

THE UNITED REPUBLIC OF TANZANIA

ACT SUPPLEMENT

No. 17

18th September, 2015

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THE ONE STOP BORDER POSTS ACT, 2015

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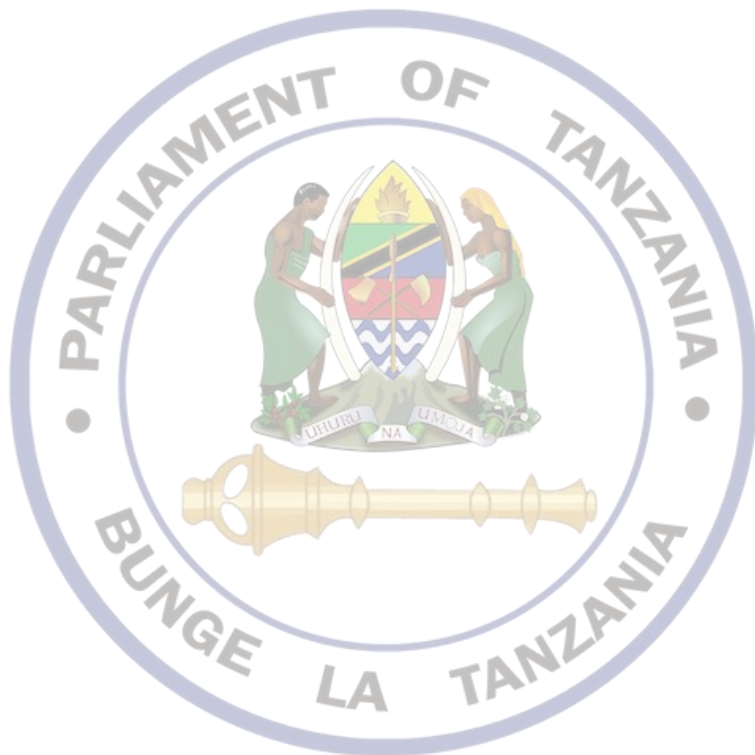
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SCHEDULE



No.17

The One Stop Border Posts Act

2015

THE UNITED REPUBLIC OF TANZANIA



NO.17 OF 2015



I ASSENT,

JAKAYA MRISHO KIKWETE

President

4th August, 2015

An Act to Provide for establishment of one stop Border Posts within the United Republic with a view to giving effect to the provisions of agreements on one stop border processing arrangements; to authorize application of the laws of the United Republic and the laws of adjoining States in One Stop Border Posts and to provide for other related matters.

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title and
commencement

1. This Act may be cited as the One Stop Border Posts Act, 2015 and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Application

2. This Act shall apply to one stop border posts established within the United Republic and shall apply to Mainland Tanzania as well as Tanzania Zanzibar.

Interpretation

3. In this Act, unless the context requires otherwise:

“adjoining State” means a neighbouring State with which the Government of the United Republic enters into an agreement to establish a One Stop Border Posts;

“agreement” means an agreement for the establishment of a one stop border post concluded between the United Republic of Tanzania and an adjoining State;

“border control” means any border related control measure, check or authorisation provided for in the relevant legislation;

“control zone” means the part of the territory of a host State within which officers of the adjoining States are empowered to effect border control, and includes the exclusive use area;

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

“facilitation agent” means any person other than an officer providing services to facilitate completion of border control by passengers or freight in accordance with the relevant legislation of States which are party to the agreement;

“officer” means an officer responsible for conducting border controls in accordance with relevant legislations of states which are party to the Agreement concluded under this Act;

“One Stop Border Post” means a border post established under an agreement between the United Republic and an adjoining State and includes control zone;

“Minister” means the Minister, responsible for finance;

“relevant legislation” in relation to-

(a) the United Republic, means the laws listed in the Schedule;

(b) any party to an agreement other than the United Republic, means laws listed in the agreement or in terms of any law of that party which corresponds to this Act.

“relevant Minister” means the Minister responsible for the administration of any of the laws listed in the Schedule to this Act.

PART II

ESTABLISHMENT OF ONE STOP BORDER POSTS

Establishment
of One Stop
Border Post

4.-(1) The President may enter into or conclude an agreement with one or more adjoining States with the view to establishing one stop border posts within the United Republic.

(2) The President may, where he considers necessary, delegate the powers conferred under sub section (1) to the Minister.

(3) An agreement referred to under sub section (1) shall be made so as to-

(a) enable cooperation in border control operations between the United Republic and an adjoining State at a place located:

(i) in the territory of the United Republic of Tanzania; and

(ii) within a territory of one or more adjoining State;

- (b) facilitate cooperation in:
 - (i) information and communication technology so as to enable seamless, reliable and effective information exchange;
 - (ii) exchange of intelligence information with a view to foster smooth and secure operations in the movement of people and goods within a border post; and
- (c) empower officers as well as officials of one or more adjoining States to exercise extraterritorial border control in accordance with their respective national legislation, and includes the exercise of powers of arrest, search, seizure and detention of person or thing.

Exclusive use areas within control zones

5.-(1) Competent authorities of an adjoining State shall display official signs of any area intended for use as an exclusive use areas in the control zone.

(2) Officials of the adjoining State shall-

- (a) have exclusive control of access to its exclusive use area; and
- (b) maintain law and order in their exclusive use area, except that officials of the adjoining State may request the assistance of a host State for that purpose.

(3) Officials or members of a law enforcement agency of the United Republic shall not have access to the exclusive use area of the adjoining State, except at the request or with the permission of the officers of that adjoining State.

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Offences committed outside United Republic

- 6. -(1)** An act or omission-
- (a) by a citizen, resident or refugee of the United Republic or by any other person having entered the United Republic; and
 - (b) which:
 - (i) occurs at a One Stop Border Posts in an adjoining State; and
 - (ii) is an act or omission which, had it occurred within the territory of the United Republic it would have constituted an offence contrary to the laws of the United Republic, shall be considered as if the act or omission occurred in the United Republic.

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

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

Laws applicable to One Stop Border Post

7.-(1) The relevant legislation listed in the Schedule shall be applicable throughout One Stop Border Posts and shall be the basis for border control operations by the relevant institutions specified or mandated in the respective relevant legislation.

(2) The Minister may, in consultation with the relevant Minister, amend the Schedule.

(3) The relevant legislation of the United Republic and that of an adjoining State shall apply in the control zone for the purpose of enabling officers of the United Republic and those of any adjoining State to carry out border controls at One-Stop Border Posts.

Access to control zones by facilitation agents

8.-(1) Facilitation agents shall have access to the control zones for purposes specified under this Act.

(2) For the purpose of subsection (1), facilitation agents shall not be required to produce any travel document or entry permit, save that, for the purposes of identification, the facilitation agent shall at all times, display an identity and status card issued for that purpose.

**PART III
GENERAL PROVISIONS**

East African community one stop border posts Acts EAC

9. Notwithstanding the provisions of this Act, one stop border posts established pursuant to the East African Community One Stop Border Posts Act, 2013 shall be governed in the manner provided for under that Act.

Temporary Measure

10.-(1) This Act shall not affect the rights of the United Republic or that of any adjoining State to take temporary measures in the interest of defence and security, public safety, public order, economic interests of the United Republic or an adjoining State, public health, public morality or any other circumstances of a similar nature.

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(2) A State intending to take measures referred to under subsection (1) shall, through diplomatic channels, notify the other State accordingly.

(3) The temporary measures under subsection (1) shall have the effect of reversal of the sequence of border control operations, relocation of border control or the temporary closure of the border posts within that adjoining State's territory.

Regulations

11. The Minister may, in consultation with the relevant Minister, make regulations-

- (a) for the purpose of giving effect to the establishment and maintenance of One Stop Border Posts;
- (b) for the establishment of operational committees of One Stop Border Posts; and
- (c) generally for the better carrying out of the provisions of this Act.

Existing
bilateral
agreements

12. A bilateral agreement entered into by the United Republic for the control and operations of One Stop Border Posts before the coming into force of this Act shall be deemed to be an agreement entered in accordance with this Act.

SCHEDULE

(Made under section 7(1),(2))

RELEVANT LEGISLATION

1. Immigration Act, (Cap. 54).
2. The Tanzania Passports and Travel Documents Act, (Cap. 42).
3. Refugees Act, (Cap. 37).
4. EAC Customs Management Act, 2004.
5. Value Added Tax Act, (Cap. 148).
6. Excise (Management and Tariff) Act, (Cap. 147).
7. The Foreign Vehicles Transit Charges Act, (Cap. 84).
8. The Road and Fuel Tolls Act, (Cap. 220).
9. The Petroleum Act, (Cap. 392).
10. The Standards Act, (Cap. 130).
11. The Exports Control Act, (Cap. 381).
12. The Export Tax Act, (Cap. 196).
13. The Agricultural Products (Control of Movement) Act, (Cap. 78).
14. EAC Standardization, Quality Assurance, Metrology and Testing Act, 2006.
15. Police Force and Auxiliary Services Act, (Cap. 322).
16. Tanzania Food, Drugs and Cosmetics Act, (Cap. 219).
17. The Drugs Control and Enforcement Act, 2015.
18. The Anti-Trafficking in Persons Act, (Cap. 432).
19. The Anti-Money Laundering Act, (Cap. 423).
20. The Industrial and Consumer Chemicals (Management and Control) Act, (Cap. 182).
21. The Economic and Organized Crimes Control Act, (Cap. 200).
22. The Roads Act, (Cap. 167).
23. The Plant Protection Act, (Cap. 133).
24. The Surface and Marine Transport Regulatory Authority Act, (Cap. 413).
25. The Wildlife Conservation Act, (Cap. 283).
26. The Atomic Energy Act, (Cap. 188).
27. The Criminal Procedures Act, (Cap. 20).
28. The Evidence Act, (Cap. 6).
29. The Penal Code, Cap. 16.
30. The Cyber Crime Act, 2015.

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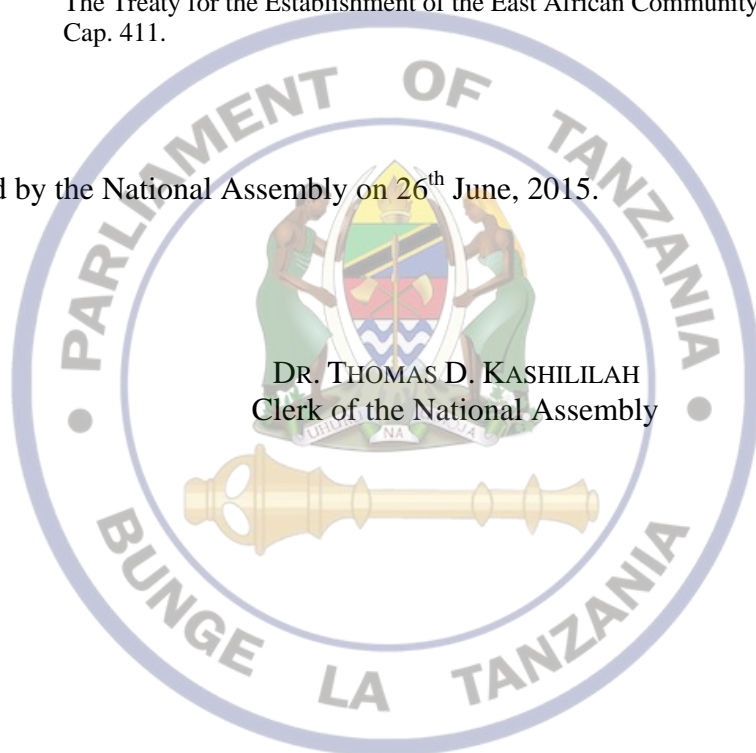
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31. The Mutual Assistance in Criminal Matters Act, Cap. 254.
32. The Extradition Act, Cap. 368.
33. The Fair Competition Act, Cap. 285.
34. The Citizenship Act, Cap. 354.
35. The Veterinary Act, Cap. 319.
36. The Treaty for the Establishment of the East African Community Act, Cap. 411.

Passed by the National Assembly on 26th June, 2015.

DR. THOMAS D. KASHILILAH
Clerk of the National Assembly



SHERIA YA VITUO VYA PAMOJA MIPAKANI, 2015

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Kifungu Jina

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2. Matumizi
3. Tafsiri

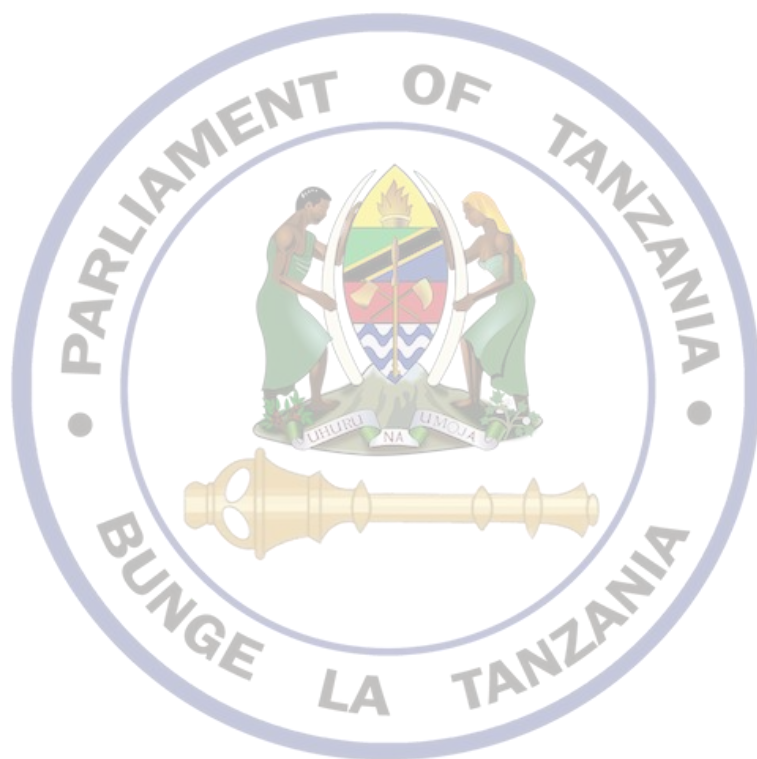
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4. Uanzishwaji wa vituo vya pamoja mipakani
5. Eneo tengefu ndani ya ukanda wa udhibiti
6. Makosa yanayofanyika nje ya Jamuhuri ya Muungano
7. Sheria zitakazotumika katika vituo vya pamoja vya mpakani
8. Wakala wa huduma kuingia katika ukanda wa udhibiti

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MASHARTI YA JUMLA

9. Vituo vya pamoja mipaka ya Jumuiya ya Afrika Mashariki
10. Hatua za dharura
11. Kanuni
12. Makubaliano ya pamoja yaliyopo

JEDWALI



Na. 17

Sheria ya Vituo vya Pamoja Mipakani

2015

JAMHURI YA MUUNGANO WA TANZANIA



NA.17 YA 2015

NAKUBALI,

.....
Rais
.....

Sheria ya uanzishwaji wa Vituo vya Pamoja Mipakani katika Jamhuri ya Muungano; kuweka utaratibu wa utekelezaji wa mikataba kuhusu uendeshaji wa Kituo cha Pamoja Mipakani; Kuruhusu kutumika kwa Sheria za Jamhuri ya Muungano wa Tanzania na Sheria za Nchi zinazopakana katika Vituo vya Pamoja Mipakani, na kuweka masharti ya masuala mengine yanayohusiana na hayo.

IMETUNGWA na Bunge la Jamhuri ya Muungano wa Tanzania.

**SEHEMU YA KWANZA
MASHARTI YA UTANGULIZI**

Jina fupi na
Kuanza

1. Sheria hii itaitwa Sheria ya Vituo vya Pamoja Mipakani, 2015 na itanza kutumika katika tarehe itakayota-

Na. 17	<i>Sheria ya Vituo vya Pamoja Mipakani</i>	2015
kutumika	ngazwa na Waziri kupitia taarifa itakayochapishwa kwenye Gazeti la Serikali.	
Matumizi	2. Sheria hii itatumika kwenye kituo cha pamoja mipakani kilivyoanzishwa ndani ya Tanzania Bara na Tanzania Zanzibar.	
Tafsiri	<p>3. Katika sheria hii, isipokuwa pale muktadha utakapohitaji vinginevyo-</p> <p>“Nchi inayopakana” maana yake ni Nchi jirani ambayo Serikali ya Jamhuri ya Muungano imeingia nayo makubaliano ya kuanzisha Vituo vya Pamoja Mipakani;</p> <p>“makubaliano” maana yake ni makubaliano ya kuanzisha kituo cha pamoja mpakani baina ya Jamhuri ya Muungano wa Tanzania na Nchi inayopakana.</p> <p>“udhibiti wa mpaka” maana yake ni hatua zozote zinazohusiana na usimamizi wa mipaka, uangalizi na udhibiti wa mipaka uliowekwa kwa mujibu wa sheria husika.</p> <p>“ukanda wa udhibiti” maana yake ni sehemu ya himaya ya Nchi mwenyeji ambayo maafisa wa Nchi inayopakana wamepeva mamlaka ya udhibiti wa mpaka, na inajumuisha utumiaji wa eneo tengefu.</p> <p>“eneo tengefu” maana yake ni eneo lililo ndani ya ukanda wa udhibiti ambalo ni mahsusi kwa ajili ya matumizi tengefu ya Nchi inayopakana.</p> <p>“wakala wa huduma” maana yake ni mtu yeyote mbali na Afisa, anayetoa huduma kwa ajili ya kuwezesha ukamilishaji wa taratibu za udhibiti wa mpaka kwa abiria na mizigo kwa mujibu wa sheria za nchi ambazo ni sehemu ya makubaliano.</p>	

“Afisa” maana yake ni Afisa mwenye jukumu la kuendesha udhibiti wa mpaka kwa mujibu wa sheria za Jamhuri ya Muungano wa Tanzania.

“kituo cha pamoja mpakani” maana yake ni kituo cha pamoja kilichoanzishwa mpakani kwa mujibu wa makubaliano baina ya Jamhuri ya Muungano na Nchi inayopakana na kinajumuisha ukanda wa udhibiti

“Waziri” maana yake ni Waziri ambaye, kwa wakati huo, anahusika na masuala ya fedha;

“ sheria husika” kuhusiana na-

- (a) Jamhuri ya Muungano, maana yake ni sheria zilizoordheshwa katika Jedwali;
- (b) mshirika yeyote katika makubaliano mbali na Jamhuri ya Muungano, maana yake ni sheria zilizoordheshwa katika makubaliano au kwa mujibu wa sheria zozote za mshirika huyo zinazohusiana na Sheria hii.

SEHEMU YA PILI

KUANZISHWA KWA VITUO VYA PAMOJA MIPAKANI

Uanzishwaji wa kituo cha pamoja mpakani

4.-(1) Rais anaweza kuingia au kutia sainsi makubaliano na nchi moja au zaidi tunazopakana kwa lengo la kuanzisha kituo cha pamoja katika Jamhuri ya Muungano

(2) Rais anaweza, pale atakapoona kuna umuhimu wa kufanya hivyo, kugatua madaraka yake aliyopewa kwa mujibu wa kifungu kidogo cha (1), kwa Waziri.

(3) Makubaliano yanayorejewa katika kifungu kidogo cha (1) yatafanyika ili-

- (a) kuwezesha ushirikiano katika udhibiti mpakani baina ya Jamhuri ya Muungano na Nchi inayopakana katika eneo lililopo-

- (i) ndani ya eneo la Jamuhuri ya Muungano;
- (ii) ndani ya eneo moja au zaidi ya Nchi inayopakana;
- (b) kuwezesha ushirikiano-
 - (i) katika teknolojia ya mawasiliano ya taarifa bila kikwazo na kwa lengo la kuwezesha upatikanaji wa taarifa sahihi na za kuaminika; na
 - (ii) wa kubadilishana taarifa za kiintelijensia kwa lengo la kuhakikisha usalama wa upitaji wa watu na uvushaji mizigo katika kituo cha mpakani;
- (c) kuwapa mamlaka Maafisa wa Serikali ya Jamhuri ya Muungano na maafisa wa Nchi zinazopakana kufanya shughuli za udhibiti wa mpaka nje ya mipaka ya nchi zao kwa mujibu wa sheria za nchi mshirika, na inajumuisha mamlaka ya kukamata, kufanya upekuzi na kuweka kizuizini mtu au mali.

Eneo tengefu ndani ya ukanda wa udhibiti

5.-(1) Mamlaka husika za Nchi zinazopakana zitaweka alama za viashiria katika eneo lolote linalokusudiwa kutumika kama eneo tengefu ndani ya ukanda wa udhibiti.

- (2) Maafisa wa Nchi inayopakana-
 - (a) watakuwa na mamlaka pekee ya kudhibiti matumizi ya maeneo yao tengefu;
 - (b) watadumisha utulivu katika maeneo yao tengefu, isipokuwa kwamba maafisa wa Nchi hiyo inayopakana wanaweza kuomba msaada kwa madhumuni hayo kutoka Nchi mwenyeji.

(3) Maafisa wa Jamhuri ya Muungano au maafisa wa kusimamia sheria hawatakuwa na mamlaka ya kuingia kwenye eneo tengefu la Nchi inayopakana, isipokuwa tu kwa maombi au idhini ya mamlaka ya hiyo Nchi inayopakana.

Makosa yanayofanyika nje ya Jamhuri ya Muungano

6.- (1) Kutenda au kutotenda jambo-

(a) kwa raia, mkazi au mkimbizi wa Jamhuri ya Muungano au mtu mwingine yeyote ambaye aliingia katika Jamhuri ya Muungano; na

(b) ambalo-

(i) limetendeka au kutotendeka katika Vituo vya Pamoja Mipakani upande wa Nchi inayopakana;

(ii) kama lingetendeka au kutotendeka ndani ya Jamhuri ya Muungano ingekuwa ni kosa kinyume na sheria za Jamhuri ya Muungano, itachukuliwa kuwa jambo hilo limetendeka au limeachwa kutendeka ndani ya Jamhuri ya Muungano.

(2) Kwa madhumuni ya kuepusha shaka, raia, mkazi au mkimbizi wa Jamhuri ya Muungano, au mtu mwingine yeyote aliyeingia katika Jamhuri ya Muungano, anaweza kukamatwa au kutiwa kizuizini ndani ya ukanda wa udhibiti wa Nchi inayopakana kwa kosa la uvunjifu wa sheria husika ili mtu huyo aweze kurejeshwa katika Jamhuri ya Muungano.

(3) Kwa madhumuni ya kubainisha ni mahakama ipi katika Jamhuri ya Muungano ina mamlaka ya kusikiliza shauri kwa kosa lililorejewa katika kifungu kidogo cha (1), kosa hilo litachukuliwa kuwa limetendeka katika himaya ya mahakama yenye mamlaka iliyo karibu zaidi na eneo ambalo kosa hilo limetendeka.

Sheria
zitatuzotumika
katika vituo vya
pamoja vya
mpakani

7.-(1) Sheria husika zilizoainishwa katika jedwali zitatumika katika vituo vya pamoja mipakani na zitakuwa nguzo ya usimamizi na uendeshaji wa mipaka kwa taasisi zilizoainishwa au kupewa mamlaka kwa mujibu wa sheria hizo husika.

(2) Waziri, kwa kushauriana na Waziri anayehusika, anaweza kurekebisha jedwali.

(3) Sheria husika za Jamuhuri ya Muungano na Nchi inayopakana zitatumiwa katika ukanda wa udhibiti na maofisa wa Jamuhuri ya Muungano na Nchi inayopakana kwa madhumuni ya kuwawezesha maofisa hao kutekeleza majukumu ya udhibiti wa kituo cha pamoja mipakani.

Wakala wa
huduma kuingia
katika ukanda
wa udhibiti

8.-(1) Wakala wa huduma wanaruhusiwa kuingia kwenye ukanda wa udhibiti kwa madhumuni ya utekelezaji wa majukumu yaliyoainishwa katika sheria hii.

(2) Kwa madhumuni ya kifungu kidogo cha (1), wakala wa huduma hatalazimika kuonyesha hati ya kusafiria au ya kuingia ndani ya Nchi, isipokuwa tu wakala huyo atalazimika kuingia kwenye ukanda wa udhibiti kwa kuonyesha kitambulisho chake, pamoja na kadi maalumu iliyotolewa kwa lengo hilo na nchi yake

SEHEMU YA TATU
MASHARTI YA JUMLA

Vituo vya
pamoja mipakani
vya Jumuiya ya
Afrika
Mashariki

9. Bila kujali masharti ya sheria hii, vituo vya pamoja mipakani vilivyoanzishwa kwa mujibu wa Sheria ya Vituo vya Pamoja Mipakani ya Jumuiya ya Afrika Mashariki, 2013 vitasimamiwa kwa mujuibu wa sheria hiyo ya Jumuiya.

Na. 17

Sheria ya Vituo vya Pamoja Mipakani

2015

Hatua za
dharura

10.-(1) Sheria hii haitaathiri haki ya Jamuhuri ya Muungano au ya Nchi yoyote inayopakana kuchukua hatua za dharura kwa masilahi ya ulinzi na usalama, usalama wa umma, hali ya utulivu, masilahi ya kiuchumi ya nchi, afya, maadili ya jamii na katika mazingira mengine yoyote yanayofanana na hayo.

(2) Endapo Nchi husika inakusudia kuchukua hatua hizo kama zilivyoainishwa katika kifungu kidogo cha (1), italazimika, kwa kutumia njia za kidiplomasia, kutoa taarifa ipasavyo kwa Nchi mshirika.

(3) Hatua za dharura kwa mujibu wa kifungu kidogo cha (1) zitakua na athari ya kubadili utaratibu wa mfumo wa udhibiti mpakani, kuhamisha sehemu ya udhibiti wa mpaka au kufunga kwa muda vituo vya mpakani vilivyoko katika himaya ya Nchi hiyo inayopakana.

Kanuni

11. Waziri, kwa kushauriana na Waziri husika, anaweza kutunga kanuni-

- (a) kwa ajili ya kuwezesha uanzishaji na utunzaji wa vituo vya pamoja mpakani;
- (b) kwa ajili ya kuanzisha kamati tendaji katika vituo vya pamoja mpakani; na
- (c) kwa ajili ya kuweka utaratibu bora wa utekelezaji wa sheria hii.

Makubaliano ya
pamoja yaliyopo

12. Makubaliano yaliyofanyika baina ya Jamuhuri ya Muungano na Nchi nyingine ya udhibiti na endeshaji wa vituo vya pamoja mpakani, ambayo yalifanyika kabla ya kuanza kutumika kwa Sheria hii, yatachukuliwa kuwa ni makubaliano yaliyofanyika kwa mujibu wa Sheria hii.

JEDWALI

(limetengenezwa chini ya *kifungu cha 7(1),(2)*)

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2015

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Imepitishwa na Bunge tarehe 26 June, 2015.

