



LEGAL NOTICE NO.....

MERCHANT SHIPPING ACT, 2009
(Cap 389)

**THE MERCHANT SHIPPING (VERIFIED GROSS MASS OF A PACKED
CONTAINER) REGULATIONS, 2024**

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THE MERCHANT SHIPPING ACT, 2009
(Cap 389)

IN EXERCISE of the powers conferred by section 232 of the Merchant Shipping Act, the Cabinet Secretary for Mining, Blue Economy and Maritime Affairs makes the following Regulations—

THE MERCHANT SHIPPING (VERIFIED GROSS MASS OF A PACKED CONTAINER) REGULATIONS, 2024

PART I—PRELIMINARY	
Citation.	1. These Regulations may be cited as the Merchant Shipping (Verified Gross Mass of a Packed Container) Regulations, 2024.
Interpretation.	2. In these Regulations unless the context otherwise requires—
Cap 389 Laws of Kenya.	“Act” means the Merchant Shipping Act;
Cap 370 Laws of Kenya.	“Authority” means the Kenya Maritime Authority established under the Kenya Maritime Authority Act;
	“calibrated” means a scale, weighbridge, lifting equipment or any other device, capable of determining the actual gross mass of a packed container or of packages and cargo items, pallets, dunnage and other packing and securing material, that meets the accuracy standards and requirements of Kenya;
	“cargo items” means goods, wares, merchandise, liquids, gases, solids and articles of every kind whatsoever carried in containers pursuant to a contract of carriage, and does not include ship's equipment , ship's supplies, ship spare parts and stores carried in containers;
	”container” means-
	(1.) An article of transport equipment –
	(a) of a permanent character and strong enough to be suitable for repeated use;
	(b) designed to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading;
	(c) designed to be secured and/or readily handled, having corner fittings for these purposes; and

	(d) of a size such that the area enclosed by the four outer bottom corners is either:
	i) at least 14 m ² (150 sq. ft.); or
	ii) at least 7 m ² (75 sq. ft.) if it is fitted with top corner fittings,
	(2.) Tank-containers, flat-racks and bulk containers;
	“contract of carriage” means a contract in which a shipping company, against the payment of freight, undertakes to carry goods from one place to another and taking the form of, or being evidenced by a document such as sea waybill, a bill of lading, or multimodal transport document;
Cap 370 Laws of Kenya.	“Director-General” means the Director-General of the Kenya Maritime Authority appointed under the Kenya Maritime Authority Act;
	“gross mass” means the combined mass of a container's tare mass and the masses of all packages and cargo items, including pallets, dunnage and other packing material and securing materials packed into the container;
	“gross mass verifier” means a person approved under these Regulations to undertake verification of gross mass of a packed container;
	“package” means one or more cargo items that are tied together, packed, wrapped, boxed or parcelled for transportation including parcels, boxes, packets and cartons;
	“packed container” means a container, loaded with liquids, gases, solids, packages and cargo items, including pallets, dunnage, and other packing material and securing materials;
	“packing material” means any material used or for use with packages and cargo items to prevent damage, including crates, packing blocks, drums, cases, boxes, barrels, and skids excluding any material within individual sealed packages to protect the cargo item(s) inside the package;
	“securing material” means all dunnage, lashing and other equipment used to block, brace, and secure packed cargo items in a container;
	“shipper” means –
	(a) a cargo owner;
	(b) the person for whose account the ocean transportation of cargo is provided;
	(c) the person to whom delivery of cargo is to be made;
	(d) a shippers’ association; or

	(e) a non-vessel-operating shipping line that accepts responsibility for payment of all charges applicable under the tariff or service contract;
	“shipping document” means a document used by the shipper to communicate the verified gross mass of the packed container;
	“tare mass” means the mass of an empty container that does not contain any packages, cargo items, pallets, dunnage, or any other packing material or securing material;
	“verified gross mass” means the total gross mass of a packed container as obtained by one of the methods under these Regulations; and
	“short international voyages” means an international voyage in the course of which a ship is not more than 200 miles from a port or place in which the passengers and crew could be placed in safety, and which does not exceed 600 miles in length between the last port of call in the country in which the voyage begins and the final port of destination.
Object of the Regulations.	3. The object of these Regulations is to—
	(a) promote safety and efficiency in cargo transportation;
	(b) provide a framework for obtaining the verified gross mass of packed containers;
	(c) provide a framework for the assignment of roles between relevant actors in the implementation of verified gross mass of a packed container; and
	(d) establish a mechanism for oversight and monitoring of verified gross mass verifiers.
Application of the Regulations.	4. (1) These Regulations shall apply to –
	(a) all containers to which the International Convention for Safe Containers, 1972 applies and which are to be stowed onto any ship;
	(b) all inbound containers whose gross mass will have been verified in the country of loading; and
	(c) all inbound containers whose gross mass will have been verified through prior agreement between shipper and carrier.

	(2) Despite sub-regulation (1), these Regulations shall not apply to—
	(a) a packed container carried on a chassis or trailer which is to be loaded or unloaded by being driven on or off a roll-on/roll-off ship which is engaged on short international voyages;
	(b) cargo items tendered by a shipper to the master for packing into a container already on board the ship; and
	(c) offshore containers.
PART II — OBLIGATION OF PARTIES ON VERIFICATION OF GROSS MASS OF A PACKED CONTAINER	
Obligation of a shipper.	5. (1) It is the duty of the shipper to -
	(a) verify and obtain a signed Gross Mass Certificate for a packed container from a gross mass verifier using Method I or Method 2 of verification; and
	(b) submit the verified gross mass certificate to a port facility operator, ship agent or ship master prior to the packed container being loaded onboard a ship in accordance with these regulations
	(2) The verified gross mass certificate issued by a verifier shall be in form 1 as set out in the schedule
	(3) Where the shipper delivers a container into a port terminal without fulfilling the obligations in sub-regulation (1) –
	(a) the port facility operator shall verify the gross mass of the container; and
	(b) the shipper shall be liable to pay -
	(i) costs associated with the verification of the gross mass for a packed container; and,
	(ii) penalties associated with delivering unverified gross mass of the container to the port facility.
Empty containers.	6. (1) A shipper of an empty container shall ensure that —
	(a) no item is placed into a container that has been declared empty; and

	(b) the standard tare weight on the empty container is marked in accordance with International Organisation for Standardization (hereinafter the “ISO”) standards.
	(2) Notwithstanding sub-regulation (1), where an empty container is not marked in accordance with the ISO standard, the shipper shall carry out gross mass verification in accordance with these Regulations.
Port facility operator as gross mass verifier.	7. (1) Where the verification of the gross mass of a container is carried out by a port facility operator on behalf of a shipper in accordance with regulation 5(3), a port facility operator shall decide a suitable method of verification under these Regulations.
Cap. 513 Laws of Kenya.	(2) In the verification of the gross mass of a container under sub-regulation (1) the port facility operator shall ensure the equipment used in the re-verification meets the requirements set out under the Weight and Measures Act.
Obligation of a port facility operator and ship agent or ship master.	8. (1) A port facility operator, ship agent or ship master shall ensure an export container packed with cargo is not loaded onboard a ship unless they have obtained a valid gross mass certificate from the shipper in advance of vessel loading.
	(2) Where there is reasonable ground to suspect accuracy of verified gross mass information as contained in the verified gross mass certificate as submitted by a shipper- a port facility operator, ship agent or master as the case may be, may order re-verification of the gross mass.
	(3) Where a variation in gross mass is established by a port facility operator, ship agent or master through re-verification of gross mass, loading of container may be allowed at the discretion of a master provided that the total gross mass is within the tolerance of +/-5% of the verified gross mass.
	(4) A port facility operator, ship agent or master shall not load a packed container on board a ship which exceeds maximum gross mass indicated on the valid Safety Approval Plate under the International Convention for Safe Containers, 1972, as amended.
	(5) Where a port facility operator, ship agent or master is aware of non-compliance with gross mass verification of a container the non-compliance shall be communicated to the shipper requiring compliance

Submission of verified gross mass information by ship agent.	9. (1) Where a ship agent receives verified gross mass information from the shipper, the ship agent shall submit such information to the port facility operator.
	(2) When the verified gross mass of a packed container is submitted on an online system by an agent of the shipper, then this will be deemed that the agent has full authority.
Transmission of information to parties.	10. (1) A ship agent shall provide in the shipping document verified gross mass of a packed container accepted on board ship and transmit such information to all parties involved in the shipment of the container including transshipment.
	(2) The ship agent of a discharging ship shall provide to the port facility operator evidence of verified gross mass of a container.
Request for information.	11. In exercise of the Authority’s powers and functions, the Director General may by notice in writing require a person to—
	(a) furnish the Authority within such time as may be specified in the notice, any document specified or described which is in the custody or control of such a person;
	(b) produce for inspection, books, returns, accounts or records in his possession or control; or
	(c) provide access for inspection of any equipment, facilities and systems to ascertain the extent of implementation of performance standards.
Application for approval to operate as a gross mass verifier.	12. (1) A person who intends to operate as a gross mass verifier shall apply to the Authority in Form 2 as set out in the Schedule
	(2) The application in regulation (1) shall be accompanied by
Cap. 513 Laws of Kenya.	(a) the certificate of verification issued under the Weights and Measures Act; and
	(b) proof of payment of the prescribed fees under the Merchant Shipping (Fees) Regulations.
	(3) The Director-General may request an applicant under this regulation to submit such further information as the Director-General may consider necessary.

	(4) Upon considering an application under this regulation, the Director-General may—
	(a) approve the application and issue an approval certificate in Form 3 as set out in the Schedule ; or
	(b) reject the application and notify the applicant of its decision together with reasons for the refusal within thirty days from the date of lodging the application.
Duration of the approval certificate.	13. An approval certificate issued under these Regulations shall be for a period of one year and shall expire on the thirty- first day of December of the year of issue.
Renewal of approval certificate.	14. (1) A gross mass verifier may apply for renewal of the approval certificate at least two months before the expiry.
	(2) An application for renewal of an approval certificate shall be in accordance with regulation 12.
Suspension, or revocation of approval certificate.	15. (1) The Director-General may suspend or revoke an approval certificate where—
	(a) the gross mass verifier is convicted of an offence under the Act or any other written law;
	(b) there has been failure to comply with any term or condition to which the certificate is subject to;
	(c) the gross mass verifier is under liquidation or insolvency proceedings; or
	(d) the certificate of verification has expired.
	(2) Where the Authority suspends or revokes an approval certificate, the Director-General shall, within thirty days of making the decision, notify the gross mass verifier of such decision.
Right of appeal	16. (1) A person aggrieved by any decision under regulation 12 or 15 may apply for a review of that decision within twenty one days from the date of the decision.
	(2) A person aggrieved by a decision made under paragraph (1), may appeal in accordance with the provisions of the Act.

Obligations of a gross mass verifier.	17. (1) A gross mass verifier shall–
Cap. 513 Laws of Kenya.	(a) ensure that the equipment used in gross mass verification is calibrated by persons licensed under the Weights and Measures Act.
	(b) display in a conspicuous place a valid certificate of verification for each equipment used in gross mass verification prior to putting such equipment into use;
	(c) maintain records of their operations.
	(2) Where a port facility operator verifies the gross mass of the packed container under regulation 5 , the port facility operator shall be required to–
	(a) maintain records of compliance with gross mass verification of all packed containers loaded and discharged; and
	(b) avail to the Director-General reports on gross mass verification of packed containers that the Director-General may deem necessary; and
	(c) comply with the provisions of Regulations 17.
Intercepted containers.	18. Where a packed container for export having a gross mass certificate is intercepted for any reason causing unpacking of the container, the shipper shall re-verify the gross mass and obtain a new gross mass certificate.
Inspection and audit.	19. In ensuring compliance with the requirements of these Regulations, the Authority shall–
	(a) conduct random inspections of the facilities of port facility operators and gross mass verifiers;
	(b) conduct annual audits on the level of compliance with the verified gross mass requirements;
	(c) visit the facilities at a reasonable time for purposes of conducting the inspection or audit; and
	(d) maintain a database of approved gross mass verifiers.
PART III – METHODS OF GROSS MASS VERIFICATION	
Choice of verification method.	20. When conducting verification of gross mass of a container, a shipper, at his discretion, may use either Method 1 or Method 2, subject to other provisions under these Regulations.
Method 1 of gross mass verification.	21 (1) Method 1 of gross mass verification involves weighing and determining the gross mass of the whole packed container after packing and sealing the container.

	(2) If the verified gross mass of a packed container is obtained by weighing the container while it is on a road vehicle, the tare mass of the road vehicle shall be subtracted to obtain the verified gross mass of the packed container.
	(3) The tare mass of the road vehicle shall be obtained by weighing the road vehicle before loading the packed container or after offloading the packed container.
	(4) If two packed containers on a road vehicle are to be weighed, their gross mass should be determined by weighing each container separately
Method 2 of gross mass verification	22. (1) Method 2 of gross mass verification involves determining gross mass of a packed container by weighing all individual packages and cargo items, including the mass of pallets, dunnage and other packing and securing material to be packed in the container, and adding the tare mass of the container to the sum of the single masses.
	(2) Individual, original sealed packages that have the accurate mass of the packages and cargo items including any other material such as packing material and refrigerants inside the packages clearly and permanently marked on their surfaces, do not need to be re-weighed when they are packed into the container.
	(3) Any third party that has performed some or all of the packing of the container should inform the shipper of the mass of the cargo items and packing and securing material that the party has packed into the container in order to facilitate the shipper's verification of the gross mass of the packed container under Method 2.
	(4) The weighing equipment used to verify the weights of individual packages, dunnage, lashing materials and pallets by the shipper or the third party must have a valid certificate of verification issued under the Weights and Measures Act
	(5) Method 2 shall not be used to verify gross mass of a packed container for cargo items of scrap metal, rough stones, unbagged grain and other cargo in bulk.
	PART IV – MISCELLANEOUS PROVISIONS
Protection from liability.	23 No action shall lie against the Authority or any of its officers or other persons appointed or authorised to perform any function under this Regulations in respect of anything done or omitted to be done by him

	in good faith in the exercise or performance of any power, authority, or duty conferred or imposed on him under these Regulations.
Offence and penalty.	24 A port facility operator, ship agent, master or shipper who loads a packed container on board a ship which exceeds maximum gross mass indicated on the Safety Approval Plate commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months or to both.
	(2) A port facility operator, a ship agent or a ship master who allows an export container packed with cargo to be loaded onboard a ship without a valid gross mass certificate commits an offence and shall be liable to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding three months, or to both.
	(3) A person who misdeclares verified gross mass of a packed container commits an offence and shall be liable to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding three months, or to both.
	(4) It shall be a defence in sub-regulation (2) if the person proves that reasonable precaution and due diligence was undertaken to avoid the commission of the offence.
Savings.	25 Any certificate of approval issued before the date of entry into force of these Regulations shall remain valid unless revoked or suspended by legislation, licenses, certificates or any other administrative orders, directions or instructions made or issued under the Act or subsidiary legislation.
<i>SCHEDULE</i>	
Form 1 – Regulation 5 (2) Verified Gross Mass Certificate.	
Form 2 – Regulation 13 (1) Application for Approval to operate as Gross Mass Verifier.	
Form 3 – Regulation 13 (4) (a) Approval Certificate.	

SCHEDULE

FORM 1

Recommended template for third service providers under Methods 1 and 2

VERIFIED GROSS MASS CERTIFICATE(SAMPLE)

INSTRUCTIONS

SOLAS Chapter VI Regulation 2 requires the shipper to verify the gross mass of the packed container using Method 1 or Method 2 and to communicate the verified gross mass in a shipping document or a verified gross mass certificate.

The Shipper or third party shall use this document to declare the verified gross mass of the packed container for export. The information in this certificate may be incorporated in the shipping instructions or separately communicated to the shipping company and port Authority or terminal facility.

This document shall only be used to declare the "verified gross mass" and not the estimated gross mass of the container.

This certificate shall be signed by authorized person only.

Certificate Serial No		Shipper	
Container No		Carrier/Shipping Agent	
Container size.		Maximum gross mass of the container as specified in the safety approval plate	
Verified gross mass (Kg/Tonnes)		Name of the Shipper or Third party who conducted the weight verification	

Registration or Approval No of the shipper or third party who conducted the weight verification.		Date weight verification is done.	
Method used to determine the verified gross mass i.e. Method 1 or Method 2		Relevant special properties of the cargo (e.g. whether the weight of the cargo is affected by a change in the moisture content).	
I hereby declare that the consignment is fully and accurately described and that the verified gross mass is correct to the best of my knowledge	Signature of authorized persons.		
Official stamp			

FORM 2

ANNEX 1

APPLICATION FOR KMA/CSD/1000/Rev.2016/

APPROVAL OF SHIPPERS AND THIRD PARTY TO CARRY OUT VERIFICATION OF CONTAINER GROSS MASS USING METHOD 2

NOTE: READ THE GUIDANCE NOTES OVERLEAF BEFORE FILLING THE FORM

1. Shipper/Third party particulars		
Shippers/Third Party Name		
Postal address		
Physical Address		
Email Address		
Mobile Number		
ID No. / Company Reg. No.		
Company PIN No.		
2. Documents for submission checklist		
Document Name	Tick [✓]	Official use only
Copy of ID No./ Company Registration Certificate		
Copy of Company KRA PIN		
Valid Copy of certificate of verification for weighing equipment		
Copy of Accredited Quality Management System Certificate e.g. ISO 9001 (<i>if applicable</i>)		
Copy of documented procedure of weighing		
Copy of documented procedure of maintenance of weighing equipment or evidence of there being in place a valid third-party maintenance contract		

Copy of documented procedure for reporting and recording faults of weighing equipment		
Copy of documented procedure of calibrating the weighing equipment		
Copy of documented procedure of Record keeping		
3. Details of Equipment (list all equipment to be used for the purpose of these Regulations)		
Type of Equipment		
Capacity		
Calibration Certification No (Please attach certified copy of calibration certificate)		Date:
Working Location of the equipment		
Plan of testing the equipment (at least quarterly tests)	Date of 1 st Test	Results
	Date of 2 nd Test	Results
	Date of 3 rd Test	Results
	Date of 4 th Test	Results
Plan of intermediate calibration exercise (at least twice calibrations/year)	Date of 1 st intermediate calibration	
	Date of 2 nd intermediate calibration	
4. Declaration of intended methods of gross mass verification to be used (YES/NO)		
Method 1		
Method 2		
If YES	(a) Specific equipment for this method	
	(b) Other gears and facilities to support this method	
	(c) Name of Staff to be used to support this method (should be approved by WMA)	
	(d) QMS No (attach certified copy)	

I/We declare that to the best of my/our knowledge and belief all the statements and information contained in this application are true and correct. I/We undertake to notify the Authority of any changes in material information in this declaration.

Name

Date.....

Signature.....

For official use

Satisfactory

Not Satisfactory

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.....
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An applicant for registration of gross mass verifier shall pay Registration Fees to the Authority amounting to USD upon being approved for registration.

The Authority shall issue an approval certificate for the gross mass verifier which shall include information of a number of calibration certificates for each equipment and the approved method of verification by the gross mass verifier.

Deregistration procedures:

- a) Where the Authority has any reason to deregister a gross mass verifier shall communicate the intention to the gross mass verifier stating the reason. The gross mass verifier shall respond to the Authority within the stated time.
- b) The Authority shall consider defense of the gross mass verifier and communicate its decision, or postponement of the decision, within 21 days from the date of receipt of such defense.
- c) Where the Authority has decided to deregister the gross mass verifier, the latter shall cease to verify container weight in accordance with these Regulations within the time stated by the Authority.
- d) The Authority shall specify which method or methods the gross mass verifier is stopped from using in carrying out gross mass verification in accordance with these Regulations.
- e) The Authority shall communicate its decision to the gross mass verifier, port terminal operators, shipping agents, Customs Department and other stakeholders.
- f) The Authority may opt to impose penalty to defaulting gross mass verifier in accordance with these Regulations in lieu of deregistration.

g) The Authority may opt to impose temporary suspension of registration for a specified period in lieu of deregistration

GUIDANCE NOTES

1. Use **BOLD LETTERS** in filling the form;
2. Ensure all fields are filled appropriately and all applicable documents are submitted;
3. Method 2 involves weighing all packages and cargo items, including the mass of pallets, dunnage and other securing material to be packed in the container and adding the tare mass of the container to the sum of the single masses;
4. The following process methods shall be deemed acceptable to fulfill the requirements to establish a verified mass of packed container: -
 - a) The use of Enterprise Resource Planning (ERP), Systems Applications Products (SAP) or similar management processes which are traceable and audit based
 - b) Physically weighing the goods using calibrated and certified equipment, in accordance with manufacturers recommended practices or appropriate ISO standards
 - c) Equivalent/homogenous goods with a known weight per pallet (or other transport unit) in conjunction with the use of ERP and auditability.
5. Under the type of weighing equipment, list all the various type of equipment employed in weighing the packed container or cargo items, packaging materials, pallets, dunnage etc. e.g. scales, weighbridge, lifting weighing equipment etc.;
6. Individual, original sealed packages that have the accurate mass of the packages and cargo items (including any other material such as packing material and refrigerants inside the packages) clearly and permanently marked on their surfaces, do not need to be re-weighed when they are packed into the container.
7. Under the 'brief description of determining packed container gross mass', identify clearly the distinct stages of verifying individual items weights in the production line. In case an Enterprise Resource management tool is used, describe the key elements in determining the packed container Verified Gross Mass, VGM
8. Provide copies of certificate of verification for weighing equipment used in weighing items for the purpose of determining the container VGM
9. Submit the duly filled form to licensing@kma.go.ke OR Send to the address below

**DIRECTOR GENERAL,
KENYA MARITIME AUTHORITY,
BAHARI TOWER, OPP. MBARAKI SPORTS CLUB – MOMBASA,
P.O BOX 95076-80104 MOMBASA
Tel: 041 2318398/9, 0724319344, 0733221322.**

FORM 3



**KENYA MARITIME AUTHORITY
CERTIFICATE OF APPROVAL TO VERIFY GROSS MASS OF
PACKED CONTAINER**

This is to certify thatApproval Number is authorized to conduct verification of gross mass of packed container using method 2 as provided in the International Convention on Safety of Life at Sea, 1974 as amended.

Issued on until subject to compliance with applicable requirements.

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DIRECTOR GENERAL

Note: Method 2 - the sum of individual mass of cargo packages, packaging material, pallets, dunnage and securing gears where applicable is added to the tare weight of the container