

CHAPTER 20.04 CUSTOMS ACT

AN ACT TO PROVIDE FOR THE LAW RELATING TO THE OPERATIONS OF THE CUSTOMS DEPARTMENT AND TO PROVIDE FOR RELATED AND INCIDENTAL MATTERS.

PART I PRELIMINARY MATTERS

Short title.

1. This Act may be cited as the Customs Act.

Interpretation.

2. In this Act—

“agent” means a person who is authorised in writing by a person required to perform any act under this Act to act as his or her agent for the purpose of conducting customs business under this Act;

“aircraft” means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface;

“airport” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

“approved wharf” has the meaning assigned to it in section 14;

“assessment of duties and taxes” means the determination of the amount of duties and taxes due;

“assigned matter” means any matter in relation to which the Comptroller is for the time being required, under any enactment, to perform any duty;

“audit” means the measures used by the Comptroller to satisfy the requirements of the Comptroller concerning the accuracy and authenticity of declarations;

“authorised person” means a person authorised by the Comptroller under section 5;

“bearer negotiable instruments” includes monetary instruments in bearer form including traveller’s cheques, negotiable instruments such as cheques, promissory notes and money orders, whether in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery and incomplete signed instruments with the payee’s name omitted; (*Inserted by Act 11 of 2020*)

“boarding station” means any place appointed as such under section 14;

“burden” means the net registered tonnage, or tonnage calculated in the manner prescribed by law for ascertaining net registered tonnage;

“Cabinet” means the Cabinet of Ministers established by section 54 of the Constitution;

“cargo” means goods, other than mail, stores, crew member’s effects and passenger’s accompanied baggage, carried on board a vessel or an aircraft for consideration;

“clearance” is the completion of customs formalities required for goods or conveyances to enter home use, to be exported, or to be placed under another customs procedure applicable to imported or exported goods;

“clearance for home use”, in relation to imported goods, means that the goods—

- (a) have completed the required customs clearance formalities;
- (b) are no longer subject to customs control; and
- (c) are available for free circulation in Saint Christopher and Nevis;

“coasting aircraft” has the meaning assigned to it in section 58(1)(b);

“coasting trade” has the meaning assigned to it in section 58;

“coasting vessel” has the meaning assigned to it in section 58(1)(b);

“commander,” in relation to an aircraft, includes a person having or taking charge or command of the aircraft;

“Commission” means the Customs Appeal Commission established under section 210;

“Common External Tariff” means the Common External Tariff established in accordance with Article 82 of the Revised Treaty;

“Comptroller” means the Comptroller of Customs appointed under section 80 of the Constitution and provided for under section 4;

“container” includes any bundle or package and any box, cask or other receptacle, however constructed;

“contiguous zone” has the same meaning as in section 6 of the Maritime Areas Act, Cap. 7.03;

“conveyance” includes a vehicle, aircraft, vessel or other machine used or capable of being used for the carriage or transportation of persons or goods by land, air or water or over or above water;

“copy” when used as a verb in relation to information, includes save a copy of the information in an electronic storage device;

“crew” means any person employed on board any vessel or aircraft during a voyage or flight, whether or not such a person is on any crew list;

“customs airport” means a place appointed as such under section 15;

“customs area” means any place approved under section 14;

“customs controlled area” means a place appointed or approved under Part III or VII;

“Customs Department” means the Customs and Excise Division of the Ministry of Finance;

“customs direction” includes—

- (a) a lawful request, order, command, or instruction given by a customs officer to a person to perform or to refrain from performing an act or to submit to a procedure for the purposes of this Act;
- (b) any notice, poster, or sign publicly displayed in a customs controlled area; and
- (c) a direction contained in a form prescribed under this Act;

“customs duty” means duty imposed on imports or exports and does not include value added tax;

“customs enactment” includes—

- (a) this Act and any subsidiary legislation made under this Act; and
- (b) any other enactment which relates to an assigned matter;

“customs officer” means the Comptroller, the Deputy Comptroller or any other person employed in the Customs Department including any person authorised in writing by the Comptroller to act as a customs officer or any person acting in the aid of a customs officer;

“customs warehouse” means a warehouse appointed as such under section 77;

“declaration” means a statement, in verbal, written or electronic form, made by an importer or exporter providing information required by the Comptroller;

“document” means—

- (a) a map, plan, drawing or photograph;
- (b) any written information; or
- (c) a record generated in any manner, including electronically;

“drawback” means a refund on exportation of goods of any customs duty, wholly or in part, paid on their importation;

“dutiable goods” means goods of a class or description subject to duty, whether or not—

- (a) such goods are in fact chargeable with duty; and
- (b) the duty has been paid;

“duty” includes any tax or surtax imposed on imports and exports;

“entered”—

- (a) in relation to goods imported, warehoused, put on board an aircraft or ship as stores or exported, means the acceptance and signature by the proper officer of an entry, specification or shipping bill and declaration signed by the importer or exporter on the prescribed form in the prescribed manner, together with the payment to the proper officer by the importer or exporter of all rents and charges due to the Government in respect of the goods; and
- (b) in the case of dutiable goods except on the entry for warehousing of imported goods means the payment by the importer or exporter to the proper officer of the full duties thereon, or else, where permitted, the deposit of a sum of money or giving of security for the duties, as provided by law; or
- (c) in the case of goods for which security by bond is required on the exportation, putting on board an aircraft or ship as stores or removal of such goods, means the giving of such security;

“entry”, in relation to—

- (a) the importation or exportation of goods, means the submission of a declaration required under section 39 or 51;

(b) a vessel or an aircraft, means a document delivered to the proper officer in accordance with section 25 or 53;

“entry by bill of sight” means an entry made in accordance with section 40;

“examination station” means any place approved as such under section 16;

“export” means—

(a) to take goods, or cause goods to be taken, outside the territorial sea or contiguous zone of Saint Christopher and Nevis; or

(b) to load goods, or cause goods to be loaded, on a vessel or an aircraft for use as stores;

“exporter”, in relation to goods, means—

(a) the owner or other person beneficially interested in the goods which are exported or supplied for use as stores; or

(b) an agent acting on behalf of a person referred to in paragraph (a);

“goods” includes any tangible property, including personal property, livestock, conveyances, stores, baggage, documents (including in electronic form), currency, bearer negotiable instruments and mail and packets imported by post, and includes prohibited or restricted goods;

(Amended by Act 11 of 2020)

“goods in free circulation” means goods which may be disposed of without customs restrictions;

“Government” means the Government of Saint Christopher and Nevis;

“import” means to bring goods or cause goods to be brought into Saint Christopher and Nevis or the territorial sea or contiguous zone;

“importer”, in relation to the importation of goods, means the person, including the owner or consignee, or other person beneficially interested in the goods, or an agent acting on behalf of that person;

“land,” in relation to the arrival of aircraft, includes alighting on water;

“lethal weapon” means any weapon which, when used, is capable of causing injury from which death may result, whether or not the weapon was designed to cause injury;

“master,” in relation to a vessel, includes any person having or taking charge or command of the vessel;

“Minister” means the Minister responsible for Customs;

“name” includes the registration mark of a vessel or an aircraft;

“nautical mile” means a distance of one thousand eight hundred and fifty-two metres;

“occupier”, in relation to a warehouse, means the person who has given security to the Comptroller in respect of the premises;

“offensive weapon” means any article made or adapted for use for causing injury to a person or intended by the person having such article with him or her for use by him or her or by some other person;

“owner”, in relation to—

(a) an aircraft, includes the commander of the aircraft;

(b) a vessel, includes the master of the vessel; and

(c) goods, includes any importer, exporter, shipper and other person possessed of or beneficially interested in the goods;

“passenger” means a person other than a crew member travelling on, arriving from or departing on a vessel or an aircraft;

“passenger’s accompanied baggage” means property, including currency, bearer negotiable instruments carried for a passenger on a vessel or an aircraft, whether or not in the passenger’s personal possession so long as it is not carried under a contract of carriage or other similar agreement and does not include any article intended for sale or exchange;

(Amended by Act 11 of 2020)

“perfect entry” means an entry made in accordance with section 39;

“pleasure craft” means a vessel which—

(a) at the time of its arrival at a place in Saint Christopher and Nevis, is being used for private recreational purposes only; or

(b) the proper officer, after application is made to him or her in writing, permits to be treated, used or operated as a pleasure craft;

“police officer” means a member of the Royal St. Christopher and Nevis Police Force;

“port” means a place appointed as such under section 14;

“Ports Authority” means in the island of Saint Christopher, the Saint Christopher Air and Sea Ports Authority established by section 3 of the Saint Christopher Air and Sea Ports Authority Act, Cap. 8.07 or in the island of Nevis the Nevis Air and Sea Ports Authority established by section 4 of the Nevis Air and Sea Ports Authority Act, Cap. 8.05;

“prohibited goods” includes goods of a class or description of which the importation, exportation or carriage coastwise is prohibited under or by virtue of any enactment;

“proper officer”, in relation to the person by or with whom, or the place at which any thing is to be done, means the customs officer or person appointed or authorised by the Comptroller in that behalf;

“proprietor”, in relation to goods, includes any owner, importer, exporter, shipper and other person possessed of or beneficially interested in those goods;

“residential premises” means a building or part of a building lawfully used as, or for the purposes of, a private residence or commercial dwelling, including the cartilage of the building or, where the boundaries of the cartilage are not ascertainable, the land within a distance of 75 feet from the building;

“restricted goods” includes goods of a class or description of which the importation, exportation or carriage coastwise is restricted under or by virtue of any enactment;

“Revised Treaty” means the Treaty of Chaguaramas establishing the Caribbean Community, including the CARICOM Single Market and Economy, signed at Nassau, The Bahamas, on 5 July, 2001;

“spirits” includes all liquors mixed with spirits and all mixtures, compounds and preparations made with spirits, but does not include perfumed spirits, methylated spirits and medicated spirits;

“stores” means goods, including fuel and spare parts and other articles or equipment whether or not for immediate fitting, for use in a vessel or an aircraft;

“tainted” in relation to any goods, article, item or other property, means liable to forfeiture under this Act or any other customs enactment;

“territorial sea” has the same meaning as in section 3 of the Maritime Areas Act, Cap. 7.03;

“transhipment” means the customs procedure under which goods are transferred under customs control from the importing means of transport to the exporting means of transport within one customs area, which is the area of both importation and exportation;

“transit” means the customs procedure under which imported goods are transferred under customs control from the port of entry to another customs controlled area;

“transit shed” means a building or place approved as such by the Comptroller under section 17 for the temporary deposit of goods that are imported or are to be exported;

“uncustomed goods” includes any goods—

- (a) liable to duty on which the full duties due have not been paid or secured; and
- (b) whether liable to duty or not, which are imported or exported or in any way dealt with contrary to any customs enactment;

“vehicle” means any method of carriage or conveyance for use on land, whether it is also capable of being used on or over water, and includes any cart and wagon and any trailer attached to any such carriage or conveyance;

“vessel” includes any ship, hovercraft and boat;

“warehouse”, except in the expression “customs warehouse”, means any place of security approved by the Comptroller under section 67;

“warehoused” means deposited in a warehouse in accordance with Part VIII.

Application of Act.

3. (1) This Act applies in relation to—
 - (a) the control of coasting trade;
 - (b) the importation and exportation of goods;
 - (c) the arrival of persons from outside the territorial sea or contiguous zone of Saint Christopher and Nevis; and
 - (d) the departure of persons to a destination outside the territorial sea or contiguous zone of Saint Christopher and Nevis.
- (2) The requirements imposed by Parts V, VI and VII do not apply—
 - (a) to a vessel or an aircraft owned by or in the service of the Government, when being used for the purpose of customs, police or coastguard; and
 - (b) where the Comptroller so directs and for such periods and subject to such conditions and restrictions as he or she sees fit to impose, to any vessel or aircraft owned by or in the service of the government of any other country.

(3) Subject to subsection (4)—

- (a) sections 29 to 37 do not apply to any member of any disciplined force or any conveyance under the control of any disciplined force during such time as that person or conveyance is required to respond to an emergency; and
- (b) sections 21 to 22 and 24 to 28 do not apply to any member of any disciplined force or any conveyance under the control of any disciplined force during such time as that person or conveyance is involved in an emergency described in subsection (7)(a) or (c).

(4) Where a vessel or an aircraft under the control of any disciplined force which is involved in, or is required to respond to, an emergency departs from or returns to Saint Christopher and Nevis, the disciplined force shall, within a period of twenty hours or such longer period as the Comptroller may allow—

- (a) notify the Comptroller of the departure of the vessel or aircraft from Saint Christopher and Nevis or the arrival of the vessel or aircraft in Saint Christopher and Nevis; and
- (b) provide to the Comptroller such details relating to goods and persons on the vessel or aircraft as the Comptroller specifies.

(5) The power of the Comptroller under subsection (4) to determine a period or to specify details required may be exercised generally or in respect of any particular case.

(6) The Minister may make Regulations prescribing the circumstances in which and the conditions under which the powers conferred under Part XIII may be exercised in relation to—

- (a) a member of a disciplined force;
- (b) any vessel under the control of the Police Force; or
- (c) access to any security area for the purpose of the defence and security of the State.

(7) For the purposes of this section, “emergency” means—

- (a) a national emergency within the meaning of the Constitution of Saint Christopher and Nevis set out as the Fourth Schedule to the West Indies Act, Cap. 1.01 or the National Disaster Management Act, Cap. 19.06 or the Emergency Powers Act, Cap. 19.02;
- (b) a search and rescue event at any place outside Saint Christopher and Nevis involving a serious and imminent threat to the safety of persons or any vessel or aircraft; or
- (c) a state of war or other similar emergency in a place outside Saint Christopher and Nevis.

(8) Nothing in this Act shall be construed as limiting the immunities of—

- (a) any foreign warship or other vessel of the government of any other country operated for non- commercial purposes;
- (b) any foreign military aircraft; or
- (c) members of the crew of any vessel or aircraft to which paragraph (a) or (b) applies.