THE ONE-STOP BORDER CONTROL ACT, 2009

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GOVERNMENT OF ZAMBIA

ACT

No. 8 of 2009

Date of Assent: 31st March, 2009

An Act to provide for 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 Zambia and the laws of the adjoining State in the one-stop border post; and provide for matters connected with and incidental to the foregoing.

[1st April, 2009]

ENACTED by the Parliament of Zambia.

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;
“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
“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.

PART II

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.

(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—
(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.

(4) The Minister shall lay a copy of an agreement referred to
in subsection (1) before Cabinet approval prior to signing of the
agreement.

(5) The Minister shall, within fourteen days of the signing of
agreement, publish the agreement in the Gazette.
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.

5. (1) An act or omission—
   
   (a) by a citizen or resident of Zambia or a person having entered 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 or a person having entered 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.

   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.

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.
SCHEDULE
(Sec. 3 and 6)

Radarwave Legislation

1. The Agriculture (Fertilizers and Feeds) Act, Cap 226
2. The Coffee Act, Cap 238
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 Dairy and Dairy Produce Act, Cap 250
7. The Dangerous Drugs Act, Cap 95
8. The Environmental Protection and Pollution Control Act, Cap 704
9. The Export of Pigs Act, Cap 346
10. The Food and Drugs Act, Cap 363
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 Pest and Diseases Act, Cap 233
16. The Plant Variety and Seeds Act, Cap 236
17. The Police Act, Cap 197
18. The Public Health Act, Cap 295
19. The Road Traffic Act, No. 11 of 2002