
of section
167 of the
principal Act

- (a) in paragraph (a) by inserting immediately after the word “zone” the words “or any other schemes approved by the Council”;
- (b) in paragraph (b) by inserting immediately after the word “state”, the words “as at importation”.

24. Section 175 of the principal Act is amended in subsection (2) by substituting the reference to section 122 with a reference to section 120.

Amendment
of section
175 of the
principal Act

East African Community Customs Management (Amendment) Bill, 2022

Amendment of section 187 of the principal Act.

25. Section 187 of the principal Act is amended by adding a new subsection as follows—

“(2) Where this Act requires information to be in a prescribed form or in writing, that requirement shall be met by information provided in electronic form as authorised by the Commissioner.

Amendment of section 190 of the principal Act.

26. Section 190 of the principal Act is amended in paragraph (c) by inserting immediately after the word “Act, the words, “or any law of a Partner State”.

Amendment of section 203 of the principal Act.

27. Section 203 of the principal Act is amended by substituting the words “ten thousand dollars” with the words “twenty thousand dollars or fifty percent of the dutiable value of the goods involved, whichever is higher”.

Amendment of section 218 of the principal Act.

28. Section 218 of the principal Act is amended by substituting the word “Council” with the word “Commissioner” wherever it occurs.

Amendment of section 234 of the principal Act.

29. Section 234 of the principal Act is amended in subsection (3) by substituting the words “original and duplicate and the proper officer may retain the original” with the words “physical or electronic form and the proper officer shall maintain the relevant record of the documents.”

Amendment of section 251 of the principal Act

30. Section 251 of the principal Act is amended by inserting immediately after paragraph (l), the following new paragraphs—

“(m) the use of risk management in all customs operations; and

(n) trade facilitation measures to accelerate clearance of goods;

(o) single customs territory.”