

**Draft of 13<sup>th</sup> June 2003**

**THE CUSTOMS MANAGEMENT (AMENDMENT) BILL, 2003**

**MEMORANDUM**

The object of this Bill is to amend the Customs Management Act, 1970 to give effect to the Government Budget for the financial year 2003/2004.

**GERALD M. SSENDAULA**  
*Minister of Finance, Planning and Economic Development.*

A Bill for an Act

Entitled

**THE CUSTOMS MANAGEMENT (AMENDMENT) ACT, 2003**

**An Act to amend the Customs Management Act, 1970.**

BE IT ENACTED by Parliament as follows-

**Short title and commencement**

1. (1) This Act may be cited as the Customs Management (Amendment) Act, 2003.

(2) This Act shall come into force on 1<sup>st</sup> July 2003.

**Amendment of section 7A**

2. Section 7A of the Customs Management Act, in this Act referred to as the principal Act is amended-

(a) by renumbering section 7A as section 7A(1); and

(b) by inserting immediately after section 7A(1) the following subsection-

”(2) Any information, certificate, official report or other document received under subsection (1) shall be accorded confidential treatment and shall only be used for the purpose for which it was requested; and the party providing the information shall be informed of any action taken as a result of that information, certificate, or official report or other document if it so desires. “.

**Insertion of section 76A**

3. The principal Act is amended by inserting immediately after section 76, the following section-

**”76A Outward processing**

(1) For the purposes of this section-

"compensating products" means the products obtained abroad and resulting from the manufacturing, processing or repair of goods for which the use of outward processing procedure is used; and

"outward processing" means the procedure under which goods which are in home consumption circulation may be temporarily exported for manufacturing, processing or repair abroad, and includes packaging, packing or repacking of goods.

(2). Any person may apply, in the prescribed form, to the Commissioner General for authority to export goods for the purposes of carrying out outward processing.

(3). The following conditions shall be met in order to grant the authorisation-

- (a) the person making the application must be established in Uganda;
- (b) the Commissioner General must be satisfied that compensating products will result from the processing of the temporarily exported goods; and
- (c) the economic conditions referred to in subsection (4) must be met.

(4) Authorisation for outward processing shall not be granted where the planned operations are likely to seriously damage the vital interests of Ugandan processors or producers.

(5) An application for outward processing shall state the following-

- (a) the name or business name and address of the applicant;
- (b) the trade and technical description and tariff classification of the goods to be processed;
- (c) the estimated quantity stated by reference to exports over a given period;
- (d) the estimated customs value stated by reference to exports over a given period;
- (e) the trade and technical description and tariff classification of the compensating goods to be obtained;
- (f) the main compensating products;
- (g) the import planned operations;
- (h) the estimated rate of yield or method of how the rate is to be established by customs;
- (i) a description of the nature of the processing operations to be carried out on the exported goods in order to produce the compensating products;
- (j) an indication of the average time required to carry out the processing operations for a given batch of the goods;
- (k) an indication of the time likely to lapse between the completion of processing operations and the import of the compensating goods;

- (l) an indication of the most suitable method of identifying the foreign goods in the compensating products;
- (m) an indication of the period during which it is planned to export goods temporarily for outward processing; and
- (n) any other matter as the Minister may, by regulations, prescribe.

(6) On importation of the compensating goods, the applicants must lodge a Goods Declaration form with customs.

(7) The compensating goods may be imported in one or more consignments.

(8) The examination of the compensating goods should take place at the customs office where the Goods declaration for the compensating goods is lodged, unless there are compelling reasons to allow the goods to be imported through another customs office.

(9) On being satisfied that it is possible to establish that the compensating products were manufactured using the temporarily exported goods, the Commissioner General may grant the authorisation, subject to such conditions as are necessary to ensure compliance with the law.

(10) The Commissioner General may fix a rate of yield for an outward processing operation when they deem it necessary, or when it is considered that it will facilitate operations.

(11) The description, quality and quantity of the various compensating products shall be specified upon fixing the rate referred to in subsection (10).

(12) Subject to the provisions of any other law, upon request by the person concerned, the Commissioner General shall allow goods temporarily exported for outward processing to be re-imported with exemption from import duty and taxes if they are returned in the same state.”

**Amendment of section 103 of the principal Act**

**4.** Section 103 of the principal Act is amended by inserting after subsection (7) the following subsection-

“(8) Where the owner provides compelling reasons for extension of the period under subsection (3), within which goods imported for temporary use shall be exported, the Commissioner General may grant a further period of the extension. “.

**Insertion of sections 123A, 123B, 123C and 123D**

**5.** The principal Act is amended by inserting immediately after section 123, the following new sections-

**“Objection to decision**

123A (1) A person directly affected by a decision or omission of Customs shall, on request to Customs, be given reasons in writing for the decision or omission within two weeks after the request.

(2) A person who is dissatisfied with a decision or omission of an officer may lodge an objection with the Commissioner-General within thirty days after notice of the decision is served on him.

(3) Where the Commissioner-General is satisfied that, owing to absence from Uganda, sickness or other reasonable cause, a dissatisfied person was prevented from lodging an objection within the time specified in subsection (2) and there has been no unreasonable delay by the person in lodging the objection, the Commissioner-General may accept an objection lodged after the time specified in subsection (2).

(4) An objection made under subsection (2) shall be in writing and shall specify in detail the grounds upon which it is made.

(5) Subject to subsection (6), the Commissioner-General shall only consider an objection lodged under subsection (2) if the person has paid the tax due under the assessment.

(6) The Commissioner-General may, in exceptional circumstances, consider an objection if he is satisfied that the person lodging the objection-

- (a) is unable to pay the full amount of tax due; and
- (b) has given sufficient security for the amount of tax unpaid and for any penal tax that may become payable.

(7) The Commissioner-General shall, within thirty days after receipt of the objection, consider the objection and allow it in whole or in part and amend the assessment accordingly.

(8) The Commissioner- General may release goods to a person making an objection without that person paying the taxes due on giving of surety acceptable to the Commissioner General, equivalent to the amount assessed.

(9) The Commissioner-General shall serve the person objecting with notice in writing of the decision on the objection within thirty days after receipt of the objection.

(10) Where the Commissioner-General has not made a decision within sixty days after receipt of the objection, the Commissioner-General shall be deemed to have made a decision to allow the objection.

### **Appeal to the Tax Appeals Tribunal**

**123B** (1) A person dissatisfied with a decision made on an objection under section 123A may, within forty-five days after being served with notice of the decision, lodge an application with the Tax Appeals Tribunal for review of the decision and shall serve a copy of the notice of appeal on the Commissioner General.

(2) An appeal lodged under subsection (1) shall be conducted in accordance with the Tax Appeals Tribunals Act, 1997 and rules and regulations made under it.

### **Appeal to High Court**

**123C** (1) A party who is dissatisfied with the decision of the Tax Appeals Tribunal may, within thirty days after being notified of the decision, lodge a notice of appeal with the registrar of the High Court and shall serve a copy of the notice of appeal on the other party to the proceedings before the Tribunal.

(2) An appeal to the High Court may be only on a question of law, and the notice of appeal shall state the question or questions of law that will be raised on the appeal.

### **Burden of proof**

**123D.** The burden of proving that an assessment is excessive is on the person lodging the objection.”