

PART V
IMPORTATION

Imported goods subject to customs control.

37. (1) Goods are subject to the control of the Customs Department from the time of importation until the time the goods are lawfully removed from a customs controlled area—

- (a) for home use;
- (b) for exportation from Saint Christopher and Nevis; or
- (c) under a customs procedure allowed under this Act when the Comptroller is satisfied that the conditions of any permit issued under such procedures have been met.

(2) For the purposes of subsection (1), goods which are removed from a customs controlled area to another customs controlled area are not removed for home use.

- (3) The Minister may by regulations prescribe—
- (a) requirements for measuring and weighing goods; and
 - (b) such other special requirements respecting the handling or processing of goods.

Entry of goods on importation.

38. (1) The importer of goods, other than goods which are exempt under subsection (2) from the requirements of this section, shall submit to the proper officer a truthful declaration or entry of the goods in such form and manner and within the relevant period or such other time period as may be prescribed.

(2) The following goods are exempt from the requirements of this section—

(a) fresh fish taken by any person legally entitled to fish in Saint Christopher and Nevis and brought by the person in his or her vessel; and

(b) passenger baggage in accordance with regulations made under this Act.

(3) Subject to subsection (5), goods may be entered under subsection (1)—

(a) for warehousing, if so eligible;

(b) for home use, if so eligible;

(c) for transit or transshipment; or

(d) in such other case as the Comptroller may permit, for temporary retention with a view to subsequent exportation.

(4) Nothing in this section prevents, subject to any conditions as may be prescribed, the processing of an entry of goods before the importation of the goods into Saint Christopher and Nevis.

(5) When an entry made under subsection (1) in relation to non-dutiable goods is inaccurate in any particular, the importer shall, within forty-eight hours of the submission of the entry or such longer period as the Comptroller may allow, submit to the proper officer a full and accurate account of the goods.

(6) Notwithstanding any other provision of any customs enactment, when an inaccurate entry is submitted and the Comptroller is satisfied that the inaccuracy was inadvertent and immaterial except for statistical purposes—

(a) the importer does not commit an offence by reason only of the submission of the inaccurate entry; and

(b) the goods in respect of which the inaccurate entry is submitted are not liable to forfeiture by reason only of such inaccuracy.

(7) Notwithstanding the failure to submit a declaration or entry under subsection (1), the Comptroller may permit the delivery, to the importer, of any bullion, currency, notes or coins imported into Saint Christopher and Nevis, but the importer incurs a fixed penalty of ten thousand dollars if he or she fails, within forty-eight hours after the delivery of the bullion, currency, notes or coins, to submit to the

proper officer a full and true account, including weight and value of such bullion, currency, notes or coins.

(8) If, by the time prescribed under subsection (1) for the submission of a declaration or entry—

- (a) the owner of the goods or his or her agent has not submitted the declaration or entry; or
- (b) the goods have not been unloaded or produced for examination and clearance,

the master or commander of the vessel or aircraft in which the goods were imported or the relevant agent may enter, unload or produce the goods for examination and clearance.

(9) Where the importer enters goods subsequent to the filing of a declaration or entry under subsection (8), that entry made by the importer of the goods shall be substituted for the entry made under subsection (8).

(10) A person entering goods may, in accordance with such conditions as the proper officer may impose—

- (a) inspect the goods; or
- (b) draw samples from the goods.

(11) A person entering goods under this section shall—

- (a) answer any question put to him or her by a proper officer with respect to the goods; and
- (b) on the request of a proper officer—
 - (i) present the goods to the officer, which the officer wishes to examine;
 - (ii) remove any covering from the goods, which the officer wishes to examine;
 - (iii) unload any conveyance or open any part of it, which the officer wishes to examine; or
 - (iv) open and unpack any package which the officer wishes to examine.

(12) Subject to subsections (6) and (7), a person who contravenes any provision of this section commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars.

(13) In this section “the relevant period” means—

- (a) in the case of goods imported by sea, a period of fourteen days from importation; and
- (b) in the case of goods imported by air, a period of seven days from importation.

Entry by bill of sight.

39. (1) Where an importer is unable for want of full information to make a perfect entry in accordance with this Act, the importer may—

- (a) sign a declaration to that effect before the proper officer; and

(b) submit to the proper officer an entry of the goods by bill of sight.

(2) Where the Comptroller is satisfied that an importer is unable to obtain the required documents or information concerning goods to be entered and a declaration under subsection (1) has been made, the Comptroller shall permit—

- (a) the importer to examine the goods; and
- (b) the entry and delivery of the goods if—
 - (i) the importer submits to the proper officer an entry, in such form and manner and containing such particulars as the Comptroller may direct;
 - (ii) the description of the goods is correct for tariff and statistical purposes;
 - (iii) in the case of goods liable to *ad valorem* duty, the value of the goods declared on the entry is approximately correct; and
 - (iv) in the case of goods liable to duty according to weight or measurement, the weight or measurement of the goods declared on the entry is correct.

Provisional assessment.

40. (1) Where, by reason of the failure of the importer to produce satisfactory documentary evidence of the value of the imported goods, the Comptroller is unable to make a proper assessment of the value of such goods for the purpose of entry, the Comptroller may direct that—

- (a) the goods be examined;
- (b) the proper officer makes a provisional assessment of the value of the goods and the duty payable on the goods;
- (c) subject to this section, the goods are provisionally entered based on the payment of the amount of duty calculated by the importer; and
- (d) the amount paid by the importer under paragraph (c) shall be brought to account as revenue.

(2) Pending final entry of the goods, where the duty provisionally assessed under subsection (1)(b) is greater than the duty calculated by the importer, the importer shall, in addition to the amount payable under subsection (1)(c), pay as a deposit to the Comptroller, an amount equal to the difference between the duty provisionally assessed and the duty calculated by the importer.

(3) Subject to the approval of the Comptroller, the importer may secure the deposit payable under subsection (2) by means of a bond, a deposit by money or otherwise to the satisfaction of the Comptroller.

(4) When goods are provisionally entered in accordance with subsection (2), the Comptroller shall, in writing, give to the importer a notice in such form as the Comptroller thinks fit, specifying—

- (a) the provisional assessment under subsection (1)(a);
- (b) the basis for the assessment; and
- (c) the documents or other information relating to the value of the goods which the importer is required to produce within three months of the provisional entry.

(5) Where, upon the production of the additional documents or other information required under subsection (4)(c) to the satisfaction of the Comptroller, the duty assessed by the Comptroller is more than or less than the duty provisionally assessed—

- (a) the difference in duty shall be refunded to, or paid by, the importer; and
- (b) any bond, money or deposit secured for the payment of the additional duties or charges shall be cancelled.

(6) Unless an importer commences proceedings before the Commission—

- (a) the amount of duty which was provisionally assessed under subsection (1)(b) shall be treated as the final assessment; and
- (b) the deposit paid shall be brought to account as revenue if—
 - (i) any document or other information required under subsection (4)(c) is not produced within the specified time; or
 - (ii) the importer informs the Comptroller, in writing before the expiration of the specified time, that he or she is unable to produce any further documents or information.

(7) The Comptroller shall notify the importer of a final assessment determined under subsection (5) or (6) within ten working days of the date of the determination of the final assessment.

Removal of goods from customs controlled area.

41. (1) A person shall not deliver or remove imported goods from a customs controlled area except—

- (a) with the permission of the proper officer after entry of the goods is made in the prescribed form and manner and is accepted;
- (b) under a permit or other authorisation granted by the Comptroller in respect of such goods, subject to the conditions that the Comptroller may determine;
- (c) by a proper officer in the performance of his or her duties; or
- (d) as otherwise provided by any other provision of this Act.

(2) Notwithstanding subsection (1)(a), while goods remain subject to the customs control, the Comptroller may revoke any notice of delivery given in respect of such goods.

(3) The Comptroller may, by notice in writing, vary or revoke any conditions to which a permit or other authorisation is granted by the Comptroller under subsection (1).

(4) A person who is dissatisfied with a decision of the Comptroller under subsection (2) or (3) may, within seven working days after the date on which notice of the decision is given, request the Comptroller, in writing, to reconsider the decision.

Removal of uncleared goods to customs warehouse.

42. (1) Subject to subsection (2), when—

(a) entry in respect of imported goods has not been made by the expiration of the relevant period;

(b) entry in respect of imported goods has been made, but the goods have not been unloaded from the importing vessel or aircraft by the expiration of twenty-one days from the relevant date; or

(c) the imported goods are contained in a small package or consignment,

the proper officer may, at any time after the relevant period or date, cause such goods to be deposited in a customs warehouse in accordance with Part VIII.

(2) The goods shall not be deposited in a customs warehouse—

(a) if the goods are of a type set out in the First Schedule; or

(b) if, in the opinion of the Comptroller, the goods are of a perishable nature.

(3) Subject to subsection (4), the Comptroller may sell or otherwise dispose of any goods to which subsection (2) applies.

(4) The Comptroller shall, within seven days of the decision to sell the goods under subsection (3), give notice of the decision to the importer or the agent of the importer.

(5) In this section—

“the relevant date” means—

(a) subject to paragraphs (b) and (c), in relation to goods whose unloading from a vessel or an aircraft is restricted under an enactment relating to the prevention of an epidemic or infectious disease, the date of the removal of the restriction;

(b) subject to paragraph (c), the date of the making of the report of the importing vessel or aircraft under section 25; or

(c) where a report of the importing vessel or aircraft was not made under section 25, the date when such report should properly have been made;

“the relevant period” means—

(a) subject to sub-paragraph (b), a period of fourteen days; and

(b) in the case of goods imported by air, a period of seven days.

Control of movement of uncleared goods.

43. (1) This section applies to—

(a) goods chargeable with duty which has not been paid;

(b) goods on which drawback has been paid; and

(c) any other goods which have not been cleared by the Customs Department.

(2) The Minister may make Regulations respecting the manner in which, and the conditions under which, goods to which this section applies may be moved—

(a) within any customs controlled area;

(b) between customs controlled areas; or

(c) between a customs controlled area and any other place.

(3) Without prejudice to the generality of subsection (2), the Regulations may require that the goods only be moved—

- (a) by a person licensed by the Comptroller for that purpose; or
- (b) in the vessel or aircraft or by such other means as the Comptroller may approve for that purpose.

(4) A licence or approval for the purposes of subsection (3) may—

- (a) be granted for such periods; and
- (b) be subject to such conditions and restrictions, as the Comptroller thinks fit.

(5) The Comptroller may, at any time—

- (a) in such manner as he or she thinks fit; and
- (b) for reasonable cause,

revoke or vary the terms of any licence or approval granted under this section.

(6) A person who contravenes any—

- (a) regulation made;
- (b) condition imposed; or
- (c) term of any licence or approval granted,

under this section commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

Control of movement of goods to and from inland clearance depots, etc.

44. (1) The Comptroller may, by direction, impose conditions and restrictions with respect to the movement of imported goods—

- (a) between the place of importation and a place designated by the Comptroller for the entry and clearance of such goods; or
- (b) between the place of importation and the place of exportation of such goods.

(2) Subject to subsection (3), a document required to be created or produced as a result of a direction under subsection (1) shall—

- (a) be created or produced in such form and manner; and
- (b) contain such particulars, as the Comptroller may direct.

(3) The Comptroller may relax any requirement respecting the creation or production of any specific document if he or she imposes substituted requirements.

(4) A person who contravenes any direction under subsection (1) commits an offence.

(5) Where an offence is committed under this section—

- (a) the person who committed the offence is liable on summary conviction to a fine of twenty-five thousand dollars; and
- (b) any goods in respect of which the offence is committed is liable to forfeiture.

Treatment of improperly imported goods.

45. (1) Subject to subsection (2) and notwithstanding any other provision of this Act or any other customs enactment, goods are liable to forfeiture where the goods are—

- (a) unloaded at any port, unloaded from an aircraft, removed from their place of importation or from any customs controlled area without payment of duties due;
- (b) imported, landed or unloaded contrary to any prohibition or restriction in force with respect to them by or under virtue of any enactment;
- (c) prohibited or restricted goods by or under any enactment and are found, whether before or after unloading, to have been concealed in any manner on board a vessel or an aircraft;
- (d) chargeable with duty and are found, whether before or after unloading, to have been concealed in any manner on board a vessel or an aircraft;
- (e) imported concealed in a container holding goods of a different description;
- (f) found, whether before or after delivery, not to correspond with the entry made in respect of them; or
- (g) concealed or packed in any manner intended or appearing to be intended to deceive a customs officer.

(2) Subsection (1)(a) does not apply where an enactment expressly provides otherwise.

(3) A person who—

- (a) imports or causes to be imported goods—
 - (i) concealed in a container holding goods of a different description; or
 - (ii) packed in a manner appearing to be intended to deceive a customs officer; or
- (b) directly or indirectly, imports or causes to be imported or entered goods found, whether before or after delivery, not to correspond with the entry made in respect of them,

commits an offence and is liable on summary conviction to a fine of ten thousand dollars or equivalent to three times the value of the goods, whichever is greater.

(4) Without prejudice to any penalty imposed under subsection (3), the consignment of goods in respect of which the offence is committed under this section is liable to forfeiture.

Importation by post.

46. (1) This Act applies to the importation of postal packets in the same manner, so far as is reasonable, as it applies to the importation of any other goods.

(2) Without prejudice to subsection (1), in the application of this Act to the importation of postal packets—

- (a) goods contained in any postal packet may be examined and seized;

- (b) persons may be punished for offences against this Act or any other customs enactment; and
- (c) legal action may be instituted or taken, in relation to any matter mentioned in paragraph (a) or (b).

(3) Notwithstanding this Act, a proper officer may require an addressee of a letter or other postal packet to open, in the presence of the proper officer—

- (a) any letter arriving in Saint Christopher and Nevis from abroad which, in the opinion of a customs officer, is suspected of containing materials other than written or printed materials; and
- (b) any postal packet from abroad consigned to a place in Saint Christopher and Nevis.

(4) Where goods contained in a postal packet do not correspond with any declaration of contents made in respect of the postal packet, such goods are liable to forfeiture.

(5) Unless otherwise provided by law, a postal packet arriving in Saint Christopher and Nevis from abroad shall not be removed from customs control until the duty and taxes chargeable on the goods contained in the postal packet have been paid.

(6) The Postmaster General has the right of recovery for any amount which the Postmaster General would have been entitled to as postage from any sum paid under any customs enactment or otherwise under customs regulations in respect of any postal packet.

Time of importation.

47. Where imported goods are brought—

- (a) by sea, the time of importation of such goods is deemed to be the time when the vessel carrying the goods comes within the territorial sea or contiguous zone of Saint Christopher and Nevis; or
- (b) by air, the time of importation of such goods is deemed to be the time when the aircraft carrying the goods lands in Saint Christopher and Nevis.

Appointment of entities to collect duties and taxes.

48. The Minister may—

- (a) appoint any entity to collect duties assessed by the Customs Department; and make Regulations respecting such appointment.