

**CHAPTER 482**

**LOCAL MANUFACTURES (EXPORT COMPENSATION) ACT**

SUBSIDIARY LEGISLATION

\_\_\_\_\_  
\_\_\_\_\_

*List of Subsidiary Legislation*

*Page*

- 1. Local Manufactures (Export Compensation) (Procedures) Regulations, 1974.. L26 – 13
- 2. Local Manufactures (Export Compensation) (Origin of Eligible Goods) Regulations, 1974..... L26 – 21

\_\_\_\_\_  
\_\_\_\_\_



**LOCAL MANUFACTURES (EXPORT COMPENSATION)  
(PROCEDURES) REGULATIONS, 1974**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation.
2. Interpretation.
3. Declaration of eligible goods.
4. Loading of eligible goods.
5. Applications to appointed dealers.
- 5A. Application to include goods in eligibility lists.
6. Production of records.
7. Deferment of payment.
8. Forwarding of applications.
9. Payment to appointed dealers.
10. Payments to exporters.
11. Offences.

SCHEDULE

—

FORMS



[Subsidiary]

**LOCAL MANUFACTURES (EXPORT COMPENSATION)  
(PROCEDURES) REGULATIONS, 1974**

[L.N. 265/1974, L.N. 125/1986, L.N. 145/1987.]

**LOCAL MANUFACTURES (EXPORT COMPENSATION)  
(PROCEDURES) REGULATIONS, 1974**

[L.N. 265/1974, L.N. 125/1986, L.N. 145/1987, L.N. 217/1990.]

**LOCAL MANUFACTURES (EXPORT COMPENSATION)  
(PROCEDURES) REGULATIONS, 1974**

[L.N. 265/1974, L.N. 125/1986, L.N. 145/1987, L.N. 217/1990, L.N. 143/1992.]

**1. Citation**

These Regulations may be cited as the Local Manufactures (Export Compensation) (Procedures) Regulations, 1974.

**2. Interpretation**

In these Regulations, “**proper officer**” has the meaning assigned to it under the Customs and Excise Act (Cap. 472).

**3. Declaration of eligible goods**

(1) Any person or his authorized agent who exports eligible goods and wishes to claim compensatory payment under the Act, shall, at the time of entry of the such goods for export, declare on the appropriate customs entry that—

- (a) such goods have been wholly produced in Kenya; or
- (b) such goods have been produced in Kenya and the value of materials imported from outside Kenya or of undetermined origin which have been used at any stage in the production of the goods does not exceed seventy percent of the ex-factory value of the goods; and
- (c) it is his intention to claim compensatory payment in respect of the goods in accordance with the Act.

(2) Where an exporter delivers an entry under this Regulation, he shall furnish therewith to the proper officer full particulars supported by documentary evidence of the goods referred to in the entry.

**4. Loading of eligible goods**

No eligible goods in respect of which a claim for compensatory payment is to be made shall be loaded on an aircraft, vessel or vehicle departing to a foreign port unless—

- (a) the goods (other than gold) have been entered, examined (if the proper officer so wishes) and released for export by the proper officer; or
- (b) the gold (non-monetary), other precious and semi-precious metals or stones and articles thereof, in manufactured or semi-manufactured form, have been produced to the proper officer together with all the supporting documents for physical examination, certification and application of the customs seal prior to release for export.

[L.N. 143/1992.]

**5. Applications to appointed dealers**

(1) Applications under section 6 of the Act for compensatory payments shall be in the Form E.C. 2 set out in the Schedule to these Regulations.

(2) No application shall be accepted unless—

- (a) it is completed to the satisfaction of an appointed dealer; and

*Local Manufactures (export Compensation) Act*

[Subsidiary]

- (b) it is presented with all the relevant documents relating to the exportation of the goods, including—
- (i) a copy of the Export Entry duly certified by the proper officer that he has released the goods and that exportation has been completed and evidence of receipt of the foreign currency therefor; or
  - (ii) a copy of the Export Entry duly certified by the proper officer that he has released the goods and that exportation has been completed and evidence from the Treasury or a person appointed by the Treasury that payment has been made or settlement effected in accordance with a bilateral agreement between the Government of Kenya and another Government; or
  - (iii) a copy of the Export Entry duly certified by the proper officer that he has released the goods and that exportation has been completed and a bond security form E.C.B. 1 duly executed, within twelve months of the date on which the goods were exported or within such further period after that date as the Commissioner may specifically authorise.

[L.N. 125/1986, r. 2(a), L.N. 145/1987, r. 2, L.N. 217/1990, r. 2.]

**5A. Application to include goods in eligibility lists**

(1) Where any person wishes to export goods which he considers should have been eligible but have not been specified in the Second Schedule to the Act, he shall first make application to the Minister in the Form E.C. 1 in the Schedule, giving full particulars of the process of manufacture and stating reasons which he considers relevant thereto.

(2) If the goods are found to be in compliance with all the conditions stipulated in the Act including any other conditions which the Minister may deem necessary, then such goods shall be included in the Second Schedule to the Act in accordance with section 12.

[L.N. 125/1986, r. 2(b).]

**6. Production of records**

The exporter or producer of eligible goods shall, on request by a proper officer, produce for inspection by that officer the books of account and other documents relating to the purchase, production, sale or exportation of the goods.

**7. Deferment of payment**

If an exporter of eligible goods fails to comply with any of the provisions of these Regulations or fails to repay upon demand any compensatory payments made in error or otherwise, the Commissioner shall defer payment until the exporter complies with the Regulations:

Provided that where the Commissioner so defers an application, the exporter shall be informed in writing specifying the regulation or regulations with which he has failed to comply.

**8. Forwarding of applications**

An appointed dealer shall, within thirty days of receipt of an application by exporter for compensatory payment, forward the application to the Commissioner certifying the amount of foreign exchange which has been received in respect of the relevant shipment of eligible goods:

Provided that no appointed dealer shall be required to forward an application until he is satisfied that it meets the requirements of the Act and these Regulations.

9. Payment to appointed dealers

The Commissioner shall pay to the appointed dealers from revenue collected on behalf of the Government in accordance with section 4 of the Act on receipt of applications forwarded under regulation 8, the compensatory payments which have been claimed in full compliance with the Act and these Regulations:

Provided that—

- (i) payment shall not prevent the Commissioner subsequently adjusting or reclaiming the amount paid, in accordance with regulation 7;
(ii) the Commissioner may demand other supporting information from appointed dealers relating to claims for compensatory payments as he may feel to be necessary.

10. Payments to exporters

An appointed dealer shall, within seven days of receipt of a compensatory payment from the Commissioner, pay such sums as he may have been authorised to exporters:

Provided that, in the event of the Commissioner subsequently reclaiming an amount in accordance with regulation 9, an appointed dealer may reclaim that amount from the exporter.

11. Offences

A person who contravenes regulation 4 or 6 shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings.

SCHEDULE
FORMS

FORM E.C.1 LOCAL MANUFACTURES (EXPORT COMPENSATION) (PROCEDURES) REGULATIONS
APPLICATION FOR GOODS TO BE INCLUDED IN THE ELIGIBILITY LIST FOR EXPORT COMPENSATION PAYMENT
(To be completed in triplicate with copies of Certificate of Incorporation or Registration)
1. Applicant:
Name and address:
Telephone No. Plot No. Street
Exporter's Registration (Central Bank) Certificate No.
Exporter's Code (Customs) No.
Bankers
2. Goods:
Description of goods
Statistical Code No. Customs Tariff No.
Rate of import duty Rate of sales tax

Local Manufactures (export Compensation) Act

[Subsidiary]

SCHEDULE, FORM E.C.1—continued

3. Raw Materials:

(a) Imported:

Description .....

Statistical Code No. .... Rate of sales tax .....

Other taxes and rates .....

(b) Local:

Statistical Code No. .... Rate of sales tax .....

4. Exports made in the last three years:

Year	Quantity	Value KSh.
.....	.....	.....
.....	.....	.....
.....	.....	.....

5. Inputs:

Give full details of all inputs used to produce the goods showing the percentages of the imported and local proportions, exclusive of duties and taxes. (List the ingredients together with the cumulative proportions).

(a) Imported ..... %

..... %

(b) Local ..... %

..... %

..... %

6. Additional information:

Give any additional relevant information .....

.....

I/We declare that the information given above is true and correct to the best of my/our knowledge and belief.

..... } Signature and designation

---

FOR OFFICIAL USE

Comments .....

.....

Recommended/Not recommended

.....

Secretary

Export Compensation Vetting Committee

.....

FORM E.C.2 (r. 5(1))

LOCAL MANUFACTURES (EXPORT COMPENSATION)  
(PROCEDURES) REGULATIONS

EXPORTER'S CLAIM FOR COMPENSATORY PAYMENT

(To be submitted to an Authorised Dealer in triplicate)

In accordance with the Local Manufactures (Export Compensation) Act (Cap. 482) I/We ..... being an approved  
Exporter, Registration (Central Bank) Certificate No. .... Code (Customs)



SCHEDULE, FORM E.C.2—continued

No. .... of (Address) ..... having exported eligible goods wish to claim compensatory payment as set out below:

Export Entry No. and Date	Quantity	Description of Goods	Place of Export	CD 3 No. and Date	F. O. B Value	Foreign Currency Received	Compensatory Payment Claimed
Total							

I/We certify that the goods exported have been manufactured in Kenya and the value of materials imported from outside Kenya or of undetermined origin (excluding duties and taxes) which have been used at any stage in the production of the goods does not exceed seventy percent of the ex-factory value of the goods.

I/We declare that the information given above is true and correct to the best of my/our knowledge and belief.

Exporter's Signature ..... Date .....

AUTHORISED-DEALER'S CERTIFICATE (To be completed by Bank through which the exporter claims)

We ..... certify that foreign currency amounting to ..... has been received from an external source.

Authorised Signature ..... Date .....

Full name ..... Designation .....

Compensatory payment approved Sh ..... (in words) (Sh. ....)

Checking Officer ..... Refund Voucher No. .... of ..... Authorising Officer .....

OFFICIAL STAMP

FORM C.B.1 [L.N. 217/1990] (r. 5(2))

BOND FOR PAYMENT OF EXPORT COMPENSATION TO PRIOR RECEIPT OF FOREIGN CURRENCY

I/We ..... of ..... and ..... of .....

Hereby acknowledge that I/we am/are bound to the Commissioner of Customs and Excise in the sum of ..... shillings to be paid to the Commissioner of Customs and

Local Manufactures (export Compensation) Act

[Subsidiary]

SCHEDULE, FORM C.B.1—continued

Excise for which payment I/we bind myself/ourselves jointly and severally also my/our heirs, executors, administrators and assigns and each of them.

Dated the ..... 20 .....

WHEREAS the above-named ..... has/have applied to the Commissioner of Customs and Excise for payment of export compensation prior to receipt of foreign currency:

NOW THEREFORE the condition of this obligation is such that if the above-named ..... shall receive and account for the foreign currency in accordance with the Exchange Control Act within ninety days from the date of exportation of eligible goods, then this obligation shall be void but otherwise shall be and remain in full force.

Signed, sealed and delivered by ..... the above-named ..... in the presence of .....

Signature

Signed, sealed and delivered by ..... the above-named ..... in the presence of .....

Approved on the ..... 20 .....

for Commissioner of Customs and Excise

**LOCAL MANUFACTURES (EXPORT COMPENSATION)  
(ORIGIN OF ELIGIBLE GOODS) REGULATIONS, 1974**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation.
  2. Interpretation.
  3. Goods wholly produced in Kenya.
  4. Goods partly produced in Kenya.
  5. Application of regulations 3 and 4.
  6. Mixed consignments.
  7. Segregation of materials.
  8. Mixing of goods.
-

**LOCAL MANUFACTURES (EXPORT COMPENSATION)  
(ORIGIN OF ELIGIBLE GOODS) REGULATIONS, 1974**

[L.N. 266/1974.]

**1. Citation**

These Regulations may be cited as the Local Manufactures (Export Compensation) (Origin of Eligible Goods) Regulations, 1974.

**2. Interpretation**

(1) In these Regulations—

“**materials**” include products, parts and components used in the production of goods;

“**produced**” and “**a process of production**” include the application of any operation or process with the exception of an operation or process which consists only of one or more of the following—

- (a) packing, wherever the packing materials may have been produced;
- (b) splitting up into lots;
- (c) sorting or grading;
- (d) marking;
- (e) putting up into sets.

(2) Energy, fuel, plant, machinery or tools used in the production of approved exports and materials used in the maintenance of such plant, machinery and tools shall be regarded as wholly produced in Kenya when determining the origin of such goods.

(3) In determining the place of production of marine products and goods, a vessel registered or licensed in Kenya shall be regarded as part of the territory of Kenya and, in determining the place from which such goods originated, marine products taken from the sea or goods produced therefrom at sea shall be regarded as having their origins in Kenya if they were taken by, or produced in, a vessel registered or licensed in Kenya and have been brought directly in such vessel to the territory of Kenya.

**3. Goods wholly produced in Kenya**

For the purposes of section 2 of the Act the following goods, among others, shall be regarded as having been produced wholly in Kenya—

- (a) mineral products extracted from the land in Kenya;
- (b) vegetable products manufactured in Kenya;
- (c) live animals born and raised in Kenya;
- (d) products obtained within Kenya from live animals;
- (e) products obtained by hunting or fishing within Kenya;
- (f) marine products taken from the sea by a vessel registered or licensed in Kenya;
- (g) used articles fit only for the recovery of material provided that they have been collected from users within Kenya;
- (h) scrap and waste resulting from manufacturing operations within Kenya;
- (i) goods produced within Kenya exclusively from one or other of the following—
  - (i) products under subparagraphs (a) to (h);

- (ii) materials containing no element imported from outside Kenya or of undetermined origin.

#### **4. Goods partly produced in Kenya**

In determining whether or not goods have been produced in Kenya and whether or not the total value of imported materials, or materials of undetermined origin, which have been used at any stage in the production of the goods exceeds seventy per cent of the ex-factory value of the goods for the purposes of section 2 of the Act, the following provisions shall apply—

- (a) any materials which meet the conditions specified in these Regulations in respect of goods which have been produced wholly in Kenya shall be regarded as containing no element imported from outside Kenya;
- (b) the value of any materials which can be identified as having been imported from a foreign country shall be their c.i.f. value accepted by the East African Customs and Excise Department on clearance for home consumption or, in the case of materials imported from Uganda or Tanzania, the value ascertained in accordance with Annex V to the Treaty for East African Co-operation as if such goods were liable to transfer tax in Kenya;
- (c) if the value of materials imported from a foreign country or from Uganda or Tanzania cannot be determined in accordance with paragraph (b) of this regulation, the value shall be the earliest ascertainable price paid for them in Kenya;
- (d) if the origin of materials cannot be determined, such materials shall be deemed to have been imported from a foreign country and their value shall be the earliest ascertainable price paid for them in Kenya;
- (e) the ex-factory value of approved exports shall be the price paid or payable for them to the producer in Kenya, that price being adjusted where necessary to a free-on-board or free frontier basis in Kenya; this amount shall also be taken to be the ex-factory value in those cases where the producer is also the exporter of the approved exports;
- (f) the value under paragraph (b), (c) or (d) of this regulation or the ex-factory value under paragraph (e) of this regulation may be adjusted to correspond with the amount which would have been obtained in the open market between buyer and seller independent of each other; this amount shall also be taken to be the ex-factory value when the goods are not the subject of a sale.

#### **5. Application of regulations 3 and 4**

Subject to regulations 6, 7 and 8 of these Regulations, the provisions of regulations 3 and 4 shall apply to the goods mentioned in regulations 6, 7 and 8.

#### **6. Mixed consignments**

- (a) Each article in a consignment of imported goods shall be considered separately.
- (b) For the purposes of paragraph (a) of this regulation—
  - (i) tools, parts and accessories which are imported within an article, the price of which is included in that of the article or for which no separate charge is made, shall be considered as forming a whole within the article so long as they constitute the standard equipment customarily included on the sale of articles of that kind;
  - (ii) in cases not within the ambit of subparagraph (i) of this paragraph, goods shall be treated as a single article, if they are so treated for the purpose of assessing customs duty on like articles.

[Subsidiary]

- (c) An assembled or disassembled article which is imported in more than one consignment because it is not feasible to transport or transfer it in a single consignment may, on the option of the importer, be treated as one article.

**7. Segregation of materials**

For those products or industries where it would be impractical to segregate physically materials of similar character or different origin used in the production of goods, segregation may be replaced by an appropriate accounting system, approved by the Commissioner, which ensures that no more goods are designed to operate in Kenya than would have been the case if it had been possible physically to segregate the materials.

**8. Mixing of goods**

In the case of mixtures, not being groups, sets or assembles of separate articles dealt with under regulation 6 of these Regulations, the Commissioner may refuse to accept as originating in Kenya a product resulting from the mixing together of goods which would qualify as originating in Kenya with goods which would not so qualify if the characteristics of the products as a whole are not essentially different from the characteristics of the goods which have been mixed.

---

