

ANNEX III

**THE EAST AFRICAN COMMUNITY
COMMON MARKET (RIGHT OF
ESTABLISHMENT) REGULATIONS**

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THE EAST AFRICAN COMMUNITY COMMON MARKET (RIGHT OF ESTABLISHMENT) REGULATIONS

REGULATION 1

Citation

These Regulations may be cited as the East African Community Common Market (Right of Establishment) Regulations.

REGULATION 2

Purpose of Regulations

The purpose of these Regulations is to implement the provisions of Article 13 of the Protocol and to ensure that there is uniformity among the Partner States in the implementation of the Article and that to the extent possible, the process is transparent, accountable, fair, predictable and consistent with the provisions of the Protocol.

REGULATION 3

Interpretation

In these Regulations, unless the context otherwise requires:

“**competent authority**” means an office designated by a Partner State to carry out the functions required by these Regulations;

“**pass**” means a pass to enter and remain temporarily in, or to re-enter the territory of a Partner State, issued by the host Partner State and includes any class or description of pass which may be so prescribed.

REGULATION 4 **Scope of Application**

These Regulations shall apply to:

- (a) the following categories of citizens of a Partner State who move to, stay in and exit another Partner State:
 - (i) a self employed person who seeks to enjoy the right of establishment in the territory of another Partner State, and
 - (ii) a spouse or child of a self employed person referred to in subparagraph (i); and
- (b) companies and firms established in accordance with the national laws of a Partner State which seek to undertake economic activities in another Partner State.

REGULATION 5 **Entry, Stay and Exit**

1. A self employed person who seeks to enter or exit from the territory of another Partner State shall do so at entry or exit points designated in accordance with the national laws of the Partner State and shall comply with the established immigration procedures.

2. A self employed person of a Partner State who seeks to enter the territory of another Partner State shall:
 - (a) present to the immigration officer a valid common standard travel document or a national identity card where a Partner State has agreed to use the national identity card as a travel document; and
 - (b) declare all the information required for entry or departure.
3. Upon fulfillment of the requirements in paragraph 2 of this regulation, a self employed person shall, be issued with a pass, which shall entitle the self employed person to enter the territory of the host Partner State for a period of up to six months, for purposes of completing the formalities for establishment.
4. The spouse or child of a self employed person shall be issued with a pass of a period not exceeding six months upon fulfillment of the requirements of paragraph 2.
5. A pass issued under this regulation shall be issued without a fee.

REGULATION 6

Procedure for Acquiring Work Permit

1. A self employed person who intends to take up and pursue economic activities, or to set up and manage economic undertakings in the territory of another Partner State shall, apply to a competent authority for a work permit within thirty working days from the date of entry into the territory of the host Partner State.

2. A self employed person shall apply and be issued with a special pass before the formalities for establishment are completed.
3. The special pass shall entitle the self employed person to engage in an economic activity in the territory of the Partner State for the period stated in the pass.
4. The application for a work permit shall be supported by:
 - (a) a valid common standard travel document or a national identity card where a Partner State has agreed to use the national identity card as a travel document;
 - (b) proof that the self employed person obtained a license, registration or any other authority or permission that may be necessary for the purpose of establishment;
 - (c) proof that the self employed person has sufficient capital and other resources for the purpose of establishment;
 - (d) proof that the self employed person is engaged in an activity for which he or she was licensed or given authority for, by the competent authority of the host Partner State; and
 - (e) any other document the competent authority may require.
5. The competent authority of the host Partner State shall within thirty days of successful application for a work permit, issue a work permit to the self-employed person for an initial period of up to two years.
6. A self employed person whose work permit is due to expire shall, at least thirty days before the expiry of the work permit, apply to the competent authority of the Partner State for a renewal of the work permit.

7. The competent authority shall renew the work permit where the applicant provides justification for a longer period of stay.
8. Renewal of a work permit shall be upon fulfillment of the requirements under paragraph 4 of this regulation.
9. The duration of the work permit issued under these Regulations shall not exceed the duration of the license issued or the registration or any other authority or permission granted for the purpose of establishment or the duration of the validity of the common standard travel document presented under paragraph 4 (a) of this regulation.
10. The work permit or a special pass issued under these Regulations shall be issued in accordance with the harmonized classification of work permit and forms, fees and procedures as may be approved by the Council.

REGULATION 7

Denial of Work Permit

1. A competent authority may reject an application for a work permit.
2. Where the competent authority rejects an application for a work permit, the competent authority shall in writing notify the applicant, stating the reasons for the rejection.
3. An applicant notified under paragraph 2 of this regulation may appeal against the decision of the competent authority in accordance with the national laws of the host Partner State.
4. Where the competent authority rejects an application for a work permit or where an appeal is rejected, the competent authority shall

give the applicant and his or her spouse, child or dependant, reasonable time to leave the territory of the host Partner State.

REGULATION 8 **Cancellation of Work Permit**

1. The competent authority shall cancel a work permit issued under these Regulations where a self employed person:
 - (a) is expelled or deported from the territory of the host Partner State;
 - (b) ceases to engage in the economic activity for which the work permit was issued; or
 - (c) obtained the work permit fraudulently.

2. Where a work permit is cancelled in accordance with paragraph 1 (b) of this regulation, the self employed person shall within thirty days:
 - (a) regularise his or her status; or
 - (b) leave the territory of the host Partner State.

REGULATION 9 **Registration and Licensing**

1. Each Partner State shall submit to the Secretariat:
 - (a) the names of the competent authorities of the Partner State;
 - (b) the relevant registration, permit and licensing requirements; and

- (c) any other relevant approvals required to undertake economic activities.
2. The Secretariat shall disseminate the information submitted under paragraph 1 of this regulation to competent authorities of the other Partner States.
 3. A national of a Partner State who wishes to engage in an economic activity in another Partner State shall register or be licensed and shall obtain any other relevant documents from the competent authorities of the host Partner State.
 4. A national of a Partner State who engages in an economic activity in another Partner State, shall make a disclosure of the shareholders, partners, directors and financial statements during the process of establishment and operations of the economic activity.
 5. The registration, licensing and other requirements for establishment required under this regulation shall be in accordance with the provisions on national treatment provided for in the Protocol.

REGULATION 10

Removal of Restrictions

1. The removal of the restrictions under the right of establishment relating to trade in services shall be in accordance with the Schedule on the Progressive Liberalization of Services specified in Annex V of the Protocol.
2. Each Partner State shall identify all the administrative restrictions on the right of establishment and shall remove the restrictions immediately after the coming into force of the Protocol.

3. The Partner States shall identify the restrictions on the right of establishment in the national laws and submit a list of restrictions to the Council within one year of the coming into force of the Protocol.
4. The Council shall issue a directive for the removal of the restrictions identified in paragraph 3 of this regulation.
5. Where a Partner State becomes aware of a restriction in another Partner State, which has not been declared in accordance with paragraphs 2 and 3 of this regulation or of any other restriction, that Partner State shall notify the Council, through the Secretary General, and the Partner State in which the restriction exists.
6. A Partner State that has been notified of a restriction under paragraph 5 of this regulation, shall remove the restriction within the time directed by the Council.

REGULATION 11

Co-operation between Competent Authorities

The competent authorities of the Partner States shall co-operate in order to:

- (a) share information on priority economic activities where the right of establishment makes a valuable contribution to the economic development of the Partner States;
- (b) simplify the processes and procedures involved in obtaining the relevant licenses and other relevant documents;
- (c) harmonise the fees to be paid for obtaining and processing necessary documents; and

- (d) share any other relevant information pertaining to the right of establishment.

REGULATION 12
Professional and Trade Organizations

1. A Partner State shall ensure that the nationals of other Partner States who enjoy the right of establishment in the territory of the Partner State have the right to join professional or trade organizations under the same conditions and with the same rights and obligations as the nationals of the Partner State.
2. The right to join a professional or trade organization shall entitle the national to be elected or appointed to a high office in the organization.
3. A high office in paragraph 2 of this regulation may be reserved for the nationals of the Partner State where, in accordance with any provision laid down by the national laws of the Partner State, the organization is connected with the exercise of public authority.

REGULATION 13
Certification

1. Where a Partner State requires the nationals of that Partner State who intend to take up economic activities to fulfill certain requirements as to good repute and proof that the requirements are satisfied, the competent authority of the Partner State shall accept a certificate issued by a competent authority of another Partner State as sufficient evidence in respect of nationals of another Partner State indicating that the requirements have been met.

2. Where a Partner State requires proof of financial standing of a national of that Partner State, who intends to undertake an economic activity, the Partner State shall consider the certifications issued by the banks in another Partner State in respect of a national of that other Partner State as being equivalent to certifications issued in the Partner State.