 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: - 1 DEC 2021	
DAY: WED	
TABLED BY:	Revocation of L.N No 307/1986. O.M
CLERK-AT THE TABLE: UKUR YATANI	R. U. TIAPATI

1568

Kenya Subsidiary Legislation, 2021

33. The Public Roads Toll (Public Roads Toll Fund) Rules, 1986 made under the Public Roads Toll Act are hereby revoked.

Made on the 29th October, 2021.

UKUR YATANI,
Cabinet Secretary
The National Treasury and Planning.

LEGAL NOTICE NO. 223

THE TAX PROCEDURES ACT

(No. 29 of 2015)

IN EXERCISE of the powers conferred by section 112 of the Tax Procedures Act, 2015, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

THE TAX PROCEDURES (UNASSEMBLED MOTORCYCLES) (AMENDMENT) (NO. 2) REGULATIONS, 2021

1. These Regulations may be cited as the Tax Procedures (Unassembled Motorcycle) (Amendment) (No. 2) Regulations, 2021. Citation.

2. Regulation 14 (1) of the Tax Procedures (Unassembled Motorcycle) Regulations, 2020, is amended— L.N. 112/2020.

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

(c) pillion handle bar or pillion or grip set; and

(b) in paragraph (f), by deleting the words “side stand, kick stand and prop stand” and substituting therefor the words “side stand, kick stand or prop stand”.

Dated the 29th October, 2021.

UKUR YATANI,
Cabinet Secretary for the National Treasury and Planning.

CERTIFIED COPY OF THE ORIGINAL
Stacy
 for LEGISLATION DEPARTMENT

33. The Public Roads Toll (Public Roads Toll Fund) Rules, 1986 made under the Public Roads Toll Act are hereby revoked.

Revocation of L.N
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Made on the 29th October, 2021.

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 - (c) pillion handle bar or pillion or grip set; and
 - (b) in paragraph (f), by deleting the words ‘side stand, kick stand and prop stand’ and substituting therefor the words “side stand, kick stand or prop stand”.

Dated the 29th October, 2021.

UKUR YATANI,
Cabinet Secretary for the National Treasury and Planning.

SPECIAL ISSUE

1261

Kenya Gazette Supplement No. 176

17th September, 2021

(Legislative Supplement No. 78)

LEGAL NOTICE NO. 192

THE TAX PROCEDURES ACT

(No. 29 of 2015)

IN EXERCISE of the powers conferred by section 112 of the Tax Procedures Act, 2015, the Cabinet Secretary for National Treasury and Planning makes the following Regulations—

**THE TAX PROCEDURES (UNASSEMBLED MOTORCYCLES)
(AMENDMENT) REGULATIONS, 2021**

1. These Regulations may be cited as the Tax Procedures (Unassembled Motorcycles) (Amendment) Regulations, 2021. Citation.

2. Regulation 14 (2) of the Tax Procedures (Unassembled Motorcycles) Regulations, 2020, is amended by deleting the words “within twelve months after the publication of these Regulations” and substituting therefore the words “on or before 30th June, 2022.” L.N. 112/2020.

Made on the 17th September, 2021.

UKUR YATANI,
Cabinet Secretary for the National Treasury and Planning.

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**MINISTRY OF INDUSTRIALIZATION, TRADE AND
ENTERPRISE DEVELOPMENT**

OFFICE OF THE CABINET SECRETARY

Telephone: +254-(0)20-2731531/2-44
Web: www.industrialization.go.ke
Email: cs.moied@gmail.com
Email: cs@industrialization.go.ke

Social Security House, Block A
P.O. Box 30547 - 00100
NAIROBI, GPO
KENYA

Ref. No: MITED/SDI/7/105 (45)

Date: 21st October, 2021

Hon. (Amb) Ukur Yatani, EGH
Cabinet Secretary
The National Treasury and Planning
NAIROBI

Dear *Waguir*

**REQUEST FOR AMENDMENT TO TAX PROCEDURES
(UNASSEMBLED MOTORCYCLES) REGULATIONS, 2020
(LEGAL NOTICE NO.112)**

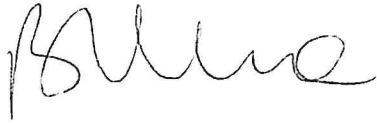
We refer to our letter (copy attached) Ref: MOI/IND/7/32 date 16th September, 2020 in which we sought amendment to above regulations.

As you are aware, Section 14 of the regulation is meant to promote local manufacturing as it lists motorcycle parts that must not be imported into the country under duty remission scheme. After consultations with industry stakeholders, it has been agreed that there is need to realign and amend sections of Part III (Regulations No.14 as stated below: -

- i. Regulations No. 14.1c reading 'handle bars, rear carrier and grip sets' be amended to read 'pillion handle bar or carrier or grip set'
- ii. Regulations No 14.1f reading 'side stand, kick stand and pop stand' be amended to read 'Side stand or kick stand or prop stand'

The purpose of this letter therefore, is to resubmit the
aforementioned request for your necessary consideration.

Yours *sincerely*



Betty C. Maina, EGH
CABINET SECRETARY

Encls.

Copy to: **Amb. Kiriimi P. Kaberia, CBS**
Principal Secretary
State Department for Industrialization

Ms. Phyllis Wakiaga
Chief Executive Officer
Kenya Association of Manufactures (KAM)
NAIROBI



**MINISTRY OF INDUSTRIALIZATION, TRADE AND ENTERPRISE
DEVELOPMENT
OFFICE OF THE CABINET SECRETARY**

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Email: cs.moied@gmail.com
Email: cs@industrialization.go.ke

Social Security House, Block A
P.O. Box 30547 - 00100
NAIROBI, GPO
KENYA

Ref. No. MOI/IND/7/32

Date: 16th September, 2020

Hon. (Amb) Ukur Yatani, EGH
Cabinet Secretary
The National Treasury and Planning
NAIROBI



Dear *Waziri*

**PROPOSED AMENDMENTS TO TAX PROCEDURES (UNASSEMBLED
MOTORCYCLES) REGULATIONS, 2020 (LEGAL NOTICE NO.112)**

Reference is made to the above subject matter.

To effectively implement the regulations, State Department for Industrialization has had consultations with industry players where it has emerged that there is need for amendment especially on Regulations number 14. Consequently, it is proposed that sections of Part III (Regulations No.14 be amended as stated below: -

- i. Regulations No. 14c reading 'handle bars, rear carrier and grip sets' be amended to read 'pillion handle bar or carrier or grip set'
- ii. Regulations No 14f reading 'side stand, kick stand and pop stand' be amended to read 'Side stand or kick stand or prop stand'

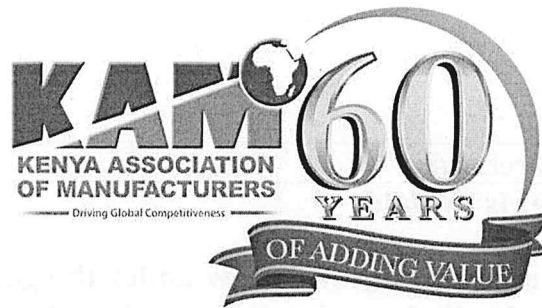
The purpose of this letter therefore, is to recommend and forward the proposals for your necessary consideration.

Yours *Sincerely*

**BETTY C. MAINA, CBS
CABINET SECRETARY**

Copy to: **Dr. Francis O. Owino, PhD, CBS**
Principal Secretary
State Department of Industrialization
NAIROBI

Ms. Phyllis Wakiaga
Chief Executive Officer
Kenya Association of Manufacturers (KAM)
NAIROBI



KAM/10/14/jwm/mb/jw/PW/2020

12th August 2020

Ms. Betty Maina, CBS, EGH
 The Cabinet Secretary
 Ministry of Trade and Industrialization
 P.O. Box 30418-00100
 NAIROBI, KENYA

Dear Ms.Maina,

RE: PROPOSED AMENDMENTS TO SUPPORT COMPLIANCE WITH TAX PROCEDURES (UNASSEMBLED MOTORCYCLE) REGULATIONS, 2020 AND CHECKLIST FOR BONDED WAREHOUSES

Kenya Association of manufacturers (KAM) presents its compliments on behalf of its members and appreciates your continued support to the Manufacturing sector in Kenya.

We wish to bring to your attention Legal Notice No. 112 dated 24th June 2020. Pursuant to the said Legal Notice, Motorcycle Assemblers and Parts and Components Manufactures in Kenya, we have compiled a number of issues for your attention and quick intervention as we strive to ensure effective implementation by all our members. These include the following:

Section	Proposal	Justification
Part III (Regulation 14), point (c).... C) handle bars, rear carrier and grips sets	Regulation to be amended to read as follow: c)Pillion handle bar or rear carrier or grip set	Handle bar is a completely different part considering the specs and usage on a Motorcycle. Pillion Handle bar is the rear grip frame and Handle bars is the chrome bar used for steering the motorcycle. None of the assemblers called a Pillion Handle Bar or rear carriers or Grip sets as Handle Bar on a packing list. This creates administrative challenges with custom officers
Part III (Regulation 14) point (f).... (f) side stand, kick stand and drop stand;	Amend (f) to read as follows "Side stand or ,kick stand or prop stand"	Its one part and not three different parts. These are just different names.
Establishment of bonded warehouse	Share a check list/guidelines to guide the assemblers in making application and establishment of bonded	The industry requires to be guided by development of checklist for ease implementation of the regulations

	warehouse	
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The purpose of this letter is twofold:

- 1) To share with you key areas for review under the gazetted Regulations by the automotive sector that require your consideration.**
- 2) Seek for an urgent meeting with you and we propose on Friday 14th August, 2020 at 10:00 am (At your offices or virtually) to discuss the same and seek your guidance to develop a checklist for a bonded warehouse.**

Any feedback can be sent through our physical address and through email at ceo@kam.co.ke or call+254202324817/8.

Your urgent response on this matter will be highly appreciated.

Yours Sincerely,



Phyllis Wakiaga
CHIEF EXECUTIVE

- 1) Hon. Amb. Ukur Yatani, EGH,**
Cabinet Secretary,
National Treasury and Planning,
Treasury Building, Haile Selassie Avenue,
P.O. Box 30007 Nairobi-Kenya

- 2) Mrs. Pamela Ahago**
Ag. Commissioner of Customs & Border Control,
Kenya Revenue Authority,
Times Towers, Hail-Selassie Avenue,
P.O. Box 48240, 00100
Nairobi.

MINUTES FOR THE MEETING BETWEEN PARTS/COMPONENT MANUFACTURERS AND MOTORCYCLE ASSEMBLERS

DATE: 12th August,2020 TIME: 8.00 AM-9.00 AM

LOCATION: VIA ZOOM

AGENDA: REVIEW OF LEGAL NOTICE 112

CHAIRPERSON	Ashit Shah – Mutsimoto Ltd, <i>Automotive Sector Chair</i>	
SECRETARY	Jackson Wambua- KAM Secretariat	
ATTENDEES	1. Dr. Isaac Kalua- <i>chair</i>	Honda Motorcycles Kenya <i>Motorcycle Subsector</i>
	2. Pavit Kenth- <i>Chair</i>	Megh Cushion Ltd <i>Parts Manufacturers Subsector</i>
	3. Alvin Mageto-	Kibo Africa
	4. Andrew Adola	Toyota Kenya (Yamaha)
	5. Brendah Livoi	Pipeman manufacturers
	6. David Chesoni	Car & General (TVS)
	7. George Rubiri	Car & General (TVS)
	8. John Mbugua	Associated Bus Manufacturers
	9. Kurven Monein	Auto Industries Ltd (Bajaj)
	10. Nephath Njeng'wa	Auto Springs
	11. Sospeter Kimuni	Honda Motorcycle Kenya
	12. William Agutu	Mutsimoto Ltd
	13. Yasuhito Naka	Honda Motorcycle Kenya
	14. Zipporah	Toyota Kenya (Yamaha)
	15. Magdaline Karigu	Motorcycle Sub sector
	16. Chizi Mutsumi	Pinnacle Systems
	17. Alvin Mageto	Kibo
	18. Ramzan Chaundry	Uni filters
	19. Waikua Muragua	Pentagon Agencies
	20. Paul	Kanos
	21. Martin Mutuku	CMC motors
	22. Jared Odhiambo	Honda
	23. John	Captain Motor cycles
	24. Alexander Maurya	CMC motors

- 25. Bernardus Oginga Kevla Motorcycles
- 26. Cleon Oguya Toyota (Yamaha)
- 27. Dida Mohamed Abson Motors
- 28. George Rubiri Car & General
- 29. James Leipa BMG Holdings
- 30. Robert Mobisa CMC motors
- 31.

Deliberations

**DISCUSSION/
RESOLUTIONS**

Min 01/8/20: Welcome Remarks by the Chair and adoption of the agenda

- The Chair gave his welcome remarks; thereafter introductions by all participants followed.
- The chair informed member that Legal Notice 112 intend to regulate the operations of motorcycle sub sector and allied industries. The regulation also aims to boost localization of the agreed 14 items.
- The chair reminded members that some of key issues for change were already contained in the joint memo by industry done in April,2020. He therefore informed members that the meeting agenda was mainly to discuss the way forward on areas that required changes. That, the outcome of the meeting will be communicated to the relevant government agencies for action.

Min 02/8/20: Presentation of Legal 112

- Members were taken through the regulation and had the following areas:

Section	Proposal	Justification
Part III (Regulation 14), point (c).... C) handle bars, rear carrier and grips sets	Regulation to be amended to read as follow: c)Pillion handle bar or rear carrier or grip set	Handle bar is a complete part considering the specification on a Motorcycle. Pillion Handle the rear grip frame and Handle the chrome bar used for motorcycle. None of the called a Pillion Handle carriers or Grip sets as Handling packing list. This creates challenges with custom off
Part III (Regulation 14) point (f).... (f) side stand, kick stand and drop stand;	Amend (f) to read as follows "Side stand or ,kick stand or prop stand"	Its one part and not three parts. These are just different

	Establishment of bonded warehouse	Share a check list/guidelines to guide the assemblers in making application and establishment of bonded warehouse	The industry requires to be guide development of checklist for implementation of the regulations

WAY FORWARD	RESPONSIBLE
1. KAM to write a letter to the Ministry of Industry communicating the agreed position. A copy to be send National Treasury and Kenya Revenue Authority	Jackson Wambua
2. A draft letter to be shared with Sub-sector leadership for review before dispatch.	Jackson Wambua

RE: SUBMISSIONS ON THE TAX PROCEDURES (UNASSEMBLED MOTORCYCLE) REGULATIONS, 2020- LEGAL NOTICE NO.223

Background

The Cabinet Secretary Ministry of Industrialization, Trade and Enterprise development under Legal Notice 223 of 29th October 2021 gazetted the Tax Procedures Unassembled Motorcycle) Regulations and the same was published in the Kenya Gazette on 19th November 2021.

Regulation 14 (1) provided for Parts for Motorcycles that shall be excluded from completely knocked down kits within 6 months after the publication of the regulations. These Regulations were published under legal notice No. 112 of 24th June 2020.

The Parts excluded under Regulation 14 (1) included among others Handle bars, rear carriers and grip sets as well as side stand, kick stand and prop stand.

Current Position

The above provisions were meant to enhance local value addition. Regulation 14 (1) of the Tax Procedures Unassembled Motorcycle) Regulations 2020 (Legal Notice No. 112 of 2020) deals with parts of motorcycles that will be sourced locally. Domestic manufacturers of these parts are expected to take advantage of these parts that are to be sourced locally.

However, there was a drafting error in these Regulations that have caused administrative challenges as far as interpretation of the same is concerned.

Legal Notice No. 112, the relevant sections of the Regulations in part under 14 (1), read as follows:

- i. Part C Regulation 14 (1) (c) handle bars, rear carriers and grip sets;
- ii. Part C Regulation 14 (1) (f) side stand, kick stand and prop stand.

As drafted, under Legal Notice No 112, the handle bar as described under regulation 14 (1) (c) is a completely different part that cannot be associated to the specs and usage on a Motorcycle. The Handle Bar is the chrome bar used for steering the motorcycle and the item in essence should be described as a 'Pillion Handle bar' which is the rear grip frame. In line with international harmonized coding systems, none of the assemblers describe a Pillion Handle Bar or rear carriers or Grip sets as Handle Bar on the packing lists during importation.

Additionally, the current drafting in both regulations 14 (1) (c) and 14 (1) (f) implies that the items listed are different parts while essentially, they are the same part with just different names.

The Kenya Association of Manufacturers (KAM) vide their letter dated 12th August 2020 raised the drafting error issues that was affecting local motorcycle assemblers and requested for the drafting errors to be corrected.

The Ministry of Industrialization, Trade and Enterprise development under the letter of 21st of October 2021 also requested for the correction.

In light of the above, Legal Notice No.223 of 2021 was done to correct the error.

Additionally, it's important to appreciate that the motorcycle industry is one of the largest job creators and contributes largely to the economy.

Conclusion

Taking cognizance of the errors outlined above, and the difficulty face by the Motorcycle Assemblers as well as the significant impact that the industry has on the country's economy, we request that you approve the Legal Notice No. 223 of 2021.

MEMORANDUM ON THE TAX PROCEDURES (UNASSEMBLED MOTORCYCLES) (AMENDMENT) REGULATIONS, 2021

Background

The Cabinet Secretary, National Treasury under Legal Notice 112 of 24th June 2020, gazetted the Tax Procedures (Unassembled Motorcycles) Regulations, 2020 which was subsequently approved by the National Assembly.

Regulation 14 provided for parts for motorcycles that will be locally sourced within twelve months of after the publication of these Regulations. These parts included

- a) Air cleaner filter;
- b) Wire harness;
- c) Seat;
- d) Battery;
- e) Brakes rod or stopper;
- f) Headlight stay; and
- g) Main stay or bar step.

The Current Position

The above provision was meant to enhance local value addition. Regulation 14 (2) of the Tax Procedures (Unassembled Motorcycles) Regulations, 2020 (LN 112/2020) deals with completely knocked down kits. It was supposed to come into operation 6 months after the publication of the Regulations on the 24th June, 2020. It was expected that domestic manufacturers would be able to commence the manufacture of the specified parts when the 6-month grace period for importation of completely knocked down (CKD) kits expired.

At present, domestic manufacturers have not been able to commence the manufacture of the specified parts, hence the request for a further extension on the provision. The request for the extension has been occasioned by the ongoing challenges faced by domestic manufactures on account of the Covid-19 pandemic, which has severely negatively impacted domestic manufacturers.

The Kenya Association of Manufacturers put forward a formal request for a 6 months extension vide letter dated 8th June, 2021, on implementation of phase 2 localization – Legal notice 112 – Tax Procedures (Unassembled motorcycle) Regulations, 2020 on the basis of the following:

1. Teething challenges in phase 1 which is covered under Regulation 14 (1) that caused initial delays.
2. Insufficient progress in developing the parts listed under phase 2 schedule – despite aforementioned challenges, local assembly of over 300 parts has been achieved in phase 1

confirming success of this initiative while phase 2 only covers 14 parts confirming that certain challenges have inhibited growth.

3. Localization of the additional 7 parts, under Phase 2 covered under Regulation 14 (2), requires huge financial, technological and skills outlays that are a challenge for the sector players given the negative effect on most businesses occasioned by COVID-19 which has vastly affected the source of inputs.

First, Second and third wave of Covid-19 disrupted the international supply and value chains of most products with lockdowns disrupting international production and transportation globally.

Consequently, there has been a delay in receipt of the parts/component manufacturers required to set up the production lines, carry out the numerous quality audit visits, sample submissions with feedback and resulted in failure in delivery of the required motorcycle parts to the Assemblers within the stipulated time period.

The extension will ensure that the price of motorcycles that have been assembled from CKD kits is maintained at an affordable level as the domestic manufacturers establish the manufacturing and supply chain systems for the specified parts during the 6-month extension.

At present, the gap between what domestic manufacturers can produce and what is required by motorcycle assemblers can only be filled by importers. This issue has also been recognized at the EAC level; the capacity of domestic manufactures in EAC Partner States to manufacture the specified parts remains constrained at present and the importation of the parts will ensure that prices of the motorcycles manufactured from CKD kits remains affordable.

It is important to note that, on 30th June 2021, the EAC Council deferred the conditions of Legal Notice NO. EAC/39/2013 by one year to end on 30th June, 2022. This Legal Notice No. EAC/39/2013 that provided for parts to be manufactured within the East African Community, mirrors some of those covered under Regulation 14 of Legal Notice No. 112.

Taking cognizance of the unavailability of local parts and the impact the same has on this industry and also to be in line with the EAC protocol this extension is merited. It will ensure investors in this sector ample time to secure funding and other key resources necessary to facilitate local manufacture of these parts.