

PART VI

EXPORTATION AND LOADING

Goods for export subject to customs control.

49. (1) Goods to be exported are subject to the customs control—
- (a) subject to paragraph (b), from the time such goods are brought to a customs controlled area for exportation, whether or not the goods are later transported from that area to any other location and, if the goods are transported to another location, during the transportation until their exportation to a place outside Saint Christopher and Nevis;
 - (b) where such goods are to be exported under drawback, from the time of the claim for drawback or the time the goods are brought to a customs controlled area for exportation, if earlier, until the exportation of the goods to a place outside Saint Christopher and Nevis; and
 - (c) without prejudice to paragraphs (a) and (b), where such goods are in a package to which a customs seal has been affixed, from the time when the customs seal is first affixed to the package until the exportation of the goods to a place outside Saint Christopher and Nevis.
- (2) For the purposes of this Act, goods which are removed under subsection (1) from a customs controlled area to another customs controlled area are not to be construed as having been removed for home use.

Entry of goods for exportation.

50. (1) Subject to section 51, the exporter of goods, other than passenger accompanied baggage, shall submit to the proper officer an export declaration in respect of such goods—

- (a) in such form and manner and containing such particulars as may be prescribed; and
- (b) within such time as may be prescribed or such further time as the Comptroller may allow.

(2) A person who submits a declaration under this section shall—

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

(3) Where an export declaration submitted under subsection (1) is incorrect, the exporter shall, within fourteen days after the submission of the declaration or such longer period as the Comptroller may allow, be permitted to submit to the Comptroller a full and accurate export declaration respecting the goods.

(4) Notwithstanding anything contained in any other provision of any customs enactment to the contrary, where the Comptroller is satisfied that the error referred to in subsection (3) was not made knowingly or recklessly—

- (a) the person submitting the declaration does not commit an offence by reason only of the error; and
- (b) the goods in respect of which the error was made are not liable to forfeiture by reason only of such error.

(5) Where goods which have been declared for exportation or for use as stores are not—

- (a) loaded on to the vessel or aircraft for which they are cleared; or
- (b) exported according to the export declaration,

such goods are liable to forfeiture, unless within twenty-four hours of the departure of the vessel or aircraft the person who made the declaration notifies the proper officer of the failure to load or export such goods and the reasons for such failure.

(6) Where the Comptroller receives notice in accordance with subsection (5), he or she—

- (a) shall cancel or amend the relevant export declaration; and
- (b) may, where applicable, allow the goods to be released from customs control.

(7) Except as otherwise permitted by the Comptroller, where goods are loaded on board a vessel or an aircraft for exportation or for use as stores before the export declaration in respect of such goods has been submitted, the goods are liable to forfeiture.

(8) Where the loading on board referred to in subsection (7) was done with intent to evade this Act or any other customs enactment, the person concerned in that act 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 or to imprisonment for two years.

Comptroller may waive conditions of shipment.

51. (1) The Comptroller may in exceptional circumstances waive any of the requirements imposed by section 50(1) in relation to any goods, class or description of goods, subject to any conditions and restrictions that he or she considers fit to impose.

(2) The Comptroller may give any direction respecting the goods which need not be declared for export by the exporter until after the departure of the vessel or aircraft by which the goods are exported.

(3) Goods permitted to be declared for export after the departure of the vessel or aircraft by which they are exported shall be declared within twenty-four hours of the clearance of the vessel or aircraft or such further period as the Comptroller may allow.

(4) Where goods are permitted to be declared for export after the departure of the vessel or aircraft by which they are exported, the Comptroller shall require the exporter to give security for the payment of any export duties on any goods liable to export duties on such conditions as the Comptroller thinks fit.

(5) Where goods are not declared for export within the time provided by subsection (3), the exporter commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

Entry outwards of vessels and aircraft.

52. (1) Unless the Comptroller otherwise permits—

- (a) before goods for exportation or use as stores are loaded on to a vessel or an aircraft; or

- (b) where a vessel or an aircraft carrying goods arrives at a port but it is intended that such vessel or aircraft will proceed to a destination outside Saint Christopher and Nevis,

the master or commander of the vessel or aircraft or the relevant agent shall submit to the proper officer a declaration of departure for the vessel or aircraft, in such form and containing such particulars as the Comptroller may direct.

(2) Where a declaration submitted under subsection (1) is incorrect, the person who made it shall, within seven days of the submission of the declaration or such longer period as the Comptroller may allow, be permitted to amend it.

(3) Notwithstanding anything contained in any other provision of any customs enactment to the contrary, where the Comptroller is satisfied that the error was not made knowingly or recklessly—

- (a) the person submitting the declaration does not commit an offence; and
- (b) the goods which were the subject of the error are not liable to forfeiture, by reason only of the error.

(4) Where—

- (a) a person who is required by subsection (1) to submit a declaration fails to do so, the person commits an offence and is liable on summary conviction to a fine of ten thousand dollars; and
- (b) goods are loaded on board a vessel or an aircraft in contravention of subsection (1), the master or commander of the vessel or aircraft or the relevant agent commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

(5) Where an offence is committed under subsection (4)(b), the goods in respect of which the offence is committed are liable to forfeiture.

Security for exportation of goods.

53. (1) Where goods subject to drawback or warehoused goods are to be exported, the Comptroller may require the exporter to give security in the amount of the duty which would have been chargeable on the goods if such goods had been imported into Saint Christopher and Nevis for home use.

(2) The security under subsection (1) shall be forfeited if within one month of the exportation of the goods or such longer period as the Comptroller may permit, the exporter does not—

- (a) produce to the Comptroller a certificate, signed by an authorised officer in the country to which the goods were exported, certifying that the goods have been imported into that country; or
- (b) otherwise account for such goods to the satisfaction of the Comptroller.

Exportation by post.

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

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

- (a) a person may be punished for offences against this Act and other customs enactments;
- (b) the goods may be examined, seized and forfeited; and
- (c) legal action may be instituted or taken in relation to any matter mentioned in paragraph (a) or (b).

(3) Where a postal packet is consigned to a place outside Saint Christopher and Nevis—

- (a) the proper officer may require the consignor to open the postal packet in the presence of the proper officer; and
- (b) the goods contained in the postal packet are liable to forfeiture if such goods do not correspond with the declaration of contents made with respect to the postal packet.

Time of exportation.

55. The time of exportation of goods is deemed to be the time when the goods are put on board a vessel or an aircraft with the intention that such goods should be exported in that vessel or aircraft.

Offences in relation to exportation.

56. (1) Subject to subsection (2), where goods which have been loaded or retained on board a vessel or an aircraft for exportation or for use as stores—

- (a) are not exported and discharged at a place outside Saint Christopher and Nevis or are not used as stores; and
- (b) are unloaded in Saint Christopher and Nevis,

the master or commander of the vessel or aircraft or any other person concerned in the unloading of the goods from the vessel or aircraft commits an offence and is liable to a fine in accordance with subsection (8)(a).

(2) Subsection (1) does not apply where—

- (a) the proper officer authorises or otherwise permits the unloading of the goods; and
- (b) with the permission of the proper officer—
 - (i) duty chargeable on the goods is paid; or
 - (ii) drawback or other allowance made in respect of the goods is repaid.

(3) The Comptroller may impose such conditions and restrictions as he or she thinks fit with respect to goods to which this section applies.

(4) Any person who fails to comply with the conditions and restrictions imposed under subsection (3) when required so to do commits an offence and is liable to a fine in accordance with subsection (8)(a).

(5) Subject to subsection (6), where, after a vessel or an aircraft obtains clearance, but before the vessel or aircraft leaves Saint Christopher and Nevis, it is discovered that goods cleared for exportation or for use as stores are no longer on board the vessel or aircraft, the master or commander of the vessel or aircraft or the relevant agent commits an offence and is liable, in addition to any fine which may be

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imposed under subsection (8)(a), to pay the duty which would have been paid on the goods if such goods were entered for home use.

- (6) Subsection (5) does not apply where the goods—
 - (a) have been unloaded with the permission of the proper officer; or
 - (b) are stores which could reasonably have been consumed since the granting of the clearance.
- (7) A person commits an offence if that person exports or causes to be exported—
 - (a) goods concealed in a container holding goods of a different description;
 - (b) goods packed in a manner intended, or appearing to be intended, to deceive a customs officer;
 - (c) goods found not to correspond with the export declaration made in respect of them;
 - (d) warehoused goods;
 - (e) goods chargeable with duty which have been transferred from an importing vessel or aircraft; or
 - (f) goods entitled to drawback on exportation, in a vessel of less than 5 tons burden.
- (8) Where an offence is committed under this section—
 - (a) the person who commits the offence is liable on summary conviction to a fine of twenty-five thousand dollars, or equivalent to three times the value of the goods, whichever is greater; and
 - (b) the goods in respect of which the offence is committed are liable to forfeiture.