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THIRTEENTH PARLIAMENT- SECOND SESSION (2023)


THE NATIONAL ASSEMBLY

COMMITTEE ON DELEGATED LEGISLATION

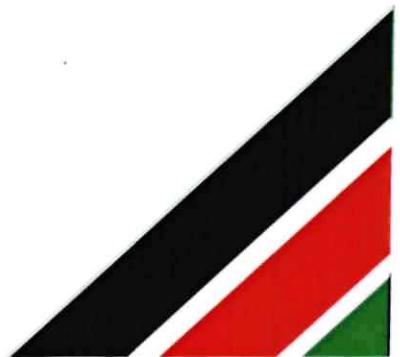
REPORT ON THE CONSIDERATION OF THE EXCISE DUTY
(AMENDMENT) REGULATIONS, 2023

(LN. NO. 40 OF 2023)

AUGUST, 2023

 THE NATIONAL ASSEMBLY	
DATE: 01 AUG 2023	
DAY: TUESDAY	
TABLED BY:	Hon. Samuel Chepkonga, MP Chairperson, Delegated Legislat.
CLERK AT THE TABLE:	Inzofu Mwale

The Directorate of Audit, Appropriations & Other Select Committees
The National Assembly
Parliament Buildings
NAIROBI.



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ABBREVIATIONS

KRA	Kenya Revenue Authority
LN	Legal Notice
RMA	Regulatory Making Authority
SI	Statutory Instruments
SO	Standing Order

CHAIRPERSON'S FOREWORD

The Excise Duty (Amendment) Regulations, 2023 ("the Regulations") were made *vide* LN No. 40 of 2023, pursuant to powers conferred on the Cabinet Secretary for National Treasury and Economic Planning under section 45 of the Excise Duty Act (*No 23 of 2015*) hence, is a statutory instrument within the meaning of section 2 of the Statutory Instruments Act (*No 23 of 2013*).

The Regulations were published in the Gazette as LN No. 40 of 2023 on 28th April 2023, forwarded to the Clerk of the National Assembly and laid on the table of the House on 6th June, 2023 being the fourth sitting day since publication, hence met the Statutory timelines contemplated under section 11(1) of the Statutory Instruments Act. The House was on short recess between 5th May and 5th June, 2023. They were subsequently referred to the Committee on Delegated Legislation for consideration upon resumption of the House.

The purpose of these Regulations is to amend certain provisions of the Excise Duty Regulations, 2020 by specifying activities for which the Commissioner-General of the Kenya Revenue Authority is required to register or licence and by expanding this requirement to include the importation or manufacturing of material meant for packaging of nicotine and nicotine substitutes so as to deter the supply of nicotine or nicotine substitutes to unlicensed manufacturers. In addition, the amendments are made as a result of the realisation that the current manufacturing process is automated and manual. Accordingly, the end goal of the Regulations is to create fairness for taxpayers and facilitate the effective administration of excise duty.

Pursuant to section 16 of the Statutory Instruments Act, 2013 which requires the Committee to confer with the regulation –making authorities before making its decision, the Committee held a joint meeting with National Treasury and Economic Planning and Kenya Revenue Authority on 25th July, 2023 to deliberate on the Regulations.

Having examined the Excise Duty (Amendment) Regulations, 2023, Legal Notice No. 40 of 2023 in accordance with the Constitution, the Interpretations and General Provisions Act (*Cap 2*), the Statutory Instruments Act (*No 23 of 2013*) and the Excise Duty Act (*No. 23 of 2015*), the Committee recommends that the House **APPROVES** the *Excise Duty (Amendment) Regulations, 2023, LN No 40 of 2023* for operations by the National Treasury and other relevant Ministries

I wish to sincerely thank the Speaker and the Office of the Clerk of the National Assembly for the invaluable support accorded to the Committee in the discharge of its mandate.

On behalf of the Members of the Select Committee on Delegated Legislation and pursuant to Standing Order 210 (4) (b) it is my pleasure and duty to present to the House, the **Committee's Report on the Consideration of the Excise Duty (Amendment) Regulations, 2023 (LN. No. 40 of 2023).**

HON. CHEPKONGA KIPRONO SAMUEL, CBS, MP

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Committee on Delegated Legislation is established under *Standing Order No. 210* and is mandated to consider statutory instruments submitted to National Assembly for consideration. The Committee is expected to consider in respect of any statutory instrument, whether it is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws.
2. During the scrutiny, the Committee is guided by the principles of good governance, rule of law considers whether the instrument-
 - a) is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws;
 - b) infringes on fundamental rights and freedoms of the public;
 - c) contains a matter which in the option of the Committee should more properly be dealt with in an Act of the Parliament;
 - d) contains imposition of taxation;
 - e) directly or indirectly bars the jurisdiction of the court;
 - f) gives retrospective effect to any of the provision in respect to which the Constitution does not expressly give any such power;
 - g) it involves expenditure from the consolidated fund or other public revenues;
 - h) is defective in its drafting or for any reason form or part of the statutory instrument calls for any elucidation;
 - i) appears to make some unusual or unexpected use of the power conferred by the Constitution or the Act pursuant to which it is made;
 - j) appears to have had unjustifiable delay in its publication or laying before Parliament;
 - k) makes rights, liberties or obligations unduly dependent upon non-renewable decisions;
 - l) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
 - m) inappropriately delegates legislative powers;
 - n) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
 - o) appears for any reason to infringe on the rule of law;
 - p) inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and
 - q) Accords to any other reason that the Committee considers fit to examine.

1.2 Committee Membership

3. The Committee membership comprises –

Hon. Chepkonga Kiprono Samuel, CBS, M.P. **(Chairperson)**

UDA

Ainabkoi Constituency

Hon. Githinji Robert Gichimu, M.P. **(Vice Chairperson)**

UDA

Gichugu Constituency

Committee Members

Hon. Mbui Robert, CBS, M.P

WDM-KENYA

Kathiani Constituency

Hon. Chebor, Paul Kibet, M.P

UDA

Rongai Constituency

Hon. Maj (Rtd) Dekow Barrow Mohamed,
M.P

UDA

Garrisa Township Constituency

Hon. Yakub Adow Kuno, M.P

UPIA

Bura Constituency

Hon. Julius Lekakeny Ole Sunkuli, EGH,
EBS, M.P.

KANU

Kilgoris Constituency

Hon. (Maj) (Rtd) Abdullahi, Bashir Sheikh
,M.P.

UDM

Mandera North Constituency

Hon. Kamene Joyce, M.P

WDM-KENYA

Machakos County

Hon. Mwirigi John Paul, M.P.

UDA

Igembe South Constituency

Hon. Onchoke, Mamwacha Charles, M.P.

UPA

Bonchari Constituency

Hon. Odoyo, Jared Okello, M.P.

ODM

Nyando Constituency

Hon Kimaiyo, Gideon Kipkoech, M.P.

UDA

Keiyo South Constituency

Hon. Chepkorir Linet, M.P.

UDA

Bomet County

Hon. Komingoi, Kibet Kirui, M.P.

UDA

Bureti Constituency

Hon. Munyoro Joseph Kamau, M.P

UDA

Kigumo Constituency

Hon. Ruku, Geoffrey Kariuki Kiringa,
M.P.

DP

Mbeere North Constituency

Hon. Lenguris Pauline, M.P.

UDA

Samburu County

Hon. Mwale, Nicholas S. Tindi M.P.

ODM

Butere Constituency

Hon Mnyazi Amina Laura, MP.

ODM

Malindi Constituency

Hon. Mugabe Innocent Maino, M.P.

ODM

Likuyani Constituency

1.3 Committee Secretariat

4. The secretariat facilitating the Committee comprises –

Ms. Esther Nginyo
Clerk Assistant I (Team Leader)

Mr. Dima Dima
Principal Legal Counsel I

Mr. Jacknorine Buleemi
Clerk Assistant III

Ms. Winny Otieno
Clerk Assistant III

Mr. Brian Langwech
Clerk Assistant III

Ms Fiona Wanjiru
Legal Counsel II

Mr. Daniel Ominde
Research Officer III

Mrs. Sheila Chebotibin
Serjeant at Arms

Mr. Charles Ayari
Audio Officer

2.0 CONSIDERATION OF THE EXCISE DUTY (AMENDMENT) REGULATIONS (LN NO. 40 OF 2023)

2.1 Introduction

5. The Excise Duty (Amendment) Regulations, 2023, (Legal Notice No. 40 of 2023) were made pursuant to powers conferred on the Cabinet Secretary for National Treasury and Economic Planning by section 45 of the Excise Duty Act (*No 23 of 2015*) hence, is a statutory instrument within the meaning of section 2 of the Statutory Instruments Act (*No 23 of 2013*).
6. The Regulations were published in the Gazette as LN No. 40 of 2023 on 28th April 2023, forwarded to the Clerk, National Assembly and laid on the table of the House on 6th June, 2023 being the fourth sitting day since publication, hence within the Statutory timelines contemplated under section 11(1) of the Statutory Instruments Act. The House was on short recess between 5th May and 5th June, 2023. Thereafter, the Regulations were referred to the Committee on Delegated Legislation for consideration upon resumption of the House.
7. Pursuant to section 16 of the Statutory Instruments Act, 2013 which requires the Committee to confer with the regulation-making authorities before making its decision, the Committee held a meeting with the National Treasury and Economic Planning on 25th July, 2023 to deliberate on the Excise Duty (Amendment) Regulations, 2023.
8. The primary objective of the Excise Duty (Amendment) Regulations, 2023 is to amend some provisions of the Excise Duty Regulations, 2020 (the “principal Regulations”) to create fairness for taxpayers and facilitate the effective administration of excise duty. It amends certain provisions of the principal Regulations and introduces schedules on specifications of the metering, monitoring and measuring devices/systems.

2.2 Summary of the Excise Duty (Amendment) Regulations, 2023, Legal Notice No. 40 of 2023

9. The objects and purpose of these regulations is to amend certain provisions of the principal Regulations, in order to create fairness for taxpayers and facilitate the effective administration of excise duty.
10. The Regulations amends the principal Regulations as follows –
 - a) Amendment of Regulation 2 by inserting a new definition to define “co-manufacturing. The introduction of the new definition of a co-manufacturer is a new concept of business in the manufacturing sector that will enable the Kenya Revenue Authority to control a business arrangement where a manufacture and a co-manufacturer are involved in manufacturing.
 - b) Amendment of Regulation 3(1) by inserting the words “where applicable” immediately after the words “commissioner may require”, in order to give the Commissioner the discretion to exclude some importers from the requirements for licensing or registration.

- c) Amendment of Regulation 4 by deleting several clauses and introducing new paragraphs. This is in order to enhance the verification of excisable goods manufactured by licensed manufacturers of nicotine products and nicotine substitutes.
- d) Amendment of Regulation 12 by inserting a new sub regulation immediately after sub regulation (1) in order to provide for control of raw materials or immediate goods used in co-manufacturing.
- e) Amendment of Regulation 13 by inserting a new sub regulation immediately after sub regulation (3) in order to provide for the storage and delivery of excisable goods used in co-manufacturing.
- f) Amendment of Regulation 15 by inserting a new paragraph after paragraph (a). This will go a long way in providing guidance on the kind of records that should be maintained by a co-manufacturer.
- g) Amendment of Regulation 38(3) by inserting the words “the authorized regulator” immediately after the words “as an importer”. The inclusion of the word ‘ as an importer’ is meant to align with the existing Energy and Petroleum Regulatory Authority Regulations on open tender system in the importation of fuel products in Kenya.

2.3 Legislative Context

11. The Legal Notice on the Excise Duty (Amendment) Regulations, 2023 is made pursuant to section 45 of the Excise Duty Act, 2015. The section empowers the Cabinet Secretary for the National Treasury and Economic planning to make regulations for better carrying out of the provisions of the Excise Duty Act.

2.4 Policy Background

12. The principal Regulations streamline the Excise Duty Act, 2015 with the Tax Procedure Act, 2013 and assist in interpreting and implementing the Excise Duty Act, 2015.
13. Excise duty tax is a tool to influence the consumption of certain products, generally on health or environmental protection grounds. It is also an important source of government revenue as excise of goods, including petroleum products, accounts for about 10% of total revenue.
14. The principal Regulations provided for installing, metering and measuring devices/systems in the production system to ensure that the correct quantities of excisable goods produced or transferred are measured. The Regulations, therefore, provides for specifications for metering, measurement and metering devices/systems. That is important in ensuring uniformity of such devices to prevent revenue leakages due to using inappropriate devices.
15. The principal Regulations streamline licensing and registration of persons undertaking activities requiring an excise license under the Excise Duty Act, 2015, as well as the operations of the same.

16. The principal Regulations specify activities for which registration with the Commissioner is required. The Legal Notice expands this requirement to include importing or manufacturing, packaging material for nicotine or nicotine substitute. This will deter the supply by the importer to unlicensed manufacturers of products containing nicotine or nicotine substances.
17. Further, the Regulations clarify the excise treatment of co-manufacture due to the realization that the current manufacturing process is automated and manual.

3.0 COMMITTEE OBSERVATIONS

18. Having examined the Excise Duty (Amendment) Regulations, 2023 in line with the Constitution of Kenya 2010, the Interpretation and General Provisions Act (Cap. 2) Laws of Kenya, the Excise Duty Act (No. 23 of 2015) and the Statutory Instruments Act (No. 23 of 2013) the Committee made the following observations –

3.1 Statutory Timelines

19. THAT the Regulations were published in the Gazette as LN No. 40 of 2023 on 28th April 2023, received by the Clerk of the National Assembly and e laid on the table of the House on 6th June, 2023 being the fourth sitting day since publication, hence within the Statutory timelines contemplated under section 11(1) of the Statutory Instruments Act.

3.2 Public Participation

20. The Explanatory Memorandum provides a detailed justification for making the Regulations and it indicates that public consultation was conducted in accordance with the provisions of Article 10 and Article 118 and Article 201 of the Constitution of Kenya 2010.

3.3 Regulatory Impact Statement

21. Pursuant to the provisions of Section 5A of the Statutory Instruments Act, 2013, there is attached to the Regulations a detailed Explanatory Memorandum which provides for the purpose of the Statutory Instrument and its legislative context. The memorandum further provides for the policy background, public consultations outcome, impact of the Statutory Instrument, non- requirement of a regulatory impact assessment and monitoring and review.

4.0 COMMITTEE RECOMMENDATION

Having examined the Excise Duty (Amendment) Regulations, 2023, Legal Notice No. 40 of 2023 in accordance with the Constitution, the Interpretations and General Provisions Act (Cap 2), the Statutory Instruments Act (No 23 of 2013) and the Excise Duty Act (No. 23 of 2015), the Committee recommends that the House **APPROVES** the *Excise Duty (Amendment) Regulations, 2023, LN. No. 40 of 2023* for operations by the National Treasury and other relevant Ministries.

Signed.....

Date...*15th August 2023*.....

**THE HON. CHEPKONGA SAMUEL KIPRONO, CBS, MP
(CHAIRPERSON)**

ANNEXURES

- 1. Adoption List**
- 2. Legal Notice Number 40 of 2023 and the Explanatory Memorandum**
- 3. Committee Minutes**



NATIONAL ASSEMBLY
 DOORS LAID
 20 JUN 2023
 TUE
 HON. KIMANI KHURUQA
 MAJORITY LEADER
 INZOPI
 CLERK-AT-THE-TABLE

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(Legislative Supplement No. 15)

LEGAL NOTICE NO. 39

THE CABINET SECRETARY TO THE TREASURY
(INCORPORATION) ACT

(Cap. 101)

THE KENYA PORTS AUTHORITY (VESTING) ORDER, 2023

IN EXERCISE of the powers conferred by section 3(1) of the Cabinet Secretary to the Treasury (Incorporation) Act, the Cabinet Secretary for National Treasury and Economic Planning makes the following Order—

THE KENYA PORTS AUTHORITY (VESTING) ORDER, 2023

1. This Order may be cited as the Kenya Ports Authority (Vesting) Order, 2023. Citation.

2. In this Order, unless the context otherwise requires— Interpretation.
“commencement date” means the 16th June, 2021;

“entity” includes a natural person, company, association or other body of persons whether incorporated or unincorporated;

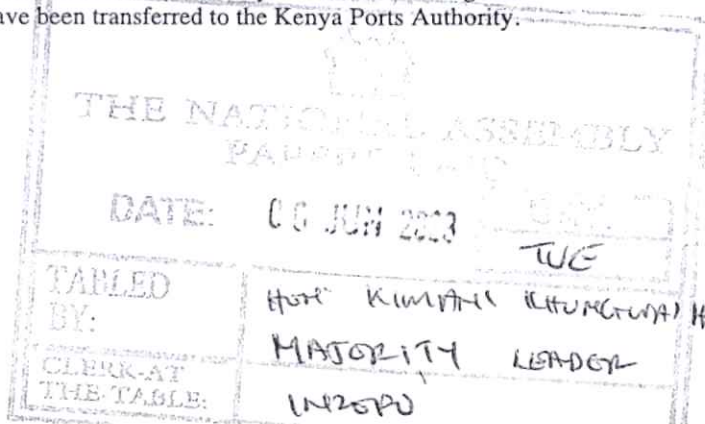
“liability” means a liability, court case, debt, charge, duty or obligation arising from past or existing project contracts or consultancies of every description and whether present or future, actual or contingent, and whether payable or to be observed or performed in Kenya or elsewhere;

“right” means any right or power, whether actual, contingent or prospective; and

“commencement date” and “vesting date” means the 16th June, 2021.

3. The functions and rights vested in the Kenya Ferry Services Limited shall, from the date of the commencement of the Asset and Business Transfer Agreement between the Kenya Ports Authority and Kenya Ferry Services Limited dated the 16th June, 2021, be deemed to have been transferred and vested in the Kenya Ports Authority with effect from the commencement date. Transfer and vesting.

4. The assets, liabilities, obligations, property, rights, securities and undertakings set out in the Schedule, and any other assets, liabilities, obligations, property, rights, securities and undertakings of the Kenya Ferry Services Limited that are found to have belonged to the Kenya Ferry Services Limited on the day before the vesting date shall be deemed to have been transferred to the Kenya Ports Authority. Presumption of transfer.



5. All existing legal or alternative dispute resolution proceedings, or application to any authority by or against the Kenya Ferry Services Limited, shall not abate, be discontinued or in any way be prejudiced by reason only of the provisions of this Order, but the same may be prosecuted or continued by or against the Kenya Ports Authority, and any judgment or award obtained by or against the Kenya Ferry Services Limited before the commencement date shall thereafter be enforceable by or against the Kenya Ports Authority.

Legal and alternative dispute resolutions proceedings.

6. The custody of any documents, goods or other property held by the Kenya Ferry Services Limited as bailee for any other person shall be transferred to the Kenya Ports Authority from the vesting date, and the rights and obligations of the Kenya Ferry Services under any contract of bailment shall be transferred or deemed to be transferred to the Kenya Ports Authority.

Documents, goods and other properties.

7. Any past or existing contracts, agreements, conveyances, deeds, leases, licences, permits, exemptions, powers of attorney, undertakings, securities and other instruments arising from or related to past or existing projects and consultancies entered into by, made with or granted or addressed to the Kenya Ferry Services Limited, whether alone or with any other person, and whether as principal or agent, shall, as from the commencement date, be binding and have full force and effect in every respect against or in favour of the Kenya Ports Authority as if the Kenya Ports Authority had been party thereto, bound thereby or entitled to the benefit therefor, and as if any reference, express or implied, to any member, officer or employee of the Kenya Ports Authority in respect of anything to be done on or after the commencement date were substituted a reference to the member, officer or employee of the Kenya Ports Authority who most nearly corresponds thereto.

Contracts, agreements, conveyances, deeds, leases, licences, permits, exemptions, powers of attorney, undertakings, securities and other instruments.

8. Any reference to an entity in any agreement or instrument entered into by the Kenya Ferry Services Limited in trust on behalf of or for the benefit of the Government of Kenya or the Cabinet Secretary, in relation to the assets specified in the Schedule, shall be deemed to be references to the Kenya Ports Authority.

References to entity to mean references to Kenya Ports Authority.

9. Any person employed by the Kenya Ferry Services Limited on or before the vesting date shall be deemed to be an employee of the Kenya Ports Authority.

Staff.

10. Nothing in this Order shall terminate, discharge or prejudicially affect the assets, liabilities, obligations, property, rights, securities and undertakings of the Kenya Ferry Services Limited solely on account of the transfer or vesting under this Order

Savings and transition.

SCHEDULE

S/No.	Land	Size
	MOMBASA BLOCK XXVI/1085	0.2196 Ha
	MOMBASA ISLAND BLOCK XXVI/1085	0.05 Ha
	MOMBASA ISLAND BLOCK XXVI/1012	0.05 Ha

(3A) Excisable goods in an excise stock room for the co-manufacture of goods shall be stored separately in such a manner as to facilitate the accounting for the goods therein.

7. Regulation 15 of the principal Regulations is amended in subregulation (1) by inserting the following new paragraph immediately after paragraph (a)—

(aa) in relation to locally manufactured excisable goods under a co-manufacturing agreement—

- (i) detailed records of raw materials received and removed from their premises;
- (ii) production records at every stage of the manufacturing process;
- (iii) packaging materials received and utilized in their premises;
- (iv) details of goods removed from the factory;
- (v) readings of measuring and metering devices for each co-manufacture production run; and
- (vi) sales records.

8. Regulation 38(3) of the principal Regulations is amended in paragraph (b) by inserting the words “the authorized regulator” immediately after the words “as an importer”.

Made on the 21st March, 2023.

NJUGUNA NDUNG’U,
*Cabinet Secretary for the
National Treasury and Economic Planning.*

S/No.	Land	Size
	MOMBASA ISLAND BLOCK XXVI/1013	0.05 Ha
	MOMBASA ISLAND BLOCK XXVI/972	0.34 Ha
	MOMBASA/MS/BLOCK 1/1762	0.2878 Ha
	MOMBASA/MS/BLOCK 1/1763	0.1876 Ha
	MOMBASA/MS/BLOCK 1/1758	0.1910 Ha
	MOMBASA/MS/BLOCK 1/1699	0.8485 Ha

A. FERRY VESSELS

S/No.	Vessel Name	Registration No.
	MV Nyayo	IMO NUMBER 10110
	MV Harambee	IMO NUMBER 10109
	MV Kilindini	IMO NUMBER 10112
	MV Jambo	IMO NUMBER 101209/9810886
	MV Safari	IMO NUMBER 9810898
	MV Kwale	IMO NUMBER 10194/9522398
	MV Likoni	IMO NUMBER 10195/9522398

B. MOTOR VEHICLES

S/No.	Vehicle make	Chassis No.
	Isuzu Lorry	JAAN1R66PF7104925

C. WORKS AND BUILDINGS

S/No.	Works and buildings
1.	Peleleza HQ Building
2.	Mtongwe Pontoon Buildings
3.	Peleleza Jetty
4.	Island and mainland ramps
5.	Island security wall

Made on the 21st March, 2023.

NJUGUNA NDUNG'U,
Cabinet Secretary for the
National Treasury and Economic Planning.

LEGAL NOTICE No. 40

THE EXCISE DUTY ACT, 2015

(No. 23 of 2015)

IN EXERCISE of the powers conferred by section 45 of the Excise Duty Act, 2015, the cabinet Secretary for the National Treasury and Economic Planning makes the following Regulations—

THE EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

1. These Regulations may be cited as the Excise Duty Citation.
(Amendment) Regulations, 2023.

Legal

2. The Excise Duty Regulations, 2020 (in these Regulations referred to as the "principal Regulations"), are amended in regulation 2 by inserting the following new definition in proper alphabetical sequence—

L.N. 113/2020.

"co-manufacture" means any partial process in the production of excisable goods by use of an automated production line.

3. Regulation 3 of the principal Regulations is amended in subregulation (1) by inserting the words "and where applicable" immediately after the words "Commissioner may require".

4. Regulation 4 of the principal Regulations is—

(a) amended in subregulation (1) by—

(i) deleting paragraph (a) and substituting therefor the following new paragraph—

(a) the importation or manufacture of cigarette paper or cigarette packaging materials;

(ii) by deleting paragraph (b) and substituting therefor the following new paragraph (a)—

(b) the importation of raw or unprocessed tobacco;

(iii) by deleting paragraph (c) and substituting therefor the following new paragraph—

(c) the local purchase or importation of ethanol;

(iv) by deleting paragraph (d) and substituting therefor the following new paragraph—

(d) the denaturing of spirits; and

(v) by adding the following new paragraph immediately after paragraph (d)—

(e) the importation or manufacture of packaging material for products containing nicotine or nicotine substitutes.

(b) by inserting the following new subregulation immediately after subregulation (2)—

(2A) Only an agent of a licensed importer or manufacturer of products containing nicotine or nicotine substitutes shall be registered by the Commissioner as an importer of packaging materials of products containing nicotine or nicotine products.

5. Regulation 12 of the principal Regulations is amended by inserting the following new subregulation immediately after subregulation (1)—

(1A) A co-manufacturer shall keep the raw materials or immediate goods used for the co-manufacturing separately to allow for the accounting of the materials in the factory.

6. Regulation 13 of the principal Regulations is amended by inserting the following new subregulation immediately after subregulation (3)—

(3A) Excisable goods in an excise stock room for the co-manufacture of goods shall be stored separately in such a manner as to facilitate the accounting for the goods therein.

7. Regulation 15 of the principal Regulations is amended in subregulation (1) by inserting the following new paragraph immediately after paragraph (a)—

(aa) in relation to locally manufactured excisable goods under a co-manufacturing agreement—

- (i) detailed records of raw materials received and removed from their premises;
- (ii) production records at every stage of the manufacturing process;
- (iii) packaging materials received and utilized in their premises;
- (iv) details of goods removed from the factory;
- (v) readings of measuring and metering devices for each co-manufacture production run; and
- (vi) sales records.

8. Regulation 38(3) of the principal Regulations is amended in paragraph (b) by inserting the words “the authorized regulator” immediately after the words “as an importer”.

Made on the 21st March, 2023.

NJUGUNA NDUNG’U,
*Cabinet Secretary for the
National Treasury and Economic Planning.*

**EXPLANATORY MEMORANDUM TO THE EXCISE DUTY
(AMENDMENT) REGULATIONS, 2023**

LEGAL NOTICE NO. 40 OF 2023

PART I

Name of Statutory Instrument	: The Excise Duty (Amendment) Regulations, 2023.
Name of Parent Act	: Excise Duty Act 2015.
Enacted Pursuant to	: Section 45 of the Excise Duty Act, 2015.
Name of the Ministry/Department	: The National Treasury and Economic Planning.
Gazetted on	: 31 st March, 2023, and Published on 28 th April, 2023.

PART II

1.0 Purpose of the Statutory Instrument

- 1.1 The objective of this Memorandum is to submit Legal Notice No. 40, Kenya Gazette Supplement No. 15 of 2023, and published on in the Kenya Gazette Vol. CXXV – No. 99 of 28th April, 2023, for tabling in the National Assembly in accordance with the provisions of Section 11 of the Statutory Instruments Act, 2013.
- 1.2 The Legal Notice introduces the Excise Duty (Amendment) Regulations, 2023, in line with the requirements of the Excise Duty Act 2015.

2.0 Legislative Context

- 2.1 The Legal Notice on the Excise Duty (Amendment) Regulations, 2023, is made under Section 45 of the Excise Duty Act 2015. The Section empowers the Cabinet Secretary for the National Treasury and Economic Planning to make regulations for better carrying out the provisions of the Excise Duty Act.

2.2 This Legal Notice amends certain provisions of the Excise Duty Regulations, 2017, referred to herein as the principal Regulations. Further, it introduces schedules on the specifications of the metering, monitoring and measuring devices/systems.

3.0 Policy Background

3.1 The primary objective of the Legal Notice is to amend some provisions of the principal Regulations and the insertion of two schedules. This is meant to create fairness for taxpayers and facilitate the effective administration of excise duty.

3.2 The principal Regulations streamline the Excise Duty Act 2015 with the Tax Procedures Act 2013 and assist in interpreting and implementing the Excise Duty Act 2015.

3.3 Excise duty tax is a tool to influence the consumption of certain products, generally on health or environmental protection grounds. It is also an important source of government revenue as excise on goods, including petroleum products, accounts for about 10% of total revenue.

3.4 The principal Regulations provide for installing metering and measuring devices/systems in the production system to ensure that the correct quantities of excisable goods produced or transferred are measured. The Legal Notice, therefore, provides for specifications for metering, measurement and metering devices/systems.

3.5 This is important to ensure uniformity of such devices to prevent revenue leakages due to using inappropriate devices.

3.6 The principal regulations streamline licencing and registration of persons undertaking activities requiring an excise license under the Excise Duty Act, 2015, as well as the operations of the same.

3.7 The principal Regulations specify activities for which registration with the Commissioner is required. This Legal Notice expands this requirement to include importing or manufacturing packaging material for nicotine or nicotine substitute. This will deter supply by the importer to unlicensed manufacturers of products containing nicotine or nicotine substitutes.

3.8 Further, the Legal Notice clarifies the excise treatment of co-manufacture due to the realization that the current manufacturing process is automated and manual.

4.0 Public Consultation Outcome

4.1 In developing this Legal Notice, public participation was undertaken in compliance with the provisions of Section 5 of the Statutory Instruments Act, 2013 and Article 201 (a) of the Constitution.

4.2 Through the Kenya Revenue Authority, the National Treasury and Economic Planning invited stakeholders and public members to submit comments on the draft Legal Notice on **24th January 2023** through a Public Notice.

4.3 A stakeholder engagement was held on 8th February, 2023 during which, the taxpayers requested for more time to submit their comments on the Regulations. The management granted the request and extended the period to submit comments upto 21st February 2023, to allow for adequate public participation. A public notice to this effect was issued on 14th February 2023. A second engagement was held on 21st February 2023.

4.4 Stakeholders' submissions were reviewed, and their feedback was incorporated, where appropriate, to improve the Regulations.

4.5 The only comment not incorporated and for which we seek your guidance is the request by stakeholders to revoke Legal Notice No. 69 of 2011 and extend the duration within which measuring devices should be installed from six months to three years, which effectively pushes forward the effective date of these amendments by two and a half years.

5.0 Impact

5.1 The Legal Notice aims to improve tax compliance and create fairness for taxpayers.

5.2 It is not expected that the Legal Notice will directly impact revenue. However, the Legal Notice indirectly leads to revenue mobilization by improving compliance.

5.3 Section 9 of the Statutory Instrument Act 2013 provides that a regulatory impact statement need not be prepared for a proposed statutory instrument if the proposed legislation only provides for an amendment of a fee, charge, or tax consistent with announced government policy. Since the Regulations are in line with the provisions of the Excise Duty Act, 2015, a regulatory impact statement has not been prepared.

6.0 Monitoring and review

The Legal Notice will be implemented by the Kenya Revenue Authority and will be operational from the date of publication in the Kenya Gazette.

7.0 Request to the National Assembly

The National Assembly is invited to:

- a) Note the contents of this memorandum.
- b) Adopt Legal Notice No. 40, Kenya Gazette Supplement No. 39 of 2023.

8.0 Contact

Cabinet Secretary

The National Treasury and Economic Planning

P. O. Box 30007-00100

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Public Notice

Extension of the Deadline for Submission of Comments on the Draft Excise Duty (Amendment) Regulations, 2023

In compliance with the Statutory Instruments Act, 2013, the Commissioner General on behalf of the Cabinet Secretary, National Treasury and Economic Planning, has reviewed the Excise Duty Regulations 2017 and made the draft Excise Duty (Amendment) Regulations, 2023.

In compliance with the same Act, and on behalf of the Cabinet Secretary, the National Treasury and Economic Planning, the Commissioner General hereby extends the deadline for submission of stakeholders comments and input on the draft Excise Duty (Amendment) Regulations, 2023. These will be considered in finalizing the draft regulations. The submissions should reach The Kenya Revenue Authority on or before 21st February, 2023. The draft regulations have been posted on the KRA website, www.kra.go.ke. You may download the same for your reference.

Please channel your submissions to the Commissioner General, Kenya Revenue Authority, P.O. Box 3240-00100, Nairobi or by email to stakeholder.engagement@kra.go.ke

Commissioner General

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www.kra.go.ke
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Kenya Bureau of Standards
Standards for Quality life

Tel: 0206948000 | Toll Free Line 1545 | E-Mail: procurement@kebs.org | www.kebs.org

TENDER NOTICE

The Kenya Bureau of Standards (KEBS) invites sealed tenders from eligible firms for the following tender:

NO.	ITEM DESCRIPTION	TENDER NUMBER	ELIGIBILITY	CLOSING DATE
1	Framework Agreement for supply and Delivery of Laboratory Chemicals and Consumables	KEBS/T010/2022/2023	Open to All	Wednesday 1 st March 2023

Tender documents detailing the requirements may be obtained from the Procurement Office, KEBS Centre, Popo Road, Off Mombasa Road, Nairobi, on normal working days between 9.00 a.m. and 4.00 p.m. upon payment of a non-refundable fee of Ksh. 1000, or be downloaded free from KEBS website as indicated in the tender document. The amount is payable in cash or bankers' cheque. All payments shall be made to the Kenya Bureau of Standards, Nairobi.

Completed tender documents in plain sealed envelopes clearly marked 'TENDER NUMBER AND TITLE OF THE TENDER' indicated on the envelope should be addressed to:

THE MANAGING DIRECTOR
KENYA BUREAU OF STANDARDS
P.O. BOX 54974 - 00200
NAIROBI

And be deposited in the Tender Box located at KEBS Centre Main Reception marked "TENDER BOX" so as to be received as indicated above. Tender opening will be carried out immediately thereafter at the KEBS Centre Conference Room A, Adm. Block, Ground Floor.

MANAGING DIRECTOR

#WajibikaNaKEBS

Verify the authenticity of KEBS quality marks by use of the KEBS Official Mobile App or sending a text to 20223: SM#Permit Number/ ISM#UCR Number/ DM#Permit Number

KEBS Implements an Anti-bribery Management Policy accessible through KEBS Website www.kebs.org

www.kebs.org

KENYA INSTITUTE OF MASS COMMUNICATION
P.O. Box 42127 - Nairobi 00100 (Upper Road, Nairobi South II, Off Mombasa Road)
Cell: 0712 02 151 54 - 0712 02 02708 (Local) info@kimc.ac.ke | Website: www.kimc.ac.ke

SELF-SPONSORED (EVENING/WEEKEND) COURSES

Kenya Institute of Mass Communication (KIMC), a Public Tertiary Media College, invites applications from interested and qualified candidates for admission into the below media courses during the:

ACADEMIC YEAR 2023/2024, MAY 2023 INTAKE

Note:

- Course Duration: Ordinary Diploma (3 Years), Upgrading Diploma (2 Years), Certificate (1 Year), Module Based Certificate (8 Modules, 1 Year) & Postgraduate Diploma (1 Year).
- Classes Time, Weekdays: Monday to Friday: 4.30 pm - 8.30pm, & Saturdays: 8.00am to 5.00pm.
- Regular Courses, ALL Regular Courses are processed through Kenya Universities and Colleges Placement Services (KUCCPS). Please, visit KUCCPS website at: www.kuccps.ac.ke for more information.

COURSES	KCSE MEAN GRADE	MANDATORY CLUSTER SUBJECTS
POSTGRADUATE STUDIES		
1 Post Graduate Diploma in Mass Communication.	N/A	Bachelor's degree from a recognized University
2 Post Graduate Diploma in Film Studies.	N/A	Bachelor's degree from a recognized University
3 Post Graduate Diploma in Advertising and Corporate Branding	N/A	Bachelor's degree from a recognized University
PRE-SERVICE: DIPLOMA AND CERTIFICATE COURSES		
1 Diploma in Broadcast Journalism.	MEAN GRADE C	C (Plain) in English, Kiswahili, and any other two subjects.
2 Diploma in Journalism.	MEAN GRADE C	C (Plain) in English, Kiswahili, and any other two subjects.
3 Diploma in Public Relations & Creative Advertising.	MEAN GRADE C	C (Plain) in English, Kiswahili, and any other two subjects.
4 Diploma in Radio Programmes Production & Broadcasting.	MEAN GRADE C	C (Plain) in English, Kiswahili, and any other two subjects.
5 Diploma in Television Programmes Production.	MEAN GRADE C	C (Plain) in English, Kiswahili, and any other two subjects.
6 Diploma in Film/Video Programmes Production (Directing).	MEAN GRADE C	C (Plain) in English, Kiswahili, and any other two subjects.
7 Diploma in Media Technology.	MEAN GRADE C	C (Plain) in English or Kiswahili, D+ (Plus) in Math, & Physics/Physical Sciences or Chemistry.
8 Certificate in Broadcast Journalism	GRADE C-	C- (Minus) in English, Kiswahili, and any other two subjects.
9 Certificate in Radio & TV Presentation Techniques.	MEAN GRADE C-	C- (Minus) in English, Kiswahili, and any other two subjects.
10 Certificate in Film/Video Programmes Production	MEAN GRADE C-	C- (Minus) in English, Kiswahili, and any other two subjects.
11 Certificate in Media Technology.	MEAN GRADE C-	C- in English or Kiswahili, D in Math & Physics/Physical Sciences or Chemistry.
DIPLOMA IN UPGRADING COURSES		
1 Upgrading Diploma in Broadcast Journalism	KCSE MEAN GRADE: C - (Minus) and a KIMC Certificate or its equivalent from a recognized institution Or Module - Based Certificate in Film/Video Programme Production and six (6) months of proven Industrial Attachment (Attach a copy)	
2 Upgrading Diploma in Television Programmes Production		
3 Upgrading Diploma in Film/Video Programmes Production (Directing)		
4 Upgrading Diploma in Media Technology		
COURSES OFFERED AT ELDORET CAMPUS		
1 Certificate in Film/Video Programmes Production (Module Based)	MEAN GRADE D+ (PLUS).	D+ in English and Kiswahili
2 Based Certificate in Broadcast Journalism (Module Based)		
DEGREE PROGRAMMES (COLLABORATION)		
UNIVERSITIES	DEGREE TITLE	APPLICATION
1 University of Nairobi (UoN)	Bachelor's Degree in Broadcasting Production (Film, TV, and Radio Options)	Apply to: www.uonbi.ac.ke



KENHA steps up crackdown on rogue cane transporters to reduce accidents

CHRIS MAHANDARA KNA

The Kenya National Highways Authority (KeNHA) has mounted a crackdown on rogue sugarcane transporters to tame rampant destruction of road infrastructure in the Nyanza region.

It follows a sharp rise in number of cases, among them accidents, involving arcane trucks and lorries riving a trail of destruction the Authority's critical infrastructure.



A tractor ferrying sugar cane. (FILE)

KeNHA Nyanza Regional Director, Eng. Julius Mak'oderoh blamed the drivers of the free hand trucks and transporters by saying they are not checking on their activities on the roads while transporting cane.

Sugar millers have out-crested this service by contracting the transporters. As we approach them on these issues, they claim they have no control," he said.

He said, a lot of freewheeling, especially when approaching a road to gain momentum

to move uphill resulting to accidents.

He specifically pointed out the Kasagam flyover, where a number of sugarcane trucks have rolled due to freewheeling.

"These facilities have been designed to be navigated at a certain speed. For example, the maximum speed for Kasagam fly-over is 40 km/hr. So, a driver doing any speed above the limit is at risk of causing accidents," he said.

Mak'oderoh said KeNHA has directed sugar millers to rein in on their contracted firms delivering cane in the region to restore sanity and

safeguard the road network in the area.

The Agency's officials, he said, have mounted a crackdown on the rogue transporters to ensure that they stick to the set regulations.

Among the regulations to be enforced is observation of the operating hours, adding that no sugarcane truck shall be allowed on the road before 6 am and after 6 pm.

Other measures include strict adherence to traffic rules, and control of littering which has become synonymous with cane transportation.

"We have directed them to strap the sugarcane to

avoid littering. Those found contravening these regulations will be apprehended and taken to court," he said.

KeNHA, he disclosed, continues to experience cases of vandalism in the area, adding that the patrol teams have rolled out a robust program to rein in on the vandals.

The vandals, he said, target metallic guard rails, street lights and signage along the 1,500 kilometres of road under KeNHA in the Nyanza region.

Efforts to replace metal with plastic, he said, have been futile since the vandals still destroy them.

"We are conducting research to find out how best to deal with this menace. We must strike a balance between finding an appropriate replacement for the precious metal and dealing with the anger of the vandals who also destroy the alternative materials we use to replace metal," he said.

Mak'oderoh urged members of the public to partner with the Agency and volunteer information to tame the vice.

Global fund earmarks Sh3b for construction of Oxygen piping

BY LINET WAFULA KNA

Over 320 health facilities in remote outposts across the Country are set to benefit from a reliable supply of oxygen after Global Fund earmarked Sh3 billion toward oxygen piping.



Dr. Bernard Langat (Left), Amref Programme Director greets Nandi County Governor Stephen Sang at his office during a courtesy call.

Amref Programme Director in-charge of Disease Control and Infection, Dr. Bernard Langat, said Global Fund has pumped in Ksh 3 billion towards the constructions of Oxygen hubs.

Speaking at Nandi County headquarters after meeting Governor Stephen Sang, Dr. Langat said the project involves oxygen cylinders, liquid oxygen and infrastructure.

"We are piping all 320 health facilities across the 45 Counties. We put the Pipes for oxygen outlets and money for them to distribute the oxygen that are in the cylinders," he said.


Dr. Langat noted that they are also doing 14 liquid oxygen tanks across the 14 counties.

"We are also doing oxy-

gen plugs mainly targeting remote places like Kapedo, Lamu, Chemolingot in Baringo County among other regions. We know it's a bit challenging transporting oxygen in those areas that's why we need them to be able to generate oxygen and fill some of the cylinders in their facilities," he said.

He said the biggest challenge in the Country is lack of cylinders adding that plans are underway to purchase 21,000 empty oxygen cylinders before March.

CONTINUED ON PAGE 16



KENYA REVENUE AUTHORITY

Tender Notice

The Kenya Revenue Authority invites bids from eligible candidates for the following tenders:

TENDER DESCRIPTION	ELIGIBILITY	PREBID DATE, TIME AND VENUE	CLOSING/OPENING DATE, TIME AND VENUE
KA/HC/013/2023-2023: Supply of Repetitive Air-to-Air Hardware Equipment and Support Services for a Period of Three (3) Years. (Preliminary)	OPEN	31 st January, 2023 11:00 AM	7 th February, 2023 11:00 AM
KA/HC/014/2023-2023: Supply, Delivery, Testing and Commissioning of Two (2) Distributed Control Systems for Aerial Surveillance for a Period of Three (3) Years. (Preliminary)	OPEN	1 st February, 2023 11:00 AM	8 th February, 2023 11:00 AM
KA/HOS/RFP/05/2023-2023: Provision of Medical Scheme Administration Services for a Period of Three (3) Years.	OPEN	30 th January, 2023 11:00 AM	8 th February, 2023 11:00 AM

Tender documents detailing the requirements of the above tenders may be obtained from the Kenya Revenue Authority website www.kra.go.ke.


Deputy Commissioner - Supply Chain Management
 Times Tower Building, 21st Floor,
 P.O. Box 48240-00100 GPO,
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 Nairobi, Kenya
 website: www.kra.go.ke
 Email: procurement@kra.go.ke

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The National Treasury and Planning



KENYA REVENUE AUTHORITY

Public Notice

Regulations under the Excise Duty Act, 2015

In compliance with the Statutory Instruments Act, the The Commissioner General on behalf of the Cabinet Secretary, the National Treasury and Economic Planning, has reviewed the The Excise Duty (Excisable Goods Management System) Regulations, 2017 and made the The Excise Duty (Excisable Goods Management System) (Amendment) Regulations, 2023.

In compliance with the same Act, and on behalf of the Cabinet Secretary, the National Treasury and Economic Planning, the Commissioner General invites interested members of the public and stakeholders to submit their inputs and comments for consideration in the finalising of the above regulations. These draft regulations have been posted on the KRA website, www.kra.go.ke. You may download the same for your reference.

Please channel your submissions to the Commissioner General, Kenya Revenue Authority, P.O. Box 48240-00100, Nairobi or by email to stakeholderengagement@kra.go.ke to be received on or before 3rd February, 2023.

Commissioner General
 Thank You for Paying Taxes to Build Kenya

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Tulipe Ushuru, Tujitegeme!

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Date: Tuesday, February 14, 2023 04:29PM

Subject: PUBLIC PARTICIPATION ON THE EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

Dear Esteemed Stakeholder,

Following the extension of time to submit your comments on the Excise Duty (Amendment) Regulations, 2023 we hereby invite you to a public participation on **Tuesday, 21st February 2023** at **9.00am** with the meeting link below:

<https://kra.webex.com/kra/j.php?MTID=mf67ed148b316b8f7cbd89adcd133fd16>

Meeting number:
2361 983 2277

Password:
myJY
6bhZig8

Please find attached Draft Legal Notice and Public Notice.

Kindly confirm attendance to facilitate tightening of the engagement details.

Regards,

Stakeholder Engagement Unit | Marketing & Communication | Kenya Revenue Authority
P. O. Box 48240 - GPO 00100 Nairobi | +254 (020) 499 2045 or Ext. 2045 | 254 (0711) 099 999 |
Email: stakeholder.engagement@kra.go.ke



<https://www.kra.go.ke/images/KRA-Mail-Disclaimer.pdf>

Attachments:

Excise-Duty-Amendment-Regulations-2023.pdf

Public Notice_Extension of the Deadline for Submission of Comments on the Draft
Excise Duty Regulations (Amendment) 2023_132.pdf

From: KRAStakeholder Engagement/KRA
To: KRAStakeholder Engagement/KRA@KRA
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Date: Tuesday, February 14, 2023 04:32PM
Subject: PUBLIC PARTICIPATION ON THE EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

Dear Esteemed Stakeholder,

Following the extension of time to submit your comments on the Excise Duty (Amendment) Regulations, 2023 we hereby invite you to a public participation on **Tuesday, 21st February 2023 at 9.00am** with the meeting link below:

<https://kra.webex.com/kra/j.php?MTID=mf67ed148b316b8fcbd89adcd133fd16>

Meeting number:
2361 983 2277

Password:
myJY
6bhZi98

Please find attached Draft Legal Notice and Public Notice.

Kindly confirm attendance to facilitate tightening of the engagement details.

Regards,

Stakeholder Engagement Unit | Marketing & Communication | Kenya Revenue Authority
P. O. Box 48240 - GPO 00100 Nairobi | +254 (020) 499 2045 or Ext. 2045 | 254 (0711) 099 999|

2/22/23, 12:08 PM

[https://kramail.kra.go.ke/mail/sengagmg.nsf/\(%24Sent\)/90D6976B156D841643258956004A6413/?OpenDocument&Form=h_PrintUI&PresetFields=s_NotesForm;memo&ui=classic](https://kramail.kra.go.ke/mail/sengagmg.nsf/(%24Sent)/90D6976B156D841643258956004A6413/?OpenDocument&Form=h_PrintUI&PresetFields=s_NotesForm;memo&ui=classic)

Email: stakeholder.engagement@kra.go.ke



<https://www.kra.go.ke/images/KRA-Mail-Disclaimer.pdf>

Attachments:

Excise-Duty-Amendment-Regulations-2023.pdf

Public Notice_Extension of the Deadline for Submission of Comments on the Draft Excise Duty Regulations (Amendment) 2023_132.pdf

From: KRAStakeholder Engagement/KRA
To: KRAStakeholder Engagement/KRA@KRA
Bcc: maryonchomba@gmail.com, lucymongony@gmail.com, aquanix2015@gmail.com, moriso2013@gmail.com, info@mombasaexporters.com, odipomoses254@gmail.com, italwaters@gmail.com, jaffarhassan862@gmail.com, oukomaxwell@gmail.com, mirukamalachi2010@gmail.com, mowino@sabibuafrika.com, michelleoyiolo@gmail.com, oyuomika@gmail.com, moyuyo@tropical.co.ke, nairesiaparpai@gmail.com, info@velocitylimited.com, formassimo@gmail.com, bacardiltd@gmail.com, bord.import@gmail.com, manish@adelantte.co.ke, rm@tangaza.ac.ke, abdulrahman.aziz1@yahoo.com, nyambeneminerwater@gmail.com, robbymusau@gmail.com, maryruno@gmail.com, rundawater@gmail.com, smhj95.ss@gmail.com, saidmuhumedabdille2019@gmail.com, mustafa@bestbuydistributors.com, rashidmoha31@gmail.com, memoisalatt@yahoo.com, salome.muindi@gmail.com, manalsameer27@gmail.com, marketing@bounty.co.ke, admin@newwestlands.co.ke, shameemsoud@gmail.com, muhamed.ali1980@gmail.com, mshellamin@bravafood.co.ke, sichale.mwelela@diageo.com, manganga3@gmail.com, 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accounts@excel.coke, peter.brown@brownbiashara.com, chelelgopurity@gmail.com, pkchemngorem@domainkenya.co.ke, chetan@fenuegreek.com, p.chirchir@almasibeverages.co.ke, privdodhia@gmail.com, lotuiabbey101@gmail.com, pkhangal@yahoo.com, petkar.investment@gmail.com, eramlob@gmail.com, info@spanwell.co.ke, pgachomo3@gmail.com, finance@chareth.com, pndegwa@jeyfinewines.co.ke, Pggatuma@gmail.com, gatune.associates@gmail.com, paul@ubuntu.life, cyrtalsprings@gmail.com, pgichuhi2007@yahoo.com, petawax09@gmail.com, priscillagikaru@gmail.com, CHIEFACCOUNTS@OLE-SERENIHOTEL.COM, petergitau44@yahoo.com, engpir@gmail.com, limitedmagana@gmail.com, perminusmgithinji@gmail.com, njokigithua@gmail.com, kiruja.peter@gmail.com, ihapeter@gmail.com, Patrick.Makalasia@ssmalonza.co.ke, peter.irungu@yahoo.com, priscahjerop7@gmail.com, jiaxinpan8@gmail.com, pauljilani9@gmail.com, johnwambua@gmail.com, puritykageni349@gmail.com, kageraperis@gmail.com, abaoluo789@gmail.com, Patkairu4@yahoo.com, mail4mburu@gmail.com, pateldhrvukumar1982@gmail.com, info@kammparentertprises.co.ke, paulinakamande85@gmail.com, pat.k@squishydrinks.com, mukiripeter100@gmail.com, paulmaina@gmail.com, paul.wanyika@ke.sabmiller.com, pkaruri@gmail.com, kangethep@yahoo.com, kalwipe@gmail.com, peterkairebi77@gmail.com, patkanzika@gmail.com, splashthewaterltd@gmail.com

Date: Monday, February 06, 2023 05:38PM

Subject: Public Participation on amendments of the Excise Duty Regulations 2023

Dear Esteemed Stakeholder,

KRA invites you to a public participation on amendments of the Excise Duty Amendment Regulations 2023 on **Wednesday, 8th February 2023** between **10:00am - 12.00pm**, with the meeting link below:

<https://kra.webex.com/j.php?MTID=m189a5f4bcd36ade7fd52a426136c726c>

Meeting number:

2376 226 0911

Password:

RTqFk3RcW58

Please find attached the Draft Legal Notice.

Kindly confirm attendance to facilitate tightening of the engagement details.

Regards,

Stakeholder Engagement Unit | Marketing & Communication | Kenya Revenue Authority
P. O. Box 48240 - GPO 00100 Nairobi | +254 (020) 499 2045 or Ext. 2045 | 254 (0711) 099 999 |
Email: stakeholder.engagement@kra.go.ke



<https://www.kra.go.ke/images/KRA-Mail-Disclaimer.pdf>

Attachments:

Excise-Duty-Amendment-Regulations-2023.pdf

From: KRAStakeholder Engagement/KRA
To: KRAStakeholder Engagement/KRA@KRA
Bcc: maryonchomba@gmail.com, lucymongony@gmail.com, aquanix2015@gmail.com, moriso2013@gmail.com, info@mombasaexporters.com, odipomoses254@gmail.com, italwaters@gmail.com, jaffarhassan862@gmail.com, oukomaxwell@gmail.com, mirukamalachi2010@gmail.com, mowino@sabibuafrika.com, michelleoyiolo@gmail.com, oyuumika@gmail.com, moyuyo@tropical.co.ke, nairesiapapai@gmail.com, info@velocitylimited.com, formassimo@gmail.com, bacardilt@gmail.com, bord.import@gmail.com, manish@adelantte.co.ke, rm@tangaza.ac.ke, abdulrahman.aziz1@yahoo.com, nyambeneminerwater@gmail.com, robbymusau@gmail.com, maryruno@gmail.com, rundawater@rundawater.co.ke, smhj95.ss@gmail.com, saidmuhumedabdille2019@gmail.com, mustafa@bestbuydistributors.com, rashidmoha31@gmail.com, memoisalatt@yahoo.com, salome.muindi@gmail.com, manalsameer27@gmail.com, marketing@bounty.co.ke, admin@newwestlands.co.ke, shameemsoud@gmail.com, muhamed.ali1980@gmail.com, mshellamin@bravafood.co.ke, sichale.mwelela@diageo.com, manganga3@gmail.com, monicah@florachem.co.ke, martinsiwotoi68@gmail.com, mohamudsiyatfarah@gmail.com, michael.sunday2011@gmail.com, mainasusan2015@gmail.com, sutimichael899@gmail.com, michael@sbckkenya.com, talmebs@gmail.com, teles@rostrum.co.ke, mary.tetu85@gmail.com, mathewthomas@flametreebrands.com, accounts@cinnabargreen.com, marianatote406@gmail.com, tungamary@gmail.com, tushar.mehta@bidcoafrika.com, fc@millyfruits.com, allank.muchai@gmail.com, lucywab31@gmail.com, muchinafelix@gmail.com, stemuchiri@gmail.com, kiaramugambi@gmail.com, liquormaxdistributor@gmail.com, Francis.Muiruri@pzcussions.com, cathymuitherero@gmail.com, ndesh26@gmail.com, cidelltd@gmail.com, moosesmukundi@gmail.com, muangemuh@gmail.com, mmundia@gmail.com, mungorajnr@gmail.com, ketocateltd@gmail.com, ahmed1987musa@gmail.com, feisalmusa@gmail.com, paulmusembi16@yahoo.com, faithnzivi@yahoo.com, r.musyoka@aquaridglimited.com, pautemi@gmail.com, muthembakaren@gmail.com, peterkilundo12@gmail.com, bitabpharma@gmail.com, janemutuku5@gmail.com, simonmutua2000@gmail.com, franklin@kenyaflower.com, mathekajoshua@gmail.com, wmutuvi@gmail.com, vmgassa@gmail.com, gooseberrydelight@gmail.com, kulolaw@gmail.com, wachiramaureen24@gmail.com, mmuchai@fresha.co.ke, marygithinji820@yahoo.com, nimsmuchemi754@gmail.com, mwaithira985@gmail.com, mustafaabichi@gmail.com, michellewamae@gmail.com, mwayelemwambire@gmail.com, eemmonnaieltd@gmail.com, wamuciimercy@gmail.com, maureenmwandek@gmail.com, wambuiwangai22@gmail.com, florence@aqueous.mobi, Maggyjuguna90@gmail.com, Rachaelmw5@gmail.com, sammymwangikio@gmail.com, catherine.waithera@bidcoafrika.com, viamor06@gmail.com, sirbutha@gmail.com, jxk@weetabix.com, mwangik67@gmail.com, wanjohi67@gmail.com, wmwangi61@gmail.com, mooses.wangondu@gmail.com, milkamwaura@gmail.com, maureenndiritu5@gmail.com, samuel@sbckkenya.com, wanjemishgeneral1@gmail.com, margaret.megawines@yahoo.com, Mercy.Wanjiku@eabl.com, wanjirum832@gmail.com, meadowswater16@gmail.com, mawaki09@gmail.com, wakareramitchelle@gmail.com, maryannwangari502@gmail.com, maryhumer04@gmail.com, wanyugi2014@gmail.com, mwanzo@gmail.com, hytherm@hotmail.com, silasmwaura@gmail.com, pastordmwaura@gmail.com, m.waweru@centum.co.ke, mwaweru88@gmail.com, nwmash@gmail.com, john@topazinternational.co.ke, wevetimary@yahoo.com, marynjoroge325@gmail.com, nchwanaa@yahoo.com, yashey9@yahoo.com, zaahir@365supermarket.co.ke, nur@live.com, nursiyaat@gmail.com, nurfoodbeverageltd@gmail.com, Lynibersupplies@gmail.com, hershim04@gmail.com, adennoor2003@yahoo.com, neblgrs@gmail.com, timothy.nabuhi@toyota.kenya.com, nathan.t.ateka@gsk.com, natashabla@tfg.co.za, cknickson@gmail.com, nanciechebet64@gmail.com, chege@welbaystores.com, cnespit36@gmail.com, production@excel.co.ke, outofscily@gmail.com, onetouchky@yahoo.com, ngomidavid07@gmail.com, nderitutin@yahoo.com, desen_naidoo@bat.com, nandapatel00@hotmail.com, info@aquapoa.co.ke, ndindirirw@gmail.com, dionnkatha@gmail.com, sn@inb.co.ke, ndiritu.alex@gmail.com, 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nancykanene2015@gmail.com, trumacsoldt@gmail.com, deputyheadofbrewery@kerochebreweries.com, 6212nauticals@gmail.com, n.keter@almasibeverages.co.ke, waterstore@kensalt.co.ke, info@blueheart-international.org, nicotsyeno@gmail.com, n.kiama@yahoo.com, nancynjeri668@gmail.com, nancykimani1981@gmail.com, nicholaskimani2020@gmail.com, nancynyokabi1212@gmail.com, nanimbi@yahoo.com, karendi58@yahoo.com, nick.kyalo@ymail.com, nelsonlangat37@gmail.com, lindanyambura@gmail.com, tajinest@gmail.com, KccProduction@kenafriicind.com, wamargaret@gmail.com, kysa.wines@gmail.com, nole.06@gmail.com, norahmarube@gmail.com, pearlintercon@gmail.com, matherinicholas2@gmail.com, nancym@flametreebrands.com, nnjunge74@gmail.com, njeri.mburu@heineken.com, nathanmobegi@yahoo.com, najmahaj12@hotmail.com, afaflimited@gmail.com, nickairu@yahoo.com, nmweresa@yahoo.com, gichuhirose411@gmail.com, sirnelson79@gmail.com, norahmukami9@gmail.com,

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pateldhruvkumar1982@gmail.com, info@kammparenterprises.co.ke, paulinakamande85@gmail.com, pat.k@squishydrinks.com, mukiripeter100@gmail.com, paulmaina@gmail.com, paul.wanyika@ke.sabmiller.com, pkaruri@gmail.com, kangethep@yahoo.com, kalwipe@gmail.com, peterkairebi77@gmail.com, patkanzika@gmail.com, splashthewaterltd@gmail.com

Date: Monday, February 06, 2023 05:38PM
Subject: Public Participation on amendments of the Excise Duty Regulations 2023

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KRA invites you to a public participation on amendments of the Excise Duty Amendment Regulations 2023 on **Wednesday, 8th February 2023** between **10:00am - 12.00pm**, with the meeting link below:

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Meeting number:

2376 226 0911

Password:

RTqFk3RcW58

Please find attached the Draft Legal Notice.

Kindly confirm attendance to facilitate tightening of the engagement details.

Regards,

Stakeholder Engagement Unit | Marketing & Communication | Kenya Revenue Authority
P. O. Box 48240 - GPO 00100 Nairobi | +254 (020) 499 2045 or Ext. 2045 | 254 (0711) 099 999 |
Email: stakeholder.engagement@kra.go.ke



<https://www.kra.go.ke/images/KRA-Mail-Disclaimer.pdf>

Attachments:

Excise-Duty-Amendment-Regulations-2023.pdf

From: KRAStakeholder Engagement/KRA
To: KRAStakeholder Engagement/KRA@KRA
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Date: Tuesday, February 14, 2023 04:51PM
Subject: PUBLIC PARTICIPATION ON THE EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

Dear Esteemed Stakeholder,

Following the extension of time to submit your comments on the Excise Duty (Amendment) Regulations, 2023 we hereby invite you to a public participation on **Tuesday, 21st February 2023 at 9.00am** with the meeting link below:

<https://kra.webex.com/kra/j.php?MTID=mf67ed148b316b8f7cbd89aded133fd16>

Meeting number:
2361 983 2277

Password:
myJY
6bhZi98

Please find attached Draft Legal Notice and Public Notice.

Kindly confirm attendance to facilitate tightening of the engagement details.

Regards,

Stakeholder Engagement Unit | Marketing & Communication| Kenya Revenue Authority
P. O. Box 48240 - GPO 00100 Nairobi | +254 (020) 499 2045 or Ext. 2045 | 254 (0711) 099 999|
Email: stakeholder.engagement@kra.go.ke



<https://www.kra.go.ke/images/KRA-Mail-Disclaimer.pdf>

Attachments:

Public Notice_Extension of the Deadline for Submission of Comments on the Draft
Excise Duty Regulations (Amendment) 2023_132.pdf

Excise-Duty-Amendment-Regulations-2023.pdf

From: KRAStakeholder Engagement/KRA
To: KRAStakeholder Engagement/KRA@KRA
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joematheka@yahoo.com, jmathiaka@kenaficind.com, johnmaweu@gmail.com, joyce.m.musyoka@gmail.com, mbachujohn20@gmail.com, Jasper.Mbaka@gmail.com, jmbaka@laikipia.ac.ke, jimrmbata75@gmail.com, josmbata@gmail.com, jeff@kenyanut.com, jairus@alpineone.com, joascoinvs13@gmail.com, josh.mbogo85@gmail.com, jacktonem@gmail.com, osindeeric68@gmail.com, rufashunja2019@gmail.com, ausluktraders@gmail.com, jmbugua2005@yahoo.com, aquaprimewater2018@gmail.com, jamuru@yahoo.com, memsuperit@gmail.com, abadin04@gmail.com, jigarkenyagmail.com, jigarkenya@gmail.com, hillcrestuplands@gmail.com, accounts@diarim.com, mutundumithamo@gmail.com, essentiapurewater@gmail.com, mithanga2004@yahoo.com, saafiwater@gmail.com, jamalmohamed0972@gmail.com, info@ddworldofwines.co.ke, muasya26@gmail.com, johnstone.mz@gmail.com, kmucheru@yahoo.com, wairimujm@gmail.com, muchirijane122@gmail.com, jmkaikai@gmail.com, janetmuema@gmail.com, johnmutulu@yahoo.com, jamesmugambi796@gmail.com, mugendijunior@yahoo.com, naivashadistillers@gmail.com, mjane@sabibuafrica.com, josephinegathigi@gmail.com, james.muguta@keviakenya.com, mugwejm@gmail.com, jmuhindi@ccbgroup.com, accounts@lvnwater.co.ke, james@casksandbarrels.com, mui.kimanzi@gmail.com, swimafrika@gmail.com, johnkibandimuiruri@gmail.com, rangeprocessors@gmail.com, jmmwangi@carelovecharityfoundation.org, jovetkenya@gmail.com, jackson.mukuru@alpineone.com, purifclearwater@gmail.com, mumajohn23@gmail.com, imports@uniselltd.com, jmumo965@gmail.com, jmunayi20@gmail.com, jorgemush@gmail.com, leadingdstk@gmail.com, jmungathia@gmail.com, joemuchai@yahoo.com, jackiekatunge2018@yahoo.com, johnyjontez@gmail.com, janeloise@hotmail.com, munywajael@gmail.com, blueeconomy6@gmail.com, jamesmuraya40@yahoo.com, buylineindustriesltd@gmail.com, joan@kbi.co.ke, muriithijuliet2012@gmail.com, jmuriithi35@gmail.com, jgichimu1@gmail.com, josiahnjeru960262@gmail.com, jymeswesh@gmail.com, jossymurwayi@gmail.com, musebe.james88@gmail.com, matei.joshua@aol.com, joychepmuts@gmail.com, mutanujos@yahoo.com, jmuthaa@gmail.com, jackson.muthanga@oagkenya.go.ke, muthangyamusyoka@gmail.com, josephinemuulta@gmail.com, nmuthigani@gmail.com, japhethhosanna30@gmail.com, gondarspringslimited@gmail.com, mjb@limuttiholdings.co.ke, lynxprime@yahoo.com, jacintaminoo@gmail.com, jacmin89@yahoo.com, eg.merchantsltd@gmail.com, mtukujm33@gmail.com, julianmutuku2006@yahoo.com, aquahub447@gmail.com, jmutunga@acfc.co.ke, janembua91@gmail.com, josephinekioko@gmail.com, info@alpineone.com, wanjirujacquelyne@gmail.com, joemuturi.50.mg@gmail.com, jeremy@norwafrica.com, Johnboscomuutu@gmail.com, naibujhospitality@gmail.com, jimmymwai264@gmail.com, miez87@yahoo.com, jumamwakazij@kwal.co.ke, jmwakitawa@yahoo.com, ajale2011@gmail.com, cencoastsupplies@gmail.com, mwangijulius47@gmail.com, kaiganirajohn@yahoo.com, johnmwangi25k@gmail.com, jmmaichaze@gmail.com, jkkmwangi@gmail.com, judymwangipn@gmail.com, johnnjue0597@gmail.com, jokam3@yahoo.com, kamaujameson083@gmail.com, mugambijulius9@gmail.com, mwangijames885@gmail.com, jkmwele@gmail.com, mwelelukjames@gmail.com, jackmwenda@gmail.com, jmwende@simbacolt.com, walter@bbl.ke, jamesnwenja@gmail.com, jmwwenja2016@gmail.com, riganjasper@gmail.com, qfstventureslimited@gmail.com, janemutua73@gmail.com, jndegwa@uonbi.ac.ke, kiamajoseph3@gmail.com, Jemimanderitu31@gmail.com, johnnkariuki112@gmail.com, Josephndirangu9@gmail.com, fbusinessconsults@gmail.com, besteaternaturalwater@gmail.com, ikombesprings@gmail.com, jedidah.ndunda@gmail.com, accounts@asnupendovillage.com, janetsndungo@gmail.com, mashwabrew@yahoo.com, jnmugo44@gmail.com, jackcom2010@gmail.com, jngaithia@gmail.com, johngalatu@gmail.com, jamesngahu@yahoo.com, jnganga423@gmail.com, jngae10@gmail.com, j.ngelu@kingbeverage.co.ke, jane@galinakenya.com, jkchumongetich@gmail.com, ngigejane@gmail.com, fresamagencies@gmail.com, johnmunyaon@gmail.com, kngolya@gmail.com, ngugijt234@gmail.com, janengugi2025@gmail.com, memlands2019@gmail.com, jwaringa2@yahoo.com, joenguru@yahoo.co.uk, jngutuku@gmail.com, purchasing@sankara.com, njeru@gmail.com, josiah.njamura@sankara.com, james.njau@haco.co.ke, njaukanyuira@gmail.com, gitangunjenga@gmail.com,

majihalisi2016@gmail.com, joy.njeri@joshansen-kenya.com, jennymuchemi@gmail.com, wanguijanetnjeri@gmail.com, njeruwairangu@yahoo.com, njiiri@hotmail.com, nygjhn@yahoo.com, joyspringwater21@gmail.com, joseph.njogu@haco.co.ke, mwaauraj2013@yahoo.com, njonronjoro79@gmail.com, murayajames251@gmail.com, njorokbz@yahoo.com, jbwater2021@gmail.com, njuejosphat8@gmail.com, josephnjuguna.njuguna@gmail.com, johnrungitu@yahoo.com, nyokafi05@gmail.com, jboro769@gmail.com, thechoicelimited@yahoo.com, kedsta2@gmail.com, judyngila@gmail.com, jacklinemuriungi99@gmail.com, james.njogu@gdcl.co.ke, ngigijoyce97@gmail.com, culliganwaterke@gmail.com, josphinesarahnjokinyaga@gmail.com, josephat.kinyua@tropikal.co.ke, nyagamu@gmail.com, janenyakiti721@gmail.com, jkakelenyamai@gmail.com, nyambujoy60@gmail.com, nkibiru@gmail.com, resahjohn@gmail.com, kisajucoolridge@gmail.com, joshuajkianyamwea@gmail.com, jackline.nyangule@eabl.com, jesbonservices@gmail.com, djonymaish@gmail.com, josephinenyorerakwamboka@gmail.com, kavyu2001@yahoo.com, ziprumpwater@gmail.com, Obonyojk@yahoo.com, omoshbob@yahoo.com, jedidahakinyi@gmail.com, jacqueline@airtouchkenya.com, john@witaly-group.com, jimoduor2003@gmail.com, ogama69@gmail.com, jnyanduko@gmail.com, Jmaina700@gmail.com, headaccounts@thebigfivebreweries.com, johnwaweru2@gmail.com, josephjojuok@yahoo.co.uk, skydropkango2021@gmail.com, okeyoj4@gmail.com, jcbauma@hotmail.com, jamestrivor1@gmail.com, jokubasu@yahoo.com, jeckton@healthy-u2000.com, aj@africaregional.com, omweri31@gmail.com, amuwaterjamila2@gmail.com, johraomar1207@gmail.com, omarijared2020@gmail.com, okinyijustine@gmail.com, jeobuore@gmail.com, jackoomosh@gmail.com, momanyi.omwega@yahoo.com, onchokejustine@gmail.com, ongetejo7485@gmail.com, jacksonmukoya@yahoo.com, ojudyk@gmail.com, john.onuonga@gmail.com, jaynyango@gmail.com, dennisomare.dk@gmail.com, jaredo@bambinosolutions.co.ke, JOYCE.ORIEDI@dlageo.com, josephmwaura58@gmail.com, Js_ph2003@yahoo.com, jos.arapsang@gmail.com, osienyjohn@gmail.com, jouko2016@gmail.com, japhounga@gmail.com, jeff.owiny@oagkenya.go.ke, taxoutlook26@gmail.com, kirunyuwater@gmail.com, ndoopeter@gmail.com, pitahnjoroge.pn@gmail.com, janine.potgieter@groupmeridian.co.za, joao.ramos@mizabibu.co.ke, joseph.righa@oagkenya.go.ke, rithaajn@gmail.com, jacobkimanzirobert@gmail.com, julirobi2005@gmail.com, johnrutere.jr@gmail.com, sagwesub81@yahoo.com, princegalaxy254@gmail.com, vabekaha@gmail.com, judyanne.samanda@gmail.com, sangrajulius94@gmail.com, oaklandsprings@yahoo.com, josephsegei80@gmail.com, cooljointele@yahoo.com, japhedomumia@gmail.com, julie@ledecanter.com, jaroslaw.soldanski@keviakenya.com, jsolutionslimited@gmail.com, sulfamkco@gmail.com, jtawde-gpi@modi.com, info@keviakenya.com, gitau@wetlands.co.ke, thukujohny@gmail.com, jamesthuo5@gmail.com, thuojuliusju@gmail.com, jtindika@yahoo.com, jktonui@ccbgroup.com, kipjoston@gmail.com, Jacksontubula@gmail.com, jtuwot@gmail.com, cathy.ariaro@gmail.com, angorejay@gmail.com, juliususwii@gmail.com, Asdawaterltd@gmail.com, johnvundi@yahoo.com, jezreel.mwadime@yahoo.com, renovativeealtd@gmail.com, james.m.wachira@gmail.com, johngithua95@gmail.com, Juliwa73@gmail.com, jwagema284@gmail.com, finance@mizabibu.co.ke, juliana.wagura@gmail.com, joywambui.uon@gmail.com, gunawaigi@gmail.com, joycenjoki10@gmail.com, josewaithera@rocketmail.com, johnwaithira1@gmail.com, wambu.kibugu@gmail.com, paul@majifina.com, accounting@severinsealodge.com, wambua Juliet9@gmail.com, juliuswambugu68@yahoo.com, jacklinew@chareth.com, Joyce.Wamwea@eabl.com, Joel@agricproducekenya.com, jwandutu@yahoo.com, toi.jane@yahoo.com, jwangari10@gmail.com, mainajane.juliet@gmail.com, janewanguindirangu38@gmail.com, joseph.wangunyu@dusit.com, josephkamira200@yahoo.com, liztanmaji@yahoo.com, judywwakarera@gmail.com, janenjohi02@gmail.com, jacqueline18ke@gmail.com, j.wanjiru29@yahoo.com, wanjohi@kwal.co.ke, jamesmainawanjohi1@gmail.com, james.murugi@gmail.com, quitelinvestments@gmail.com, wafulajoseph109@gmail.com, jacintawarigia@kwal.co.ke, absolutedrop@gmail.com, muthoniwarui@gmail.com, hydrovisionslimited@gmail.com, johnsonwathiri@gmail.com, wawerujnr@yahoo.com, wawerungumi086@gmail.com, wananchibreweries@gmail.com, drweru@gmail.com, apostlekimani@gmail.com, kamande64j@gmail.com, jeremywood@nairobiintners.com, oscar2020319@163.com, fredjason476@gmail.com, marthakabanya@gmail.com, info@simplelifetrading.co.ke, kabdilahi3@gmail.com, gichukik@gmail.com, carlmukere@gmail.com, hayabisolutions2020@gmail.com, katanabarack@gmail.com, kaimemagdalline@yahoo.com, paulkairu@yahoo.com, kakoko@ccbgroup.com, kennedyalega@kwal.co.ke, talk2us@cherishfruitworld.co.ke, katphonce@gmail.com, bontellimited@gmail.com, info@kereita.com, julius.kamau@loreal.com, muhiahjk@gmail.com, mngaruiya@fresha.co.ke, njeripk@gmail.com, Samuel.Kamau@grange-park.com, simon.kamau@oagkenya.go.ke, alpine.worldtradetd@gmail.com, kennedyanari69@gmail.com, lynnnetkandie@gmail.com, kangettabrian@gmail.com, mamboleowines@gmail.com, kangwenyi157@gmail.com, annkinyanjui8@gmail.com, anne.kinyanjui@gmail.com, abey254.sk@gmail.com, skymartenterprises@gmail.com, mxk@weetabix.com, abdikarimsaid77@gmail.com, crotonherbs@gmail.com, josphat@mayers.co.ke, kariukimacharia49@gmail.com, kariukigichui@yahoo.com, anthonykaromo28@gmail.com, cwaykarumba@gmail.com, kimberlysimani.ks@gmail.com, kenauma@gmail.com, ksb.baheri@gmail.com, kiprutobrian@gmail.com, kellymakenz@gmail.com, kevit.chandari@uniselltd.com, kchege@ccbgroup.com, chirmustafa@gmail.com, kamau.karangatha@gmail.com, dkiama@skyfoods.co.ke, keith.diniz@imcea.biz, katphonce@yahoo.com, kiokokalondeu@gmail.com, kra1@gmail.com, kirema2016@gmail.com, elsaachieng@gmail.com, erick.keter@diageo.com, christineetenyi@gmail.com, kgakure@wowbeverages.co.ke, kgakure@yahoo.co.uk, longshoreinv@yahoo.com, info@abl-ea.com, gichohikennethmwangi@gmail.com, githinjikenneth83@gmail.com, khadijahadan29@gmail.com, HKuria@rundawater.co.ke, levansdrinkingwater@gmail.com, Hosea.kiplagat@peptang.com, kevinichwara27@gmail.com, lucy@dwlwater.com, admin@aquapoa.co.ke, robeeafu@yahoo.com, finance@rfl-inc.com, info.turtledove@gmail.com, jigar@aquamistwater.com, alexndarwa@gmail.com, lydiahyash87@gmail.com, edwardkinyanjui1480@gmail.com, nachaelltd@gmail.com, karimajamal@yahoo.com,

twocousinsdistillers@gmail.com, kljankharia@gmail.com, jeshani7575@gmail.com, jkaranja@kenaficind.com, clearspringmails@gmail.com, skmunga@gmail.com, simbaleo2003@yahoo.com, ukalaproducestores@gmail.com, kjumaotieno@gmail.com, keziahnjigo17@gmail.com, karamafaraj26@gmail.com

Date: Tuesday, February 14, 2023 04:54PM
Subject: PUBLIC PARTICIPATION ON THE EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

Dear Esteemed Stakeholder,

Following the extension of time to submit your comments on the Excise Duty (Amendment) Regulations, 2023 we hereby invite you to a public participation on **Tuesday, 21st February 2023 at 9.00am** with the meeting link below:

<https://kra.webex.com/kra/j.php?MTID=mf67ed148b316b8f7cbd89adcd133fd16>

Meeting number:
2361 983 2277

Password:
myJY
6bhZi98

Please find attached Draft Legal Notice and Public Notice.

Kindly confirm attendance to facilitate tightening of the engagement details.

Regards,

Stakeholder Engagement Unit | Marketing & Communication| Kenya Revenue Authority
P. O. Box 48240 - GPO 00100 Nairobi | +254 (020) 499 2045 or Ext. 2045 | 254 (0711) 099 999|
Email: stakeholder.engagement@kra.go.ke



<https://www.kra.go.ke/images/KRA-Mail-Disclaimer.pdf>

Attachments:

Public Notice_Extension of the Deadline for Submission of Comments on the Draft Excise Duty Regulations (Amendment) 2023_132.pdf

Excise-Duty-Amendment-Regulations-2023.pdf

From: KRAStakeholder Engagement/KRA
To: KRAStakeholder Engagement/KRA@KRA
Bcc: ericgithua@KWAL.co.ke, joycemueni@abak.co.ke, ceo@kam.co.ke, christine.mukami@pwc.com, michael.w.wachinga@pwc.com, muhsin.m.makassy@pwc.com, irene.opiyo@pwc.com, ben.kangangi@pwc.com, hilda.chepngetich@pwc.com, zipporah_kuria@bat.com, billy_tsuma@bat.com, ceo@retrak.co.ke, ceo@icpak.com, hillary.onami@icpak.com, ceo@perakkenya.co.ke, GWachira@mastermindkenya.co.ke, kabogo@wbak.co.ke, Tobias Maurice/DTD/KRA@KRA, Callinael Kianga/MKT/KRA@KRA, Elizabeth Keranta Roimen/MKT/KRA@KRA

Date: Tuesday, February 14, 2023 05:46PM
Subject: PUBLIC PARTICIPATION ON THE EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

Dear Esteemed Stakeholder,
 Following the extension of time to submit your comments on the Excise Duty (Amendment) Regulations, 2023 we hereby invite you and your members to a public participation on **Tuesday, 21st February 2023 at 9.00am** with the meeting link below:
<https://kra.webex.com/kra/j.php?MTID=mf67ed148b316b8f7cbd89adcd133fd16>
 Meeting number:
 2361 983 2277
 Password:
 myJY6bhZi98
 Please find attached Draft Legal Notice and Public Notice.

Kindly confirm attendance to facilitate tightening of the engagement details.

Regards,

Stakeholder Engagement Unit | Marketing & Communication| Kenya Revenue Authority
 P. O. Box 48240 - GPO 00100 Nairobi | +254 (020) 499 2045 or Ext. 2045 | 254 (0711) 099 999|
 Email: stakeholder.engagement@kra.go.ke



<https://www.kra.go.ke/images/KRA-Mail-Disclaimer.pdf>

Attachments:

- Public Notice_Extension of the Deadline for Submission of Comments on the Draft Excise Duty Regulations (Amendment) 2023_132 (2).pdf
- Excise-Duty-Amendment-Regulations-2023.pdf

From: KRAStakeholder Engagement/KRA
To: KRAStakeholder Engagement/KRA@KRA
Bcc: njogu@poak.co.ke, nationalchair@kifwa.co.ke, wanfa@kifwa.co.ke, analyst@petroleum.co.ke, cmanyara@petro

Date: Tuesday, February 14, 2023 06:25PM
Subject: PUBLIC PARTICIPATION ON THE EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

Dear Esteemed Stakeholder,
 Following the extension of time to submit your comments on the Excise Duty (Amendment) Regulations, 2023 we hereby invite you and your members to a public participation on **Tuesday, 21st February 2023 at 9.00am** with the meeting link below:
<https://kra.webex.com/kra/j.php?MTID=mf67ed148b316b8f7cbd89aded133fd16>
 Meeting number:
 2361 983 2277
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**KENYA REVENUE
AUTHORITY**

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Office of the Commissioner General

KRA/5/1002/5(8429)

26th January 2023

Ms. Wambui Mbarire
Chief Executive Officer
Retail Traders Association of Kenya
B3, South Wing, Ojijo Plaza Plums Lane, Ojijo Rd
Nairobi

Dear *CEO*

**INVITATION TO STAKEHOLDER ENGAGEMENT FORUM ON EXCISE
DUTY (AMENDMENT) REGULATIONS, 2023**

The Kenya Revenue Authority (KRA) presents its compliments to you.

In compliance with the Statutory Instruments Act, the Commissioner General on behalf of the Cabinet Secretary - National Treasury and Economic Planning has reviewed the Excise Duty (Excisable Goods Management System) Regulations, 2017 and made the Excise Duty (Excisable Goods Management System) (Amendment) Regulations, 2023 through a public notice published on Tuesday, 17th January, 2023.

In this regard, I invite you and five (5) of your members for a breakfast Stakeholder Engagement on **Wednesday, 1st February, 2023 from 8.00am at Times Tower - Convention Center on 5th Floor** to present your submissions on the regulation.

We look forward to your participation.

Yours sincerely,

**FCPA Githii Mburu, MGH, CBS
COMMISSIONER GENERAL**



Office of the Commissioner General

KRA/5/1002/5(8429)

26th January 2023

Mr. Henry Kabogo
Chairperson
Water Bottlers Association of Kenya
Sameer Business Park, Block C3 1st Floor Mombasa Rd
Nairobi

Dear *Chairperson*

INVITATION TO STAKEHOLDER ENGAGEMENT FORUM ON EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

The Kenya Revenue Authority (KRA) presents its compliments to you.

In compliance with the Statutory Instruments Act, the Commissioner General on behalf of the Cabinet Secretary - National Treasury and Economic Planning has reviewed the Excise Duty (Excisable Goods Management System) Regulations, 2017 and made the Excise Duty (Excisable Goods Management System) (Amendment) Regulations, 2023 through a public notice published on Tuesday, 17th January, 2023.

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We look forward to your participation.

Yours sincerely,

FCPA Githii Mburu, MGH, CBS
COMMISSIONER GENERAL



KENYA REVENUE AUTHORITY

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Office of the Commissioner General

KRA/5/1002/5(8429)

26th January 2023

Mr. John Njogu
Chairman
Petroleum Outlet Association of Kenya
Lunga Lunga square, 2nd floor,
Nairobi

Dear *Chairman,*

INVITATION TO STAKEHOLDER ENGAGEMENT FORUM ON EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

The Kenya Revenue Authority (KRA) presents its compliments to you.

In compliance with the Statutory Instruments Act, the Commissioner General on behalf of the Cabinet Secretary - National Treasury and Economic Planning has reviewed the Excise Duty (Excisable Goods Management System) Regulations, 2017 and made the Excise Duty (Excisable Goods Management System) (Amendment) Regulations, 2023 through a public notice published on Tuesday, 17th January, 2023.

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We look forward to your participation.

Yours sincerely,

FCPA Githii Mburu, MGH, CBS
COMMISSIONER GENERAL



**KENYA REVENUE
AUTHORITY**

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Office of the Commissioner General

KRA/5/1002/5(8429)

26th January 2023

Ms. Wanjiku Manyara
General Manager
Petroleum Institute of East Africa
Bruce House, Standard Street, 4th Floor, South Wing
Nairobi

Dear *GM*,

**INVITATION TO STAKEHOLDER ENGAGEMENT FORUM ON EXCISE
DUTY (AMENDMENT) REGULATIONS, 2023**

The Kenya Revenue Authority (KRA) presents its compliments to you.

In compliance with the Statutory Instruments Act, the Commissioner General on behalf of the Cabinet Secretary - National Treasury and Economic Planning has reviewed the Excise Duty (Excisable Goods Management System) Regulations, 2017 and made the Excise Duty (Excisable Goods Management System) (Amendment) Regulations, 2023 through a public notice published on Tuesday, 17th January, 2023.

In this regard, I invite you and five (5) of your members for a breakfast Stakeholder Engagement on **Wednesday, 1st February, 2023** from **8.00am** at **Times Tower - Convention Center on 5th Floor** to present your submissions on the regulation.

We look forward to your participation.

Yours sincerely,

**FCPA Githii Mburu, MGH, CBS
COMMISSIONER GENERAL**



**KENYA REVENUE
AUTHORITY**

ISO 9001:2015 CERTIFIED

Office of the Commissioner General

KRA/5/1002/5(8429)

26th January 2023

Mr. Ben Mutai
Chairman
MSME Alliance of Kenya
Kenya Railways HQ, Off Haile Selassie Ave
Nairobi

Dear *Chairman,*

**INVITATION TO STAKEHOLDER ENGAGEMENT FORUM ON EXCISE
DUTY (AMENDMENT) REGULATIONS, 2023**

The Kenya Revenue Authority (KRA) presents its compliments to you.

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COMMISSIONER GENERAL

Office of the Commissioner General

KRA/5/1002/5(8429)

26th January 2023

Mr. Eric Theuri
President
Law Society of Kenya
Lavington, Opposite Valley Arcade, Gitanga Road
P.O Box 72219-00200
Nairobi

Dear *President,*

**INVITATION TO STAKEHOLDER ENGAGEMENT FORUM ON EXCISE
DUTY (AMENDMENT) REGULATIONS, 2023**

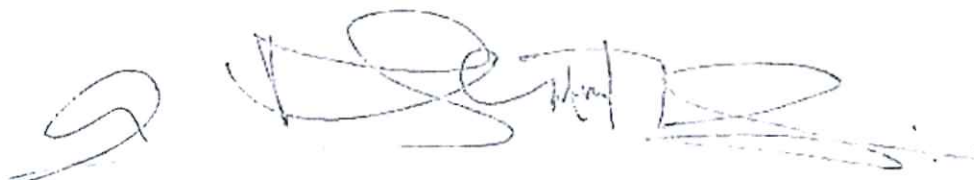
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COMMISSIONER GENERAL



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Office of the Commissioner General

KRA/5/1002/5(8429)

26th January 2023

Mr. Richard Ngatia
Chamber President
Kenya National Chamber of Commerce and Industry (KNCCI)
Heritan House, Ground Floor, Off Argwings Kodhek Road
Nairobi

Dear *Richard,*

**INVITATION TO STAKEHOLDER ENGAGEMENT FORUM ON EXCISE
DUTY (AMENDMENT) REGULATIONS, 2023**

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COMMISSIONER GENERAL



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Office of the Commissioner General

KRA/5/1002/5(8429)

26th January 2023

Mr. Roy Mwanthi

Chairman

Kenya International Freight and Warehousing Association

Nairobi Office, K.P.A ICD (Embakasi) Off Mombasa Road

Agent's Block, Ground Floor

P.O Box 57969-00200

Nairobi

Dear *Chairman,*

**INVITATION TO STAKEHOLDER ENGAGEMENT FORUM ON EXCISE
DUTY (AMENDMENT) REGULATIONS, 2023**

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**FCPA Githii Mburu, MGH, CBS
COMMISSIONER GENERAL**



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Office of the Commissioner General

KRA/5/1002/5(8429)

26th January 2023

Ms. Carole Kariuki
Chief Executive Officer
Kenya Private Sector Association
Shelter - Afrique House, 5th floor Mamlaka Road
P.O. Box 3556-00100
Nairobi

Dear CEO,

**INVITATION TO STAKEHOLDER ENGAGEMENT FORUM ON EXCISE
DUTY (AMENDMENT) REGULATIONS, 2023**

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We look forward to your participation.

Yours sincerely,

FCPA Githii Mburu, MGH, CBS
COMMISSIONER GENERAL



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Office of the Commissioner General

KRA/5/1002/5(8429)

26th January 2023

Mr. Kwame Owino
Chief Executive Officer
Institute of Economic Affairs
1st Ngong Avenue, ACK Garden House, 5th Floor
P.O. Box 53989 – 00200 Nairobi
Nairobi

Dear *C.E.O.*,

**INVITATION TO STAKEHOLDER ENGAGEMENT FORUM ON EXCISE
DUTY (AMENDMENT) REGULATIONS, 2023**

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COMMISSIONER GENERAL.



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Office of the Commissioner General

KRA/5/1002/5(8429)

26th January 2023

Mr. Anthony Mwangi
Chief Executive Officer
Kenya Association of Manufacturers (KAM)
15 Mwanzi Road, Opp. West Gate Mall, Westlands
Nairobi

Dear 

**INVITATION TO STAKEHOLDER ENGAGEMENT FORUM ON EXCISE
DUTY (AMENDMENT) REGULATIONS, 2023**

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Yours sincerely,



FCPA Githii Mburu, MGH, CBS
COMMISSIONER GENERAL



Office of the Commissioner General

KRA/5/1002/5(8429)

26th January 2023

CPA Edwin Makori
Chief Executive Officer
Institute of Certified Public Accountants of Kenya (ICPAK)
CPA Center, Ruaraka, Thika Road
P.O. Box 59963-00200
Nairobi

Dear CEO

INVITATION TO STAKEHOLDER ENGAGEMENT FORUM ON EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

The Kenya Revenue Authority (KRA) presents its compliments to you.

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Office of the Commissioner General

KRA/5/1002/5(8429)

26th January 2023

Mr. Eric Githua
Chairman
Alcoholic Beverages Association of Kenya (ABAK)
KWAL, Enterprise Rd
P.O. Box 40550-00100
Nairobi

Dear *Chairman,*

**INVITATION TO STAKEHOLDER ENGAGEMENT FORUM ON EXCISE
DUTY (AMENDMENT) REGULATIONS, 2023**

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**FCPA Githii Mburu, MGH, CBS
COMMISSIONER GENERAL**

FCPA Githii Mburu, MGH, CBS

**STAKEHOLDER COMMENTS AND VIEWS ON THE DRAFT EXCISE
DUTY (AMENDMENT) REGULATIONS, 2023**

21st FEBRUARY, 2023

Tulipe Ushuru, Tujitegemee!

Matrix of stakeholder comments on the draft Excise Duty (Amendment) Regulations, 2023

No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
1.	Alcohol Beverages Association of Kenya (ABAK)	Regulation 9 (6) "The licensed manufacturer shall, upon inspection by the Commissioner, install: a) Internet Protocol (IP) cameras in all areas required by the Commissioner. b) A combination of monitoring devices with IP cameras that have the capacity for infrared night vision, three hundred and sixty rotating view and ability to view the distance required by the Commissioner"	Proposal - Delete this regulation.	This regulation gives the Commissioner discretion that may be subject to abuse. <ul style="list-style-type: none"> It also impacts on the ability of the business to plan ahead as the operations of the factory are now at the discretion of the Commissioner. Implementation of this regulation will lead to violation of the Data Protection Laws and especially on personal and sensitive data. This is due to the requirement under Clause 4 of Part III providing that the System should support different types of video analytics such as face detection, people counting, object detection, crowd detection, tripwire, perimeter, scene, motion etc. To implement this, consent will have to be sort from the data subjects but also this will expose the manufacturer as the liability for the breach will be upon them should the data subject file a claim. This is a capex item and will lead to an increase in the cost of production. We hold IP rights from other jurisdictions. The nature of monitoring proposed here will lead to monitoring of processes that have 	The monitoring in various excisable factories are undertaken manually by KRA resident officers. Some factories are huge and it has become difficult in undertaking manual monitoring of such premises and may result in shortcomings in ensuring full compliance. The proposed regulation is to require the licensed manufacturers have technology which will secure the revenue since the Authority will be able to monitor the production to avoid leakages. The licensed manufacturers have cameras installed in their premises to provide direct or 360 view of the production. The challenge is such cameras may not be IP enabled. The prescription for the type of cameras such as the bullet or 360 is important for ensuring there is 360 view of the production and various allied operations. The specification of the camera that is required will enable 24-hour monitoring (day and night) for protection of revenue especially



No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
				been contractually secure to protect IP holders. A breach of this may lead to withdrawal of rights which will impact on productions and reduce on government revenue especially excise duty.	at night (use of infrared) where most illegal activities may happen.
2.	Alcohol Beverages Association of Kenya (ABAK)	Regulation 12 of the Excise Duty Regulations, 2020 hereinafter referred to as the principal Regulations, is amended by introducing the following new Paragraph 12(1)(A) immediately after Paragraph 12(1) – 12(1)(A) 'A co-manufacturer shall keep the raw materials or intermediate goods used for the co - manufacture separately to allow for the accounting of the materials in the factory'	Delete clause five of the regulations	<ul style="list-style-type: none">• The amendment will lead to increased cost of doing business for both the co manufacturer and subsequently to the brand owner. Co-Manufacturers will be required to lease/build separate warehouses which will in turn increase the cost of doing business.• This amendment will lead to brand owners not enjoying economies of scale while sourcing commonly used ingredients such as industrial sugar. This will increase the cost of sourcing and may discourage brand owners from producing their brands in Kenya.	Co-manufacture is a new emerging model of manufacturing where manufacturer may co-opt to have certain sophisticated procedures in their manufacturing being undertaken by another manufacturer on their behalf. The idea is not for the manufacturer to lease or acquire separate warehouses. The draft Regulations is to ensure accountability in keeping of raw materials. This is to address the mischiefs and risks in the separation of manufacturing process. The manufacturer will not add any extra costs.
3.	Alcohol Beverages Association of Kenya (ABAK)	Regulation 13 of the Excise Duty Regulations, 2020 hereinafter referred to as the principal Regulations, is amended by introducing the following new Paragraph	Delete clause six of the regulations	<ul style="list-style-type: none">• The amendment does not seek to cure any harm, in the warehouse different excisable finished goods can easily be distinguished by their unique packaging and batch coding thus there is no need to for co	This is to align with the proposed introduction of co-manufacturing. Therefore, co-manufacturing is required to have a separate control in terms of stock room to ensure



No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
		13(3)(A) immediately after Paragraph 13(3) – 13(3)(A) 'Excisable goods in an excise stock room for the co-manufacture shall be stored separately, in such a manner as to facilitate the accounting of the goods therein'.		manufacturers to lease/build separate warehouses. • It is also important to note that by the time goods are being stored in the warehouse the goods have passed through an EGMS machine which is controlled by KRA personnel.	accountability of records in respect to materials.
4.	ABAK/Kenya Breweries Limited & UDV (Kenya) Limited	Regulation 36 of Excise Duty Regulations, 2020 provides: • Under Regulation 36(1) "The volume of spirits contained in any container may be ascertained for any purpose by weight, measure or gauge as the Commissioner may direct." • Under Regulation 36(2)- "Where the commissioner under paragraph (1) directs ascertainment by weighing, the volume shall be calculated – (a) By means of alcohol hydrometer and the associated practical alcohol table; or	We propose Regulation 36(2) of Excise Duty Regulations, 2020 to be amended to read as follows: Under Regulation 36(2)- "Where the commissioner under paragraph (1) directs ascertainment by weighing, the volume shall be calculated – (a) By means of alcohol hydrometer and the associated practical alcohol table; or (b) By use of an automated density meter and temperature at twenty degrees centigrade (BOLDED TO INDICATE THE PROPOSED AMENDMENT)	Weights and Measures is the Agency mandated to confirm the accurate temperature and ensure verification is done for compliance. Regulation 185 of the Weights and Measures Rules, 1993 as revised in 2010 provides as follows: "Instrument to deliver correctly within minimum and maximum flowrates: (1) Every bulk meter shall deliver correctly when it is operated at any speed between its minimum and maximum flowrates and shall show no appreciable changes in its metrological qualities when operated at or near its maximum rate of flow for such a duration as may be specified in the notice of approval.... (2) The automatic temperature compensating device shall be tested for	The Excise Duty Act, 2015 in the First Schedule provides for the imposition of excise duty on the petroleum products at a specified rate per litre but the temperature for petroleum products at the point of measuring the quantity should be at 20 degrees centigrade. The proposal by the stakeholder requires the main law (Excise Duty Act) to be amended to provide as such. The proposed amendment to the Regulations will be <i>ultra-vires</i> and therefore the main law should be considered for amendment before the provision in the draft regulation is provided. There have been discussions with the stakeholder on the same and



No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
		(b) By use of an automated density meter at twenty degrees centigrade (BOLDED FOR EMPHASIS)		<p><i>accuracy by comparing the reading of the instrument while temperature compensated with the uncompensated volume, converted to volume at the standard temperature of 20 degrees centigrade...."</i></p> <p>Volume ascertainment should therefore be calculated by means of alcohol hydrometer and the associated practical alcohol table or by use of an automated density meter at twenty degrees centigrade ("20"). Where readings are done at temperatures other than 20 degrees centigrade, these should be converted to the standard temperature of 20 degrees centigrade in line with international best practice which is also recognised under Regulation 185 above.</p>	KRA has provided guidance to the stakeholder.
5.	Alcohol Beverages Association of Kenya (ABAK)	<p>Clause 9 – Fifth Schedule -minimum specifications for metering, measurement and monitoring devices</p> <p>3. Each metering and measuring device shall be of the type approved for alcoholic beverages by the Weights and Measures Department.</p>	<p>Amend clause 9 (3) of the regulation to read as follows: Delete the word "Type approved" and amend to "standard and specifications approved" 3. <i>Each metering and measuring device shall be of the standard and specifications approved for alcoholic beverages by the Weights and</i></p>	<p>By Weights and Measures Department determining the Type it limits Manufacturers to specific brands, which might lead to creation of monopolies, however if Weights and Measures determine the standard and specifications manufacturers will be allowed to competitively source from suppliers whose products meet the specifications.</p>	Type approval as per the Weights and Measures Department refers that one equipment of the same pattern is subjected to vigorous tests with the object of ensuring that the instrument will be able to maintain its accuracy and other metrological qualities and characteristics such as sensitivity, repeatability, durability, etc. for a prolonged period, and under varied conditions, of use. It also ensures that such equipment conform to



No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
			<i>Measures Department.</i>		<p>the general specifications laid down in the Weights and Measures Act and that it is not of a type which could be easily manipulated or altered to permit fraudulent use.</p> <p>The stakeholder concerns of a bias towards a specific model being approved is not the case. The Weights and Measures Department provides guidance if the device meets the minimum standards for metering, measurement and monitoring.</p>
6.	ABAK/Kenya Breweries Limited & UDV (Kenya) Limited	<p>Clause 9 – Fifth Schedule -minimum specifications for metering, measurement and monitoring devices</p> <p>7. The metering, measuring and monitoring devices shall be installed within six months of the publication of this notice.</p> <p>8. Legal Notice No. 69 of 2011 issued on 4th April 2011 shall stand revoked six months</p>	<p>Delete clause 7 and 8 and replace with the following provisions:</p> <p>7. <i>The metering, measuring and monitoring devices shall be installed within three years of the publication of this notice.</i></p> <p>8. <i>Legal Notice No. 69 of 2011 issued on 4th April 2011 shall stand revoked Three years after publication of this notice.</i></p>	<ul style="list-style-type: none"> Alcohol Manufacturers are currently suffering from high cost of inputs due to the increased excise rates, weakening Kenyan shillings' rate and increased cost of credit. On the other hand, consumers are currently suffering from the high cost of living thus it will only be prudent for manufacturers to be given three years to recover from the high excise tax, cost of credit and input shocks. A three-year implementation time period will not jeopardise KRA tax collection efforts. Currently KRA has KRA/SICPA personnel in manufacturers premises who can be 	<p>The stakeholder comments on the shorter timelines for compliance have been noted. However, the proposed amendment to provide for compliance with these regulations to change the period from 6 months to 3 years will be against the objective of these regulations.</p> <p>The concern has been considered and however it was noted that the six month period provided is enough time for manufacturer to comply with the provisions of the regulations.</p>



KENYA REVENUE AUTHORITY

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No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
		after publication of this notice.		<p>tasked to read the flow meter readings.</p> <ul style="list-style-type: none">• Implementation of this regulation will require a huge capital outlay and the business had already budgeted for the year. Pushing to start within six months will require adjusting operations which have a likelihood of halting operations to secure funds, reduce on other spend which may impact jobs. The investment required to implement this may be on an upwards of KES. 30M.• Monitoring impacts on privacy which is in breach of the data protection laws. We also have Resident Officers in our plants who monitor production processes and feedback with KRA.• An impact assessment was not done before these regulations were drafted as they would have received feedback from the business on a model that would not increase cost of compliance and negatively impact investment. <p>We shall need time to budget, train, adjust production processes hence three years at a minimum would suffice as we have not budgeted for this investment for implementation within the stated six months. In adjusting to three years, we</p>	

Tulipe Ushuru, Tujitegemee!



No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
				urge Government to review the overall cost of complying with these regulations as they may heavily impact production and in return reduce on tax collected and especially excise duty and Kenya will further be unattractive for investment.	
7.	Alcohol Beverages Association of Kenya (ABAK)	Clause 9 – Sixth Schedule- PART ONE - specification for the custody transfer metering systems 4) Installation shall be such that there should be no flow through the flowmeter when it is off through the installation of a valve. For this purpose, the licensed manufacturer shall install a valve to the flow meter.	Amend clause 4 to read as follows: 4. Installation shall be such that there should be no flow through the flowmeter when it is off through the installation of a valve except when the equipment is on Clean In Place mode. Request for clarity on type of valve.	<ul style="list-style-type: none">The amendment takes into consideration that aseptic production lines must be thoroughly cleaned including the flow meters and that there needs to be a provision for cleaning.Is this a manual valve or an electronic valve? If electronic then this would lead to other implications requiring extra investments as already the manual valves are very expensive	The cleaning process does not happen more frequently – may twice or thrice in a year. The resident officers have always been taking the readings manually before and after the cleaning. These are not considered production. However, the draft regulation is meant to provide for better way of ensuring that such should not be accounted as production by providing for a mechanism through use of valves. The proposed amendment has been considered and the draft regulations reviewed accordingly.
8.	Alcohol Beverages Association of Kenya (ABAK)	Clause 9 – Sixth Schedule- PART ONE -specification for the custody transfer metering systems	Request for clarity on the implementation of this regulation	Since we already have a flow meter in place, can we add the proposed software instead of investing in new flow meters?	This is a comment and the regulations will be implemented once gazetted by the Cabinet Secretary. This will be subject to the various provisions of the regulations and the period provided after publication.



No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
		6) Data transmission software shall be validated by Weights and Measures before being offered for deployment.			
9.	Alcohol Beverages Association of Kenya (ABAK)	Clause 9 – Sixth Schedule- PART ONE -specification for the custody transfer metering systems 8) The relevant International Organization of Legal Metrology (OIML) approvals for the flowmeter models shall be a basic requirement for the submitters of the instrument models to be approved by the Weights and Measures Department.	Amend clause 8 to read as below: 8) The relevant International Organization of Legal Metrology (OIML) TC No. and class for the flowmeter models shall be a basic requirement for the submitters of the instrument models to be approved by the Weights and Measures Department.	Some of the established manufactures with excellent meters may not be ready to share copy of certificates (this is not a requirement in most jurisdictions) though their meters come with certification numbers and class. It will be good to align this regulation with global best practices.	To be looked at and addressed administratively.
10.	Alcohol Beverages Association of Kenya (ABAK)	Clause 9 – Sixth Schedule- PART II- specifications for custody transfer tank gauging systems (Automatic Level Gauges and Automatic Tank Gauges) 1) The ATG shall be of a model type approved by the Director	Amend the clause to read as follows: 1) The ATG shall be of a standard and specification approved by the Director of the Department of Weights and Measures for the measurement of alcohol.	<ul style="list-style-type: none">By Weights and Measures Department determining the Type it limits Manufacturers to specific brands, which might lead to creation of monopolies, however if Weights and Measures determine the standard and specifications manufacturers will be allowed to competitively source from suppliers whose products meet the specifications.	The comments provided under No. 5 addresses to the concerns raised by the stakeholder. However, the stakeholder was concerned with “type approved” which they have literally taken to mean a certain product or model. The Weights and Measures Department uses the term to indicate an approval towards a standard and specifications in a model. The proposal is therefore



No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
		of the Department of Weights and Measures for the measurement of alcohol.		<ul style="list-style-type: none">The requirement that the model type has to be approved by the Director Weights and Measures has the risk of the Director prescribing tank gauges which if not in conformity with already existing gauges, then the manufacturer will be forced to halt operations and invest in new gauges. This increase the cost of Compliance i.e. in addition to cost of investing in new gauges and additional costs that may be prescribed by the Weights and Measures Department.	not considered since the term is used internationally regarding standards of an equipment.
11.	Alcohol Beverages Association of Kenya (ABAK)	<p>Clause 9 – Sixth Schedule- Current clause in the regulation</p> <p>PART II- specifications for custody transfer tank gauging systems</p> <p>(Automatic Level Gauges and Automatic Tank Gauges)</p> <p>3) Shall have a type-approved computing system for determining custody transfer volumes in the tanks (type approved) by the Department of Weights and Measures.</p>	<p>Proposal – amend the Regulation to read as follows:</p> <p>3) Shall have a computing system verified annually by the Department of Weights and Measures for determining custody transfer volumes in the tanks.</p> <p>4) The computing system shall be capable of remote communication through a Modbus communication interface.</p>	<ul style="list-style-type: none">The requirement that the model type has to be approved by the Director Weights and Measures has the risk of the Director prescribing tank gauges which if not in conformity with already existing gauges, then the manufacturer will be forced to halt operations and invest in new gauges. This increase the cost of Compliance i.e. in addition to cost of investing in new equipment and additional costs that may be prescribed by the Weights and Measures Department.Clarity is also needed on what Clause 4 refers to and how the same shall be implemented.	<p>These Regulations are meant to provide for a computing system that is capable of transmitting information over serial lines between electronic devices. It is used widely by many manufacturers throughout many industries. The system is typically capable to transmit signals from instrumentation and control devices back to a main controller or data gathering system, for example a system that measures temperature and humidity and communicates the results to a computer.</p> <p>These clarification will done once the regulations are</p>

No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
		4) The computing system shall be capable of remote communication through a Modbus communication interface.			approved and gazetted for implementation.
12.	Alcohol Beverages Association of Kenya (ABAK)	<p>Clause 9 – Sixth Schedule- PART II- specifications for custody transfer tank gauging systems (Automatic Level Gauges and Automatic Tank Gauges)</p> <p>5) Data transmission software shall be validated by Weights and Measures before being offered for deployment.</p>	<p>Amend the clause to read as follows:</p> <p>5) Data transmission software specifications shall be validated by Weights and Measures before being offered for deployment.</p> <p>or</p> <p>Proposal – Delete provision.</p>	<ul style="list-style-type: none"> The amendment introduces the need for weights and measures to share the software specifications that can guide manufacturers on which software to use. This refers to data transmission for the tanks. It's a new requirement that will need capital investment. This comes at a time when the business is struggling to survive due to inflation, high power costs, increase in taxes especially excise, increase in cost of fuel, increase in cost of labor among others. An additional compliance cost will negatively impact the business. 	<p>The KRA resident officers undertake manual readings of tank gauges. There is need to have software for transmission of the data. The proposed amendment by the stakeholder was not considered since the control are being put in place to ensure the data transmission software is validated by Weights and Measures Department.</p> <p>Deletion of this Regulation will not allow the data transmission software to be calibrated for the transition of data for monitoring of excisable goods which is very critical.</p>
13.	Alcohol Beverages Association of Kenya (ABAK)	<p>Clause 9 – Sixth Schedule- PART II- specifications for custody transfer tank gauging systems (Automatic Level Gauges</p>	Proposal – Delete provision	<ul style="list-style-type: none"> This will require investing in new tanks. We are also not aware of the approved listing of the tanks required and this will translate to additional investments that were not budgeted. Introduction of third party entities “...licensed company...” validates an action by Weights and Measures to 	The Weights and Measures will only calibrate the existing tanks. This will not involve investing in new tanks. The concerns of the stakeholder are therefore considered and they will not require to install new tanks. It is however noted that they will incur costs for having it



No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
		and Automatic Tank Gauges) 6) The tanks on which are to be fitted the ATGs shall be calibrated by a Weights and Measures licensed company under the type 8 category and submitted to Weights and Measures for verifications.		contract another company. This should not be contained in a law but should instead be a choice by the regulator without forcing the business to go to a "specific company" as this, at no additional costs and the manufacturer should be free to choose its supplier	calibrated to the required standards.
14.	Alcohol Beverages Association of Kenya (ABAK)	Clause 9 – Sixth Schedule- PART II- specifications for custody transfer tank gauging systems (Automatic Level Gauges and Automatic Tank Gauges) 9) The ATG and the volume computing unit model's relevant OIML approvals shall be a basic requirement for the submitters of the instrument models to Weights and Measures for type approval.	Delete the clause	<ul style="list-style-type: none">• International Organization of Legal Metrology (OIML) does not certify nor approve Automatic Tanks Gauges• The implementation of this provision translates to new investment which will be capital intensive.• The time required to install will disrupt production.• This will be an additional compliance cost. Compliance should be at added costs that threaten the survival of a business.• This is an additional regulatory burden with Weights and Measures and hence additional costs.	The proposed amendment is in line with the objective to ensure close monitoring of volume. The custody transfer tank gauging systems (Automatic Level Gauges and Automatic Tank Gauges) will reduce manipulations in the volume. Maintenance of standards of weight and measure (i.e. the physical representation of the units of measurement) which are traceable to the International Standards and against which the accuracy of all other standards of measurement used in trade in Kenya re-tested. Therefore, the Weights and Measures Department ensures that the automatic tanks gauges are calibrated and only using the authorised system of units, i.e.

No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
					The International System of Units (SI) in trade in Kenya.
15.	Alcohol Beverages Association of Kenya (ABAK)	<p>Clause 9</p> <p>Sixth Schedule</p> <p>PART I - specification for the Custody Transfer Metering Systems</p> <p>PART II - specifications for custody transfer tank gauging systems (Automatic Level Gauges and Automatic Tank Gauges)</p> <p>PART III - specifications for the Monitoring System (Remote Factory Viewing Closed Circuit System)</p>	<p>Introduce the below clause immediately after part III of the sixth schedule</p> <p>The provisions of part I, II and III of the sixth schedule shall come into effect three years after publication of this regulations</p>	<ul style="list-style-type: none"> Alcohol Manufacturers are currently suffering from high cost of inputs due to the increased excise rates, weakening Kenyan shillings rate and increased cost of credit. On the other hand, consumers are currently suffering from the high cost of living thus it will only be prudent for manufacturers to be given three years to recover from the high excise tax, cost of credit and input shocks. A three-year implementation time period will not jeopardise KRA tax collection efforts. Currently KRA has KRA/SICPA personnel in manufacturers premises who can be tasked to read the required readings. 	This was considered and however, it was noted that the 6 months was enough for the manufacturers to comply.
16.	Alcohol Beverages Association of Kenya (ABAK)	Part III – Specifications for monitoring system (Remote Factory Viewing Closed Circute System)	Proposal – delete Part III in its entirety.	<ul style="list-style-type: none"> The provisions in this Part impede on Data Privacy placing the manufacturer at a risk of data breaches should personal or sensitive data leak as is a breach to personal and sensitive data. This is a capital-intensive project which the businesses had not planned 	The stakeholder concerns was reviewed and upon critical consideration, it was noted that the remote monitoring will not infringe on the taxpayer's rights on the Data Privacy. The draft regulation is meant to provide for remote monitoring which is



No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
				<p>for hence the implementation may lead to capital investment, increased cost of compliance in addition to the taxes and other costs stated above.</p> <ul style="list-style-type: none"> We have presence of KRA Residence Officers who constantly monitor operations and share feedback with KRA. 	<p>currently undertaken by resident officers physically at the factory.</p> <p>The proposed regulations will address among other concerns the compliance of the sector including challenges with staff shortages, revenue leakages and ensure efficiency with use of the technology.</p>
17.	Institute of Certified Public Accountants of Kenya (ICPAK)	Regulation 9: Fifth Schedule – Minimum specifications for metering, measurement and monitoring devises	It will be useful for the Regulations to be specific that the 5 th Schedule relates to the Alcoholic sector.	<p>Specify that the requirements of the 5th Schedule of the regulations relate alcoholic beverages</p> <p>From the specific provisions, the required standards are those of the alcoholic sector.</p>	The stakeholder comments are noted and the proposed Fifth Schedule to the Regulations relates to alcoholic products. This will be clarified further to address the stakeholder concern.
18.		Regulation 9 (7) “The metering, measuring and monitoring devices shall be installed within six months of the publication of this notice”	<p>Provide for ample time for companies to plan, install and train their staff. Amend the provision read as follows:</p> <p><i>(7) The metering, measuring and monitoring devices shall be installed within three years of the publication of this notice.</i></p>	<p>Requiring installation within six months is punitive as they are capital in nature yet companies had already finalized their year budgets and projections. It requires time for companies to budget, train, adjust production processes. Moreover it potentially increases the cost of compliance and negatively impact investment.</p>	This has already been comprehensively addressed in item No. 6 under the ABAK/Kenya Breweries Limited & UDV (Kenya) Limited stakeholder submissions.
19.		Part I, II, III	Conduct a needs-assessment of existing systems and establish if the current system will address the KRA concerns.	Considering the CAPEX involved in ensuring compliance, consider a transition period of 3 years in the event that the current system does not meet the required standard.	This has already been comprehensively addressed in item No. 6 under the ABAK/Kenya Breweries Limited

No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
					& UDV (Kenya) Limited stakeholder submissions.
20.		Part III- Specifications for the Monitoring System (Remote Factory Viewing Closed Circuit System)		The requirement of IP surveillance system may raise issues of confidentiality. A review of the regulations may be necessary to ensure that it does not contravene issues of data and system privacy.	This has already been comprehensively addressed in item No. 1 under the ABAK stakeholder submissions.
21.	C&BCD	<p>Paragraph 3: Clarification whether L.N. 113/2020 only covers Regulation 3</p> <p>Lack of clarity on whether Legal Notice 113/2020 applies only to Regulation 3 or to all the Regulations</p>	Format the citation column	This will provide clarity on why Legal Notice 113/2020 is quoted	Remove L.N 113/2020 from citation
		Paragraph 4: Regulation 4(2) (a) omits nicotine substitutes.	Delete "nicotine products" and replace with "nicotine substitutes"	This will provide uniformity in implementation of the Regulation	Implement as proposed
		Paragraph 7: There is already an existing Regulation 15(1)(a)(ix) in the Principal Regulations and it is not clear whether the same is being deleted or not	<p>1) Amending the current 15(1)(a)(ix) to read as 15(1)(a)(x) and inserting the proposed addition as the new 15(1)(a)(ix)</p> <p>2)Alternatively just add the word "co-manufacturing" in the principal regulation in</p>	Numbering of the regulation lacks consistency	Implement as proposed



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No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
		Proposal 1 to allow for the Commissioner to call for any other relevant document not listed in this regulations. Proposal 2 avoids repetition	order to apply to both manufacturing and co manufacturing 3) Include sales records for co-manufacturer in Regulation 15(1)(a)(ix)(vi)		
		Paragraph 9: Paragraph 5 of the 5th schedule does not define certain words such as ONVIF Define Open Network Interface Forum and have ONVIF in brackets	Provide the definition for ONVIF	For clarity	To be looked at.
		Paragraph 9: Paragraph 9: Paragraph 9: Paragraph 8 of the 5th schedule	Insert full citation of the legal Notice No.69 of 2011 to read the Customs and Excise Act (Cap 472) Guidelines on Specifications for Measurement Devices	For easy identification of the legal notice	Implement as Proposed
		Paragraph 9: Part I and part II of 6th schedule	Use the "Department of Weights and Measures" everywhere it is applicable	Maintain uniformity when referencing the "Departments of Weights and Measure"	Implement as proposed
		Paragraph 9:	Indicate unit of measure	Units of measurement is necessary for clarification	Implement as Proposed

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No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
		Paragraph 2 part 1 of the 6th schedule, the accuracy class of 0.5 or 0.3 does not indicate units of measure			
22.	Ahmed Raabi	<p>Manufacturers:</p> <p>Then regulations introduce new requirements for manufacturers, such as the separation of raw materials, and increase the minimum specifications for metering, measurement, and monitoring devices, which can be costly to implement.</p> <p>Co-manufacturers:</p> <p>Co-manufacturers must keep separate records of raw materials and excisable goods and store goods separately, which may increase operational costs and be burdensome.</p> <p>Importers:</p> <p>Only agents of licensed importers or manufacturers of products containing nicotine or nicotine substitutes shall be registered by the Commissioner as importers of packaging</p>	Defer the amendment	Amendments will increase operational costs and be burdensome.	The stakeholder comments were noted and where applicable addressed in the regulations.



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No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
		<p>materials, which could lead to a reduction in the number of importers and less competition.</p> <p>Customers: The regulations could lead to an increase in the price of excisable goods as manufacturers may pass on the costs of compliance to customers.</p> <p>Small businesses: Small businesses may find it difficult to comply with the new regulations due to their limited resources, which could affect their ability to compete with larger businesses.</p> <p>Government: The regulations could reduce revenue if manufacturers and importers are unable to comply and may lead to an increase in the illegal trade of excisable goods.</p> <p>Weights and Measures Department: The department may face challenges in verifying the metering and measuring devices due to their increased number and complexity,</p>			

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No.	Stakeholder	Current Clause in the draft Regulations	Proposed Amendment	Justification	KRA Comments
		<p>which could impact their effectiveness in regulating the industry.</p> <p>Regulators: The regulations increase the workload of regulators in enforcing compliance, which could be overwhelming and lead to a lack of resources to address other issues.</p> <p>Ethanol manufacturers: The regulations require local purchase or importation of ethanol, which may limit the source of supply, leading to an increase in the cost of production.</p> <p>Environment: The regulations could lead to an increase in the use of packaging materials, which could have adverse effects on the environment due to increased waste.</p>			

Prepared by: Leonard Cheserem

Sign:

21.02.2022

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Reviewed by: Dr Benard Kirui

Sign:

21.02.2023

Approved by: Josephine Mugure

Sign:

21.02.2023

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**REPORT ON PUBLIC PARTICIPATION ON THE AMENDMENTS OF THE
EXCISE DUTY REGULATIONS 2023**

1.0 Introduction

Kenya Revenue Authority (KRA) held a public participation webinar on **Tuesday, 21st February 2023**, from **9:00 am to 11:00 am**. The engagement comes at the end of the extension of the deadline for submission of inputs or comments on the proposed amendment to the Excise Duty Regulations, an extension requested by stakeholders.

The webinar hosted about 89 participants drawn from various BMOs such as the Alcoholic Beverages Association of Kenya (ABAK), the Institute of Certified Public Accounts of Kenya (ICPAK), the Pubs and Restaurants Association of Kenya (PERAK), and individual stakeholders.

2.0 Opening remarks

Stakeholder Engagement and Events Management Mr Brian Steve called the meeting to order. The meeting started with a word of prayer from Mr Patrick Nganda. The Deputy Commissioner of DTD Enforcement, Mr Mutembei Nyagah, chaired the meeting.

The Chair welcomed all members to the engagement. He appreciated everyone for honouring the Authority's invitation. He stated that some submissions had been received through Stakeholder Engagement Division and hoped all other submissions would be received by the end of the day to conclude the exercise.

3.0 Summary of Presentation by Stakeholders

S/No.	Stakeholder	Submission
1.	ABAK	<ul style="list-style-type: none">• It was proposed that Clause 5, which deals with co-manufacturing, be deleted because it will increase the cost of doing business.• It was proposed that Regulation 13 on storage be deleted because it significantly increases the cost of doing business.• It was proposed that Clause 9 on metering, measuring and monitoring devices, specifically in Clause 3, be amended to read, "<i>Each metering and the measuring device shall be of the standard and specification approved.</i>" This will bring an element of predictability and ensure no monopolies are

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S/No.	Stakeholder	Submission
		<p>created. It will also ensure that prices go down, the cost of doing business and help in competitive sourcing.</p> <ul style="list-style-type: none">• Clause 9 (5th Schedule) on minimum specifications for metering and monitoring devices was proposed to be implemented after three years.• Proposed specifications for custody transfer metering that it be implemented and read, <i>"Installation shall be such that there should be no flow through the flow metre when it is off through the installation of a valve except when the equipment is on cleaning in place mode."</i>• Proposed that Clause 8 be amended and be amended to read, <i>"The relevant International Organisation of Legal Metrology, TC Number and Class for the flow metre shall be a basic requirement."</i>• Proposal on the Automatic Level Gauges and Automatic Tank gauges. Only specify standards and specifications to allow for competitive sourcing from any supplier globally so long as they meet the requirements.• Request more time to implement the 6th Schedule elements, three years.• Regulation 36 with regards to temperature for measuring Ethanol. The proposed amendment contained in regulation 36 is proposed to read as follows, <i>"Where the commissioner under paragraph one directs ascertainment by weighing, the volume shall be calculated, (a) by means of alcohol hydrometer and the associated practical alcohol table or by use of an automated density metre and temperature at 20 degrees centigrade."</i>
2.	ICPAK	<ul style="list-style-type: none">• Regulation 9 is specific to alcohol and not all excisable goods.• The installation of monitoring equipment within six months is punitive, given the capital nature required for this to be installed. Companies should be given adequate time (three years) to comply with the regulations.
3.	Jjasm Mini-Distillery	<ul style="list-style-type: none">• Suggested a justification should be provided on the regulations considering that some SME manufacturers procured and installed flow meters as early as 2021.• Government should show a commitment that if flow meters are procured, regulations should not be changed for at least ten years.• If regulations are changed regularly, then the government should help finance the purchase of such devices.

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Stakeholder Proposals

- Most of the stakeholders were proposing an extension of the regulations from 6 months to 3 years since they could not get the required CAPEX within the 6 months.
- Stakeholders proposed that the regulations be amended to allow the offset of some of the costs to the relevant tax, i.e. excise, noting that the cost of implementing the regulations was huge and would require heavy capital expenditure.
- Stakeholders requested KRA to consider the regulation based on the size of production capacity.

4.0 KRA Response

- KRA affirmed to stakeholders that the proposed amendments were noted down and would be considered, and a decision will be made on how to incorporate them.
- KRA informed stakeholders that the flow meters and measuring devices would still be used if they met the amended law/regulations requirements.

5.0 Conclusion

Stakeholders requested the KRA team that in future engagements, they should provide a preamble explaining what they intend to achieve from the amended regulations.

The Chair thanked stakeholders for their participation and assured them that their comments would be reviewed and incorporated. He encouraged stakeholders to write their submissions as the team finalized the regulations.

Sign off:

Prepared by: Miriam Onyango

Sign.....*Miriam Onyango*.....Date.....*21/02/2023*.....

Reviewed by: Benard Kirui

Sign.....*Benard Kirui*.....Date.....*21/02/2023*.....

Approved by: Josephine Mugure

Sign.....*Josephine Mugure*.....Date.....*21/02/2023*.....

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MINUTES OF THE VIRTUAL MEETING HELD ON TUESDAY 8TH FEBRUARY 2022 AT 8.30A.M. TO DISCUSS THE AMENDMENTS TO THE EXCISE DUTY 2020 REGULATIONS

No.	Present	Department
1.	Maurice Oray	SIRM/CPU (<i>Chairing</i>)
2.	Margaret Masaku	DTD/P&TA
3.	Josiah Nyangweso	LS&BC
4.	Domic Kengara	I&E
5.	Nelly Okwach	C&BC
6.	Charles Kimutai Cheruiyot	DTD/P&TA
7.	Benard Kipyegon Kirui	SIRM/CPU
8.	Ephraim Munene	DTD/P&TA
9.	Karambu Muthaura	DTD/P&TA
10.	Cynthia Chepkwony	DTD/P&TA
11.	Ann Mpathia	DTD
12.	Felistus Nyagwoka	DTD/Enforcement
13.	Leonard Cheserem	SIRM/CPU
14.	Festus Were	SIRM/CPU
15.	Anita Allela	LS&BC
16.	Brian Kaleli	DTD
17.	Jane Muguchu	DTD/P&TA
18.	Silas Oure	SIRM/CPU
19.	Collins Cherogony	DTD
20.	Faith Nthale	DTD/P&TA

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No.	Present	Department
21.	Linda Kanyari	DTD/P&TA
22.	Susan Kairu	I&E
23.	Patrick Omondi	CSSD
24.	Fidelis Ratemo	DTD
25.	Frida Ombogo	DTD
26.	Philip Ogosso	DTD
27.	Jacintah Mumo	DTD
28.	Grace Kimari	DTD
29.	Risper Owino	DTD
30.	Phoebe Lemaron	CSSD
31.	Nancy Jemutai	DTD/LTO
32.	Moses Mumo	
33.	Eleanor Lukoba	DTD
34.	Newton Kipyegon	DTD
35.	Christine Majani	SIRM/CPU (<i>Taking minutes</i>)

Apologies

	1. Lenah Achieng	DTD/P&TA
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Agenda

1. Commencement of meeting
2. Confirmation of previous minutes
3. Deliberation of the proposed amendments to Excise Duty (EGMS) Regulations, 2017
4. Deliberation of the proposed amendments to Excise Duty Regulations, 2020
5. Matters arising from the meeting.
6. Way forward
7. Adjournment

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Min 1/2/22: Commencement of meeting

The Chair called the meeting to order at 8.46a.m. and welcomed members to the meeting. He confirmed that all relevant departments-DTD, Customs, LS&BC and I&E were presented. He mentioned that this was a follow up of the meeting held last Thursday 3rd February whose purpose was to review the resubmitted proposals and schedule of excise stamps. The meeting then started with a word of prayer from Silas Oure

Min 2/2/22: Confirmation of previous minutes

The minutes of the previous meeting held on 3rd February 2022 were presented to the members. The minutes were confirmed as true record of the discussions held during the last meeting. The minutes were proposed by Cynthia Chepkwony and seconded by Felistas Nyagwoka.

Min 3/2/22: Deliberation of the proposed amendments to Excise Duty (EGMS) Regulations, 2017

1. Paragraph 12(1)(b)

Regulation	Issue/Challenge	Proposed intervention	Justification	Comments
Paragraph 12(1)(b)	<p>The paragraph provides that <i>“Excise stamps shall be affixed on excisable goods in the manner specified by the Commissioner- in the case of imported goods, at a place approved by the Commissioner within 5 days of the clearance for importation of the goods for home use.”</i></p> <p>The proposal was to specify <i>“place approved by the Commissioner”</i> as a licensed warehouse a term referred to in Section 4(2)(b) of the EDA.</p> <p>On further review, a licensed warehouse is designated by customs for securing un-entered</p>	Retain 12(1)(b) as is	There is therefore no need for the approved place to be a licensed warehouse; we propose to drop the same.	<p>The meeting was informed that this proposed amendment was initially recommended during the last meeting. However, upon follow review by the DTD team, the team recommended that it be dropped. The Chair opened the floor for members to give their inputs on the proposed rescinding of the proposal from being taken up further. The members noted the following during the discussion:</p> <ul style="list-style-type: none"> The “place approved by the Commissioner” need not be a licensed warehouse.



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	<p>goods while “the place approved” by the Commissioner in the regulations is designated for affixation of stamps on goods on which duty has already been paid.</p> <p>There is therefore no need for the approved place to be a licensed warehouse, we propose to drop the same.</p> <p>We propose to have the definition of a licensed warehouse be included in Section 2 of EDA aligned with EACCMA in the next budget cycle.</p> <p><i>Definition of “licensed warehouse” to be provided under Excise Duty Act, 2015 “as a the per EACMMA definition of customs warehouse”.</i></p> <p>EACCMA, 2004 defines a customs warehouse “as any place approved by the Commissioner for the deposit of unentered, unexamined, abandoned, detained, or seized, goods for the security thereof or of the duties due thereon”</p>			<ul style="list-style-type: none"> • Insisting that the affixation of stamps be done in a licensed warehouse may lead to additional cost to the taxpayer. • There is need to still define “licensed warehouse” in the Excise Duty Act, 2015. • The proposal to define “<i>place approved by the Commissioner</i>” was therefore dropped. <p>The members agreed that the proposal be dropped from further consideration and this will not be included as part of the recommended proposed amendments for forwarding.</p>
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2. Proposed Schedule to the EGMS Regulations

	Category of Excisable Goods	Excise Stamp Fee per Stamp	Comments
1.	Cigars, cheroots, cigarillos, containing tobacco or tobacco substitutes	2.8 per stamp	The meeting was informed that the fees were arrived at by looking at the fees chart for related products. This was what was adopted in coming up with the proposed schedule of excise stamp fees.
2.	Cigarettes containing tobacco or tobacco Substitutes		
3.	Other manufactured tobacco and manufactured tobacco substitutes; "homogenous" and "reconstituted tobacco"; tobacco extracts and essences		
4.	Electronic cigarettes and other nicotine delivery systems		
5.	Liquid nicotine for use in electronic cigarettes		

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	Category of Excisable Goods	Excise Stamp Fee per Stamp	Comments
6.	Products containing nicotine or nicotine substitutes intended for inhalation without combustion or oral application but excluding medicinal products approved by the Cabinet Secretary responsible for matters relating to health		In addition, the members were informed that the current cost per excise stamp is KShs. 1.80. The members were notified that the current rates of excise stamps charged does not fully offset the contractor fees and therefore many a times funds have to be requested from the National Treasury to address the contractors costs. The Chair guided that DTD to carry out simulations in order to come up with the correct rate that does not hurt the consumers. The simulations should accompany the proposal to the National Treasury.
7.	Wines including fortified wines, and other alcoholic beverages obtained by fermentation of fruits	2.8 per stamp	
8.	Compounded spirits of alcoholic strength exceeding 6%	2.8 per stamp	
9.	Spirituos beverages of alcoholic strength not exceeding 6% (Ready to Drink)	2.8 per stamp	
10.	Beer, Cider, Perry, Mead, Opaque beer, and mixtures of fermented beverages with non-alcoholic beverages	1.5 per stamp	
11.	Bottled water and aerated water of tariff no. 2201.10.00 & 2201.90.00	0.5 per stamp	
12.	Sweetened or flavoured water and non-alcoholic beverages not including fruit or vegetable juices of tariff heading 2202	0.6 per stamp	
13.	Fruit juices (including grape must), and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	0.6 per stamp	
14.	Cosmetics and Beauty products of tariff heading Nos. 3303, 3304, 3305 and 3307	0.6 per stamp	
Note:			
1. No. 4-6 are part of the emerging nicotine and tobacco products that were not previously specified in the schedule			
2. No. 8-9, corrects the alcoholic content. Also RTD stamp fee (9) is proposed to be uniform with Spirits (8)			
3. No. 11 brings clarity on the nature of packaging and that products are not sweetened. These means that flavoured waters all fall under 12			

Min 4/2/22: Deliberation of the proposed amendments to the Excise Duty Regulations, 2020

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Regulation	Issue/Challenge	Proposed intervention	Justification	Comments
Paragraph 3(1)	<p>Section 16 of EDA requires a person making an application to be licensed or registered that the application “shall” be accompanied by listed requirements. We note that the requirements are not practical for all importers e.g. it is not practical for an importer of cosmetics to have a manufacturing process.</p> <p>The proposal is that the listed requirements should not be mandatory for both importers and manufacturers.</p> <p>The amendment seeks to state where applicable on the requirements.</p>	<p>“3(1) where a person makes an application to be licensed or registered under Section 16, the application shall be accompanied by the documents that the Commissioner may require and where applicable;</p> <ol style="list-style-type: none">the prescribed license application fees;a written description of the manufacturing processes used by the applicant;a plan of each building, room or place to which the application for a license relates;details of the installed production capacity of each production line; andproof of the installation of devices, equipment, systems or other similar requirements prescribed under these Regulations or the Act.”	<p>The proposal takes into consideration the practical requirement for registration for both the importers and the manufacturers without making it mandatory for importers to have all</p>	<p>The proposed amendment is meant to exclude some importers from the requirements for licensing or registration listed in paragraph 3(1) of the regulations. It was noted that the requirements are not practical to all importers.</p> <p>The DTD team proposed the inclusion of the phrase “<i>and where applicable</i>” gives the Commissioner the discretion not to subject all importers to the requirements. This is meant to exempt some importers from the requirement of paragraph 3(1).</p> <p>After deliberations, it was finally agreed that regulation 3(1) be deleted and replaced with the following paragraph –</p> <p><i>“3(1) Where a person makes an application to be licensed or registered under section 16, the application shall be accompanied by—</i></p> <ol style="list-style-type: none"><i>the documents that the Commissioner may require;</i><i>the prescribed license application fees; Provided that in case of a manufacturer, the following additional documents shall be required -</i><ol style="list-style-type: none"><i>a written description of the manufacturing processes used by the applicant;</i>



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Regulation	Issue/Challenge	Proposed intervention	Justification	Comments
				<p>ii) a plan of each building, room or place to which the application for a license relates;</p> <p>iii) details of the installed production capacity of each production line; and</p> <p>iv) proof of the installation of devices, equipment, systems or other similar requirements prescribed under these Regulations or the Act.”</p> <p>The above drafting achieves similar objective to the proposed amendment. Following this amendment, paragraph 3(2) is also amended to make reference to the right subparagraph in regulation 3(1). It therefore reads as -</p> <p><i>“(2) For the purposes of paragraph (1)(b), the fees for the”</i></p>

Min 5/2/22: Matters arising from the meeting

The I&E Department informed the meeting that they were in a process to complete their proposed amendments to the Excise Duty Regulations and requested that they be allowed to submit latest Friday 11th February 2022. The Chair agreed to the request and informed the team to ensure the proposals are forwarded within the agreed timelines to enable deliberation.

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Min 5/2/22: Way forward

Following the discussion on the Regulations, the Chair provided the following guidance:

1. DTD to finalize their submissions including fee charges and simulations and share these to the secretariat by Friday 11th February 2022.
2. I&E to share their proposed amendments latest Friday 11th February 2022.
3. The final meeting to be scheduled after final submissions.

Min 5/1/22 : Adjournment

There being no other business, the meeting was adjourned at 10.35 AM.

Prepared by:

Christine Majani


Date: 08/02/2022

Sign: 

Reviewed by:

Leonard Cheserem

Date: 09/02/2022

Sign: 

Approved by:

Maurice Oray

Date: 11/02/2022

Sign: 



Session Detail Report

Session detail for '**PUBLIC PARTICIPATION ON THE EXCISE DUTY
(AMENDMENT) REGULATIONS, 2023**':

All sessions in Nairobi Time (Nairobi, GMT+03:00)

Meeting information

Topic:	PUBLIC PARTICIPATION ON THE EXCISE DUTY (AMENDMENT) REGULATIONS, 2023	Meeting type:	Meetings
Start date:	2/21/2023	Start time:	8:47 am
Duration:	96 mins	Invited:	1
Registered:	N/A	Client attended:	110

Client participant list 110

Name	Email	Invited	Registered	Audio types used
Cynthia Chepkwony	Cynthia.Chepkwony@kra.go.ke	No	N/A	VoIP
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KENYA REVENUE AUTHORITY

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STAKEHOLDER ENGAGEMENT FORUM ON EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

Date: 1st February 2023

Time: 8:00am

Venue: 5th Floor Convention Centre, Times Tower

No.	Name	Organization	Email	Sign
1.	Ms. Ruth Wadenya Manager Partnership	Kenya National Chamber of Commerce and Industry	ruth.wadenya@knci.or.ke	
2.	Mr. Francis Theuri National Director	Kenya National Chamber of Commerce and Industry		
3.	Ms. Caroline Kosom Manager Trade Policy and Advocacy	Kenya National Chamber of Commerce and Industry	Caroline.Kosom@kenyachamber.or.ke	
4.	Mr. Anthony Mwangi Chief executive officer	Kenya Association of Manufacturers	Anthony.Mwangi@kem.co.ke	
5.	Ms. Miriam Bommet Secretariat	Kenya Association of Manufacturers	miriam.bommet@kem.co.ke	
6.	Ms. Akinyi Gikonyo Tax expert	Kenya Association of Manufacturers	akinyi.gikonyo@kem.co.ke	
7.	Mr. Job Wanjohi Secretariat	Kenya Association of Manufacturers	job.wanjohi@kem.co.ke	
8.	Ms. Zipporah Kuria	Kenya Association of Manufacturers		

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10.	Dr. Gasheri Mugo	Sheth Natural		
✓ 11.	Ms. Selina Musalia	Unilever	Selina.musalia@unilever.com	
✓ 12.	Ms. Susan Maingi	Cocacola		
✓ 13.	Brij Tanuj Raja	Maisha Beverages	BrijTanujRaja@maisha.com	
14.	Anup Bid	Jetlak		
15.	Ms. Christin Muthui Tax Expert	Alpha Tax advisory ltd		
16.	Malcom Mwangi Secretariat	Kenya Association of Manufacturers		
17.	Paul Maina KML	Kenafriic		
18.	Mr. Emmanuel Otieno KEPSA policy officer	Kenya Private Sector Association		
✓ 19.	Ms. Susan Maingi Vice Chair Trade and Industry	Kenya Private Sector Association		
✓ 20.	Mr. Eugene Ngumi Member Public Finance Sector Board	Kenya Private Sector Association		
21.	Mr. Patrick Lavince KEPSA Legal	Kenya Private Sector Association	PatrickLavince@kepsa.or.ke	

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24.	Nadida Rowlands	Alcoholic Beverages Association of Kenya	nadida.rowlands@kamba.co.ke	
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28.	Mr. James Kamau	Alcoholic Beverages Association of Kenya	James.Kamau@kamba.co.ke	
29.	Peter Baraza Importers Manager Carrefour	Retail Traders Association of Kenya		
30.	Mr. Henry Kabogo Chairperson	Water Bottlers Association of Kenya	Henry.Kabogo@wbak.co.ke	
31.	Ms. Wangui Kagera	Water Bottlers Association of Kenya	Wangui@wbak.co.ke	
32.	Ms. Sheila Murgor	Water Bottlers Association of Kenya		

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35.	Mr. Onyango	Water Bottlers Association of Kenya		
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39.	Ms. Winnie Gloria Nkatha	Institute of Certified Public Accountants of Kenya	winnie.nkatha@icpa.co.ke	
40.	Mr. Martin Chomba Chairman	Petroleum Outlet Association of Kenya	Martin.chomba@petroleum.co.ke	
41.	Mr. Daniel Kimemia Ngugi Secretary	Petroleum Outlet Association of Kenya	daniel.kimemia@petroleum.co.ke	



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47.	Md. Umulkheir Abdi	Kenya International Freight and Warehousing Association	<i>umulkheir@gmail.com</i>	<i>[Signature]</i>
48.	Mr. Noah Wamalwa Programs Coordinator	Institute of Economic Affairs	<i>noah.wamalwa@iea.or.ke</i>	<i>[Signature]</i>
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STAKEHOLDER ENGAGEMENT FORUM ON EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

Date: 1st February 2023

Time: 8:00am

Venue: 5th Floor Convention Centre, Times Tower

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4.	Kevin Page	USA	kevin.k.page@usa.gov	0765 619 23	
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STAKEHOLDER ENGAGEMENT FORUM ON EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

Date: 1st February 2023

Time: 8:00am

Venue: 5th Floor Convention Centre, Times Tower

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STAKEHOLDER ENGAGEMENT FORUM ON EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

Date: 1st February 2023

Time: 8:00am

Venue: 5th Floor Convention Centre, Times Tower

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STAKEHOLDER ENGAGEMENT FORUM ON EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

Date: 1st February 2023

Time: 8:00am

Venue: 5th Floor Convention Centre, Times Tower

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9.					
10.					
11.					
12.					
13.					
14.					

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MINUTES OF THE 40TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON TUESDAY, 25TH JULY, 2023 AT THE SMALL DINING, NEW WING, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

1. The Hon Samuel Kiprono Chepkonga, CBS, M.P., Chairperson
2. The Hon. Robert Gichimu Githinji, M.P., Vice Chairperson
3. The Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS, MP
4. The Hon. Joyce Kamene, M.P
5. The Hon. John Paul Mwirigi, M.P.
6. The Hon. Jared Okello Odoyo M.P.
7. The Hon. Maj. (Rtd). Abdullahi Bashir Sheikh, MP
8. The Hon. Pauline Lenguris, M.P
9. The Hon. Gideon Kipkoech Kimaiyo, M.P.
10. The Hon. Onchoke Charles Mamwacha. M.P
11. The Hon. Maj. (Rtd). Dekow Barrow Mohamed, M.P.
12. The Hon. Joseph Kamau Munyoro, M.P.
13. The Hon. Adow Kuno Yakub, M.P.
14. The Hon. Kibet Kirui Komingoi, M.P
15. The Hon. Paul Chebor, M.P.

APOLOGIES

1. The Hon. Robert Mbui, CBS, M.P
2. The Hon. Nicholas S. Tindi Mwale, M.P.
3. The Hon. Ruku Geoffrey Kariuki Kiringa, M.P.
4. The Hon. Laura Amina Mnyazi, M.P.
5. The Hon. Innocent Maino Mugabe, M.P.
6. The Hon. Linet Chepkorir, M.P.

SECRETARIAT

- | | | |
|---------------------------|---|---------------------|
| 1. Ms. Esther Nginyo | - | Clerk Assistant I |
| 2. Mr. Brian Langwech | - | Clerk Assistant III |
| 3. Mr. Jacknorine Buleemi | - | Clerk Assistant III |
| 4. Ms. Winny Otieno | - | Clerk Assistant III |
| 5. Ms. Peter Barasa | - | Legal Counsel II |
| 6. Mr. Charles Ayari | - | Audio Officer |
| 7. Mr. Manuel Leparachao | - | Sergeant-at-Arms |
| 8. Mr. Geoffrey kwatempa | - | Media Relations |

INATTENDANCE

- | | | |
|-------------------------|---|------------------------------------|
| 1. Mr. Mohamed Omar | - | Commissioner, KRA |
| 2. Mr. Mourice Oray | - | Deputy Commissioner, KRA |
| 3. Ms. Josephine Mugure | - | Chief Manager, KRA |
| 4. Ms. Grace Wandera | - | Deputy Commissioner, KRA |
| 5. Ms. Sharon Kirai | - | Parliamentary Liaison Officer, KRA |

- | | | |
|-----------------------|---|---|
| 6. Ms. Gitonga Joan | - | Parliamentary Liaison Officer, KRA |
| 7. Mr. Guyo Boru | - | CEO, Equalization Fund Advisory Board |
| 8. Mr. Kennedy Otieno | - | Economist, Equalization Fund Advisory Board |

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of previous minutes
5. Matters Arising
6. **Briefing by Cabinet Secretary, The National Treasury and Economic Planning on the following Regulations;**
 - i. **The Excise Duty (Amendment) Regulations, 2023**
 - ii. **The Public Finance Management (Equalization Fund) Regulations, 2021.**
7. Any Other Business; and
8. Adjournment.

MIN. DAA&OSC/CDL/266/2023 PRELIMINARIES

The Chairperson called the Meeting to order at 10.16 a.m. after which he said the prayers. He then welcomed all present to the meeting.

MIN. DAA&OSC/CDL/267/2023 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as was proposed by Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS, M.P. and seconded by Hon. Gideon Kipkoech Kimaiyo, M.P.

MIN. DAA&OSC/CDL/268/2023 CONFIRMATION OF MINUTES

Minutes of the 39th sitting were confirmed to be true records of the deliberations as was proposed by Hon. Paul Chebor, M.P. and seconded by Hon. Maj. (Rtd). Abdullahi Bashir Sheikh, M.P.

MIN.DAA&OSC/CDL/269/2023 MATTERS ARISING

No matter arose under this Agenda item.

MIN. DAA&OSC/CDL/270/2023 BRIEFING ON THE EXCISE DUTY (AMENDMENT) REGULATIONS, 2023

Mr Mohamed Omar, Commissioner, KRA presented the remarks from Cabinet Secretary, the National Treasury and Economic Planning. He then welcomed Mr. Mourice Oray, Deputy Commissioner, KRA who briefed the Committee on the Excise Duty (Amendment) Regulations, 2023 as follows, That:-

- i. The Legal Notice No. 40 of 2023 was made pursuant to the powers conferred on the Cabinet Secretary responsible for National Treasury and Economic Planning by section 45 of The Excise Duty Act (No. 23 of 2015) (herein after referred to as the Act) hence a

Statutory Instrument was within the meaning provided for a statutory instrument under section 2 of the Statutory Instruments Act, 2013.

- ii. The Regulations were published in the Gazette as LN No. 40 of 2023 on 28th April 2023, received by the Clerk, National Assembly and were laid on the table of the House on 6th June, 2023 being the fourth sitting day since publication, hence within the Statutory timelines contemplated under section 11(1) of the Statutory Instruments Act. The House was on short recess between 5th May and 5th June, 2023.
- iii. The objects and purpose of these Regulations was to amend certain provisions of the Excise Duty Regulations, 2020 (hereinafter referred to as the "principal Regulations"), in order to create fairness for taxpayers and facilitate the effective administration of excise duty.
- iv. The Regulations amended the Principal Regulations as follows –
 - a) Amendment of Regulation 2 by inserting a new definition to define "co-manufacturing; The amendment is provides for the definition of "co-manufacture" to mean "*any partial process in the production of excisable goods by use of an automated production line*"
 - b) Amendment of Regulation 3 by inserting the words "where applicable" immediately after the words "commissioner may require"; The amendment is meant to give the Commissioner discretion to exclude some importers from the requirements for licensing or registration.
 - c) Amendment of Regulation 4 by deleting several clauses and introducing new paragraphs; the amendments provide for registration which is meant to enhance verification of excisable goods manufactured by licensed manufacturers of nicotine products and substitutes. They enable comparison of packaging supplied to licensed manufacturers against excisable goods manufacturers and packaging stock. They also restrict the importation of packaging materials for cigarettes and tobacco to agents of licensed importers.
 - d) Amendment of Regulation 12 by inserting a new sub-regulation immediately after sub regulation (1); this aligns the definition of "co-manufacturer" in section 2. It also provides for the control of raw materials, or immediate goods used for the co-manufacturing.
 - e) Amendment of Regulation 13 by inserting a new sub-regulation immediately after sub-regulation (3); this is meant to provide for the storage and delivery of excisable goods for a co-manufacturer in similar manner as manufacturer.
 - f) Amendment of Regulation 15 by inserting a new paragraph after paragraph (a). it gives guidance on the kind of records that should be kept by a "co-manufacturer"; and
 - g) Amendment of Regulation 38(3) by inserting the words "the authorized regulator" immediately after the words "as an importer". The inclusion of these words is to align the Energy and Petroleum Regulatory Authority Regulations on Open Tender System in the importation of fuel products in Kenya.
- v. Upon deliberations, the Committee noted that The Excise Duty (Amendment) Regulations, 2023 were submitted to Parliament within the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act (No. 23 of 2013).

- vi. Regulations were made pursuant to the provisions of section 45 of the Excise Duty Act, 2015 that empowers the Cabinet Secretary responsible for the National Treasury and Planning to make regulations for the better carrying out of the provisions of the Act.
- vii. Pursuant to the provisions of Section 5A of the Statutory Instruments Act, 2013, there was attached to the Regulations a detailed Explanatory Memorandum which provided for the purpose of the Statutory Instrument and its legislative context. The memorandum further provided for the policy background, public consultations outcome, impact of the Statutory Instrument, non- requirement of a regulatory impact assessment and monitoring and review.
- viii. The Explanatory Memorandum provided a detailed justification for making the Regulations and it indicates that public consultation was conducted in accordance with the provisions of Article 10 and Article 118 and Article 201 of the Constitution of Kenya 2010.
- ix. The Committee having considered the Excise Duty (Amendment) Regulations, 2023 Legal Notice No 40 **Approved them** as Published as was Proposed by Hon. Kibet Kirui Komingoi, M.P and seconded by Hon. John Paul Mwirigi, M.P.

MIN/DAA&OSC/CDL/271/2023

**BRIEFING ON THE PUBLIC FINANCE
MANAGEMENT(EQUALIZATION
FUND ADMINISTRATION)
REGULATIONS, 2021.**

Mr Guyo Boru, CEO, Equalization Fund Board briefed the Committee on the Public Finance Management (Equalization Fund Administration) Regulations, 2021 as follows,

- i. **Regulation 1** and **Regulation 2** provide for deals with the citation of the Regulations and interpretation of terms.
- ii. **Regulation 3** provides for the purpose of these Regulations. Among them are to establish an unincorporated Board to advise the Cabinet Secretary on the proper and effective performance of the Fund; and to provide guidance on the administration and management of the Fund; the withdrawals from the Fund; completion of on-going projects under the first policy; implementation of new projects under all subsequent policies; and the procedures in relation to winding up of the Fund.
- iii. **Regulation 4** provides for establishment of the board. There is established an advisory board to be known as the Equalization Fund Advisory Board.
- iv. **Regulation 5** provides for qualification requirements of members of the Board.
- v. **Regulation 6** provides for tenure of office. Members of the Board appointed under regulation 4(1) shall, subject to the provisions of these Regulations, hold office for a term of six years, non-renewable, on such terms and conditions as may be specified in the instrument of appointment
- vi. **Regulation 7** provides for vacation of office of a member of the Board, other than ex-officio member.
- vii. **Regulation 8** provides for functions of the Board.

- viii. **Regulation 9** provides for establishment of committees. The Board may establish such committees as it may consider necessary for the better performance of its functions and the exercise of its powers under these Regulations.
-
- ix. **Regulation 10** provides for Expenses of the Board. There shall be paid out of the Fund, expenses of the Board and such other expenses incurred pursuant to the object and purpose for which the Fund is established.
- x. **Regulation 11** provides for Meetings of the Board. The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the dates of the next meeting.
- xi. **Regulation 12** provides for Minutes. The Board Secretary shall cause minutes of all proceedings of meetings of the Board to be entered in books for that purpose.
- xii. **Regulation 13** provides for disclosure of interest for a member who is directly or indirectly interested in any contract, proposed contract or other matter before the Board.
- xiii. **Regulation 14** provides for establishment of county technical committee. Each County Commissioner of an eligible county shall establish and convene an all-inclusive committee to be known as county technical committee comprising of –
- (a) a chairperson who shall be the County Commissioner;
 - (b) a County Executive Committee Member for Finance;
 - (c) Constituency Development Fund managers;
 - (d) a representative of County Assembly;
 - (e) representatives of implementing sectors with prioritized projects; and
 - (f) the chairperson of the Constituency Development Fund (CDF).
- xiv. **Regulation 15** provides for Functions of the county technical committee. The County Technical Committee shall be responsible for approving all projects to be financed from the Fund.
- xv. **Regulation 16** Provides for Each County Commissioner of an eligible county shall establish a committee at the sub-county level to be known as sub- county technical committee comprising of–
- (a) a chairperson who shall be the sub-county Commissioner;
 - (b) a maximum of four technical officers from ministries relevant to funding priorities;
 - (c) the chairpersons of Project Identification and Implementation Committees within the sub-county; and
 - (d) the secretary of the Constituency Development Fund (CDF).

- xvi. **Regulation 17** provides for the Functions of the sub-county technical committee.
- xvii. **Regulation 18** provides for establishment of Project Identification and Implementation Committee.
- xviii. **Regulation 19** provides for the functions of the Project Identification and Implementation Committee.
- xix. **Regulation 20** provides for the functions of the County Executive Committee Member responsible for matters relating to finance with respect to the Fund in each eligible county.
- xx. **Regulation 21** provides that there shall be the Chief Executive Officer to the Board appointed by the Cabinet Secretary.
- xxi. **Regulation 22** provides for a Secretariat constituted by the Chief Executive Officer and its functions.
- xxii. **Regulation 23** provides that the County Executive Committee Member responsible for matters relating to finance shall submit work plans through county technical committee to the Board for approval. The funds shall be utilized as conditional grants to the affected counties in accordance with the Division of Revenue Act and the County Allocation Revenue Act for the respective financial year.
- xxiii. **Regulation 25** provides for criteria for identification of projects. In determining and identifying projects or programmes for the provision of basic services and financing under the Fund, the County Executive Committee Member responsible for matters relating to finance shall take into account the input of the Board and the committees established under these Regulations.
- xxiv. **Regulation 26** provides for submission of work-plan to the Board. The County Executive Committee Member responsible for matters relating to finance shall, upon approval of a workplan, submit the workplan to the Board.
- xxv. **Regulation 27** provides for Quarterly reports on projects and disbursements. The Board shall, on a quarterly basis, submit a report to the Cabinet Secretary with a copy to the Commission on Revenue Allocation and Controller of Budget.
- xxvi. **Regulation 28** provides for Report by the County Executive Committee Member for finance.
- xxvii. **Regulation 29** provides for submission of work-plan to the Board by the County Executive Committee Member responsible for matters relating to finance.
- xxviii. **Regulation 30** provides for withdrawals from the Fund.
- xxix. **Regulation 31** Provides for Winding up of the Fund as specified under Article 204(6) of the Constitution or in legislation enacted by Parliament pursuant to Article 204(7) of the Constitution.

xxx. Upon deliberations, the Committee noted the following issues in regards to the implementation of the Regulations, that:

- a) ~~The implementation of the Regulations present operationalization confusion between the National Government and the County Government. Since the disbursement of the Fund is by the National Government for implementation of projects in the counties, it is not clear whether the oversight of the Fund is by the National Assembly or the Senate.~~
- b) The Regulations provide for the County Executive Committee responsible for matters relating to Finance reporting to the National Government Ministry – The National Treasury and Economic Planning, which is irregular and unconstitutional.
- c) ~~There are no clear criteria for the identification of the marginalized areas by the Commission for Revenue Allocation (CRA) as some areas that benefit from the Fund, do so at the expense of deserving hardship areas.~~
- d) The County Technical Committee under Regulations 14 has representation from the Counties and ward levels, whereas the representation at the constituency level is missing.
- e) There is need to have the National Government Constituency Development Fund represented in the Technical Committees as what the Regulations provides for in Regulation 14(c) and 14(f) is the Constituency Development Fund, which is not in existence.
- f) There is no representation of the Equalization Fund Secretariat at the Technical Committees.
- g) The implementation of the Fund is through Conditional Grants to eligible counties whereas the Constitution provides for direct or indirect utilization of the Fund.

MIN. DAA&OSC/CDL/272/2023 ANY OTHER BUSINESS

The Committee was notified of a draft of the Veterinary Surgeons and Veterinary Para-professionals Act (Veterinary Medicines Directorate) (Amendment) Regulations 2023. It was resolved that the Committee would consider the draft Regulations in its subsequent meeting.

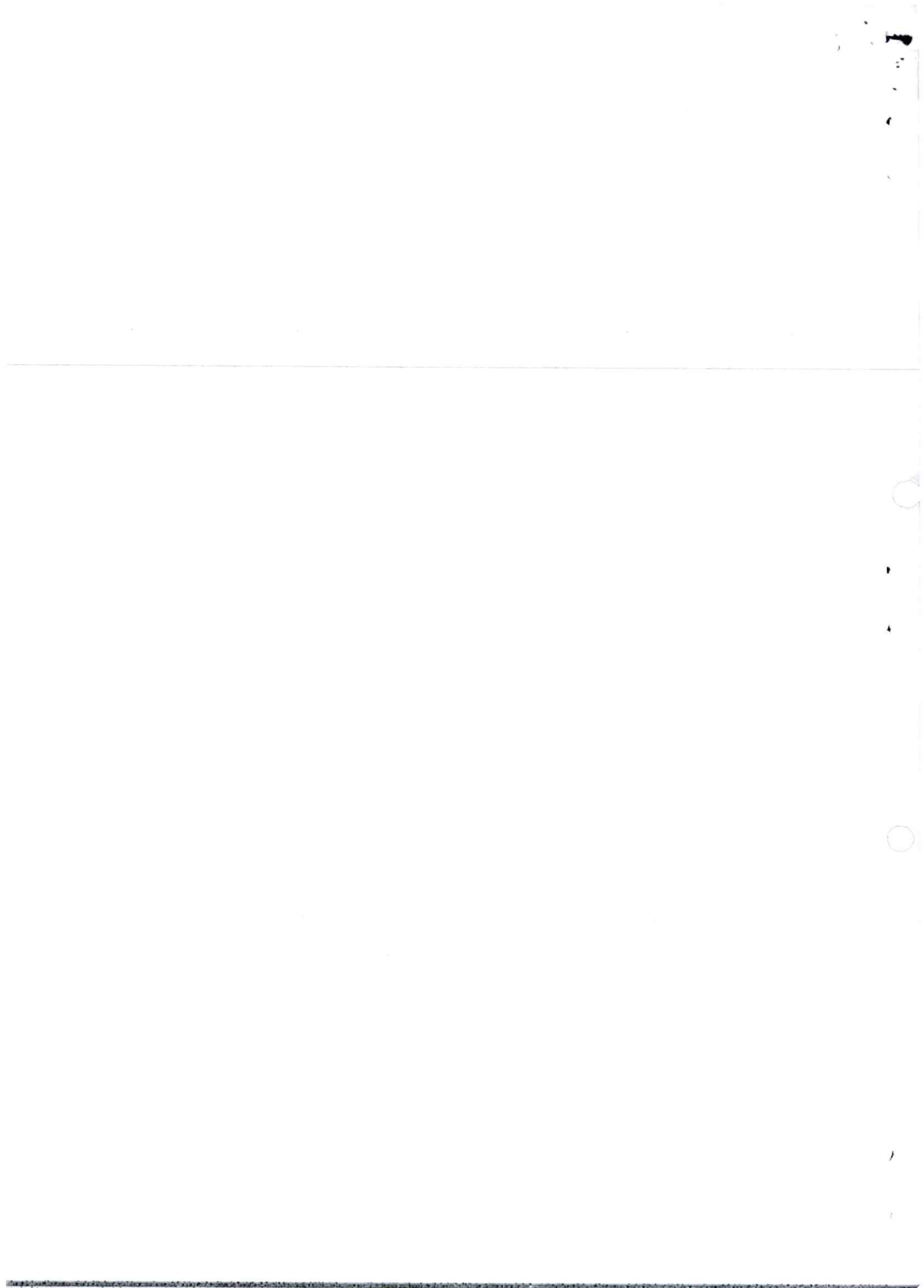
MIN. DAA&OSC/CDL/273/2023 ADJOURNMENT

There being no other business, the meeting was adjourned at Twenty Minutes past Twelve O'clock.

SIGNED: 

THE HON. SAMUEL CHEPKONGA, CBS. M.P.
CHAIRPERSON, COMMITTEE ON DELEGATED LEGISLATION

DATE: 18th August, 2023



MINUTES OF THE 41ST SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON THURSDAY, 27TH JULY, 2023 AT THE SMALL DINING, NEW WING, MAIN PARLIAMENT BUILDINGS AT 12:00 NOON.

PRESENT

1. The Hon Samuel Kiprono Chepkonga, CBS, M.P., Chairperson
2. The Hon. Robert Gichimu Githinji, M.P., Vice Chairperson
3. The Hon. Robert Mbui, CBS, M.P
4. The Hon. Nicholas S. Tindi Mwale, M.P.
5. The Hon. John Paul Mwirigi, M.P.
6. The Hon. Maj. (Rtd). Abdullahi Bashir Sheikh, MP
7. The Hon. Pauline Lenguris, M.P.
8. The Hon. Ruku Geoffrey Kariuki Kiringa, M.P.
9. The Hon. Paul Chebor, M.P.
10. The Hon. Onchoke Charles Mamwacha. M.P
11. The Hon. Kibet Kirui Komingoi, M.P.
12. The Hon. Maj. (Rtd). Dekow Barrow Mohamed, M.P.
13. The Hon. Joseph Kamau Munyoro, M.P.

APOLOGIES

1. The Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS, MP
2. The Hon. Jared Okello Odoyo M.P.
3. The Hon. Joyce Kamene, M.P
4. The Hon. Gideon Kipkoech Kimaiyo, M.P.
5. The Hon. Linet Chepkorir M.P.
6. The Hon. Adow Kuno Yakub, M.P.
7. The Hon. Laura Amina Mnyazi, M.P.
8. The Hon. Innocent Maino Mugabe, M.P.

SECRETARIAT

- | | | |
|---------------------------|---|-------------------------|
| 1. Ms. Esther Nginyo | - | Clerk Assistant I |
| 2. Mr. Wilson Dima Dima | - | Principal Legal Counsel |
| 3. Mr. Jacknorine Buleemi | - | Clerk Assistant III |
| 4. Ms. Winny Otieno | - | Clerk Assistant III |
| 5. Mr. Manuel Leparachao | - | Sergeant-At-Arms |

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of previous minutes
5. Matters Arising
6. **Consideration of the draft Report on Excise Duty (Amendment) Regulations, 2023**
7. Any Other Business; and
8. Adjournment.

MIN. DAA&OSC/CDL/274/2023

PRELIMINARIES

The Chairperson called the Meeting to order at 12.30 p.m. after which prayers were said. He then welcomed all present to the meeting.

MIN. DAA&OSC/CDL/275/2023

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as was proposed by Hon. Maj. (Rtd). Dekow Barrow Mohamed, M.P. and seconded by Hon. Kibet Kirui Komingoi, M.P.

MIN. DAA&OSC/CDL/276/2023

CONFIRMATION OF MINUTES

Confirmation of minutes of the previous sitting was deferred to the next meeting.

MIN. DAA&OSC/CDL/277/2023

CONSIDERATION OF THE REPORT ON
EXCISE DUTY (AMENDMENT)
REGULATIONS, 2023

The Committee considered and adopted the Report on the Excise Duty (Amendment) Regulations, 2023 as proposed by the Hon. Maj. (Rtd). Abdullahi Bashir Sheikh, MP and seconded by the Hon. John Paul Mwirigi, M.P. with the following recommendation, That:

Having examined the Excise Duty (Amendment) Regulations, 2023, Legal Notice No. 40 of 2023 in accordance with the Constitution, the Interpretations and General Provisions Act (Cap 2), the Statutory Instruments Act (No 23 of 2013) and the Excise Duty Act (No. 23 of 2015), the Committee recommends that the House **APPROVES** the *Excise Duty (Amendment) Regulations, 2023, LN. No. 40 of 2023.*

MIN. DAA&OSC/CDL/278/2023

ANY OTHER BUSINESS

The Committee took note of an invitation letter from the National Construction Authority proposing an engagement with the Committee for a pre-publication scrutiny of the National Building Regulations, 2023 in Naivasha, Nakuru County from 11th to 12th August, 2023. The Committee acceded to the request but proposed that the meeting be held in Mombasa County on the same dates.

Further, the Committee proposed to hold an engagement meeting with the Ministry of Environment, Climate change and Forestry to consider its Regulations from 3rd to 6th August, 2023 in Mombasa County.

MIN. DAA&OSC/CDL/279/2023

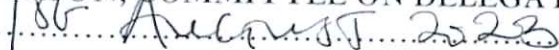
ADJOURNMENT

There being no other business, the meeting was adjourned at Twenty Minutes past One O'clock.

SIGNED:

THE HON. SAMUEL CHEPKONGA, CBS. M.P.

CHAIRPERSON, COMMITTEE ON DELEGATED LEGISLATION

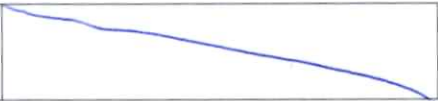
DATE:

COMMITTEE ON DELEGATED LEGISLATION ADOPTION LIST

DATE: 27/07/2023 VENUE: SMALL DINING ROOM STARTING TIME: 12:00 Noon
MAIN PARLIAMENT BUILDING ENDING TIME: 2:00 PM

AGENDA: CONSIDERATION OF REPORT ON EXCISE DUTY (AMENDMENT) REGULATION, 2023.

	NAME	SIGNATURE
1.	The Hon. Chepkonga Kiprono Samuel, CBS, M.P, Chairperson	
2.	The Hon. Githinji, Robert Gichumi, M.P. Vice-Chairperson	
3.	The Hon. Mbui, Robert, CBS, M.P.	
4.	The Hon. Sunkuli Julius Lekakeny, EGH,EBS,MP	
5.	The Hon. Maj. (Rtd) Abdullahi Bashir Sheikh, M.P.	
6.	The Hon. Mwirigi, John Paul, M.P.	
7.	The Hon. Kamene, Joyce, M.P.	
8.	The Hon. Mwale, Nicholas S. Tindi, M.P.	
9.	The Hon. Odoyo, Jared Okello, M.P.	
10.	The Hon. Komingoi, Kibet Kirui, M.P.	
11.	The Hon. Maj. (Rtd.) Dekow Barrow Mohamed, M.P.	
12.	The Hon. Munyoro, Joseph Kamau, M.P.	
13.	The Hon, Kimaiyo, Gideon Kipkoech, M.P.	
14.	The Hon. Ruku, Geoffrey Kariuki Kiringa, M.P.	
15.	The Hon. Chepkorir, Linet, M.P.	
16.	The Hon. Chebor, Paul, M.P.	
17.	The Hon. Lenguris, Pauline, M.P.	
18.	The Hon. Mamwacha Onchoke Charles, M.P.	
19.	The Hon. Yakub, Adow Kuno, M.P.	
20.	The Hon. Mnyazi, Amina Laura, M.P.	

21.	The Hon. Mugabe, Innocent Maino, M.P.	
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COMMITTEE CLERK:SIGNATURE.....

DIRECTOR, DAA&OSC: SIGNATURE.....