

THE EAST AFRICAN COMMUNITY CUSTOMS
MANAGEMENT (AMENDMENT) ACT, 2009

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**THE EAST AFRICAN COMMUNITY CUSTOMS
MANAGEMENT (AMENDMENT) ACT, 2009**

**An Act of the Community to amend the East African
Community Customs Management Act, 2004**

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, 2009. Short title

2. The East African Community Customs Management Act, 2004 herein referred to as the “principal Act” is amended: Amendment
of section 2

(1) in section 2 (1) by—

- (a) substituting for the definition of “agent”, the following new definition—

“agent” in relation to an aircraft, vehicle or vessel, includes any person who acts on behalf of the owner and who, or on whose behalf any person authorised by him or her, does any thing required or authorised by this Act to be done by an agent:

Provided that the owner of any aircraft, vehicle or vessel, if resident or represented in a Partner State, shall either himself or herself or through his or her representative be deemed to be the agent for all purposes of this Act if no such agent is appointed;”;

- (b) substituting for the definition of “Customs area”, the following new definition—

“Customs area” means any place appointed by the Commissioner under section 12 for carrying out customs operations, including a place designated for the deposit of goods subject to customs control;”;

- (c) substituting for the definition of “document”, the following new definition—

“document” includes an electronic document, a magnetic tape, a disk and a microfilm;”;

- (d) substituting for the definition of “transit shed”, the following new definition—

“transit shed” means any building or premises appointed by the Commissioner in writing for the deposit of goods subject to customs control;”.

(2) in subsection (2) by substituting for paragraph (a), the following new paragraph—

“(a) goods shall be deemed to be entered when the entry in the prescribed manner is made and lodged by the owner and any duty due or deposit required under this Act in respect of the goods has been paid, or security has been given for compliance with this Act;”.

3. The principal Act is amended in section 14 (3) by substituting for paragraph (e), the following—

Amendment
of section
14

“(e) comply with any other requirement as may be specified by the Commissioner.”

4. Section 24 of the principal Act is amended by—

Amendment
of section
24

(a) substituting for subsection (1) the following new subsection—

“(1) The master or agent of every aircraft or vessel, whether laden or in ballast, shall, except where otherwise provided in any regulations, make a report on the prescribed form to a proper officer at any port or other place especially allowed by the proper officer, of the aircraft or vessel, of its cargo and stores, and of any package for which there is no bill of lading, as follows—

(a) in the case of a vessel, not less than twenty four hours before arrival from a foreign port;

(b) in the case of an aircraft, immediately after take off from a foreign port destined for a port in a Partner State”.

- (b) inserting the following new subsection immediately after subsection (1)—

“(1A) Where a master or agent of an aircraft or vessel cannot make a report within the time required under subsection (1) due to special or unavoidable circumstances, the master or agent shall make the report within such time as may be allowed by the proper officer.”

Amendment
of section
34

5. Section 34 of the principal Act is amended by inserting immediately after subsection (4), the following new subsection—

“(5) Where goods entered in accordance with subsection (1) are not removed from the first point of entry within fourteen days from the date of entry, such goods shall be liable to customs warehouse rent.”

Amendment
of section
42

6. Section 42 (1) of the principal Act is amended by inserting immediately after the word "*Gazette*" appearing in the third line, the words "and Gazettes of the Partner State or a newspaper of wide circulation in the Partner State".

Amendment
of section
73

7. Section 73 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)—

“(2A) Goods referred to in subsection (2) shall be exported within thirty days from the date of entry or such further period as the Commissioner may allow.”.

Amendment
of section
78

8. Section 78 of the principal Act is amended by substituting for subsection (5), the following new subsection—

“(5) Where any bonded goods are brought to any Customs airport, Customs area, or other place, to be put on board any aircraft or vessel and on examination by the proper officer—

(a) the goods are found not to agree with the particulars of the entry; or

(b) it is determined that the goods were declared under duty drawback, but are found to be goods not entitled to duty drawback, the owner of the goods commits an offence and any goods in respect of which such offence is committed shall be liable to forfeiture.”

9. Section 107 (1) of the principal Act is amended by inserting after paragraph (c), the following new paragraph—

Amendment
of section
107

“(d) any other form of security that the Commissioner may allow.”

10. Section 117 of the principal Act is amended by inserting immediately after subsection (3), the following new subsection—

Amendment
of section
117

“(3A) Subject to subsection (3), the Commissioner may, where he or she deems fit, allow a further period as is consistent with the purpose for which the goods are imported”.

11. Section 191 (1) of the principal Act is amended by inserting after paragraph (c), the following new paragraphs—

Amendment
of section
191

“(d) interferes or tampers with a customs computerized system in any manner;

- (e) does not process an entry within twenty one days from the date it was lodged.”

Amendment
of section
233

12. Section 233 of the principal Act is amended by inserting immediately after subsection (1), the following new subsection—

“(1A) Notwithstanding subsection (1), the Commissioner may allow the use of a form other than the form prescribed under that subsection; provided such form includes the particulars prescribed under that subsection.”.

Amendment
of section
234

13. Section 234 of the principal Act is amended by—

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

“(1A) An owner of goods shall keep every document required or authorised for the purposes of this Act for a period of five years.”;

- (b) substituting for subsection (4), the following—

“(4) Any person who fails to comply with this section commits an offence.”

Amendment
of section
244

14. Section 244 of the principal Act is amended by—

- (a) deleting the words, “and any transporter” appearing in subsection (1);

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

“(1A) A license for a vehicle to transport goods under customs control issued by the Commissioner of a Partner State shall be recognized in all other Partner States for the purposes for which the license is issued.”.

15. Section 247 of the principal Act is amended in paragraphs (a) and (b) by inserting the words “or vehicle”, immediately after the word “vessel” appearing in those paragraphs.

Amendment
of section
247

16. Section 249 of the principal Act is amended by—

Amendment
of section
249

- (a) renumbering the existing provision as subsection (1);
- (b) inserting the following new subsection immediately after subsection (1)—

“(2) Notwithstanding subsection (1), the Commissioner may waive the whole or part of interest due from the tax payer, where the Commissioner is satisfied that the interest due cannot be effectively recovered by reason of—

- (a) consideration of hardship; or
- (b) impossibility, undue difficulty or the excessive cost of recovery.”