

**THE BORDER MANAGEMENT AND TRADE
FACILITATION ACT, 2018**

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SCHEDULE

GOVERNMENT OF ZAMBIA

ACT

No. 12 of 2018

Date of Assent: 23rd December, 2018

An Act to provide for co-ordinated border management and control for the efficient movement and clearance of goods; give effect to the provisions of agreements on one-stop border posts; provide for simplified arrangements with adjoining States relating to the movement and clearance of goods; to establish control zones and provide for powers of officers in control zones; to provide for the development, management and maintenance of border infrastructure; to authorise the application of the Laws of Zambia and the laws of adjoining States in one-stop border posts; to repeal and replace the One-stop Border Control Act, 2009; and to provide for matters connected with, or incidental to, the foregoing.

[26th December, 2018

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Border Management and Trade Facilitation Act, 2018. Short title

2. In this Act, unless the context otherwise requires— Interpretation

“adjoining State” means a State that shares a common border with Zambia;

“applicable laws” means, in relation to—

(a) Zambia, the laws listed in the Schedule; and

(b) an adjoining State, the laws listed in a border agreement or any law of the adjoining State which corresponds to this Act;

“appropriate authority” means a border authority or statutory body with functions related to, or impacting on, the importation, exportation, clearance, control or regulation of goods, control of persons entering or exiting Zambia and regulation of services relating to the movement and clearance of goods and persons to, from and across ports of entry;

“border” means the boundary that demarcates the territory between Zambia and an adjoining State;

“border agreement” means an agreement relating to the establishment of one-stop border post or a simplified trading arrangement, entered into by the Government and an adjoining State in accordance with section 15;

“border authority” means a public authority exercising border controls at a port of entry;

“border control” means any border- related measure, check, notification, requirement, clearance or authorisation provided in the relevant laws;

“border infrastructure” means offices, other buildings and facilities at a port of entry and in a control zone;

“Committee” means the National Committee on Trade Facilitation established under section 7;

“competent authority” means an authority named in a border agreement that is entitled to issue and receive authorisations, notifications or act in a particular matter on behalf of Zambia or an adjoining State, as the case may be;

“control zone” means that part of the territory of an adjoining State or Zambia within which officers are empowered to effect border controls;

Cap. 322 “customs port” has the meaning assigned to the words in the Customs and Excise Act;

Cap. 322 “Customs Services Division” means the Customs and Excise Division of the Zambia Revenue Authority, as provided for in the Customs and Excise Act;

“exclusive use area” means an area in a control zone dedicated for the exclusive use of an adjoining State or Zambia;

“facilitation agent” means a person, other than an officer, who is registered in accordance with any law to provide services for the completion of border controls by passengers or freight, or provides a service related to facilitation of international trade and travel, in accordance with this Act, and any other law;

“Immigration Department” means the Department in the Ministry responsible for matters of immigration as provided in the Immigration and Deportation Act, 2010;

Act No. 18 of
2010

“Law enforcement agency” means any person or agency empowered to enforce the law, by the Laws of Zambia or of a law of an adjoining State;

“lead agency” means the authority designated as lead agency in accordance with section 5;

“officer” means an officer of an adjoining State or a public officer of Zambia who is responsible for exercising border controls and other functions in accordance with this Act, any other law in Zambia or an adjoining State;

“one-stop border post” means a border post established under an agreement between two countries sharing a border;

“Partner State” means a State Party to a border agreement;

“simplified trading arrangement” means a border arrangement to simplify clearing procedures and reduce the cost of trading for small scale cross border traders;

“single window system” means a facility that allows persons involved in trade and transport to lodge standardised information and documents at a single entry point to fulfill import, export and transit related regulatory requirements; and

“trade facilitation” means the simplification, standardisation and harmonisation of activities, practices, procedures and formalities involved in the movement, clearance and release of goods, including goods in transit, at a port of entry.

3. The applicable laws of Zambia and of an adjoining State apply in the control zone for the purpose of enabling officers of Zambia, and those of an adjoining State which is a party to an agreement, to carry out border controls at a one-stop border post.

Application

4. (1) The legislation listed in the Schedule relates to a one-stop border post and is the basis for border control operations by the institution specified in that legislation.

Legislation
related to
one-stop
border post

(2) Where the provisions of an applicable law are inconsistent with this Act, the provisions of this Act prevail to the extent of the inconsistency.

(3) The Minister may, by statutory notice, add or remove an applicable law from the Schedule.

PART II

BORDER MANAGEMENT

Lead agency
for
coordinating
operations
Cap. 321

5. (1) The Zambia Revenue Authority established under the Zambia Revenue Authority Act is the lead agency at ports of entry and is responsible for coordinating border operations.

(2) The division responsible for customs services shall perform the functions of the lead agency in accordance with this Act.

Functions of
lead Agency

6. (1) The lead agency shall—

(a) coordinate the import and export of goods and services and the conduct of facilitation of agents in control zones;

(b) enforce deadlines for declaration processing;

(c) facilitate the coordination of any crisis response strategy at a port of entry; and

(d) coordinate the implementation of border agreements at ports of entry in accordance with this Act and the provisions of the border agreement.

(2) Without prejudice to the generality of subsection (1) and for the purposes of section 15(3) (a), the lead agency shall ensure that appropriate authorities operating at one-stop border posts in a control zone—

(a) coordinate their functions, systems and processes in a manner that provides uniformity of approach and as agreed between the Partner States;

(b) monitor the operations to ensure full compliance with this Act or a border agreement; and

(c) perform such other functions as may be assigned in an applicable law, any other law or a border agreement.

Constitution
and
composition
of National
Committee
on Trade
Facilitation

7. (1) There is constituted a National Committee on Trade Facilitation, which consists of the following part-time members appointed by the Minister:

(a) representatives of appropriate authorities responsible for the implementation of the applicable laws; and

(b) five representatives from facilitation agents.

(2) The representative referred to in subsection (1) shall be recommended by the appropriate authorities.

(3) The Minister shall appoint the Chairperson of the Committee from amongst the members of the Committee.

(4) The members of the Committee shall elect the Vice-Chairperson of the Committee from amongst themselves.

(5) The Committee shall meet at least twice in a year.

(6) The Committee may, subject to this Act, regulate its own procedure.

(7) The Committee shall be paid such remuneration and allowances as the Minister may determine with the approval of the Emoluments Commission.

8. (1) The National Committee on Trade Facilitation shall—

(a) coordinate policy on border management controls and facilitation of trade; and

(b) develop specific programmes for the establishment and implementation of one-stop border controls.

(2) Subject to subsection (1), the National Committee on Trade Facilitation shall perform any other function that the Minister may assign.

Functions of National Committee on Trade Facilitation

9. (1) The Minister shall designate a department in the Ministry responsible for trade to be the secretariat of the National Committee on Trade Facilitation and may be assisted by the Customs Services Division.

National Committee on Trade Facilitation Secretariat

(2) The secretariat is responsible for the administration of the day-to-day affairs of the National Committee on Trade Facilitation under the general supervision of the Ministry responsible for trade.

10. For the purposes of this Act, an officer—

(a) shall move freely in a control zone for official purposes;

(b) shall not be required to produce a passport or visa; and

(c) may pass through border controls of a Partner State on production of appropriate evidence of the officer's identity and status as provided in a border agreement.

Free movement of officers in control zones

11. (1) The lead agency, in consultation with the appropriate authorities and competent authority of a Partner State, shall determine the number of officers who shall perform duties in a control zone, taking into account the volume of traffic.

Number of officers, names and designations

(2) The lead agency shall inform the adjoining State, in writing, of the names and designation of the Zambian officers that shall be working within a control zone and, in the event of any change, the lead agency shall promptly communicate that change to the adjoining State.

12. (1) An officer shall, while performing duties in a control zone, wear the official uniform and visible distinctive insignia of the respective appropriate authority or adjoining State and visibly display the officially issued identification card.

Identification of officers

- (2) Where an officer is not required to wear uniform, by virtue of the officer's work, such officer shall display the officially issued identification card.
- Carrying of weapons **13.** An officer shall not carry a firearm in a control zone, except where—
- (a) the officer belongs to a law enforcement agency of Zambia or an adjoining State duly authorised by law to carry a firearm; or
 - (b) specifically authorised by the Ministry responsible for home affairs as specified in a border agreement.
- Protection and assistance to officers and compensation **14.** (1) The lead agency and the competent authorities in an adjoining State shall grant protection and assistance to officers operating in a control zone, as provided in a border agreement.
- (2) A claim for compensation for loss, injury or damage caused by or to either officers of Zambia or an officer of an adjoining State in the course of performing functions in a control zone shall be subject to the laws of the respective State as if the circumstance giving rise to the claim had occurred in that State.

PART III

BORDER AGREEMENTS

- Border agreements **15.** (1) The President may enter into a one-stop border agreement or a simplified border agreement with an adjoining State for purposes of trade facilitation and ensuring reciprocity in the application of border controls.
- (2) The President may delegate the powers conferred under subsection (1) to the Minister.
- (3) A one-stop border agreement may provide for—
- (a) border controls to be undertaken by officers in a control zone located in Zambia or within the adjoining State;
 - (b) officers of Zambia and officers of the adjoining State, to exercise border controls in accordance with the applicable laws, including the exercise of any powers of arrest, search, seizure and detention of persons and goods;
 - (c) the appointment of competent authorities for communication purposes;
 - (d) harmonisation of the infrastructure and facilities in control zones through coordinated designs and procurement of related construction, maintenance and management services;

- (e) synchronisation of hours of operation within control zones and modification of business days and hours for operations in a control zone;
- (f) thresholds and products for the application of simplified trade arrangements;
- (g) joint exit and entry formalities;
- (h) simplification of customs and origin documentation;
- (i) processes and procedures of carrying out border controls and handovers;
- (j) procedures for financial arrangements relating to free transfer of money and trade facilitation within a control zone;
- (k) appointment and functions of facilitation agents in a control zone;
- (l) information sharing and confidentiality; and
- (m) dispute resolution.

16. The Minister shall cause a border agreement to be published in the *Gazette*, within thirty days of that agreement entering into force.

Publication of border agreement

PART IV

CONTROL ZONES AND FACILITIES IN CONTROL ZONES

17. (1) The Minister may, in collaboration with an adjoining State, through a border agreement, establish and designate control zones at their common ports of entry.

Establishment and designation of control zones

(2) The Minister shall, in consultation with relevant appropriate authorities, establish and designate control zones at ports of entry for one-stop border processing arrangements.

(3) An appropriate authority operating in a control zone for purposes of offering one-stop border processing arrangements shall do so in accordance with this Act.

(4) The Minister may, in collaboration with an adjoining State, through a border agreement, establish and designate control zones at their common ports of entry for the implementation of one-stop border processing arrangements, on terms and conditions that may be specified in the border agreement.

(5) A control zone established and designated in accordance with subsection (3) may, be wholly or partially located in Zambia or an adjoining State or be in some other mutually agreed configuration as specified in a border agreement.

(6) A control zone established and designated, in accordance with subsection (1), shall be so arranged that, for each direction of travel, border controls shall be carried out at the port of entry or, depending on the configuration, from a single stop location.

Exclusive use areas within control zones

18. (1) There shall be exclusive use areas within a control zone which may be clearly identified by official signs.

(2) Officers shall have control of entry over exclusive use areas and may request for assistance from competent authorities of the adjoining State.

Traffic control

19. The lead agency and competent authorities of an adjoining State shall implement measures for effective control of traffic in control zones.

Operating days and hours
Cap. 322
Cap. 322

20. (1) The Customs and Excise Act shall specify the operating days and hours at a One-Stop Border Post.

(2) Despite the Customs and Excise Act, a border agreement may provide for synchronised business days and hours for operations in a control zone.

Equipment for official use

21. Subject to declarations being made and appropriate inventories being kept, all equipment which is necessary to enable an officer of Zambia or an adjoining State to carry out official functions in a control zone shall be freely transferable within the control zone and shall not be regarded as imports or exports on entry or exit.

Communication equipment in control zones

22. (1) An officer of an adjoining State is, while performing official functions in Zambia, authorised to establish communication links to the adjoining State that are required for that purpose, including the extension of the local area telecommunication and other networks into the control zone of the adjoining State.

(2) The lead agency may, where necessary, assist an officer of an adjoining State to obtain telecommunications and other communication services, subject to the necessary legal authorisations, prevailing commercial costs and conditions.

PART V

CONDUCT OF BORDER CONTROLS

Border controls in control zones by officers of adjoining State

23. (1) The officers of an adjoining State may carry out border controls, on a reciprocal basis, within a control zone in accordance with the terms and conditions specified in a border agreement.

(2) Where officers of the adjoining State exercise border controls, as specified in subsection (1), they shall do so in accordance with the laws of the adjoining State.

- 24.** (1) Officers of Zambia and an adjoining State may jointly conduct border controls. Joint controls
- (2) Despite subsection (1), a Partner State may rely on the inspection and search results of the officers of the other State.
- 25.** (1) The single window system shall be used in carrying out border controls and operations. Use of single window system
- (2) The Minister may, by regulation, prescribe guidelines for the utilisation of the single window system.
- 26.** (1) The Minister, in consultation with the Minister responsible for finance, may enter into agreements providing for simplified trading arrangements between Zambia and an adjoining State to facilitate small scale cross border trade. Simplified trading arrangements
- (2) An agreement with an adjoining State on simplified trading arrangements shall, include —
- (a) simplified customs and origin conferring documentation;
 - (b) a maximum value threshold within which the simplified trading arrangement applies; and
 - (c) a list of products, agreed with the adjoining State, to which the simplified trading arrangement applies.
- (3) For the purposes of this section, a “small scale cross border trade” shall be as defined in a simplified trading arrangement.

PART VI

FACILITATION AGENTS

- 27.** (1) A facilitation agent shall have reasonable access to a control zone and facilities in a control zone for official purposes on presenting a valid identity and status card issued for that purpose by the lead agency. Access to control zones by facilitation agents
- (2) A facilitation agent shall, while in the control zone, visibly display the identity card issued for that purpose by the lead agency.
- (3) For the purposes of subsection (1), a facilitation agent shall not be required to produce a travel document or visa.
- 28.** (1) A facilitation agent shall, in the performance of functions in a control zone, be subject to the laws of Zambia or of an adjoining State, as the case may be. Performance of functions in control zones
- (2) Despite subsection (1), a facilitation agent shall provide services in accordance with the border control laws of the Partner State under whose jurisdiction that facilitation agent falls.
- 29.** A facilitation agent may, whilst performing functions in a control zone, communicate with that agent’s offices outside the control zone and to establish such communications as may be required for that purpose. Communication with offices

PART VII

APPLICATION OF BORDER CONTROL LAWS AND CRIMINAL LAWS

Laws of adjoining State to apply in control zones

30. (1) Where there are reciprocal arrangements between Zambia and the adjoining State, the laws relating to border controls of the adjoining State shall apply in a control zone located in Zambia and be effected by the officers of the adjoining State in the same way as in the adjoining State.

(2) A contravention of the laws relating to border controls of the adjoining State which is detected in the control zone located in Zambia shall be subject to the laws of the adjoining State as if the breach had occurred in the adjoining State.

Criminal acts for non-border control laws

31. The law enforcement agencies shall deal with non-border control related criminal offences committed in a control zone in Zambia in accordance with the relevant laws.

PART VIII

GENERAL PROVISIONS

Transitional provisions

32. A border agreement entered into before the commencement of this Act is deemed to have been entered into under this Act and shall be implemented in accordance with this Act.

Temporary measures

33. (1) An appropriate authority may at borders take temporary measures in the interests of defence, security, public safety, public order or public health.

(2) The temporary measures, referred to in subsection (1), shall not exceed a period of three months at a time.

Regulations

34. (1) The Minister may, by statutory instrument, make regulations providing for a matter which by this Act is required to be prescribed or which is necessary to be prescribed to give effect to the purposes of this Act.

(2) Despite the generality of subsection (1), the Minister shall make regulations—

- (a) prescribing operational procedures for the harmonisation of documents and entrenchment of existing arrangements for people living around a common border;
- (b) for the harmonisation of border infrastructure and facilities in control zones;
- (c) for movement in control zones; and
- (d) for the implementation of border agreements and arrangements.

Rules by lead agency

35. The lead agency may make rules not inconsistent with this Act or any other written law, in respect of processes and procedures to facilitate trade as provided in this Act.

Repeal of Act No. 8 of 2009

36. The One-stop Border Control Act, 2009 is repealed.

SCHEDULE

(Section 4 (1))

Applicable Laws

1. The Agriculture (Fertilizer and Feed) Act, Cap 226;
2. The Animal Health Act No. 27 of 2010;
3. The Anti-Human Trafficking Act No. 11 of 2008;
4. The Biosafety Act No. 10 of 2007;
5. The Coffee Act, Cap 228;
6. The Compulsory Standards Act No. 3 of 2017 ;
7. The Control of Goods Act, Cap 421;
8. The Cotton Act No. 21 of 2005;
9. The Criminal Procedure Code, Cap 88;
10. The Customs and Excise Act, Cap 322;
11. The Dairy Industry Development Act No. 22 of 2010;
12. The Dangerous Drugs Act, Cap 95;
13. The Electronic Communications and Transactions Act No. 21 of 2009;
14. The Environmental Management Act No. 12 of 2011;
15. The Financial Intelligence Centre Act No. 43 of 2010;
16. The Fisheries Act No 22 of 2011;
17. The Food and Drugs Act, Cap 303;
18. The Forests Act No. 4 of 2015;
19. The Forfeiture of Proceeds of Crime Act No. 19 of 2010;
20. The Immigration and Deportation Act No. 18 of 2010;
21. The Information and Communications Technology Act No. 15 of 2009;
22. The Local Government Act, No. of 2018;
23. The Medicines and Allied Substances Act No. 3 of 2013;
24. The Metrology Act No. 6 of 2017;
25. The Mutual Legal Assistance in Criminal Matters Act, Cap 98;
26. The Narcotic Drugs and Psychotropic Substances Act, Cap 96;
27. The National Health Insurance Act No. 2 of 2018;
28. The National Road Fund Act No. 13 of 2002;
29. The Noxious Weeds Act, Cap 231;
30. The Penal Code, Cap 87;

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31. The Plant Pests and Diseases Act, Cap 233;
32. The Plant Variety and Seeds Act, Cap 236;
33. The Police Act, Cap 107;
34. The Prohibition and Prevention of Money Laundering Act No. 14 of 2001;
35. The Protection of Traditional Knowledge, Genetic Resources and Expressions of Folklore Act No. 16 of 2016;
36. The Public Health Act, Cap 295;
37. The Public Roads Act No.12 of 2002;
38. The Road Traffic Act No. 11 of 2002;
39. The Standards Act No. 4 of 2017;
40. The Zambia Revenue Authority Act, Cap. 321; and
41. The Zambia Wildlife Act No. 14 of 2015.
