

## PART VIII

## WAREHOUSING

**Approval of warehouses.**

**66.** (1) The Comptroller may approve as a warehouse any secure place in Saint Christopher and Nevis for the deposit, keeping and security of—

- (a) goods chargeable with customs duties; or
- (b) goods for exportation or for use as stores.

(2) Without prejudice to the generality of subsection (1), warehouses may be approved under subsection (1) for the following purposes—

- (a) short-term storage;
- (b) long-term storage under bond;
- (c) storage of unclaimed or abandoned goods;
- (d) storage of vessels' stores; or
- (e) storage of goods for duty-free shops.

(3) An approval under subsection (1) may be for such periods and subject to such conditions and restrictions as the Comptroller thinks fit.

(4) The Comptroller may—

- (a) restrict the goods which may be permitted to be warehoused in a particular warehouse to goods owned by the occupier of that warehouse; and
- (b) make the approval of any warehouse conditional upon the warehousing of a minimum amount of goods during a specified period, but different amounts may be required in respect of warehouses restricted under paragraph (a) and warehouses not so restricted.

- (5) The occupier of the warehouse—
- (a) is strictly liable for the contravention of any condition or restriction imposed under subsection (3) or (4); and
  - (b) shall post a bond, as may be prescribed in regulations made under this Act, as security for the liability imposed under paragraph (a).
- (6) When, after the approval of a secure place as a warehouse under subsection (1), the occupier of that warehouse contravenes any condition or restriction imposed by the Comptroller under subsection (2)—
- (a) the occupier commits an offence and is liable on summary conviction to a fine of ten thousand dollars; and
  - (b) the goods which are warehoused in contravention of the condition or restriction are liable to be sold at auction.
- (7) The Comptroller may, at any time for reasonable cause, revoke or vary the terms of an approval granted under subsection (1).
- (8) Where—
- (a) the Comptroller intends to revoke, or not to renew, any approval of a warehouse given under subsection (1), he or she shall, not later than three months before the date on which—
    - (i) the revocation is due to take effect; or
    - (ii) the approval is due to expire,give notice of such intention, in writing, to the occupier of the warehouse; and
  - (b) a notice is addressed to the occupier of, and left at the warehouse, the notice is deemed to have been served on all persons having an interest in any goods—
    - (i) deposited in that warehouse; or
    - (ii) permitted by or under this Act to be deposited in that warehouse,between the date of the giving of the notice and the date of cessation.
- (9) If, after the date of cessation or such later date as the Comptroller may permit, uncleared goods remain in a place no longer approved as a warehouse under subsection (1), such goods—
- (a) may be taken by a proper officer to a customs controlled area; and
  - (b) without prejudice to any other power or an earlier sale provided by this Act, may be sold if they are not cleared within one month.
- (10) For the purposes of subsections (8) and (9), “date of cessation” means the date on which—
- (a) the revocation of the approval of a warehouse given under subsection (1) is due to take effect; or
  - (b) the approval of a warehouse given under subsection (1) is due to expire.

**Maintenance of goods.**

**67.** (1) The occupier of a warehouse shall ensure that goods deposited in the warehouse are arranged, stowed and maintained in a manner which permits easy access to the goods.

(2) The Comptroller may give directions respecting the arrangement, stowage or maintenance of goods as he or she thinks fit.

(3) An occupier who fails to arrange, stow or maintain goods in a warehouse in accordance with this section commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

**Prohibited goods.**

**68.** (1) Subject to subsection (2), the goods, classes of goods or description of goods specified in the First Schedule shall not be warehoused.

(2) Subsection (1) does not apply to goods constructively warehoused for short-term storage under section 66.

(3) The Minister may, by Regulations, amend or vary the First Schedule by deleting from or adding to the list of goods, classes or descriptions of goods specified in that Schedule.

**Limits on duration of warehousing.**

**69.** (1) Unless the Comptroller otherwise permits and subject to such conditions and restrictions as he or she thinks fit to impose, warehoused goods—

(a) shall not remain warehoused for a period in excess of two years; and

(b) which remain warehoused for a period in excess of two years may be sold or otherwise disposed of.

(2) The Minister may, by Regulations, prescribe any class or description of goods which shall not remain warehoused for a period longer than twelve months.

(3) The occupier of a warehouse shall, on request, produce to a customs officer any goods deposited in the warehouse which are not lawfully authorised to be deposited in the warehouse.

(4) An occupier of a warehouse who fails to produce the goods in accordance with subsection (3) commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars or equivalent to three times the value of the goods, whichever is greater.

**Goods warehoused contrary to sections 68 and 69.**

**70.** Where goods are warehoused contrary to section 68 or 69, such goods are liable to forfeiture.

**Re-entry.**

**71.** (1) Goods permitted to be removed from a warehouse for transport to another warehouse may, at any time before such goods have been physically placed in the other warehouse—

(a) be entered by their owner—

(i) for home use, if eligible; or

- (ii) for exportation or use as stores; or
  - (b) be removed for transport to any other warehouse approved for warehousing of such goods.
- (2) Where—
- (a) goods have been entered in accordance with subsection (1)(a), such goods shall be dealt with as if they had been entered or withdrawn from the warehouse; or
  - (b) goods have been removed in accordance with subsection (1)(b), such goods shall be dealt with as if they had been warehoused and removed for transport.
- (3) Where the owner of warehoused goods, with the concurrence of the occupier of the warehouse, desires to re-warehouse goods according to the account taken at the time of the original entry of the goods into the warehouse, without re-examination, the re-examination may be dispensed with, if the proper officer is satisfied that—
- (a) the goods are still in the warehouse; and
  - (b) there is no reason to suspect that there is any discrepancy in the quantity of the goods.
- (4) Where goods have remained in a warehouse for a period in excess of two years, such goods shall not be re-warehoused under this section.
- (5) Where goods are held in containers, no part of such goods shall be entered or removed under subsection (1) unless that part consists of one complete container or more.

**Removal from warehouses.**

- 72.** (1) A proper officer may examine goods upon the removal of the goods from a warehouse for entry—
- (a) for home use;
  - (b) for use as stores; or
  - (c) for export.
- (2) The occupier of a warehouse shall be liable for the duty due on any discrepancy not otherwise allowed by law—
- (a) discovered in the quantity of goods at the time of delivery for entry under subsection (1); or
  - (b) at any time earlier than the time of delivery, when the discrepancy is discovered.
- (3) Subject to such allowances as are permitted by law, the duties due on any excess goods over the quantity declared on importation and the quantity found at the time of removal, together with any necessary expenses and charges incurred in respect of the goods, shall be paid to the Comptroller, unless the excess quantity of goods is otherwise permitted by law.
- (4) Any excess quantity of goods found on examination by the occupier of the warehouse shall be re-warehoused in the name of the owner of the goods in the same manner as on first importation.

**Loss and deterioration of goods.**

**73.** (1) Where, at the time, goods lawfully removed from the warehouse are found to be missing, wholly or in part, the occupier of the warehouse commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars or equivalent to three times the value of the goods, whichever is greater.

(2) Notwithstanding any other fine or any liability to forfeiture incurred under this Act, where the occupier of a warehouse commits an offence under subsection (1), the occupier of the warehouse shall, in addition to any restitution owed to the owner of the goods, pay to the Comptroller—

- (a) subject to paragraph (b), the duty which such goods would have borne if they had been entered for home use on the date of the discovery of the deficiency; or
- (b) if the goods are not eligible for home use, an amount which is, in the opinion of the Comptroller, the value of the goods.

(3) Where—

- (a) goods have, without payment of duty, been lawfully removed from a warehouse for transport to another warehouse or to some other place; and
- (b) such goods fail to reach that other warehouse or place,

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

(4) Notwithstanding any other fine or liability to forfeiture incurred under this Act, the owner of the goods who commits an offence under subsection (3) shall pay to the Comptroller—

- (a) subject to paragraph (b), the duty which such goods would have borne if they had been entered for home use on the date of their removal from the warehouse; or
- (b) if the goods are not eligible for home use, an amount which is, in the opinion of the Comptroller, equal to the value of the goods.

(5) Where—

- (a) within two years from the date of entry of goods in a warehouse, the warehoused goods are damaged, destroyed or unlawfully removed by or with the assistance of a customs officer; and
- (b) the customs officer is convicted of an offence in relation to such damage, destruction or removal,

the Comptroller shall pay compensation for any loss caused by reason of the damage, destruction or removal, except where the occupier of the warehouse or the owner of the goods was a party to the offence.

(6) Notwithstanding anything contained in any other provision of any customs enactment to the contrary, where the Comptroller is required to pay compensation under subsection (5)—

- (a) the occupier of the warehouse or the owner of the goods is not liable to pay any duty on the goods; and

- (b) the Comptroller shall refund any sum paid by way of duty before the conviction of the customs officer.

**Payment of duties.**

**74.** (1) Unless otherwise permitted under this Act, a person shall not remove goods from a warehouse until—

- (a) the duty chargeable on such goods and any charges payable in respect of the removal of the goods from the warehouse have been paid; and
- (b) entry of such goods has been made, if the goods requiring entry had not yet been entered.

(2) The amount payable in duties in respect of the goods shall be calculated in accordance with the value of the goods determined when they were first warehoused.

(3) The rates of duty chargeable on warehoused goods are the rates which are in force with respect to the goods of that class or description at the time of the removal of the warehoused goods from the warehouse for consumption, export or use as vessels' stores.

(4) Where goods being spirits, wine or tobacco are removed from a warehouse within one year of the date of entry into the warehouse, the calculation in respect of the duty chargeable shall be in accordance with—

- (a) subject to paragraph (b), the quantity of the goods ascertained by weight, measure or strength at the time of removal of the goods; or
- (b) the account made at the time of entry into the warehouse, if the Comptroller determines that the difference between the account made at the time of entry into the warehouse and the account made at the time of removal is not explained by natural evaporation or any other legitimate cause.

(5) Subject to subsection (6), where, within two years from the date of entry in a warehouse, warehoused goods have deteriorated or have been changed to such a degree that the Comptroller is satisfied that they have become worthless, the Comptroller may allow such abatement of the duty chargeable on such goods as, in his or her opinion, the amount of the deterioration or damage bears to the original value of the goods.

(6) The abatement shall only be allowed where the deterioration or change—

- (a) occurred within one year of the entry into warehouse or such longer period as is otherwise allowed under this Act; and
- (b) is not attributable to any fault or negligence of the occupier of the warehouse or the owner of the goods or any other person having an interest in the goods.

**Removal of warehoused goods without payment of duty.**

**75.** (1) Notwithstanding any other provision of this Act authorising the removal of goods from a warehouse without payment of duty, the Comptroller may, subject to such conditions and restrictions as he or she thinks fit, permit warehoused goods entered for removal for any purpose other than home use to be removed for that purpose without payment of duty.

(2) Where any condition or restriction imposed under subsection (1) in respect of the removal of any goods is contravened, the goods are liable to forfeiture.

**Customs warehouses.**

**76.** (1) The Comptroller may appoint any place as a “customs warehouse”—

- (a) for the deposit of goods; and
- (b) for the security of goods and any duty chargeable on goods.

(2) Where, in respect of any goods which may or are required to be warehoused, the Comptroller is of the opinion that it would be undesirable or inconvenient to deposit such goods in a customs warehouse, this section applies to the goods as if they were deposited in a customs warehouse.

(3) The Minister may, by Regulations, prescribe the rent payable in respect of goods deposited in a customs warehouse.

(4) The Cabinet may remit or authorise the refund of any rent payable or paid in respect of any goods deposited in a customs warehouse.

(5) Where any goods are deposited in a customs warehouse—

- (a) the Comptroller may, in respect of any such goods, do all acts which he or she regards as necessary for the custody and preservation of the goods; and
- (b) the owner of such goods is, in addition to any other charges payable in respect of such goods, liable to pay the expenses incurred by the Comptroller under paragraph (a).

(6) If any goods deposited in a customs warehouse are in the opinion of the Comptroller of such a character as to require special care or treatment—

- (a) the goods shall, in addition to any other charges payable on them, be chargeable with such expenses for securing, watching and guarding them as the Comptroller may consider necessary;
- (b) the Comptroller shall not be liable to make good any damage which the goods may sustain; and
- (c) the Comptroller may sell the goods if the proprietor of the goods does not clear the goods within fourteen days from the date of their deposit.

(7) Save as the Comptroller may otherwise permit—

- (a) any goods deposited in a customs warehouse shall be removed from that warehouse within two months from the date of the deposit of that goods in the warehouse; and
- (b) any goods not removed within the time specified in paragraph (a) may be sold.

(8) Save as permitted by or under this Act, no goods shall be removed from a customs warehouse—

- (a) subject to paragraph (b), until all duty chargeable on the goods, and any charges in respect of the removal of the goods to the customs warehouse under subsections (3), (6) and (7), have been paid; and
- (b) if such goods require entry but have not yet been entered, until entry of the goods has been made.

(9) Any customs officer having custody of goods in a customs warehouse may refuse to permit the goods to be removed until it is shown to his or her satisfaction that all freight charges due on the goods have been paid.

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**Regulations for goods in a warehouse.**

**77.** The Minister may make regulations—

- (a) for the proper control and management of goods in a warehouse; and
- (b) allowing for private sector management and control of any warehouse.