

THE ONE-STOP BORDER CONTROL BILL, 2009

MEMORANDUM

The objects of this Bill are to—

- (a) provide for the conclusion of agreements by the Republic of Zambia with neighbouring States on the implementation of one-stop border processing arrangements;
- (b) give effect to provisions of arrangements on one-stop border posts;
- (c) authorise the application of the laws of Zambia and the laws of the adjoining State in the one-stop border post; and
- (d) provide for matters connected with or incidental to the foregoing.

M. MALILA,
Attorney-General



THE ONE-STOP BORDER CONTROL BILL, 2009

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

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PART II

ONE-STOP BORDER AGREEMENTS

3. One-stop border agreements
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6. Legislation related to one-stop border post
7. Regulations
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A BILL

ENTITLED

An Act to provide for the conclusion of agreements by the Republic of Zambia with neighbouring States on the implementation of one-stop border processing arrangements; give effect to provisions of agreements on one-stop border posts; authorise the application of the laws of the laws of Zambia and the laws of the adjoining State in the one-stop border post; and provide for matters connected with incidental to the foregoing.

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the One-Stop Border Control Act, 2009, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.
2. In this Act, unless the context otherwise requires—
- “adjoining State” means neighbouring State with whom the Government enters into an agreement establishing a one-stop border post;
- “agreement” means an agreement relating to one-stop border post, concluded in terms of section *three*;
- “border control” means any border related control measure, check or authorisation provided for in relevant legislation;
- “control zone” means that part of the territory of one of the parties within which officers of either party are empowered to effect border controls, and includes the exclusive use area;
- “exclusive use area” means that area of the control zone dedicated for the exclusive use of one of the parties;
- “Government” means the Government of the Republic of Zambia;

Short Title
and
commencement

Interpretation

- “ officer ” means a person responsible for exercising border controls on behalf of any party;
- “ one-stop border post ” means a border post established under an agreement, and includes the control zone;
- “ party ” means a party to an agreement; and 5
- “ relevant legislation ”, in relation to—
- (a) the Republic of Zambia, means the laws listed in the Schedule to this Act; and
- (b) any party to an agreement other than Zambia, means the laws listed in the agreement, or in terms of any law of that party, which corresponds to this Act. 10

PART II

ONE-STOP BORDER AGREEMENTS

- One-stop border agreements
3. (1) The President may enter into an agreement, with any neighbouring State or territory with a view to facilitating trade. 15
- (2) The President may delegate the powers conferred under subsection (1) to the Minister.
- (3) An agreement entered into pursuant to subsection (1) shall allow the following:
- (a) border controls to be undertaken by officers at a place located— 20
- (i) in the territory of Zambia; or
- (ii) within the territory of one or more adjoining States; and
- (b) officers of the Zambian Government, and officers of one or more adjoining States, to exercise border controls in accordance with the relevant legislation, including the exercise of any powers of arrest, search, seizure and detention of persons and goods. 25
- (4) The Minister shall lay a copy of an agreement referred to in subsection (1) before Cabinet approval prior to signing of the agreement. 30
- (5) The Minister shall, within fourteen days of the signing of agreement, publish the agreement in the *Gazette*.
- Application of relevant legislation in control zone
4. The relevant legislation of Zambia and that of an adjoining State shall apply in the control zone for the purpose of enabling officers of Zambia, and those of any adjoining State which is a party to an agreement, to carry out border controls at a one-stop border post. 35

5. (1) An act or omission—

Application
of criminal
law

- (a) by a citizen or resident of Zambia which occurs at a one-stop border post in an adjoining State; and
- (b) that is an act or omission which, if it had occurred within the territory of Zambia, would have constituted an offence under the laws of Zambia; shall be treated as if it had occurred in Zambia.

(2) For the avoidance of doubt, a citizen or resident of Zambia may be arrested or detained in the control zone of an adjoining State for any contravention of the relevant legislation of Zambia, for the purpose of transferring that person to Zambia.

(3) For the purpose of determining which court has jurisdiction to try an offence referred to in subsection (1), the offence shall be deemed to have been committed within the area of the court with competent jurisdiction nearest to the place where the act or omission constituting the offence occurred.

6. (1) The legislation listed in the Schedule to this Act relates to a one-stop border post and shall be the basis for border control operations by the institution specified in the legislation:

Legislation
related to
one-stop
border post

Provided that where the provisions of the relevant legislation are in conflict with this Act, the provisions of this Act shall apply.

(2) The Minister may, by regulation, add or remove any legislation from the Schedule.

7. The Minister may, by statutory instrument, make regulations providing for any matter which by this Act is required to be prescribed or which is necessary to be prescribed to give effect to the purpose of this Act.

Regulation

8. An agreement entered into before the commencement of this Act shall be deemed to have complied with the provisions of this Act and shall be implemented in accordance with the provisions of this Act.

Transitional
provision

SCHEDULE

(Sections 2 and 6)

RELEVANT LEGISLATION

1. The Agriculture (Fertilizers and Feed) Act, Cap 226
2. The Coffee Act, Cap 228
3. The Control of Goods Act, Cap 421
4. The Cotton Act, No. 21 of 2005
5. The Customs and Excise Act Cap 322

6. The Diaries and Diary Produce Act, Cap 230
 7. The Dangerous Drugs Act, Cap 95
 8. The Environmental Protection and Pollution Control Act, Cap 204
 9. The Export of Pigs Act, Cap 246
 10. The Food and Drugs Act, Cap 303
 11. The Forests Act, Cap 199
 12. The Immigration and Deportation Act, Cap 123
 13. The Narcotic Drugs and Psychotropic Substances Act, Cap 96
 14. The Pharmaceutical Act, No. 14 of 2004
 15. The Plant Pests and Diseases Act, Cap 233
 16. The Plant Variety and Seeds Act, Cap 236
 17. The Police Act, Cap 107
 18. The Public Health Act, Cap 295
 19. The Road Traffic Act, No. 11 of 2002
 20. The Zambia Wildlife Act, No. 12 of 1998
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