

## CHAPTER 421

### THE CONTROL OF GOODS ACT

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## CHAPTER 421

### CONTROL OF GOODS

An Act to enable the President to provide by regulation for the control of the distribution, disposal, purchase and sale, and the wholesale and retail prices of any manufactured or unmanufactured commodity or of any animal or poultry, or of any class of any such commodity, animal or poultry, for the control of imports into and exports from Zambia, and for other purposes incidental and supplementary to the foregoing.

[26th March, 1954] Federal Act

12 of 1954

Act 41 of 1966

4 of 1977

26 of 1977

3 of 1979

20 of 1981

7 of 1982

13 of 1982

11 of 1991

10 of 1993

13 of 1994

25 of 1995

7 of 1997

7 of 1998

12 of 2004

#### Government Notices

1 of 1964

497 of 1964

#### Short title and commencement

1. (1) This Act may be cited as the Control of Goods Act.

(2) This Act shall be deemed to have come into operation as the Minister may, by statutory instrument appoint.

Cap. 421

#### Interpretation

2. In this Act, unless the context otherwise requires-

"animal" means any animal or poultry or any class of animals or poultry;

"commodity" means any manufactured or unmanufactured commodity or any class of such commodities;

"Controlled Services" means garage services, services relating to household installations, and any other services which the Minister may, by statutory instrument declare to be controlled services;

"goods" means anything capable of being imported or exported;

"hoarding" means the accumulation or hiding of any goods or commodities or of any animals ordinarily held for commercial purposes, so as to prevent or manipulate the distribution or sale of such goods, commodities or animals to the public.

(As amended by G.N. No. 1 of 1964 and Act No. 26 of 1977)

Regulations for the control of goods

3. (1) Whenever it appears to the President necessary or expedient-

- (a) to control the import into or export from Zambia of any goods;
- (b) to control the distribution, disposal, purchase and sale or the wholesale or retail prices of any commodity or animal and the charges which may be made-
  - (i) for the services relating to distribution, disposal, purchase and sale of the commodity or animal, as the case may be; and
  - (ii) for the delivery of any commodity or animal, the wholesale or retail prices of which are controlled under this section;
- (c) to prevent the hoarding of any goods, commodities or animals; and
- (d) to regulate the charges for any controlled services;

he may, by Statutory Instrument, make such regulations as appear to him to be necessary or expedient for such purposes.

(2) Without prejudice to the generality of the powers conferred by subsection (1), such regulations may provide-

(a) for requiring persons carrying on or employed in connection with any trade, business, undertaking or enterprise specified in such regulations to produce to such person as may be so specified any books, accounts or other documents relating to that trade, business, undertaking or enterprise, and for requiring any persons to furnish to such person as may be so specified such estimates or returns as the President considers it desirable to obtain for the effectual exercise of any of his powers under this section;

(b) for any incidental and supplementary matters for which the President thinks it expedient for the purposes of the regulations to provide, including in particular the entering and inspection of premises to which the regulations relate by persons authorised in that behalf by the President with a view to securing compliance with the regulations.

(3) Regulations made under this section may provide for empowering such Minister as may be specified in such regulations to make orders-

(a) for the control to such extent as may be specified in such regulations of the import into or export from Zambia of such goods or classes of goods as may be specified in such regulations;

(b) in respect of such commodities and animals as may be specified in such regulations for any of the purposes specified in paragraph (b) of subsection (1).

Any orders made in terms of this subsection may contain such incidental or supplementary provisions as appear to the specified Minister to be necessary or expedient for the purpose of such orders.

(4) Regulations and orders under this section may be made so as to apply generally or to any particular trade, business, undertaking or enterprise, or class thereof, and either to the whole or to any part of any trade, business, undertaking or enterprise, and so as to have effect either throughout Zambia or in any particular area therein.

(5) For the avoidance of doubt, it is hereby declared that the provisions of section four shall not apply in relation to any order under this section.

(As amended by G.N. No. 1 of 1964 Acts 4 of 1977, 26 of 1977, 3 of 1979, 20 of 1981, 7 of 1982, 13 of 1982)

## Import declaration fee

3A. (1) Subject to subsections (10) and (11) there shall be charged, in respect of goods of a value in excess of five hundred United States dollars, imported into Zambia, an import declaration fee, hereinafter referred to as the fee, equal to five per centum of the value of the goods.

(2) The value of the goods for import to which this section applies shall include the Free On Board value of the goods, the cost of transportation, the value of the insurance policy covering the goods, if any, and the cost of freight.

(3) The fee shall be computed and become payable upon completion and submission of the prescribed import declaration form to a commercial bank, before the importation of the goods.

(4) Any import to which this section applies shall not be released from Customs control until all requirements under the Customs and Excise Act have been complied with and a duly approved import declaration form evidencing the payment of the fee, where required, in the prescribed manner, is produced. Cap. 322

(5) If any commercial bank fails to remit, at the prescribed time and place, any monies forming part of the fee collected under the provisions of this section it shall be required to pay interest on the monies it has failed to remit equivalent to the annualised nominal interest rates of the 28 days Treasury Bills and such interest, together with any unpaid fee, shall be a debt by the commercial bank to the State.

(6) If an officer discovers goods on which the fee was not paid by virtue of under valuation in terms of the value for Customs Duty purposes as defined in the Customs and Excise Act, misdescription or for any other reason, in addition to requiring the person to make an application for an import declaration form and pay the required fee to the bank, the officer shall assess and collect from the person in possession or control of such goods, a penalty equal to the amount of the fee that was payable prior to their release from customs control.

Cap. 322

(7) (a) For the purpose of conducting an audit, an officer shall have authority to inspect all goods, premises, documents, books of account, any correspondence or other writing and records relating to the fee remitted by a bank or in relation to any person who is an importer and to remove them at a reasonable time and for a reasonable period.

(b) Where information referred to in subsection (1) is electronically stored, an officer shall be empowered to-

(i) view the information or document and to copy or take extracts from it by electronic means; or

(ii) require that it be reproduced in hard copy, or copied onto computer diskette or reduced to some other portable form suitable for removal and capable of reproducing the information or document for viewing.

(c) An officer may make an assessment of the fee for any of the following cases:

(i) where a payment by a bank is not filed within the specified time;

(ii) where an incomplete payment is filed; or

(iii) where the officer has reason to believe that the amount of fee is understated or otherwise incorrect.

(d) An assessment of the fee shall be made within one year from the date that the goods were released from customs control or in the case of a bank from the date the bank was liable to remit the fee under subsection (3).

(e) An assessment shall be immediately due and payable in a manner prescribed in this Act.

(8) Any person who-

(a) attempts to evade the fee;

- (b) knowingly fails to collect the fee;
- (c) knowingly fails to file an import declaration form, or to supply information;
- (d) knowingly conceals or destroys any book, record, document, statement, or other information;
- (e) knowingly fails to obey summons;
- (f) makes or furnishes any fraudulent document, statement, or other information;
- (g) attempts to interfere with the determination or collection of the fee;
- (h) knowingly discloses any information in a manner not authorised by law or regulations;  
or
- (i) in any way knowingly assists in, or contributes to, any of the foregoing;

shall be guilty of an offence and liable, upon conviction to a fine of not less than twenty thousand penalty units and not exceeding one million penalty units or upon default of such payment one month imprisonment for each twenty thousand penalty units or portion thereof:

Provided that the penalties imposed in this section shall not in any way prejudice the imposition of other sanctions under Customs law or the criminal laws of the Republic of Zambia or elsewhere under this law.

(9) Where any person satisfies the commercial bank to which a fee has been paid and any office authorised by the Minister that any amount of the fee-

- (a) was paid in excess or in error;
- (b) is related to goods for which a drawback of Customs Duty has been approved or to which a claim for drawback would be fair and reasonable under the circumstances; or
- (c) for any other reason as the Minister may prescribe;

the stated amount of the fee shall be refunded provided the application for refund is submitted within two years of the event giving cause to the refund.

(10) The provisions of this section shall not apply to the importation of goods covered by the First Schedule.

(11) Importers under the Second Schedule must complete an import declaration form, but no fee is liable for qualified goods.

(12) All the monies collected under the provisions of this section shall be paid into the general revenues of the Republic.

(13) The Minister may, by statutory instrument, make regulations-

- (a) prescribing the method of computing the value of any transaction;
- (b) prescribing the grounds necessitating an assessment and auditing of any import;
- (c) setting out the procedure for the collection of the import declaration fee and for assessment and auditing of any import;
- (d) designating officers for the purposes of this Act; and



(e) generally, for the better carrying out of the provisions of this section.

(As amended by Act No. 7 of 1997)

3B created by Act No. 20 of 1981 repealed by Act No. 13 of 1982

#### Rationing of commodities and animals

4. Regulations made under section three, in relation to the rationing of any commodity or animal, may-

(a) fix or provide for fixing different quantities of the commodity or animal to be obtainable in the aggregate or individually by different classes of persons;

(b) provide for methods of distribution of the commodity or animal which differentiate as between different classes of persons so far as appears to the President to be necessary in order to secure or permit such distribution through the usual channels and agencies through which such classes of persons normally obtain the commodity or animal.

(As amended by G.N. No. 1 of 1964)

#### Evidence

5. (1) In any proceedings under this Act against any person, any statement or entry contained in any book or document kept by him or any person in his employ, or by his agent, shall be admissible in evidence as an admission of the facts set forth in that statement or entry, unless it is proved that the statement or entry was not made by that person, by any person in his employ, or by his agent.

(2) Whenever the manager, agent or servant of any person does or omits to do anything which it would be an offence under this Act for such person to do or omit to do, such person shall be deemed himself to have done or omitted to do such thing and be liable to the penalties therefor in terms of this Act unless he proves to the satisfaction of the court that all reasonable steps were taken by him to prevent any act or omission of the kind in question:

Provided that the fact that the person issued instructions forbidding in respect of his manager, agent or servant any act or omission of the kind in question shall not by itself be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

## Penalties

6. Regulations made under this Act may provide in respect of any contravention thereof or of any order made thereunder that-

(a) the offender shall be liable to a fine not exceeding one million five hundred thousand penalty units or to a term of imprisonment not exceeding five years, or to both; and

(b) upon the conviction of such offender, the court may order that any animal, commodity or goods which are the subject-matter of such contravention shall be forfeited.

(Act No. 41 of 1966 and Act No. 13 of 1994)

## FIRST SCHEDULE

(Goods not requiring an Import Declaration Form or payment of the fee)

1. Goods of a value for customs duty purposes of the equivalent of five hundred United States dollars US\$500 or less;
2. Goods destined for approved duty free stores;
3. Goods destined for approved EPZ (export processing zone) enterprises;
4. Goods destined to approved MUB (manufacturing under bond) enterprises;
5. Accompanied or unaccompanied personal baggage if such importation is free of all customs duties by reason of a duty-free allowance;
6. Ammunition, weapons or implements of war imported by the Government;
7. Household and personal effects of new residents and returning residents if such importation is free of all customs duties by reason of duty-free allowance;
8. Gifts by foreign governments;
9. Supplies to diplomatic and accredited consular missions, diplomatic personnel, and United Nations organisations, imported for their own use;
10. Goods subject to a technical assistance agreement;
11. Goods for use in humanitarian aid when imported by an organisation recognised by the Ministry of Finance and Economic Development;
12. Books, current newspapers and periodicals;

13. Live animals;
14. Fertilizers;
15. Antiques more than 100 years old, and original works of art;
16. Unset precious stones, and precious metals in bullion form; and
17. Commercial samples of no commercial value.
18. Goods in transit through Zambia
19. Goods temporarily imported into Zambia.
20. Goods exported from Zambia for repair and return and in respect of which a certificate to that effect has been issued by an officer of Customs and Excise Division.

(As amended by Act No. 7 of 1997 and Act No.7 of 1998)

## SECOND SCHEDULE

### APPENDIX

(Section 3)

#### THE SECOND SCHEDULE

(Section 3A)

(Goods requiring an Import Declaration Form without payment of the fee)

1. Goods specified under an Investment Certificate issued pursuant to the Investment Act, Cap. 385 and which are accorded an exemption from customs duty.

2. Goods on which an exemption from customs duty has been granted under section 97 of the Mines and Minerals Act, Cap.213

(As amended by Act No. 7 of 1998)