

LAWS OF DOMINICA

CUSTOMS (CONTROL AND MANAGEMENT) ACT

CHAPTER 69:01

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CHAPTER 69:01

CUSTOMS (CONTROL AND MANAGEMENT) ACT

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CHAPTER 69:01

CUSTOMS (CONTROL AND MANAGEMENT) ACT

AN ACT to amend and consolidate the law relating to the control of customs. 16 of 1985.

[12th August 1985]

Commencement.

PART I

PRELIMINARY

1. This Act may be cited as the –

Short title.

CUSTOMS (CONTROL AND MANAGEMENT) ACT.

2. In this Act –

Interpretation.

“agent” means any person appointed an agent under section 18;

“aircraft” includes any balloon (whether captive or free), kite, glider, airship, helicopter or other flying machine;

“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” means any place approved under section 13 (1);

“assigned matter” means any matter in relation to which the Comptroller is for the time being required in pursuance of any written law to perform any duty;

“boarding station” means any place directed to be a boarding station under section 12 (4);

“burden”, in relation to the weight of a vessel, means the method of ascertaining tonnage laid down by section 8 of the Registration of Ships Act in relation to Dominican vessels; Ch. 48:01.

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

- “claimant”, in relation to proceedings for the condemnation of any thing as being liable to forfeiture, means any person claiming that that thing is not liable to forfeiture;
- “coasting aircraft” and “coasting vessel” have the meaning given to them by section 39 (1);
- “commander”, in relation to an aircraft, includes any person having or taking the charge or command of that aircraft;
- “Comptroller” means the Comptroller of Customs appointed by the President under section 86 of the Constitution;
- “container” includes any bundle or package and any box, cask or other receptacle;
- “crew” means any person employed in duties 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 any place prescribed as such or appointed under section 14;
- “Customs Appeal Commissioners” means those persons appointed to be Customs Appeal Commissioners under section 70 (1);
- “customs area” means any place approved under section 15 (1);
- “customs enactment” means the provisions of this Act, any subsidiary legislation made under it, and any other enactment which relates to an assigned matter;
- “customs port” means any place prescribed as such or appointed under section 12;
- “customs warehouse” means any place appointed as such under section 52 (1);
- “Deputy Comptroller” means the Deputy Comptroller of Customs appointed by the President under section 86 of the Constitution;
- “Dominica” means the Commonwealth of Dominica;
- “drawback” means any amount of duty paid in respect of goods which is repaid under section 64;
- “duty” means any tax chargeable on the importation of goods into, or the exportation of goods out of, Dominica;
- “entry”, in relation to the importation or exportation of goods, means any document delivered to the proper officer in accordance with

- section 26 (1) or section 32 (1) respectively, and in relation to vessels or aircraft, means any document delivered to the proper officer in accordance with section 33 (1);
- “entry by bill of sight” means an entry made in accordance with section 27 (3);
- “examination station” means any place approved under section 16 (1);
- “export” means to take or cause to be taken out of Dominica or its waters;
- “exporter”, in relation to goods for exportation or for use as stores, includes the shipper of the goods and any person performing in relation to an aircraft functions corresponding with those of a shipper;
- “goods” includes stores and baggage;
- “import” means to bring or cause to be brought into Dominica or its waters;
- “importer”, in relation to any goods at any time between their importation and the time when they are delivered out of charge, includes any owner or other person for the time being possessed of or beneficially interested in the goods;
- “land”, in relation to the landing of aircraft, includes alighting on water;
- “master”, in relation to a vessel, includes any person having or taking the charge or command of the vessel;
- “Minister” means the Minister responsible for Finance;
- “nautical mile” means a distance of one thousand eight hundred and fifty-two metres;
- “occupier”, in relation to any warehouse, means the person who has given security to the Comptroller in respect of those premises;
- “officer” means, subject to section 5 (2), any person employed in the Customs Division of the Ministry of Finance, and includes the Comptroller and the Deputy Comptroller;
- “owner”, in relation to a vessel or an aircraft, includes the operator of that vessel or aircraft;
- “passenger” means any person other than a crew member travelling on or arriving from any vessel or aircraft;

“passenger’s accompanied baggage” means property, including currency, carried for a passenger on a vessel or aircraft, whether in his personal possession or not, so long as it is not carried under a contract of carriage or other similar agreement;

“perfect entry” means any entry made in accordance with section 26 or warehousing regulations, as the case may be;

“police officer” means any member of the Commonwealth of Dominica Police Service;

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

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

“spirits” means any liquid which is twenty percent or more by volume of ethyl alcohol as verified by the Sykes Hydrometer, and includes rum, gin, brandy and liqueurs but excludes perfumed and medicated spirits;

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

Ch. 1:11.

“territorial waters of Dominica” means the contiguous zone of sea over which the Commonwealth of Dominica may exercise sovereign rights by virtue of section 4 of the Territorial Sea, Contiguous Zone, Exclusive Economic and Fisheries Zones Act;

“transit” or “transshipment”, in relation to the entry of goods, means transit through Dominica or transshipment with a view to the re-exportation of the goods in question;

“transit shed” means any place approved under section 17 (1);

“vehicle” means any method of carriage or conveyance and includes any cart and wagon and any trailer attached to any vehicle;

“vessel” includes any ship, hovercraft or boat;

“warehouse”, except in the expression “customs warehouse”, means any place of security approved by the Comptroller under section 45 (1);

“warehoused goods” has the meaning given to it by section 45 (1);

“warehousing regulations” means any regulations made under section 46 (1);

“waters of Dominica”, except in the expression “territorial waters of Dominica”, means any waters within a space contained within an imaginary line drawn parallel to the shores and outer reefs of Dominica which appear above the surface at low water mark at ordinary spring tides and a distance of three nautical miles from those places.

3. (1) The time of importation of any goods shall be deemed to be – Time of importation and exportation.

(a) where the goods are brought by sea, the time when the vessel carrying them comes within the waters of Dominica; and

(b) where the goods are brought by air, the time when the aircraft carrying them first lands in Dominica or the time when the goods are unloaded in Dominica, whichever is the earlier.

(2) The time of exportation of any goods shall be deemed to be the time when the goods are put on board any vessel or aircraft with the intention that they should be exported in that vessel or aircraft.

PART II ADMINISTRATION

4. The Comptroller shall be responsible for the administration of this Act, and for any other provision whereby a duty is conferred on him by or under any other enactment. Comptroller of Customs.

5. (1) Any act or thing required or authorised by any customs enactment to be done by the Comptroller may be done by either – Delegation and appointment by the Comptroller.

(a) the Deputy Comptroller; or

(b) any other officer authorised generally or specifically in that behalf, in writing or otherwise, by the Comptroller, except that where, for any reason, the post of Comptroller for any time is unfilled, any authorisation given by a previous Comptroller which has not been revoked shall continue in force until revoked by any person subsequently appointed as Comptroller.

(2) Any person appointed by the order or with the concurrence of the Comptroller (whether previously or subsequently expressed) to perform any act or duty relating to an assigned matter which by law may or is required to be performed by an officer, shall be deemed to be an officer.

(3) Any person deemed by virtue of subsection (2) to be an officer shall have all the powers of an officer in relation to the act or duty to be performed by him.

(4) Any officer or other person authorised in writing by the Comptroller to do anything who fails when required to do so by the Comptroller to return to him that written authority, is liable to a fine of five hundred dollars.

Obligation of
secrecy.

6. (1) Subject to subsection (2), any person appointed or employed in carrying out any requirement of or any duty imposed or any power granted by any customs enactment, who –

(a) discloses to an unauthorised person any document, information or confidential instruction which has come into his possession or to his knowledge in the course of his duties; or

(b) permits any unauthorised person to have access to any records in his possession or custody,

is liable to a fine of five thousand dollars and to imprisonment for twelve months.

(2) Nothing in subsection (1) shall prevent the disclosure by any person of any document, information or confidential instruction where that disclosure is authorised by the Comptroller.

Times of
attendance of
officers.
First Schedule.

7. (1) The working days and hours of general attendance of officers, and the fees payable for the performance of duties outside those hours, shall be as prescribed by the First Schedule.

(2) The Minister may by Order amend the First Schedule.

(3) Any request for the services of an officer outside the normal hours of attendance shall be made in writing to the Comptroller or the proper officer at the place where the services are desired and the Comptroller or the proper officer may subject to any regulations thereto, and upon payment of the fee prescribed therefor in the First Schedule, grant the request.

8. It shall be the duty of every police officer to assist in the enforcement of the law relating to any assigned matter. Assistance to be rendered by the police.
9. No officer shall own or have any financial or other interest, whether directly or indirectly, in any vessel over five tons burden or in any aircraft, or act in any way on behalf of the owner of, or a person so interested in, such a vessel or aircraft. Officers not to be interested in certain vessels or aircraft.
10. Any direction given under any provision of this Act or any subsidiary legislation made under it – Directions.
- (a) may make different provisions for different circumstances;
 - (b) may be varied or revoked by any subsequent direction; and
 - (c) unless varied or revoked by a subsequent direction, shall continue to apply notwithstanding that the person who gave the direction is no longer the Comptroller or an officer, or for any other reason, no longer has the authority to give such a direction.
11. The requirements imposed by Parts IV, V and VI shall not apply – Application to government vessels and aircraft.
- (a) to any vessel or aircraft owned by or in the service of the Government of Dominica, 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 may see fit to impose, to any vessel or aircraft owned by or in the service of the Government of any other country.

PART III

CUSTOMS CONTROLLED AREAS

12. (1) The ports of Roseau, Portsmouth and Anse-de-Mai, as prescribed in Parts I, II and III respectively of the Schedule to the Port Authority Act shall be customs ports. Appointment of customs ports. Ch. 50:01.
- (2) The Minister may by Order –
- (a) appoint and name any area in Dominica as a customs port;
 - (b) alter the name or limits of any customs port;

- (c) revoke the appointment of any customs port; and
- (d) impose any condition or restriction, or vary or revoke any condition or restriction imposed, on the use of any area in Dominica as a customs port.

(3) Any person who contravenes any condition or restriction imposed by the Minister under subsection (2) is liable to a fine of five thousand dollars.

(4) The Comptroller may direct that any place in a customs port shall be a boarding station for the purpose of the boarding of or disembarkation from vessels by officers.

Approved
wharves.

13. (1) The Comptroller may approve, for such periods and subject to such conditions and restrictions as he may see fit to impose, any place in Dominica for the embarkation and disembarkation of passengers on, to and from vessels and for the loading and the unloading of goods or of any class or description of goods on, to and from vessels, and any place so approved shall be referred to in this Act as an "approved wharf".

(2) The Comptroller may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

(3) Any person who contravenes any condition or restriction imposed by the Comptroller under subsection (1) is liable to a fine of five thousand dollars.

Customs airports
and seaports.
Ch. 47:01.
Ch. 47:02.

14. (1) The airports at Melville Hall, as prescribed in the Schedule to the Melville Hall Airport Act and at Canefield, as prescribed in the Schedule to the Canefield Airport Act, shall be customs airports.

(2) The Minister may by Order –

- (a) appoint and name any area in Dominica as a customs airport;
- (b) alter the name or limits of any customs airport;
- (c) revoke the appointment of any customs airport; and
- (d) impose any condition or restriction, or vary or revoke any condition or restriction imposed, on the use of any area in Dominica as a customs airport.

(3) Any person in control of any airport shall –

- (a) permit an officer at any time to enter upon and inspect that airport and all buildings and goods on it; and

(b) if so required by the Comptroller –

- (i) keep a record, in such form and manner and containing such particulars as the Comptroller may direct, of all aircraft arriving at or departing from that airport;
- (ii) keep that record available and produce it on demand to any officer, together with all other documents kept at the airport which relate to the movement of aircraft; and
- (iii) permit any officer to make copies of, take extracts from or remove for a reasonable period any such record or document.

(4) Any person who contravenes –

(a) any condition or restriction imposed by the Minister under subsection (2); or

(b) any requirement imposed under subsection (3),

is liable to a fine of five thousand dollars.

15. (1) The Comptroller may approve, for such periods and subject to such conditions and restrictions as he may see fit to impose, any place in Dominica, not being a customs port, approved wharf or customs airport, as a “customs area”.

Customs areas.

(2) The Comptroller may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

(3) Any person who contravenes any condition or restriction imposed by the Comptroller under subsection (1) is liable to a fine of five thousand dollars.

16. (1) The Comptroller may approve, for such periods and subject to such conditions and restrictions as he may see fit to impose, any place at a customs port, approved wharf, customs airport or other customs area, for the examination of persons entering or leaving Dominica, their baggage and any other goods or class or description of goods that an officer may require to examine, and any such place so approved shall be referred to in this Act as an “examination station”.

Examination stations.

(2) The Comptroller may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

- (3) Save as the proper officer may otherwise permit –
- (a) all persons entering or leaving Dominica shall on their disembarkation from any vessel or aircraft, or immediately before their embarkation on to any vessel or aircraft, attend at an examination station;
 - (b) any baggage of a person entering or leaving Dominica shall, on being unloaded from any vessel or aircraft or immediately before being loaded on to any vessel or aircraft, be taken to an examination station; and
 - (c) any other goods, class or description of goods, required to be examined by any officer shall, on being unloaded from any vessel or aircraft, or immediately before being loaded on to any vessel or aircraft, be taken to an examination station.
- (4) Any person entering or leaving Dominica shall –
- (a) declare anything contained in his baggage or carried with him which is chargeable with any duty which has not been paid; and
 - (b) answer all such questions as the proper officer may put to him with respect to his baggage and any thing contained in it or carried with him.
- (5) Any person who contravenes –
- (a) any condition or restriction imposed by the Comptroller under subsection (1); or
 - (b) any requirement imposed under subsection (3) or (4),

is liable to a fine of five thousand dollars, and any goods in respect of which the offence was committed shall be liable to forfeiture.

Transit sheds.

17. (1) The Comptroller may approve, for such periods and subject to such conditions and restrictions as he may see fit to impose, any place at a customs port, approved wharf, customs airport or other customs area, for the deposit of goods either imported and not yet cleared out of charge, or to be exported, including goods not yet reported or entered under this Act, and any place so approved shall be referred to in this Act as a “transit shed”.

(2) The Comptroller may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

(3) Any person who contravenes any condition or restriction imposed by the Comptroller under subsection (1) is liable to a fine of five thousand dollars.

18. (1) The master of any vessel or the commander of any aircraft ^{Agents.} may appoint as his agent any person duly authorised to perform any act required by any customs enactment to be performed by a master or a commander, and, if he does so, he shall notify the Comptroller of the name and address of that person and if the Comptroller is satisfied that the person appointed is a fit and proper person to be such an agent, the Comptroller shall accept that person as the agent of that vessel or aircraft.

(2) If any agent appointed under subsection (1) wilfully or persistently neglects or refuses to comply with any requirement imposed by any customs enactment on a master of a vessel or a commander of an aircraft, the Comptroller may, by notice in writing, advise any master of that vessel or any commander of that aircraft that he no longer accepts the person appointed as the agent of that vessel or that aircraft, and that person shall upon the expiration of three months from the notification then cease to be the agent of that vessel or aircraft.

(3) Where any person other than the master of a vessel or the commander of an aircraft is required by any customs enactment to perform any act or duty, he may appoint as his agent any other person to perform that act or duty.

(4) Before accepting any request by an agent to act on behalf of a person in relation to an assigned matter, an officer may require that agent to produce to him written authority from the person whose agent he is certifying that he is so authorised to act.

19. (1) The Comptroller may give general or specific directions as to the manner in which, and the conditions and restrictions under which, goods to which this section applies may be moved within any customs port, approved wharf, customs airport or other customs area between any of them or between any of them and any other place. ^{Control of movement of uncleared goods.}

(2) This section applies to –

- (a) all goods chargeable with any duty which has not been paid;
- (b) any goods on which any drawback has been paid; and

(c) any other goods which have not yet been cleared out of customs charge.

(3) Any direction under subsection (1) may require that goods to which this section applies shall only be moved –

(a) by persons licenced by the Comptroller for that purpose; or

(b) in such vessels, aircraft or vehicles, or by such other means, as may be approved by the Comptroller for that purpose,

and any such licence or approval may be granted for such periods and be subject to such conditions and restrictions as the Comptroller may see fit to impose and may be revoked at any time by the Comptroller.

(4) Any person who contravenes any direction given, or any condition or restriction imposed, or the terms of any licence or approval granted by the Comptroller under subsection (1) is liable to a fine of five thousand dollars.

Control of
pleasure craft.

20. (1) The Minister may make Regulations exempting pleasure craft from such provisions of Parts IV, V and VI as may be specified in the Regulations, and limiting the uses to which such vessels may be put.

(2) In this section, “pleasure craft” means –

(a) any vessel which, at the time of its arrival at a place in Dominica from abroad, is being used for private recreational purposes only, and of which the total complement including passengers and crew, does not exceed twenty persons; or

(b) any vessel which the proper officer, after application is made to him in writing, permits to be treated as a pleasure craft.

PART IV

IMPORTATION

Procedure on
arrival of vessels.

21. Save where the Comptroller –

(a) otherwise permits; or

(b) is satisfied that the failure to do so was caused by accident, stress of weather or other unavoidable cause,

and that the requirement of this section was otherwise complied with as soon as reasonably practicable, any vessel coming from a place outside Dominica shall, on entering the waters of Dominica, proceed directly to a customs port, and the master of any vessel who fails to so proceed is liable to a fine of five thousand dollars.

22. (1) Subject to the provisions of this section and save as the Comptroller otherwise permits – Procedure on arrival of aircraft.

(a) the commander of any aircraft arriving in Dominica from a place outside Dominica shall not cause or permit that aircraft to land –

(i) for the first time on its arrival in Dominica; or

(ii) at any time while it is carrying passengers or goods brought in that aircraft from a place outside Dominica and not yet cleared,

at any place other than a customs airport; and

(b) no person importing or concerned in importing any goods in any aircraft shall bring those goods into Dominica at any place other than a customs airport;

and any commander or other person who contravenes any requirement of this subsection is liable to a fine of five thousand dollars, and any goods imported in contravention of this subsection is liable to forfeiture.

(2) Subsection (1) shall not apply in relation to any aircraft which is required by or under any enactment relating to air navigation, or is compelled by accident, stress of weather or other unavoidable cause, to land at a place other than a customs airport, but, subject to subsection (3) –

(a) the commander of any such aircraft –

(i) shall immediately report the landing to an officer or police officer and shall on demand produce to him the journey log belonging to the aircraft;

(ii) shall not without the consent of an officer permit any goods carried on the aircraft to be unloaded from, or any passenger or member of the crew to depart from the vicinity of, the aircraft; and

(iii) shall comply with any direction given by an officer with respect to such goods; and

(b) no passenger or member of the crew shall without the consent of an officer or a police officer leave the immediate vicinity of any such aircraft.

(3) Nothing in subsection (2) shall prohibit –

(a) the departure of any passenger or member of the crew from the vicinity of an aircraft; or

(b) the removal of goods from an aircraft,

where that departure or removal is necessary for reasons of health, safety or the preservation of life or property.

Power to make Regulations as to arriving vessels and aircraft and the unloading of imported goods.

23. (1) The Minister may make Regulations –

(a) prescribing the procedure to be followed by a vessel arriving at a customs port and an aircraft arriving at a customs airport; and

(b) regulating the unloading, landing, movement and removal of goods on their importation,

and different Regulations may be made with respect to vessels and aircraft.

(2) Without prejudice to the generality of subsection (1), Regulations made under that subsection may provide for the imposition of a fine of an amount not exceeding five thousand dollars for any contravention of or failure to comply with any such Regulations or any direction given under any such Regulations, and for the forfeiture of any goods involved in any such offence.

Notification of arrival of vessels.

24. Save as the Comptroller may otherwise permit, the master of every vessel intending to come to Dominica shall notify the Comptroller of the expected arrival of that vessel not less than one working day, as prescribed by the First Schedule, before the arrival of that vessel and any master who fails to so notify the Comptroller is liable to a fine of five hundred dollars.

First Schedule.

Report inwards.

25. (1) The master of every vessel arriving at a customs port –

(a) from any place outside Dominica; or

(b) carrying goods brought in that vessel from a place outside Dominica and not yet cleared on importation, shall, within twenty-four hours of that arrival, deliver to the Comptroller a report in such form and manner and containing such particulars as the Comptroller may direct.

(2) The commander of every aircraft arriving at a customs airport –

(a) from any place outside Dominica; or

(b) carrying goods or passengers taken on board that aircraft at a place outside Dominica, being goods or passengers either –

(i) bound for a destination in Dominica and not yet cleared at a customs airport; or

(ii) bound for a destination outside Dominica,

shall, within twenty-four hours of that arrival, deliver to the Comptroller a report in such form and manner and containing such particulars as the Comptroller may direct.

(3) Where any report made under this section is incorrect, the person who made it shall, within fourteen days of the making of it or such longer period as the Comptroller may in any case permit, be allowed to amend it, and provided that the Comptroller is satisfied that the error was not made knowingly or recklessly, then notwithstanding any other provision of any customs enactment that person shall not be guilty of any offence and where the error consisted of the omission or incorrect reporting of any goods, those goods shall not be liable to forfeiture.

(4) Where –

(a) a person by whom a report is required to be made by this section fails to make a report as required, he is liable to a fine of five thousand dollars; and

(b) any goods which appear on any clearance required to be produced by this section do not appear on the report, then, unless the report is amended under subsection (3), the master or commander –

(i) shall pay to the Comptroller the duty on the goods; and

(ii) shall be liable to a fine of five thousand dollars, or three times the duty on the goods, whichever is the greater.

(5) Any person making a report under this section shall, at the time of making it –

- (a) answer all such questions relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as may be put to him by the proper officer; and
- (b) produce all books and documents in his custody or control relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as the proper officer may require,

and if he fails to do so he is liable to a fine of five thousand dollars.

(6) If, at any time after a vessel or aircraft carrying goods brought in that vessel or aircraft from a place outside Dominica arrives within the waters of Dominica or lands and before a report has been made in accordance with this section –

- (a) bulk is broken;
- (b) goods are unloaded from or taken on board that vessel or aircraft;
- (c) any alteration is made in the stowage of any goods carried; or
- (d) any goods are stowed, destroyed or thrown overboard, or any container is opened,

then unless the matter is explained to the satisfaction of the Comptroller, the master or commander is liable to a fine of five thousand dollars and any goods in respect of which the offence was committed is liable to forfeiture.

(7) The Comptroller may require any goods reported as stores on board any vessel or aircraft, or any portion of them, to be entered for warehousing under section 26 and for the purposes of this subsection the master or commander shall be deemed to be the importer of those goods.

(8) Every report made under this section by the master of a vessel shall –

- (a) where that vessel is less than forty tons burden, bear stamps to the value of fifty cents; and
- (b) where that vessel is forty or more tons burden, bear stamps to the value of one dollar.

26. (1) The importer of any goods, other than goods which are exempt from the requirements of this section, shall – Entry of goods on importation.

- (a) in the case of goods imported by air, within seven days of their importation; or
- (b) in the case of goods imported by sea, within fourteen days of their importation,

deliver to the proper officer an entry of those goods, in such form and manner and containing such particulars as the Comptroller may direct.

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

- (a) fresh fish (including shell fish) taken by Dominican fishermen and imported by them in their vessels; and
- (b) passenger's accompanied baggage.

(3) Subject to subsection (4), goods may be entered under subsection (1) –

- (a) for warehousing, if so eligible;
- (b) for home use, if so eligible;
- (c) for transshipment; or
- (d) in such cases as the Comptroller may permit, for temporary retention with a view to subsequent re-exportation.

(4) The Comptroller may refuse to accept any entry of goods if he is not satisfied that those goods were imported at the time of the delivery of the entry.

(5) Where, in the case of any goods which are not chargeable with any duty, any entry made under subsection (1) is incorrect, the importer shall, within ten days after the delivery of the entry or such longer period as the Comptroller may in any case permit, be allowed to deliver to the Comptroller a full and accurate account of the goods and provided that the Comptroller is satisfied that the error was not made knowingly or recklessly, then notwithstanding any other provision of

any customs enactment, the person making the entry shall not be guilty of any offence and the goods which were the subject of the error shall not be liable to forfeiture.

(6) The Comptroller may, notwithstanding that no entry has been made under subsection (1) permit the delivery to an importer of any bullion, currency notes or coins imported into Dominica.

(7) If, three clear days before the time limits laid down by subsection (1) –

(a) no entry has been delivered; or

(b) goods have not been unloaded or produced for examination and clearance,

the master or owner of the vessel or the commander or owner of the aircraft in which the goods were imported may enter, unload or produce those goods for examination and clearance, except that where the importer subsequently enters the goods, his entry shall be substituted for any entry made under this subsection.

Entry by bill of sight.

27. (1) Without prejudice to section 26, where on the importation of any goods the importer is unable for want of any document or information to make perfect entry of those goods, he shall make a signed declaration to that effect to the proper officer.

(2) Where a declaration under subsection (1) is made to the proper officer, he shall permit the importer to examine the goods imported.

(3) Where an importer has made a declaration under subsection (1), and submits to the proper officer an entry, not being a perfect entry, in such form and manner and containing such particulars as the Comptroller may direct, and the proper officer is satisfied that the description of the goods for tariff and statistical purposes is correct, and in the case of goods liable to duty according to number, weight, measurement or strength that number, weight, measurement or strength is correct, the proper officer shall, on payment to him of the specified sum, accept that entry as an entry by bill of sight and allow the goods to be delivered for home use.

(4) For the purposes of subsection (3), the specified sum shall be an amount estimated by the proper officer to be the duty payable on such goods, together with such further sum as the proper officer may require, that further sum being not less than one half of the estimated duty.

(5) If, within three months from the date of making an entry by bill of sight under subsection (3), or such longer time as the Comptroller may in any case permit, the importer makes a perfect entry, and that perfect entry shows the amount of duty –

(a) to be less than the specified sum, the Comptroller shall pay the difference to the importer; or

(b) to be more than the specified sum, the importer shall pay the difference to the Comptroller.

(6) Where no perfect entry is made within the time limit laid down by subsection (5), the specified sum paid shall be deemed to be the amount of duty payable on the importation of the goods.

(7) Notwithstanding any other provision of this section, where, at any time after the importation of goods, the Comptroller is satisfied that in respect of such goods it is impossible for the importer to make perfect entry in respect of those goods, the Comptroller may, subject to such conditions and restrictions as he may see fit to impose, permit the goods to be entered at a value which is, in his opinion, the correct value of the goods, and the entry shall be deemed to be a perfect entry.

28. (1) Where in the case of any imported goods for which an entry is required –

Removal of uncleared goods to a customs warehouse.

(a) entry has not been made by the expiration of the relevant period;

(b) at the expiration of twenty-one clear days from the relevant date, entry having been made of the goods, they have not been unloaded from the importing vessel or aircraft, or in the case of goods which have been unloaded, they have not been produced for examination and clearance; or

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

then at any time after the relevant date, the proper officer may, subject to subsection (2), cause the goods to be deposited in a customs warehouse.

(2) No goods may be deposited in a customs warehouse if they are –

(a) of a type prescribed in the Second Schedule; or

Second Schedule.

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(b) in the opinion of the Comptroller, of a perishable nature, in which case they may be sold.

(3) Subject to subsection (4), in this section –

(a) “the relevant period” means a period of, in the case of goods imported by air, seven days, and in the case of goods imported by sea, fourteen days; and

(b) “the relevant date” means the date when report was made of the importing vessel or aircraft under section 25 or, where no such report was made, the date when it should properly have been made.

(4) Where any restriction is placed upon the unloading of goods from any vessel or aircraft by virtue of any enactment relating to the prevention of epidemic or infectious diseases, then in relation to those goods, “the relevant date” means the date of the removal of the restriction.

Importation of goods by post.

29. (1) Without prejudice to any other provision of this Act –

(a) all letters arriving in Dominica from abroad which, in the opinion of the proper officer, could contain other than written or printed material, may be required to be opened by the addressee in the presence of an officer; and

(b) all postal packages consigned to a place in Dominica from abroad may be required to be opened by the addressee in the presence of an officer, and where any goods contained in such a package do not correspond with any declaration of contents made in respect of them, those goods shall be liable to forfeiture.

(2) No goods imported into Dominica by post shall be allowed to be removed from customs charge until all duty chargeable on them has been paid.

Goods improperly imported.

30. (1) Without prejudice to any other provision of any customs enactment, where –

(a) except as expressly provided by such an enactment, any imported goods, being goods chargeable on their importation with any duty are, without payment of that duty –

- (i) unloaded at any port;
- (ii) unloaded from any aircraft; or
- (iii) removed from their place of importation or from any approved wharf, examination station, transit shed or other customs area;
- (b) any goods are imported, landed or unloaded contrary to any prohibition or restriction for the time being in force with respect to them under or by virtue of any written law;
- (c) any goods, being goods chargeable with any duty or goods the importation of which is for the time being prohibited or restricted by or under any written law, are found, whether before or after the unloading of them, to have been concealed in any manner on board any vessel or aircraft;
- (d) any goods are imported concealed in a container holding goods of a different description;
- (e) any imported goods are found, whether before or after delivery, not to correspond with any entry made in respect of them; or
- (f) any imported goods are concealed or packed in any manner appearing to be intended to deceive an officer,

these goods shall, subject to subsection (2), be liable to forfeiture.

(2) Where any goods, the importation of which is for the time being prohibited or restricted under or by virtue of any written law, are on their importation either –

- (a) reported as intended for exportation in the same vessel or aircraft;
- (b) entered for transshipment; or
- (c) entered to be warehoused for exportation or for use as stores,

the Comptroller may, if he sees fit, permit those goods to be dealt with accordingly.

(3) Any person who –

- (a) imports or causes to be imported any goods –

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

is liable to a fine of five thousand dollars, or three times the value of the goods, whichever is the greater.

PART V

EXPORTATION

Power to make Regulations as to the loading of goods and departing vessels and aircraft.

31. (1) The Minister may make Regulations –

- (a) regulating the storage, putting alongside, making waterborne and loading of goods intended for export or for use as stores; and
- (b) prescribing the procedure to be followed by vessels intending to leave ports and aircraft intending to leave airports for destinations outside Dominica,

and different Regulations may be made with respect to vessels and aircraft.

(2) Without prejudice to the generality of subsection (1), Regulations made under that subsection may provide for the imposition of a fine of five thousand dollars for any contravention of any such regulations or any direction given under any such Regulations, and for the forfeiture of any goods involved in any such offence.

Entry of goods for exportation.

32. (1) Subject to subsection (2), the exporter of any goods, other than passenger's accompanied baggage, shall deliver to the proper officer an entry of those goods in such form and manner and containing such particulars as the Comptroller may direct.

(2) The Comptroller may relax, subject to such conditions and restrictions as he may see fit to impose, all or any of the requirements imposed under subsection (1) in relation to any goods, class or description of goods, or exporter.

(3) Where, in the case of any goods which are not chargeable with any duty, any entry made under subsection (1) is incorrect, the exporter shall, within ten days after the delivery of the entry or such longer period as the Comptroller may in any case permit, be allowed to deliver to the Comptroller a full and accurate account of the goods and, provided that the Comptroller is satisfied that the error was not made knowingly or recklessly, then notwithstanding any other provision of any customs enactment, the person making the entry shall not be guilty of any offence and the goods which were the subject of the error shall not be liable to forfeiture.

(4) Where any goods which have been entered for exportation or for use as stores are not duly loaded on to the vessel or aircraft for which they are entered, then unless within twenty-four hours of the departure of that vessel or aircraft the person who entered them notifies the proper officer of that short loading, those goods shall be liable to forfeiture.

(5) If any goods for which entry is required under subsection (1) are put on board any vessel or aircraft for exportation or for use as stores or are waterborne for such purpose before entry in respect of them has been made, those goods shall be liable to forfeiture and, where the placing on board or making waterborne was done with fraudulent intent, any person concerned in that act with knowledge of that intent is liable to a fine of five thousand dollars, or three times the value of the goods, whichever is the greater and to imprisonment for two years, and may be arrested.

33. (1) Save as the Comptroller otherwise permits –

- (a) before any goods for exportation or for use as stores are loaded on to any vessel or aircraft; or
- (b) where a vessel or an aircraft carrying goods arrives at a port or an airport with the intention of proceeding to a destination outside Dominica,

Entry outwards of
vessels and
aircraft.

the master of that vessel or the commander of that aircraft shall deliver to the proper officer an entry outwards of that vessel or aircraft, in such form and containing such particulars as the Comptroller may direct.

(2) Where any entry made under subsection (1) is incorrect, the person who made it shall, within fourteen days of the making of it or such longer period as the Comptroller may in any case permit, be allowed to amend it, and provided that the Comptroller is satisfied that

the error was not made knowingly or recklessly, then notwithstanding any other provision of any customs enactment, that person shall not be guilty of an offence and any goods which were the subject of the error shall not be liable to forfeiture.

(3) Where –

- (a) a person by whom an entry is required to be made by subsection (1) fails to make an entry as required, he is liable to a fine of five thousand dollars; and
- (b) goods are loaded on board any vessel or aircraft in contravention of subsection (1), those goods are liable to forfeiture and the master or commander is liable to a fine of one thousand dollars and, where the loading was done with fraudulent intent, any person concerned in that loading with that intent is liable to a fine of five thousand dollars, or three times the value of the goods, whichever is the greater, and to imprisonment for two years, and may be arrested.

Stores.

34. (1) Upon an application made in such form and manner and containing such particulars as the Comptroller may direct, by –

- (a) subject to subsection (2), the master of any vessel over thirty tons burden; or
- (b) the commander of any aircraft,

which is about to leave Dominica for a destination outside Dominica, the Comptroller may permit, subject to such conditions and restrictions as he may see fit to impose and having regard to the number of persons on board that vessel or aircraft, the likely destination of the voyage or flight, and the stores, if any, remaining on board that vessel or aircraft, such quantity of goods as he considers reasonable to be removed without payment of duty from any warehouse or on drawback, and loaded on to that vessel or aircraft for use as stores during that voyage or flight.

(2) Where the application under subsection (1) is in respect of fuel and lubricants only, that application may be made by the master of any vessel, regardless of its weight.

(3) If any vessel or aircraft, having left Dominica for a destination outside Dominica fails to reach that or any other destination outside Dominica, and returns to Dominica, and in the opinion of the proper officer the deficiency in the stores of that vessel or aircraft is in excess

of the quantity that might reasonably have been consumed having regard to the period between the departure and the discovery of the deficiency, the master or commander shall –

- (a) pay to the Comptroller the duty on that excess; and
- (b) be liable to a fine of five thousand dollars, or three times the value of that excess, whichever is the greater.

35. (1) Save as the Comptroller may otherwise permit –

Clearance.

- (a) the master of any vessel intending to depart from any port; and
- (b) the commander of any aircraft intending to depart from any airport,

to a destination outside Dominica, shall obtain clearance from the proper officer.

(2) Any person applying for clearance under subsection (1) shall –

- (a) deliver to the proper officer an account of all cargo and stores taken on or remaining on board the vessel or aircraft in Dominica;
- (b) produce all books and documents in his custody or control relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as the proper officer may require; and
- (c) answer all such questions relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as may be put to him by the proper officer.

(3) Where clearance is sought under subsection (1) for any vessel or aircraft which is in ballast, or has on board no goods other than stores, passenger's baggage or empty containers upon which no freight or profit is earned, the proper officer granting clearance of that vessel or aircraft shall, on the application of the master or commander, clear that vessel or aircraft as in ballast.

(4) Where it appears to any officer that a vessel or aircraft intends or is likely to depart for a destination outside Dominica without clearance, he may give such instructions and take such steps by way of the detention of that vessel or aircraft as appear to him necessary to prevent that departure.

(5) If any vessel or aircraft required to be cleared under this section departs from any port or airport for a destination outside Dominica without a valid clearance, or after clearance calls at any port or airport without the permission of the proper officer, the master or commander is, except where the departure or call was caused by accident, stress of weather or other unavoidable cause, liable to a fine of five thousand dollars.

(6) If, ninety-six hours after the granting of a clearance under subsection (1), the vessel cleared has not left the waters of Dominica, or the aircraft cleared has not taken off for a destination outside Dominica, that clearance shall become void.

Power to refuse or demand return of clearance.

36. (1) For the purpose of securing the detention of any vessel or aircraft in pursuance of any power or duty conferred or imposed by any customs enactment, or for the purpose of securing compliance with any provision of such an enactment –

- (a) the proper officer may at any time refuse clearance of any vessel or aircraft; and
- (b) where clearance has been granted to a vessel or aircraft, any officer may at any time while the vessel is within the waters of Dominica, or the aircraft is at an airport, demand that any clearance granted be returned to him.

(2) Any demand for the return of a clearance may be made either orally or in writing to the master of the vessel or the commander of the aircraft, and if made in writing may be served –

- (a) by delivering it to him personally;
- (b) by leaving it at his last known place of abode or business in Dominica; or
- (c) by leaving it on board the vessel or aircraft with the person appearing to be in charge or command of it.

(3) Where a demand for the return of a clearance is made under subsection (2) –

- (a) the clearance shall forthwith become void; and
- (b) if the demand is not complied with, the master or commander is liable to a fine of five thousand dollars.

Security for exportation of goods.

37. (1) Where –

- (a) warehoused goods; or

(b) goods on drawback,

are to be exported, the Comptroller may require the exporter to enter into a bond in the amount of treble the import duty which would have been chargeable on those goods if they had been imported into Dominica for home use, and if, within one month of the exportation of those goods or such longer period as the Comptroller may in any case permit, the exporter does not produce to the Comptroller a certificate, signed by a customs officer in the country where the goods were exported to, certifying that the goods have been imported into that country, or otherwise account for those goods to the satisfaction of the Comptroller, that bond shall be forfeited.

(2) No duty, fee or stamp duty shall attach to any bond entered into under subsection (1).

38. (1) If any goods which have been loaded or retained on board any vessel or aircraft for exportation or for use as stores are not exported and discharged at a place outside Dominica or used as stores but are unloaded in Dominica then unless –

Offences in
relation to
exportation.

(a) the unloading was authorised by the proper officer; and

(b) except where that officer otherwise permits, any duty chargeable and unpaid on those goods is paid and any drawback or other allowance made in respect of those goods is repaid,

the master of the vessel or the commander of the aircraft and any person concerned in the unshipping, relanding, landing, unloading or carrying of the goods from the vessel or aircraft without such authority, payment or repayment is guilty of an offence under this section.

(2) The Comptroller may impose such conditions and restrictions as he may see fit with respect to any goods loaded or retained as mentioned in subsection (1) which are permitted to be unloaded in Dominica and if any person contravenes, or is concerned in any contravention with any condition or restriction imposed under this subsection, he is guilty of an offence under this section.

(3) If, after a vessel or an aircraft has obtained clearance but before it has left Dominica, it is discovered that any goods cleared for exportation or for use as stores are no longer on board, then, unless those goods have been unloaded with the permission of the proper officer, or are stores which could reasonably have been consumed since the granting of the clearance, the master or the commander shall –

- (a) pay to the Comptroller the duty on that deficiency; and
- (b) be guilty of an offence under this section.

(4) Any person who –

- (a) exports, causes to be exported or attempts to export any goods –
 - (i) concealed in a container holding goods of a different description; or
 - (ii) packed in a manner appearing to be intended to deceive an officer;
- (b) directly or indirectly exports or causes to be exported or entered any goods found not to correspond with entry made in respect of them; or
- (c) exports or attempts to export any –
 - (i) warehoused goods;
 - (ii) goods chargeable with any duty which have been transferred from an importing vessel or aircraft; or
 - (iii) goods entitled to drawback on exportation;
- (d) enters or attempts to enter for exportation any goods, referred to under paragraph (c) in any vessel of less than five tons burden,

is guilty of an offence under this section.

(5) Where any person is guilty of an offence under this section, he is liable to a fine of five thousand dollars, or three times the value of the goods, whichever is the greater, and any goods in respect of which the offence was committed are liable to forfeiture.

PART VI

COASTING TRADE

Definition of
coasting trade.

39. (1) Subject to the provisions of this Part, the carriage of goods by sea or air from one part of Dominica to another shall be deemed to be coasting trade, and any vessel or aircraft whilst so employed shall be deemed to be a coasting vessel or coasting aircraft.

(2) The Minister may by Order deem the carriage of any goods or any class or description of goods from any specified place in Dominica to another specified place not to be coasting trade.

40. (1) The Minister may make Regulations –

Power to make
Regulations as to
coasting trade.

- (a) regulating the loading, unloading or making waterborne for loading of goods carried, or to be carried, by way of coasting trade; and
- (b) prescribing the procedure to be followed by –
 - (i) coasting vessels on their arrival at or departure from any port; and
 - (ii) coasting aircraft on their arrival at or departure from any airport,

and different regulation may be made in respect of coasting vessels and coasting aircraft.

(2) Without prejudice to the generality of subsection (1), Regulations made under that subsection may provide for the imposition of a fine of five thousand dollars for any contravention of any provision of those Regulations and for the forfeiture of any goods involved in any such contravention.

41. (1) Subject to subsection (2), no goods not yet entered on importation and no goods for exportation shall be carried by way of coasting trade in any vessel or aircraft used for that purpose.

Limits on
coasting trade.

(2) The Comptroller may permit, subject to such conditions and restrictions as he may see fit to impose –

- (a) any vessel or aircraft to carry goods by way of coasting trade notwithstanding that that vessel or aircraft is carrying goods brought therein from a place outside Dominica and not yet entered on their importation, provided that any vessel or aircraft so permitted to carry such unentered goods by way of coasting trade shall not for the purposes of this Part be a coasting vessel or a coasting aircraft;
- (b) goods brought by another vessel or aircraft to a place in Dominica from a place outside Dominica which are consigned to and intended to be delivered to another place in Dominica to be transhipped before due entry of the goods has been made to a coasting vessel or a coasting aircraft for carriage by way of coasting trade to that other place; and

(c) any vessel or aircraft which has begun to load goods for exportation or for use as stores on a voyage to a destination outside Dominica to carry goods by way of coasting trade until that loading has been completed.

(3) Where any goods are carried by way of coasting trade in contravention of subsection (1) or any goods are loaded, unloaded, carried or otherwise dealt with contrary to any condition or restriction imposed by the Comptroller under subsection (2), those goods are liable to forfeiture and the master of the vessel or the commander of the aircraft is liable to a fine of five thousand dollars.

Clearance of
coasting vessels
and aircrafts.

42. (1) Subject to the provisions of this section and save as the Comptroller otherwise permits, no coasting vessel or coasting aircraft shall depart from any port or airport in Dominica before its master or commander has produced to the proper officer any account of the goods carried in that vessel or aircraft, in such form and manner and containing such particulars as the Comptroller may direct, and the account, when signed by the proper officer, shall be the clearance of that vessel or aircraft.

(2) Where no officer is stationed at the place where an account is required to be produced under subsection (1), the vessel or aircraft may depart from that place whereupon the account shall be produced to an officer at the first place the vessel or aircraft arrives at where an officer is stationed.

(3) On the application of the master of any coasting vessel or the commander of any coasting aircraft, the Comptroller may grant, subject to such conditions and restrictions as he may see fit to impose, a general clearance for that vessel or aircraft, and any goods, class or description of goods to be carried in it.

(4) Any general clearance granted under subsection (3), may be revoked at any time by the proper officer by notice in writing delivered to the master or owner of the vessel or the commander or owner of the aircraft or to any member of the crew on board that vessel or aircraft.

(5) Except as provided by this section, where any coasting vessel or coasting aircraft carrying goods departs from any place in Dominica without clearance, whether obtained before or after that departure, or in contravention of any condition or restriction imposed by the Comptroller upon a general clearance of that vessel or aircraft under subsection (3), the master of that vessel or the commander of that aircraft

is liable to a fine of five thousand dollars, and any goods in respect of which the offence was committed are liable to forfeiture.

43. (1) The master of every coasting vessel and the commander of every coasting aircraft shall keep a cargo book in such form and manner and containing such particulars as the Comptroller may direct. Cargo book.

(2) The master of a coasting vessel or the commander of a coasting aircraft shall, upon a demand made by the proper officer, produce for inspection the cargo book of that vessel or aircraft.

(3) Subject to subsection (4), where –

(a) goods have been loaded on to or unloaded from a coasting vessel or a coasting aircraft at a place in Dominica, then before that vessel or aircraft departs from that place; and

(b) a coasting vessel or a coasting aircraft arrives at a place in Dominica where goods are to be unloaded, then before any goods are unloaded,

the master of that vessel or the commander of that aircraft shall produce to the proper officer the cargo book of that vessel or aircraft.

(4) Where no officer is stationed at the place where a cargo book is required to be produced under subsection (3), the vessel or aircraft may depart from that place, or unload, whereupon the cargo book shall be produced to an officer at the first place the vessel or aircraft arrives at where an officer is stationed.

(5) Where the master of a coasting vessel or the commander of a coasting aircraft fails to keep or produce a cargo book as required by this section, he is liable to a fine of five thousand dollars, and any goods unloaded in contravention of subsection (3) are liable to forfeiture.

44. (1) Where, in the case of any coasting vessel or coasting aircraft – Offences in relation to carriage of goods coastwise.

(a) goods are taken on board or unloaded at a place outside Dominica; or

(b) the vessel or aircraft touches at some place outside Dominica, or deviates from its voyage or flight, and the master of the vessel or the commander of the aircraft does not report that fact in writing to the proper officer at the first place in Dominica which the vessel or aircraft arrives at where an officer is stationed,

then those goods are liable to forfeiture and the master or commander is guilty of an offence and liable to a fine of five thousand dollars.

(2) If any goods –

(a) are carried by way of coasting trade or shipped for use as stores on a coasting vessel or a coasting aircraft contrary to any prohibition or restriction for the time being in force with respect to those goods under or by virtue of any written law; or

(b) are brought to any place in Dominica for the purpose of being so carried or shipped,

then those goods are liable to forfeiture and the shipper or intending shipper of the goods is liable to a fine of five thousand dollars.

PART VII WAREHOUSING

Approval of
warehouses.

45. (1) The Comptroller may approve, for such periods and subject to such conditions and restrictions as he may see fit to impose, places of security for the deposit, keeping and securing of –

(a) any goods chargeable with a duty;

(b) any goods for exportation or for use as stores, not being goods eligible for home use; and

(c) any goods permitted by or under this Act to be warehoused on drawback,

and any place so approved shall be referred to in this Act as a “warehouse”, and any goods deposited, kept or secured in such a place shall be referred to in this Act as “warehoused goods”.

(2) Without prejudice to the generality of subsection (1), the Comptroller may –

(a) restrict the goods which may be permitted to be warehoused in a particular warehouse to those 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, and different amounts may be required in respect of warehouses restricted under paragraph (a) and warehouses not so restricted.

(3) Where, after the approval of a place of security as a warehouse under subsection (1), the occupier of that warehouse contravenes any condition or restriction imposed by the Comptroller under that subsection, he is liable to a fine of five thousand dollars.

(4) Subject to subsection (5), the Comptroller may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

(5) Where the Comptroller intends to revoke or not to renew any approval of a warehouse given under subsection (1), he shall, not later than three months before the date when the revocation is due to take effect or the approval is due to expire, hereinafter in this section referred to as "the date of cessation", give notice of his intention in writing, and such notice shall be deemed to have been served on all persons interested in any goods then deposited in that warehouse, or permitted by or under this Act to be so deposited between the date of the giving of the notice and the date of cessation, if addressed to the occupier of, and left at, the warehouse.

(6) If, after the date of cessation or such later date as the Comptroller may in any case permit, uncleared goods remain in a place no longer approved under subsection (1), they may be taken by an officer to a customs warehouse and, without prejudice to any other power of earlier sale provided by this Act, if they are not cleared within one month, may be sold.

46. (1) The Minister may make Regulations for the control of the depositing, marking, keeping, securing and treatment of goods in and the removal of goods from warehouses.

Power to make Regulations as to warehouses and warehoused goods.

(2) Without prejudice to the generality of subsection (1), Regulations made under that subsection may provide for –

- (a) the registration and maintenance of warehouses;
- (b) the payment of licence fees;
- (c) the entering into and maintaining of bonds for the security of duty chargeable on warehoused goods;
- (d) the entering into and maintaining of contracts of insurance for warehoused goods;
- (e) the proper conduct and management of warehouses, including the imposition of conditions and restrictions subject to which goods may be carried to or from,

deposited in, kept in or removed from a warehouse, or made available to their owners for prescribed purposes;

- (f) the attendance of officers at warehouses;
- (g) the production to and making available for inspection by officers of warehoused goods;
- (h) the provision of facilities to officers;
- (i) the records to be kept by occupiers of warehouses;
- (j) the minimum quantities of descriptions of goods which may be deposited in or removed from a warehouse at any one time;
- (k) operations to be carried out on warehoused goods, including the taking of samples;
- (l) goods to be removed from warehouses without payment of duty, subject to such conditions and restrictions as may be determined by or under the Regulations;
- (m) goods to be destroyed or abandoned to the Comptroller without payment of duty, in such circumstances and subject to such conditions and restrictions as may be determined by the Regulations; and
- (n) the imposition of fines in amounts not exceeding five thousand dollars for any contravention of or failure to comply with any regulation, or any direction given or requirement made under any regulation, and for the forfeiture of any goods involved in any such offence,

and may make different provisions for different types of warehouses or parts of warehouses, or for goods of different classes or descriptions, or goods of the same class or description in different circumstances.

Goods to be
warehoused.
Second
Schedule.

47. (1) No goods, class or description of goods, prescribed in the Second Schedule may be warehoused.

(2) The Minister may by Order delete from, vary or add to the goods, class or description of goods prescribed in the Second Schedule.

(3) No damaged goods or goods enclosed in any insecure or otherwise defective container, or in a container from which any portion of the contents have been removed, may be warehoused.

(4) Save as the Comptroller may otherwise permit, and subject to such conditions and restrictions as he may see fit to impose, no warehoused goods may remain warehoused for longer than two years, and any warehoused goods which remain warehoused after such time may be sold.

(5) The Minister may by Order prescribe any goods, class or description of goods which are required to be warehoused upon their importation.

(6) If any goods are warehoused or fail to be warehoused contrary to the provisions of this section, they shall be liable to forfeiture.

48. (1) Subject to subsection (2), any goods which have been entered for warehousing or which have been permitted to be removed from a warehouse for transport to another warehouse may, at any time before they have been warehoused or rewarehoused –

Re-entry of goods entered for warehousing.

(a) be further entered by their proprietor for home use, if so eligible, for exportation or for use as stores, and shall then be dealt with as if they had been so entered from warehouse; or

(b) be removed for transport to another warehouse approved for the warehousing of such goods, and shall then be dealt with as if they had been duly warehoused.

(2) Where goods are held in containers, no part of those goods shall be further entered or removed under subsection (1) unless that part shall consist of one or more complete containers.

49. (1) If, at any time after goods have been deposited in a warehouse and before they have been lawfully removed, all or part of those goods are found to be missing then, without prejudice to any other fine or liability to forfeiture incurred by or under this Act, the occupier of the warehouse shall –

Liability for production and safe custody of warehoused goods.

(a) pay to the Comptroller –

(i) the duty that such goods would have borne if they had been entered for home use on the date of the discovery of the deficiency; or

(ii) in the case of goods not eligible for home use, an amount which is in the opinion of the proper officer, the value of the goods; and

(b) be liable to a fine of five thousand dollars, or three times the value of the goods, whichever is the greater.

(2) Where any goods have, without payment of duty, been lawfully removed from a warehouse for transport to some other warehouse or to some other place, and they fail to reach that other warehouse or place then, without prejudice to any other fine or liability to forfeiture incurred by or under this Act, the proprietor of the goods shall –

(a) pay to the Comptroller –

(i) the duty that such goods would have borne if they had been entered for home use on the date of their removal from the warehouse; or

(ii) in the case of goods not eligible for home use, an amount which is in the opinion of the proper officer, the value of the goods; and

(b) be liable to a fine of five thousand dollars, or three times the value of the goods, whichever is the greater.

(3) Subject to subsection (4), no compensation shall be payable by, and no action shall lie against the Comptroller, for any loss or damage caused to any goods while in a warehouse or for any unlawful removal of goods from a warehouse.

(4) Where warehoused goods are damaged, destroyed or unlawfully removed by or with the assistance or connivance of an officer, and that officer is convicted of an offence in relation to that damage, destruction or removal then, except where the occupier of the warehouse or the proprietor of the goods was a party to the offence, the Comptroller shall pay compensation for any loss caused by the damage, destruction or removal, and notwithstanding any other provision of any customs enactment, no duty shall be payable on the goods by the occupier or the proprietor and any sum paid by way of duty by him before the conviction shall be repaid.

Duty chargeable
on warehoused
goods.

50. (1) Save as permitted by or under this Act, no goods shall be removed from a warehouse until all duty chargeable on those goods has been paid.

(2) The duties and rates chargeable on warehoused goods shall be those in force with respect to the goods of that class or description at the time of the removal of the goods from the warehouse.

(3) Subject to subsection (4), the amount payable in respect of any duty chargeable on goods shall be calculated in accordance with the account taken of those goods upon their first being warehoused, except that where the goods are –

(a) spirits; or

(b) tobacco,

the calculation shall be in accordance with the quantity of the goods ascertained by weight, measure or strength at the time of actual delivery of the goods, unless the Comptroller considers that the difference between the first account and the amount delivered is not explained by natural evaporation or other legitimate cause, in which case the calculation shall be in accordance with that first account.

(4) Where warehoused goods have deteriorated or have been damaged to such a degree that the Comptroller is satisfied that they have become unsaleable, he shall allow such abatement of the duty chargeable on them as, in his opinion, the amount of the deterioration or damage bears to the original value of the goods.

51. Without prejudice to any other provision of this Act authorising the removal of goods from warehouse without payment of duty, the Comptroller may permit warehoused goods entered for removal for any purpose other than home use to be removed for that purpose, subject to such conditions and restrictions as he may see fit to impose, without payment of duty, provided that where any condition or restriction imposed under this section is contravened or not complied with, the goods shall become liable to forfeiture.

Removal of
warehoused
goods without
payment of duty.

52. (1) The Comptroller may appoint any place for the deposit of goods, for the security of those goods and of any duty chargeable on them, and any place so appointed shall be referred to in this Act as a “customs warehouse”.

Customs
warehouses.

(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 those goods in a customs warehouse, he may deem those goods to be deposited in a customs warehouse, and the provisions of this section shall then apply to those goods as if they were deposited in such a warehouse.

(3) Such rent shall be payable in respect of any goods deposited in a customs warehouse as is prescribed in the Third Schedule.

Third Schedule.

L.R.O. 1/1991

(4) The Minister may by Order amend the Third Schedule.

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

(6) The Comptroller may, in respect of any goods deposited in a customs warehouse, do all such acts as appear to him necessary for the custody and preservation of those goods, and the expenses of so doing shall be payable in addition to any other charges payable in respect of those goods.

(7) 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, then –

(a) they shall, in addition to any other charges payable on them, be chargeable with such expenses for the securing, watching and guarding of 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) unless the goods were deposited under section 28 (1) (c), if the proprietor of the goods does not within fourteen days from the date of their deposit clear the goods, the Comptroller may sell them.

(8) Save as the Comptroller may otherwise permit, all goods deposited in a customs warehouse shall be removed from that warehouse within two months from the date of their deposit, and any goods not so removed may be sold.

(9) Save as permitted by or under this Act, no goods shall be removed from a customs warehouse until all duty chargeable on those goods, and any charges in respect of –

(a) the removal of the goods to the customs warehouse; and

(b) subsections (3), (6) and (7),

have been paid and, in the case of goods requiring entry and not yet entered, until entry of those goods has been made.

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

53. (1) Any person who, except with the authority of the proper officer or for just and sufficient cause, opens any door or lock of a warehouse or a customs warehouse or makes or obtains access to any such warehouse or to any goods in such a warehouse, is liable to a fine of ten thousand dollars, and to imprisonment for two years, and may be arrested.

Offences in relation to warehouses and warehoused goods.

(2) Where –

- (a) any goods which have been entered for warehousing are taken into a warehouse without the authority of, or otherwise than in accordance with any direction given by, the proper officer;
- (b) save as permitted by or under this Act, any goods which have been entered for warehousing are removed without being duly warehoused or are otherwise not duly warehoused;
- (c) any goods which have been deposited in a warehouse or a customs warehouse are unlawfully removed or are unlawfully loaded into any vessel, aircraft or vehicle for removal or for exportation or for use as stores;
- (d) any goods entered for warehousing are concealed, either before or after they have been warehoused; or
- (e) any goods which have been lawfully permitted to be removed from a warehouse or a customs warehouse without payment of duty for any purpose are not duly delivered at the destination to which they should have been taken in accordance with that permission,

those goods are liable to forfeiture.

(3) Any person who is in any way concerned with the taking, removal, loading, concealing or non-delivery of goods, as described in subsection (2), is liable to a fine of five thousand dollars.

(4) Any person who is in any way concerned with the taking, removal, loading, concealing or non-delivery of goods as described in subsection (2), with intent to defraud the Government of Dominica of any duty chargeable on those goods or to evade any prohibition or restriction for the time being in force with respect to those goods under or by virtue of any written law, is liable to a fine of ten thousand dollars, or to three times the value of the goods, whichever is the greater, and to imprisonment for two years, and may be arrested.

PART VIII
DUTIES, DRAWBACK, PROHIBITIONS
AND RESTRICTIONS

DUTIES

Power to impose
Customs charges.

54. The Minister may by Order impose such charges as may be deemed necessary for the administration of the Customs Department.

Time at which
duty chargeable
and payable.

55. (1) Save as otherwise provided by or under this Act, duty shall be chargeable on goods at the rate in force with respect to goods of that class or description –

- (a) where an entry for home use is delivered in respect of goods imported into Dominica, or an entry is delivered in respect of goods to be exported out of Dominica, at the time of the delivery of the entry in respect of those goods to the proper officer;
- (b) where an entry is required in respect of the importation of goods into, or the exportation of goods out of Dominica, but no entry is delivered to any officer, at the time of the importation or exportation of the goods;
- (c) where goods are removed from any vessel or aircraft under any bond or other security, at the time of the delivery of the goods;
- (d) where goods are removed from a warehouse for home use, then, subject to subsection (2), at the time of the removal of those goods from warehouse; and
- (e) in any other case, at the time of the importation or exportation of the goods.

First Schedule.

(2) Where goods are warehoused by virtue of any requirement of section 28 (1) (c) or any Order made under section 47(5), then if an entry in respect of those goods is delivered to the proper officer within seven working days, as prescribed by the First Schedule, of those goods being imported into Dominica, duty shall be chargeable on those goods at the rate in force at the time of the delivery of the entry in respect of those goods to the proper officer.

(3) Save as expressly permitted by any customs enactment no imported goods shall be delivered or removed on importation until the

importer has paid to the proper officer the duty chargeable on those goods and that duty shall, in the case of any goods in respect of which an entry is made, be paid on the delivery of the entry to the proper officer.

(4) Save as the Comptroller may otherwise permit, export duty chargeable on goods shall be paid by an exporter on the delivery of the entry to the proper officer, and any exporter who fails to pay duty, as required by this subsection, is liable to a fine of five hundred dollars.

56. (1) Any duty, drawback, allowance or rebate, the rate of which is expressed by reference to a specified quantity or weight of any goods, shall be chargeable or allowable on any fraction directed by the Comptroller to be taken into account in respect of such quantity or weight. Calculation of
duty chargeable.

(2) For the purposes of calculating any amount due from or to any person under any customs enactment, any fraction of a cent in that amount shall be disregarded.

57. (1) If any goods, being goods chargeable with any duty on their importation into or exportation out of Dominica – Special provi-
sions.

- (a) are imported or exported in any package intended for sale, or of a kind normally sold with those goods, and the package is marked or labelled or commonly sold as, or reputed as containing a specified quantity of those goods, then the package shall be deemed to contain not less than that specified quantity of those goods;
- (b) are imported or exported in any package intended for sale, or of a kind normally sold with those goods, but the package is not marked or labelled, or commonly sold as, or reputed as containing a specified quantity of those goods, then, unless the importer or exporter is able to satisfy the Comptroller as to the net weight of the goods, the duty shall be calculated on the gross weight of the package and the goods;
- (c) are imported or exported in any package or covering which, in the opinion of the Comptroller –
 - (i) is not the usual or proper package or covering for such goods; or

(ii) is designed for separate use, other than as a package or covering for the same or similar goods, subsequent to the importation or exportation,

that package or covering shall be deemed to be a separate article;

(d) are brought or come into Dominica as derelict, jetsam, flotsam or as a wreck, part of a wreck, or as droits of Admiralty are sold in Dominica, they shall be chargeable with the same duty as goods of that class or description would be subject to at the time of their discovery or sale; and

(e) are imported or exported as a part or an ingredient of another article, duty shall be chargeable on those goods according to the proportion of those goods to other goods used in the manufacture or preparation of the article.

(2) The Minister may by Order specify standard capacities for containers of liquid goods, and where goods liable to duty by liquid volume are, or are reputed to be, sold in a container of the size specified in the Order, the quantity of goods in that container shall be deemed to be the specified quantity.

Reliefs from
duty.

58. (1) Subject to the provisions of this section –

(a) the Comptroller may permit goods to be imported into Dominica for temporary use without payment of the duty chargeable on those goods for such periods and subject to such conditions and restrictions as he may see fit to impose;

(b) all goods which on their importation into Dominica are permitted to be warehoused shall be allowed to be warehoused without payment of duty;

(c) the Comptroller may permit, subject to such conditions and restrictions as he may see fit to impose, any goods entered for transshipment to be removed for that purpose without payment of duty; and

(d) where any goods, being goods previously entered for home use in Dominica, are imported into Dominica after exportation from Dominica, and it is shown to the satisfaction of the Comptroller that –

- (i) no duty was chargeable on those goods on any previous importation into Dominica, or that if any duty was so chargeable, it has been paid;
 - (ii) that no drawback has been paid or duty refunded on their exportation or that any drawback so paid or duty so refunded has been repaid; and
 - (iii) that the goods have not undergone any process outside Dominica since their exportation,
- those goods may be permitted to be imported, subject to such conditions and restrictions as the Comptroller may see fit to impose, without payment of duty.

(2) Where, under any provision of any customs enactment, any goods are, subject to any condition or restriction, relieved from any duty chargeable on them, and that condition or restriction is contravened, the duty relieved shall become payable by the person who, but for that relief, would have had to pay that duty, and the goods in respect of which the relief was granted shall become liable to forfeiture.

(3) Any goods relieved from duty by virtue of any provision of any customs enactment shall, upon a demand made by an officer, be produced or otherwise accounted for to him, and if any person fails to produce or account for the goods he is liable to a fine of five thousand dollars, or three times the value of the goods, whichever is the greater, and if any goods not produced or accounted for are subsequently found, they shall be liable to forfeiture.

59. (1) Subject to subsection (2), where the Comptroller is satisfied in respect of any imported goods that – Abatement of duty.

- (a) before or upon their importation they have deteriorated or have been damaged, or that they or some of them have been lost or destroyed, and, in the case of lost goods, that they have not entered or will not enter into home use in Dominica; and
- (b) the carrier or insurer has made an allowance to the importer in respect of the deterioration, damage, loss or destruction,

the Comptroller shall allow such abatement of the duty chargeable on those goods as, in his opinion, the amount of the deterioration, damage, loss or destruction bears to the original value of the goods.

(2) Where duty has already been paid on goods in respect of which an abatement would be allowable under subsection (1), no repayment of the amount of the abatement shall be made unless the claim is made within twelve months of the date of the payment of the duty.

Power of Cabinet
to refund duty.

60. (1) Cabinet may remit or authorise the refund of the whole or part of any duty paid or payable by any person in respect of any goods.

(2) Any remission or refund made or authorised to be made under subsection (1) may apply either to specific instances or generally or in respect of specified persons or to persons of a specific class, and may be subject to such conditions and restrictions as Cabinet may see fit to impose.

Recovery of
amounts due.

61. (1) Any amount due and payable to the Comptroller under any customs enactment may be recovered by him in any court of competent jurisdiction.

(2) In any proceedings by the Comptroller for the recovery of any amount due by way of duty, it shall not be competent for the defendant to enter a defence that the amount of duty claimed to be due by the Comptroller, or decided to be due by the Customs Appeal Commissioners, or any court on appeal from those Commissioners, is incorrect.

Valuation.
[8 of 1991].

62. (1) Where under any enactment relating to an assigned matter duty is chargeable on goods by reference to their value, that value shall in the case of imported goods be determined in accordance with the Fourth Schedule.

Fourth Schedule.

(2) Without prejudice to any other power enabling the Minister to do so, the Minister may make Regulations for the purposes of giving effect to subsection (1).

(3) When it is necessary, in determining the value referred to in subsection (1) to establish the equivalent in East Caribbean currency, the rate of exchange to be used shall be calculated according to the rate of exchange for that currency posted in the Customs House on the day on which the charge to duty arises.

DRAWBACK

63. (1) Subject to the provisions of this section, where goods are entered – Extent of drawback.

- (a) for exportation;
- (b) for shipment for use as stores; or
- (c) for warehousing for subsequent exportation or shipment for use as stores,

drawback may be claimed in respect of any duty paid on those goods on their importation into Dominica.

(2) No drawback may be claimed in respect of –

- (a) any goods of a value of less than two hundred and seventy dollars, such value being that at which the goods were originally imported;
- (b) goods which were imported into Dominica more than twelve months before the date of the claim for drawback; and
- (c) goods not in the packages in which they were originally imported into Dominica, or in the case of bulk goods, where that bulk has been broken,

except that where imported goods are re-exported within six months of their importation by their importer to the same country and to the same person or firm from which they were imported or are entered for shipment for use as stores, the provisions of this subsection shall not apply.

(3) The Minister may by Order prescribe any goods, class or description of goods in respect of which no drawback shall be claimable.

64. (1) Any claim for drawback shall be made in such form and manner and contain such particulars as the Comptroller may direct. Claims for drawback.

(2) No drawback shall be payable –

- (a) unless it is shown to the satisfaction of the Comptroller that all duty due on the goods in respect of which the claim is made has been paid and not otherwise drawn back;

- (b) until the person making the claim has furnished the Comptroller with such information and produced to him such books of account or other documents relating to the goods as the Comptroller may demand; and
- (c) subject to section 65, until all the goods which are the subject of the claim have been exported.

Drawback on goods destroyed or damaged after shipment.

65. (1) Where it is proved to the satisfaction of the Comptroller that after being duly shipped for exportation or for use as stores, goods have been destroyed by accident on board the exporting vessel or aircraft, any amount payable by way of drawback on those goods shall be payable as if they had been exported to their destination.

(2) Where it is proved to the satisfaction of the Comptroller that after being duly shipped for exportation or for use as stores, goods have been materially damaged by accident on board the exporting vessel or aircraft, those goods may, with the consent of and in accordance with any conditions and restrictions as may be imposed by the Comptroller, be reloaded or unloaded again or brought back into Dominica, and –

- (a) if re-entered for home use, shall be chargeable with the duty normally chargeable on the importation of such damaged goods; or
- (b) if abandoned to the Comptroller or destroyed, shall be entitled to such drawback payable on those goods as if they had been duly exported to their destination, and notwithstanding any other provision of any customs enactment, no duty shall be payable on the importation or unloading of those goods.

Offences in relation to drawback.

66. (1) Any person who obtains or attempts to obtain or does anything whereby there might be obtained by any person any amount by way of drawback in respect of goods for which there is no lawful entitlement, is liable to a fine of five thousand dollars, or three times the amount obtained, attempted to be or which might have been obtained, whichever is the greater.

(2) Any person who, with intent to defraud, obtains or attempts to obtain or does anything whereby there might be obtained by any person any amount by way of drawback in respect of goods for which there is no lawful entitlement, is liable to a fine of ten thousand dollars,

or three times the amount obtained, attempted to be or might have been obtained, whichever is the greater, and to imprisonment for two years, and may be arrested.

(3) Where any offence is committed under this section, any goods in respect of which the offence was committed shall be liable to forfeiture.

PROHIBITIONS AND RESTRICTIONS

67. (1) No goods, class or description of goods, prescribed in Part I of the Fifth Schedule may be imported into Dominica.

General provisions.
Fifth Schedule.

(2) No goods, class or description of goods, prescribed in Part II of the Fifth Schedule may be imported into Dominica except in accordance with the conditions and restrictions prescribed by that Part.

(3) The Minister may by Order –

- (a) delete from, vary or add to the goods, classes or descriptions of goods prescribed in Parts I and II of the Fifth Schedule;
- (b) prohibit or restrict, subject to such conditions and restrictions as the Order may impose, the exportation or carriage coastwise of any goods, class or description of goods; and
- (c) prohibit or restrict, subject to such conditions and restrictions as the Order may impose, the importation, exportation or carriage coastwise of any goods, class or description of goods specified in the Order to or from any place in Dominica so specified.

68. (1) Save where the Comptroller –

- (a) may otherwise permit and subject to such conditions and restrictions as he may see fit to impose; or
- (b) is satisfied that to do so was caused by accident, stress of weather or other unavoidable cause,

Prohibition on carriage of spirits and tobacco.

no spirits, wines, tobacco, cigars, cigarillos or cigarettes may be imported into or exported out of Dominica in any vessel of less than thirty tons burden.

(2) Any spirits, wines, tobacco, cigars, cigarillos or cigarettes imported into or exported out of Dominica in contravention of subsection (1), are liable to forfeiture and any person concerned in that importation or exportation is liable to a fine of five thousand dollars.

PART IX

DETERMINATION OF DISPUTES

Appeal to the
Comptroller.

69. (1) Where any amount of duty demanded by an officer is disputed by the person required to pay that amount, that person shall pay that amount but then may, at any time before the expiration of three months from the date of payment, require the Comptroller, by a notice in writing under this subsection, to reconsider the amount of duty demanded.

(2) A notice under subsection (1) shall state the grounds for disputing the amount of duty demanded.

(3) The Comptroller, after reconsidering the amount of duty demanded and taking into account the grounds contained in the notice, may increase, decrease or confirm that amount, and shall notify the person who paid the amount demanded of his decision.

Customs Appeal
Commissioners.

70. (1) The Minister shall from time to time appoint such persons as he sees fit to be Customs Appeal Commissioners (hereinafter in this Part referred to as "Commissioners").

(2) The Minister shall appoint one of the Commissioners to be Chairman and another to be Deputy Chairman, and any hearing of the Commissioners shall be before either the Chairman or the Deputy Chairman and at least two other Commissioners.

(3) The Minister shall appoint a Secretary to the Commissioners and any notice or correspondence, other than decisions of the Commissioners themselves, may be issued and signed by or on behalf of the Secretary.

(4) Every decision of the Commissioners shall be given under the signature of the Chairman presiding at that hearing.

(5) At any hearing of the Commissioners, all Commissioners shall be entitled to attend and in the event of a division of opinion, the decision of the majority or if there be no majority, the decision of the Chairman of that hearing shall prevail.

(6) At any hearing of the Commissioners, they shall have –

- (a) power to summon to attend that hearing any person who in their opinion is or might be able to give evidence relevant to the matter before that hearing;
- (b) power, where any person is summoned to attend a hearing, or is voluntarily at that hearing, to examine that person on oath or otherwise;
- (c) power to require any person to produce any books or other documents which are in his custody or under his control and which they consider may contain evidence relevant to the matter before the hearing;
- (d) all powers of a subordinate court with respect to the enforcement of attendance of witnesses, the hearing of evidence on oath and punishment for contempt;
- (e) power to admit or reject any evidence adduced, notwithstanding that that evidence would or would not be admissible in any court;
- (f) power to postpone or adjourn that hearing; and
- (g) a duty to determine the procedure to be followed at that hearing.

71. (1) Any person notified of a decision of the Comptroller under section 69 (hereinafter in this Part referred to as “the appellant”) may, subject to subsection (2), appeal against that decision to the Commissioners by serving a notice of appeal on the Secretary to them and the Comptroller within thirty days of the notification or such longer period as the Commissioners may permit.

Appeal to the
Customs Appeal
Commissioners.

(2) No appeal may be made under subsection (1) unless the amount notified as the duty due by the decision of the Comptroller has been paid.

(3) A notice of appeal under subsection (1) shall be in writing and shall state –

- (a) the date of the decision of the Comptroller which is appealed against;
- (b) the name and address of the person to whom the decision appealed against was sent;
- (c) the amount of duty in dispute; and
- (d) the grounds for claiming that the amount of duty in dispute is not due and payable.

(4) At least thirty days or such shorter time as the parties may agree before the date fixed for the hearing of an appeal, the Secretary to the Commissioners shall, by notice in writing, advise the Comptroller and the appellant of the time at which, the date on which, and the place where the appeal is set down for hearing.

(5) The hearing of any appeal under subsection (1) shall be in public unless the Chairman presiding at that hearing otherwise directs.

(6) At any hearing of an appeal under subsection (1) –

- (a) the Comptroller and the appellant shall be entitled to appear in person or by representation;
- (b) the burden of proof on any matter shall lie with the appellant; and
- (c) the Comptroller and the appellant shall bear their own costs unless the Commissioners, for special cause, otherwise direct.

(7) On the hearing of an appeal, the Commissioners may increase, decrease or confirm the amount of duty due and shall notify the Comptroller and the appellant of their decision.

(8) Any decision of the Commissioners under this section shall be published, except that where a direction has been given under subsection (5) that the hearing of the appeal shall be in private, such details of the decision shall be omitted as the Chairman considers necessary to preserve the privacy that the private hearing was considered necessary to protect.

Right of further
appeal.

72. (1) The Comptroller or the appellant may appeal to the High Court against any decision of the Commissioners which involves a question of law, including a question of mixed fact and law.

(2) The Comptroller or the appellant may appeal to the Court of appeal against any decision of the High Court, being a decision on an appeal from the Commissioners, which involves a question of law, including a question of mixed fact and law.

(3) On an appeal to the High Court or the Court of Appeal under this section, that Court shall have the power to –

- (a) increase, decrease or confirm the amount of duty due;
- (b) make any such other order as it thinks fit; and
- (c) make such order as to costs as it thinks fit.

73. (1) Subject to subsection (2), where a decision of the Commissioners, the High Court or the Court of Appeal on an appeal under this Part is – Payment of duty after appeal.

- (a) that the amount of duty due should be increased, the appellant shall pay the amount of the increase to the Comptroller; and
- (b) that the amount of duty should be decreased, the Comptroller shall pay the amount of the decrease to the appellant,

within thirty days of the decision.

(2) Where the decision referred to in subsection (1) is that of the Commissioners or the High Court, no amount shall be payable if, within the thirty day time limit provided by that subsection, an appeal against that decision is lodged with the High Court or the Court of Appeal, as the case may be.

PART X POWERS

74. (1) Without prejudice to any other power contained in this Act, Right of access. any officer shall have a right of access to, and a power of search of, any part of a customs port, approved wharf, customs airport or other customs area, and any vehicle or goods found at such a place.

(2) The power of search provided by subsection (1) shall include the power to break into or open any building, vehicle, place or container which is locked and to which no keys are provided.

(3) Any goods found concealed at a customs port, approved wharf, customs airport or other customs area, or in any vehicle found at such a place, shall be liable to forfeiture.

Power of
boarding.

75. (1) At any time while a vessel is within the waters of Dominica, or an aircraft is at any airport, any officer may require that vessel or aircraft to stop and then may board it, and may remain on board, and may rummage and search any part of it.

(2) Any officer on board any vessel or aircraft in pursuance of subsection (1) may –

- (a) cause any goods to be marked before they are unloaded from that vessel or aircraft;
- (b) examine any goods in the course of their being unloaded;
- (c) lock up, seal, mark or otherwise secure any goods carried in that vessel or aircraft or any place or container in which they are so carried;
- (d) break open any place or container which is locked and to which no keys are provided;
- (e) require any document or book which should be on board that vessel or aircraft to be produced to him for examination; and
- (f) require answers to all such questions relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as may be put by him,

and any person on board who prevents him from so doing, or refuses to produce any such document or book, or answer any such question, is liable to a fine of five thousand dollars.

(3) Any goods found concealed on board a vessel within the waters of Dominica or an aircraft at any airport, is liable to forfeiture.

(4) Where any vessel or aircraft refuses to stop or permit an officer to board when required to do so under subsection (1), the master of that vessel or the commander of that aircraft is liable to a fine of five thousand dollars, and the vessel or aircraft is liable to forfeiture.

(5) Where any vessel refuses to stop when required to do so under subsection (1) and chase is given, every person employed in working the vessel during the chase is liable to a fine of five thousand dollars.

76. The Comptroller may station an officer on board any vessel at any time while it is within the waters of Dominica, and the master of any vessel on which an officer is stationed by virtue of this section who neglects or refuses to provide – Power to station officer on vessel.

- (a) proper and sufficient food and water, together with reasonable accommodation for such an officer; and
- (b) means of safe access to and egress from that vessel as required by the officer,

is liable to a fine of five thousand dollars.

77. (1) Subject to subsection (3), any officer may patrol upon and pass freely along and over – Power to patrol and moor.

- (a) any part of the coast of Dominica;
- (b) any shore or bank of any Dominican river, creek or inlet; and
- (c) any land adjoining any customs port, approved wharf, customs airport or other customs area,

whether or not that place is private property.

(2) Subject to subsection (3), any officer in command or in charge of any vessel or aircraft engaged in the prevention of smuggling may haul up and moor that vessel, or land that aircraft, at any place in Dominica.

(3) Nothing in this section shall authorise the entry into or use of any home or garden.

78. (1) Without prejudice to any other provision of any customs enactment, an officer may examine and take account of any goods – Power to examine and take account of goods.

- (a) which have been imported;
- (b) which are in a warehouse or a customs warehouse;
- (c) which have been loaded into or unloaded from any vessel or aircraft at any place in Dominica;
- (d) which have been entered for exportation or for use as stores;
- (e) which have been brought to any place in Dominica for exportation or for use as stores, or for shipment for exportation or for use as stores; or

(f) in respect of which any claim for drawback, allowance, rebate, remission or repayment of duty has been made, and may for that purpose require any container to be opened or unpacked.

(2) Any examination of goods by an officer under subsection (1) shall be made at such time and place as the officer may direct.

(3) Any bringing of goods to a place directed under subsection (2), and their unloading, opening, unpacking, weighing, repacking, bulking, sorting, lotting, marking, numbering, loading, carrying or landing, and any such treatment to the containers in which the goods are kept, for the purposes of and incidental to the examination by the officer, their removal for exportation or for use as stores or warehousing, shall be done, and any facilities or assistance required for the examination shall be provided, by or at the expense of the owner of the goods.

(4) If any –

(a) imported goods which an officer has the power under this section to examine; and

(b) goods, other than imported goods, which an officer has directed to be brought to a place for the purposes of examination,

are, without the authority of the proper officer, removed from customs charge before they have been examined, those goods shall be liable to forfeiture.

Power to take samples.

79. (1) An officer may at any time take a sample of any goods which he is empowered by any provision of any customs enactment to examine.

(2) Any sample taken by an officer under subsection (1) shall, unless it is liable to forfeiture or it is unpractical to do so, be returned upon payment of such duty as may be payable in respect of it to the person who was at the time of the taking of the sample, the owner of it.

Power to search premises.

80. (1) Where an officer has reasonable grounds to believe that any thing which is liable to forfeiture by virtue of any customs enactment is kept at or concealed in any building or other place, he may after being authorised to do so in writing by the Comptroller –

(a) enter that building or place at any time, and search for, seize, detain or remove any thing which appears to him may be liable to forfeiture; and

(b) so far as is reasonably necessary for the purpose of the entry, search, detention or removal, break open any door, window or container and force and remove any other impediment or obstruction.

(2) Where in the case of any entry, search, seizure, detention or removal, damage is caused and no goods which are liable to forfeiture are found, the owner of the building, place or goods damaged shall be entitled to recover from the Comptroller the costs of making good that damage.

81. (1) Without prejudice to any other power contained in or under this Act, where an officer has reasonable grounds to believe that any vehicle is carrying any thing which is liable to forfeiture, he may stop and search that vehicle. Power to search vehicles.

(2) If, when so required under subsection (1), the person in charge of a vehicle fails to stop or refuses to permit the vehicle to be searched, he is liable to a fine of five thousand dollars.

82. (1) Where an officer has reasonable grounds to believe that any person has in his possession any thing which is liable to forfeiture, he may stop and search that person and any article which that person has with him. Power to search persons.

(2) No woman or girl shall be searched in pursuance of subsection (1) except by a woman.

83. (1) Subject to subsection (2), any officer or a police officer may arrest any person who has committed, or who that officer or police officer has reasonable grounds to suspect has or is about to commit, any offence under any customs enactment for which a person may be arrested. Power of arrest.

(2) No person may be arrested for an offence by virtue of subsection (1) more than three years after the commission of that offence, except that where, for any reason, it was not practicable to arrest that person at the time of the commission of the offence, he may be arrested and proceeded against as if the offence had been committed at the time when he was arrested.

(3) Where by virtue of subsection (1) any person is arrested by a police officer, that officer shall give notice of that arrest to the Comptroller.

Power to carry
and use firearms.

84. (1) Where the Comptroller is satisfied that it is necessary for the protection of any officer duly engaged in the performance of any duty, he may authorise that officer to carry a firearm.

(2) Any officer may use any firearm authorised to be carried by subsection (1) where such use is necessary for the preservation of life.

(3) Where any vessel required by an officer to stop fails to do so, that officer may at any time –

(a) while the vessel is within the territorial waters of Dominica; and

(b) where the officer is satisfied that –

(i) the person in charge of the vessel is aware of the requirement to stop; and

(ii) two warning shots have been fired as a warning signal,

fire at or into that vessel, or order shots to be so fired.

Power to pay
rewards.

85. The Comptroller may, with the approval of the Minister, reward any person, including an officer, for any service in relation to an assigned matter which appears to him to merit reward.

Power to require
attendance.

86. (1) Where under any provision of any customs enactment the master of any vessel or the commander of any aircraft is required to answer any question put to him by the Comptroller or an officer, the Comptroller or the officer may, at any time while the vessel is within the waters of Dominica or the aircraft is at any airport, require that master or commander or, with the consent of the Comptroller or the officer, a senior officer of that vessel or aircraft, to attend before him at his office.

(2) Any master or commander who fails to comply with any requirement of subsection (1) is liable to a fine of five thousand dollars.

Power to require
information and
the production of
evidence.

87. (1) Any officer may, at any time within three years of the importation, exportation or carriage coastwise of any goods, require any person –

(a) concerned in that importation, exportation or carriage coastwise; or

(b) concerned in the carriage, unloading, landing or loading of the goods,

to furnish to him in such form and manner as the officer may require, any information relating to the goods, and to produce and permit the officer to inspect, take extracts from, make copies of or remove for a reasonable period, any invoice, bill of lading or other book or document relating to the goods in that person's control or possession.

(2) The Comptroller may require evidence to be produced to his satisfaction in support of any information provided by virtue of subsection (1) or Parts III to VI and VIII, in respect of any goods imported, exported or carried coastwise, or in respect of which any drawback, allowance, rebate, remission or repayment of duty is claimed.

88. (1) Without prejudice to any express requirement as to security provided for by any other customs enactment, the Comptroller may, if he sees fit, require any person to give security by bond or otherwise for the observance of any condition or restriction in connection with an assigned matter. Power to require security.

(2) Any bond taken for the purposes of any assigned matter –

- (a) shall be taken on behalf of the Government of Dominica;
- (b) shall be valid notwithstanding that it is entered into by a person under full age; and
- (c) may be cancelled at any time by or by the order of the Comptroller.

PART XI

OFFENCES

OFFENCES IN RELATION TO OFFICERS

89. If, for the purpose of obtaining admission to any building or other place, or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, any person falsely assumes the name, designation or character of the Comptroller, of an officer or of any other person appointed by the Comptroller to discharge any duty relating to an assigned matter, he may be arrested and, in addition to any other proceedings which may be taken against him, he is liable to a fine of ten thousand dollars and to imprisonment for two years. Unlawful assumption of character of Comptroller or officer.

Bribery and
collusion.

90. (1) If the Comptroller, an officer or any other person appointed by the Comptroller to discharge any duty relating to an assigned matter –

- (a) directly or indirectly asks for or takes in connection with any of his duties any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward, not being a payment or reward which he is lawfully entitled to claim or receive; or
- (b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Government of Dominica is or may be defrauded or which is otherwise unlawful, being an act or thing relating to an assigned matter,

he is liable to a fine of ten thousand dollars and to imprisonment for two years, and may be arrested.

(2) Any person who –

- (a) directly or indirectly offers or gives to the Comptroller, an officer or to any other person appointed by the Comptroller to discharge any duty relating to an assigned matter any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward; or
- (b) proposes or enters into any agreement with the Comptroller, officer or other person so appointed, in order to induce him to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Government of Dominica is or may be defrauded or which is otherwise unlawful, being an act or thing relating to an assigned matter, or otherwise to take any course contrary to his duty,

is liable to a fine of ten thousand dollars and to imprisonment for two years, and may be arrested.

Offences against
officers.

91. (1) Any person who –

- (a) obstructs, hinders, molests or assaults any person engaged in the performance of any duty or the exercise of any power, imposed or conferred on him by any customs enactment, or any person acting in his aid;

- (b) does anything which impedes or is calculated to impede the carrying out of any search for any thing which is liable to forfeiture or the detention, seizure or removal of any such thing;
- (c) rescues, damages or destroys any thing which is liable to forfeiture or does any thing calculated to prevent the procuring or giving of evidence as to whether or not any thing is liable to forfeiture; or
- (d) prevents the arrest of any person under any customs enactment or rescues any person so arrested,

or who attempts to do any such act, or aids and abets any person doing such an act, is liable to a fine of ten thousand dollars and to imprisonment for two years, and may be arrested.

(2) Where an offence under subsection (1) is committed by a person armed with a lethal weapon, or with sticks or stones or other like instruments, or in any violent manner, that subsection shall have effect subject to the modification that, for the liability to imprisonment for two years, there shall be substituted a liability to imprisonment for five years.

(3) Any person who uses abusive or offensive language to any officer engaged in the performance of any duty or the exercise of any power imposed or conferred on him by any customs enactment, is liable to a fine of five thousand dollars.

92. (1) If any vessel or aircraft departs from Dominica carrying on board without his consent any officer, the master of that vessel or the commander of that aircraft is liable to a fine of ten thousand dollars.

Carrying away officers.

(2) Without prejudice to the liability of any person under subsection (1), the amount of any expenses incurred by the Comptroller or the Government of Dominica by reason of the carrying away of any officer may be recovered from that person or from the owner of the vessel or aircraft.

OFFENCES IN RELATION TO SMUGGLING

93. (1) Any person who, save for just and sufficient cause, interferes in any way with any vessel, aircraft, vehicle, buoy, anchor, chain, rope or mark which is being used by an officer in the performance of his duty is liable to a fine of five thousand dollars.

Interfering with Customs vessels.

(2) Any person who fires upon any vessel, aircraft or vehicle being used by any officer in the performance of his duty, is liable to imprisonment for five years.

Signalling to
smugglers.

94. (1) In this section references to a “prohibited signal” or a “prohibited message” are references to a signal or message connected with the smuggling or intended smuggling of goods into or out of Dominica.

(2) Any person who by any means sends any prohibited signal or transmits any prohibited message from any place in Dominica or from any vessel or aircraft, for the information of any person in any vessel or aircraft, is liable to a fine of five thousand dollars and to imprisonment for twelve months, and may be arrested, and any equipment or apparatus used for the sending of the signal or message is liable to forfeiture.

(3) Subsection (2) applies whether or not the person for whom the signal or message is intended is in a position to receive it or is actually engaged at that time in smuggling.

(4) If, in any proceedings against a person under subsection (2), any question arises as to whether any signal or message was a prohibited signal or a prohibited message, the burden of proof shall lie on the defendant.

(5) If any officer or police officer has reasonable grounds to believe that a prohibited signal or a prohibited message is being or is about to be made or transmitted from any vessel, aircraft, vehicle, building or other place in Dominica, he may board or enter that vessel, aircraft, vehicle, building or place and take such steps as are reasonably necessary to stop or prevent the sending of that signal or message.

Communicating
with arriving
vessels.

95. Save as the Comptroller may otherwise permit, any person on board any boat, canoe, sloop or other vessel who communicates in any way with any vessel arriving from a place outside Dominica before that arriving vessel has been cleared by an officer, is liable to a fine of five thousand dollars and may be arrested.

Offering goods
for sale as
smuggled goods.

96. If any person offers for sale any goods as having been imported without payment of duty, or as having been otherwise unlawfully imported, then, whether or not those goods were in fact chargeable with duty or were so imported, the goods are liable to forfeiture and the person so offering them for sale is liable to a fine of five thousand dollars, or three times the value of the goods, whichever is the greater, and may be arrested.

97. If any person concerned in the movement, carriage or concealment of goods – Special penalty where offender armed or disguised.

- (a) contrary to or for the purpose of contravening any prohibition or restriction for the time being in force under or by virtue of any written law with respect to the importation, exportation or carriage coastwise of those goods; or
- (b) without payment having been made of or security given for any duty payable on those goods,

and, while so concerned, is armed with any offensive weapon or disguised in any way, and if any person so armed or disguised is found in Dominica in possession of any thing which is liable to forfeiture under any customs enactment, he is guilty of an offence and liable to imprisonment for five years, and may be arrested.

GENERAL OFFENCES

98. (1) Any person who – Untrue declarations.

- (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Comptroller or an officer, any declaration, notice, certificate or other document; or
- (b) makes any statement in answer to any question put to him by an officer which is required by or under any written law to answer,

being a document or statement produced or made for any purpose of any assigned matter, which is untrue in a material particular, is liable to a fine of five thousand dollars, and any goods in relation to which the document or statement was made are liable to forfeiture.

(2) Any person who knowingly or recklessly –

- (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Comptroller or an officer, any declaration, notice, certificate or other document; or
- (b) makes any statement in answer to any question put to him by an officer which he is required by or under any written law to answer,

being a document or statement produced or made for any purpose of an assigned matter, which is untrue in a material particular, is liable to a

fine of ten thousand dollars, and to imprisonment for two years, and may be arrested, and any goods in relation to which the document or statement was made shall be liable to forfeiture.

(3) Where by reason of any such document or statement as is mentioned in subsection (1) or (2), the full amount of any duty payable is not paid or any overpayment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of duty unpaid or of the overpayment shall be payable immediately to the Comptroller, and may be recovered accordingly.

Counterfeiting documents.

99. Any person who –

- (a) counterfeits or falsifies any document which is required by or under any customs enactment or which is used in the transaction of any business relating to an assigned matter;
- (b) knowingly accepts, receives or uses any such document so counterfeited or falsified;
- (c) alters any such document after it has been officially issued; or
- (d) counterfeits any seal, signature, initials or other mark of, or used by, any officer for the verification of such a document or for the security of any goods or for any other purpose relating to an assigned matter,

is liable to a fine of ten thousand dollars and/or to imprisonment for two years, and may be arrested.

False scales.

100. (1) Any person who, where required by any customs enactment to provide scales, provides, uses or permits to be used any scales which do not give a true reading, is liable to a fine of five thousand dollars.

(2) Where any article is or is to be weighed, counted, gauged or measured for the purpose of the taking of an account or the making of an examination by an officer, then if –

- (a) any such person as is mentioned in subsection (1); or
- (b) any person by whom or on whose behalf the article is or is to be weighed, counted, gauged or measured,

does anything whereby the officer is or might be prevented from, or hindered or deceived in, taking a true account or making a due examination, he is liable to a fine of five thousand dollars.

(3) In this section, “scales” includes weights, measures and weighing or measuring machines or instruments.

101. (1) Without prejudice to any other provision of any customs enactment, if any person – Fraudulent evasion.

(a) knowingly acquires possession of any of the following goods, that is to say –

(i) goods which have been unlawfully removed from a warehouse or a customs warehouse;

(ii) goods which are chargeable with any duty which has not been paid; or

(iii) goods with respect to the importation, exportation or carriage coastwise of which any prohibition or restriction is for the time being in force under or by virtue of any written law; or

(b) is in any way knowingly concerned with smuggling, unshipping, landing, carrying, removing, depositing, harbouring, keeping or concealing or in any manner dealing with any such goods,

and does so with fraudulent intent, he is liable to a fine of ten thousand dollars, or to three times the value of the goods, whichever is the greater, and to imprisonment for two years, and may be arrested, and any goods in respect of which the offence was committed are liable to forfeiture.

(2) Without prejudice to any other provision of any customs enactment, where any person is, in relation to any goods, in any way concerned in a fraudulent evasion or attempt at evasion –

(a) of any duty chargeable on those goods; or

(b) of any prohibition or restriction for the time being in force with respect to the importation, exportation or carriage coastwise of those goods under or by virtue of any written law,

and is so concerned with fraudulent intent, he is liable to a fine of ten thousand dollars, or to three times the value of the goods, whichever is the greater, and to imprisonment for two years, and may be arrested, and any goods in respect of which the offence was committed are liable to forfeiture.

(3) Any person who attempts to induce, or directs or solicits any person to commit any offence under this section is liable to a fine of five thousand dollars.

Removing locks,
seals or marks.

102. (1) Where, in pursuance of any power conferred by any customs enactment, any lock, seal or mark is used to secure or identify any goods or place or container in which goods are kept then if, without the authority of the proper officer –

(a) that lock, seal or mark is unlawfully and prematurely removed or tampered with by any person; or

(b) at any time before the lock, seal or mark is lawfully removed, any of the goods are wilfully removed by any person,

that person and the person then in charge of the goods are liable to a fine of five thousand dollars.

(2) For the purposes of subsection (1), goods in a vessel or aircraft shall be deemed to be in the charge of the master of that vessel or the commander of that aircraft.

PART XII

LEGAL PROCEEDINGS, FORFEITURE AND SALE OF GOODS

GENERAL PROVISIONS AS TO LEGAL PROCEEDINGS

Institution of
proceedings.

103. (1) Subject to the powers of the Director of Public Prosecutions under the Constitution and to subsection (3), no proceedings for an offence under any customs enactment, or for condemnation under the Sixth Schedule, shall be commenced except –

Sixth Schedule.

(a) by order of the Comptroller; and

(b) in the name of an officer.

(2) In the case of the death, removal, discharge or absence of the officer in whose name any proceedings were commenced by virtue of subsection (1) (b), those proceedings may be continued by any officer authorised in that behalf by the Comptroller.

(3) Where any person has been arrested for any offence under any customs enactment, any court before which he is brought may proceed to deal with the case against him.

104. Save as otherwise expressly provided for in this Act and notwithstanding any other provision of any other written law, proceedings for an offence under any customs enactment may be commenced at any time within, but shall not be commenced later than, three years from the date of the commission of the offence.

Time limit on proceedings.

105. Proceedings for an offence under any customs enactment may be commenced –

Place of trial.

(a) in any court having jurisdiction in the place –

- (i) where the offence was committed;
- (ii) where the person charged with the offence resides or is found; or
- (iii) in the case of a body corporate charged with the offence, where that body corporate has its registered or principal office; and

(b) if any thing was detained or seized in connection with that offence, in any court having jurisdiction in the place where that thing was so detained or seized or was found or condemned as forfeited.

106. Any proceedings before a Magistrate's Court in relation to an assigned matter may be conducted by an officer or any other person authorised in that behalf by the Comptroller.

Persons who may conduct proceedings.

107. (1) Any summons or other process issued for the purpose of any customs enactment shall be deemed to have been duly served on a person –

Service of process.

- (a) if delivered to him personally;
- (b) if left at his last known place of abode or business or, in the case of a body corporate, at its registered or principal office; or
- (c) if left on board any vessel or aircraft to which he may belong or have lately belonged.

(2) Any summons, notice, order or other document issued for the purposes of any proceedings under any customs enactment, or of an appeal from a decision of any court in any such proceedings, may be served by an officer.

Incidental provisions.

108. (1) Where liability for an offence under any customs enactment is incurred by two or more persons jointly, those persons shall each be liable for the full amount of any fine and may be proceeded against either jointly or severally as the Comptroller may think fit.

(2) Where an offence under a customs enactment, which has been committed by a body corporate, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of that body corporate, or any person purporting to act in such capacity, he as well as the body corporate shall be liable to be proceeded against and punished accordingly.

(3) Every person who aids or abets the commission of an offence under a customs enactment may be tried and convicted whether the principal offender has or has not been convicted or is amenable to justice.

(4) Where a penalty for an offence under a customs enactment is required to be fixed by reference to the value of any goods, that value shall be taken as the price those goods might reasonably be expected to have fetched, after payment of any duty chargeable on them, if they had been sold in the open market at or about the date of the commission of the offence for which the penalty is imposed.

(5) Where, in any proceedings for an offence under a customs enactment, any question arises as to the duty or rate chargeable on any imported or exported goods, or goods which were intended to be exported, and it is not possible to ascertain the relevant time specified in section 55, the duty or rate shall be determined as if the goods had been imported, exported or brought to a place for exportation at the time when the proceedings were commenced.

Sixth Schedule.

(6) In any proceedings for an offence under a customs enactment, or for condemnation under the Sixth Schedule, the fact that security has been given for payment of any duty or compliance with any condition in respect of the non-payment of which or non-compliance with which the proceedings are instituted, shall not be a defence.

Power to compound offences.

109. Subject to the powers of the Director of Public Prosecutions under the Constitution, the Comptroller may, subject to such conditions and restrictions as he may see fit to impose, direct that any offence committed by a person under any customs enactment shall be compounded; and such conditions may include a condition for payment of four times the amount of the duty payable on the goods.

110. (1) Any document purporting to be signed by the Cabinet, the Minister, the Comptroller, or by their order, or by any person with their authority, shall, until the contrary is proved, be deemed to have been so signed, and the matters contained in that document may, in any proceedings under any customs enactment, be proved by the production of that document or any document purporting to be a copy of that document.

Proof of certain documents.

(2) Where any book or other document is required to be kept by a customs enactment, the production of that book or other document, or a copy of it certified as a true copy by an officer, shall in any proceedings under such an enactment be *prima facie* evidence of the matters stated in it.

111. (1) An averment in any process in any proceedings under a customs enactment –

Proof of certain matters other than documents.

- (a) that those proceedings were instituted by order of the Comptroller;
- (b) that any person is or was the Minister, the Comptroller, an officer or a police officer;
- (c) that any person is or was appointed or authorised by the Comptroller to discharge, or was engaged by the orders or with the concurrence of the Comptroller in the discharge of, any duty;
- (d) that the Comptroller is or is not satisfied as to any matter as to which he is required by any customs enactment to be satisfied;
- (e) that any place is within the limits of a customs port, approved wharf, customs airport or other customs area, or within the waters or the territorial waters of Dominica; or
- (f) that any goods thrown overboard, stowed or destroyed were so dealt with in order to prevent or avoid their seizure,

shall, until the contrary is proved, be sufficient evidence of the matter in question.

(2) Where in any proceedings relating to an assigned matter, instituted by the Director of Public Prosecutions, the Comptroller, an

officer or a police officer, or against the Comptroller, any question arises as to the place from which goods have been brought or as to whether or not –

- (a) any duty has been paid or secured in respect of any goods;
- (b) any goods or other thing are of the description or nature alleged in the information, writ or other process;
- (c) any goods have been lawfully imported or lawfully unloaded from any vessel or aircraft;
- (d) any goods have been lawfully loaded into any vessel or aircraft or lawfully exported or were lawfully waterborne;
- (e) any goods were lawfully brought to any place for the purpose of being loaded into any vessel or aircraft, or exported; or
- (f) any goods are or were subject to any prohibition or restriction on their importation, exportation or carriage coastwise,

the burden of proof shall be upon the other party to the proceedings.

Vessel or aircraft
liable to be
seized for fines.

112. Where any fine or costs imposed by a court in respect of any offence under a customs enactment are ordered to be paid by the master or owner of any vessel, or the commander or owner of any aircraft, that vessel or aircraft shall be liable to be seized and, unless the amount so ordered to be paid is paid within one month of the date of seizure, that vessel or aircraft may be sold.

Detention of
persons about to
leave Dominica
who are liable for
customs
offences.

113. (1) Where any person has by any action rendered himself liable to be prosecuted for any offence under any customs enactment, and the Comptroller is of the opinion that that person is about to leave Dominica without that matter being dealt with, the Comptroller may apply to a Magistrate for a warrant for that person's arrest.

(2) Any person arrested by virtue of a warrant granted under subsection (1) shall be kept in custody until –

- (a) the trial or other settlement of the matter; or
- (b) he furnishes security to the satisfaction of the Court for any fine and costs that could be imposed on or awarded against him.

114. (1) Subject to subsection (2), where any offence has been committed under a customs enactment, the first person to give information in relation to that offence shall, if that information leads to the conviction of another person for that offence, be entitled, if himself charged with that offence, to be discharged or acquitted of it. Indemnity to informers.

(2) No person shall be entitled to be discharged or acquitted of any offence by virtue of subsection (1) if, at the time of the giving of the information, he had already been charged with that offence.

(3) Any evidence given by a person who, by virtue of subsection (1), is entitled to be or has been discharged or acquitted of any offence shall be admissible evidence in any trial concerning the commission of that offence.

115. No action, suit or other proceedings shall be brought or instituted personally against any officer in respect of any act done by him in pursuance of any power granted to or duty imposed on him by any customs enactment. Actions against officers.

FORFEITURE

116. (1) Any thing which is liable to forfeiture under any customs enactment may be seized or detained by any officer or police officer. Detention, seizure and condemnation of goods.

(2) Where any thing which is liable to forfeiture is seized or detained by a police officer, that thing shall be delivered up to the Comptroller unless –

(a) the delivery is not practicable; or

(b) that thing is or may be required for use in connection with any proceedings to be brought otherwise than under a customs enactment.

(3) Where, by virtue of subsection (2), anything seized or detained by a police officer is not delivered up to the Comptroller, notice in writing of the seizure or detention, containing full details of the thing seized or detained, shall be given to the Comptroller, and any officer shall be permitted to examine and take account of that thing at any time while it remains in police custody.

(4) The Forfeiture Rules contained in the Sixth Schedule shall have effect in relation to appeals against the seizure of anything seized as liable to forfeiture under any customs enactment, and for proceedings for the condemnation as forfeited of that thing. Sixth Schedule.

(5) Notwithstanding that anything seized as liable to forfeiture has not been condemned as forfeited, or deemed to have been condemned as forfeited, the Comptroller may –

- (a) restore that thing, subject to such conditions and restrictions as he may see fit to impose, to the person from whom it was seized, to any owner of it or to any person claiming under the Sixth Schedule that it was not liable to forfeiture; and
- (b) where the thing seized is in his opinion of a perishable nature, sell or destroy it.

(6) The restoration, sale or destruction under subsection (5) of any thing seized as liable to forfeiture shall be without prejudice to any right of appeal against its seizure.

Forfeiture of vessels etc., used in connection with goods liable to forfeiture.

117. (1) Where any thing has become liable to forfeiture under any customs enactment –

- (a) any vessel, aircraft, vehicle, animal, container (including any article of passenger's baggage) or any other thing which has been used for the carriage, handling, deposit or concealment of the thing so liable to forfeiture, either at the time when it was so liable or for the purpose of the commission of the offence for which it later became so liable; and
- (b) any other thing mixed, packed or found with the thing so liable,

shall also be liable to forfeiture.

(2) Where –

- (a) any vessel is or has been within the waters of Dominica;
- (b) any aircraft is or has been at any airport in Dominica; or
- (c) any vehicle is or has been within the limits of any customs port, approved wharf, customs airport or other customs area,

while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that vessel, aircraft or vehicle is liable to forfeiture.

(3) If, at any time while a vessel is within the waters of Dominica, any part of its cargo is thrown overboard or is stowed or destroyed to prevent seizure, that vessel is liable to forfeiture.

(4) Where any vessel or aircraft has imported cargo into Dominica and a substantial part of that cargo is afterwards found to be missing then, if the master of the vessel or the commander of the aircraft is unable to account for that missing cargo to the satisfaction of the Comptroller, that vessel or aircraft is liable to forfeiture.

(5) Where any vessel, aircraft, vehicle or animal has become liable to forfeiture, all tackle, apparel or furniture belonging to it is also liable to forfeiture.

118. (1) Notwithstanding any other provision of any customs enactment, no vessel of two hundred and fifty or more tons burden shall be liable to forfeiture unless –

Special provisions as to forfeiture of larger vessels.

(a) the offence in respect of or in connection with which the forfeiture is claimed –

(i) was substantially the object of the voyage during which the offence was committed; or

(ii) was committed while the vessel was under chase after refusing to stop when required to do so;

(b) the vessel was constructed, adapted, altered or fitted in any manner solely for the purpose of concealing goods; or

(c) subsection (3) applies.

(2) Where any vessel of two hundred and fifty or more tons burden would, but for subsection (1), be liable to forfeiture for or in connection with an offence under any customs enactment and, in the opinion of the Comptroller, a responsible officer of the vessel is implicated by his own act or by neglect in that offence, the Comptroller shall have the power to impose a penalty on that vessel in any sum not exceeding one thousand dollars, and until that penalty is paid, he may withhold clearance of that vessel.

(3) Where any vessel is liable to a penalty under subsection (2), but the Comptroller is not satisfied that such a penalty is adequate in relation to the offence committed, the Comptroller may take proceedings under the Sixth Schedule for the condemnation as forfeited of that vessel in any sum not exceeding ten thousand dollars as the Court thinks fit.

Sixth Schedule.

(4) Where condemnation proceedings are taken under subsection (3), the Comptroller may require such sum as he thinks fit, not

exceeding ten thousand dollars, to be deposited with him and until that sum is so deposited, he may withhold clearance of that vessel.

(5) No claim shall lie against the Comptroller for damages in respect of the payment of any deposit or the detention of any vessel under this section.

(6) The exemption from forfeiture of any vessel under this section shall not affect the liability to forfeiture of any goods carried on board.

(7) For the purposes of this section –

(a) “responsible officer”, in relation to any vessel, means the master, mate or engineer of the vessel, and in the case of a vessel carrying a passenger certificate, the purser or chief steward, and, in the case of a vessel manned wholly or partly by Asiatic seamen, the serang or other leading Asiatic officer of the vessel; and

(b) without prejudice to any other grounds upon which a responsible officer of any vessel may be held to be implicated by neglect, he may be so liable if goods not owned by any member of the crew are discovered in any place under that officer’s supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the vessel or subsequently.

Protection of
officers seizing
or detaining
goods.

119. (1) Where, in any proceedings for the condemnation of any thing seized as liable to forfeiture under any customs enactment, judgment is given for the claimant, the court may, if it sees fit, certify that there were reasonable grounds for the seizure.

(2) Where any proceedings, whether civil or criminal, are brought against the Government of Dominica or the Comptroller on account of the seizure or detention of any thing as liable to forfeiture, and judgment is given for the plaintiff or prosecutor, then if either –

(a) a certificate relating to the seizure has been granted under subsection (1); or

(b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing,

the plaintiff or prosecutor shall not be entitled to recover any damages or costs and the defendant shall not be liable to any punishment.

(3) Nothing in subsection (2) shall affect any right of any person for the return of the thing seized or detained or to compensation in respect of any damage to the thing or in respect of the destruction of it.

(4) Any certificate under subsection (1) may be proved by the production of either the original certificate or a certified copy of it, purporting to be signed by an officer of the court by which it was granted.

SALE OF GOODS

120. (1) Any thing condemned as forfeited by virtue of the Sixth Schedule, or deemed to have been condemned as forfeited by that Schedule, shall, unless a prohibited or restricted article, be sold by public auction. Sale of goods condemned as forfeited. Sixth Schedule.

(2) Any auction under this section shall be advertised in the *Gazette* not less than seven days before it is due to take place.

(3) The Comptroller shall appoint a person, who may be an officer, to act as auctioneer at an auction under this section.

(4) None of the following persons shall be permitted to bid for any thing at an auction under this section that is to say –

- (a) an officer;
- (b) any person having or having had any interest in the thing being auctioned; or
- (c) any other person directed by the Comptroller not to bid for that thing or that auction,

and any such person who makes a bid in contravention of this subsection is liable to a fine of five hundred dollars.

(5) All moneys arising from the sale of any thing at auction under this section shall be used to pay –

- (a) firstly, all the charges of and incidental to the sale, warehousing and carriage of that thing;
- (b) secondly, all the charges of and incidental to the seizure of that thing and any proceedings for the condemnation of it; and
- (c) lastly, any duty payable on that thing,

and any residue shall be paid by the Comptroller into the consolidated fund.

(6) The value for duty of any thing sold at auction under this section shall be the price realised less the included duty.

(7) Any thing not sold at an auction under this section, and all prohibited or restricted goods condemned or deemed to be condemned as forfeited, shall be destroyed or otherwise disposed of as the Comptroller may direct.

(8) Nothing in this section shall prevent the Comptroller from authorising the withholding from sale of any thing condemned or deemed to be condemned as forfeited, and its use by an officer, where such retention and use would assist that officer in the performance of his duty.

Sale of goods not
condemned.

121. (1) Where any thing, not being a thing condemned or deemed to be condemned as forfeited, may by virtue of any customs enactment be sold, it shall, unless it is of a perishable nature, be sold at a public auction.

(2) Any auction under this section shall be advertised in the *Gazette* not less than seven days before it is due to take place.

(3) The Comptroller shall appoint a person, who may be an officer, to act as auctioneer at any auction under this section.

(4) All moneys arising from the sale of any thing at an auction under this section shall be used to pay –

(a) firstly, all the charges of and incidental to the sale, warehousing and carriage of that thing; and

(b) lastly, any duty payable on that thing,

and any residue shall, if application is made within six months of the sale, be paid over to any person who satisfies the Comptroller that he was the owner of that thing at the time of its sale.

(5) The value for duty of any thing sold under this section shall be the price realised less the included duty.

(6) The Comptroller shall sell any thing which is of a perishable nature in the manner which appears to him, bearing in mind its nature, most likely to realise the largest sum.

(7) Any thing which cannot be sold at an auction under this section or by the Comptroller under subsection (6) shall be destroyed or otherwise disposed of as the Comptroller may direct.

(8) The provisions of this section shall apply to the sale of any vessel or aircraft which may be sold by virtue of section 112 except that the sum ordered to be paid by that section shall be satisfied out of the moneys arising from the sale before any amount is repaid to the person who was the owner of the vessel or aircraft.

(9) Any sale by auction under this section may take place at the same time and place as a sale under section 120.

FIRST SCHEDULE

Section 7 (1).
[27/1989
38/1989].

TIMES OF ATTENDANCE OF OFFICERS

1. The days when the Customs Department shall be open for work shall be every day except Saturdays, Sundays, Good Friday, Christmas Day and any other Bank Holiday. Working days.

2. The hours of attendance for officers to the Public (Saturdays, Sundays and Bank Holidays excepted) shall be as follows: Hours of attendance.

<i>Days</i>	<i>Hours of attendance</i>
On Mondays	
Indoor Officers:	8.30 a.m. to 1.00 p.m. and 2.00 p.m. to 4.00 p.m.
Outdoor Officers:	8.00 a.m. to 1.00 p.m. and 2.00 p.m. to 5.00 p.m.
On Tuesdays to Fridays	
Indoor Officers:	8.30 a.m. to 1.00 p.m. and 2.00 p.m. to 3.00 p.m.
Outdoor Officers:	8.00 a.m. to 1.00 p.m. and 2.00 p.m. to 4.00 p.m.

Provided that Officers shall attend at such hours as may be required by the Comptroller.

3. (1) Fees payable for any service approved by the Comptroller or the proper officer shall be as follows:

Fees payable for attendance of officers outside hours of attendance.

L.R.O. 1/1991

<i>Days</i>	<i>For each hour or part of an hour</i>
On Mondays –	
Between midnight and 8.00 a.m.	\$ 20.00
Between 5.00 p.m. and 7.00 p.m.	15.00
Between 7.00 p.m. and 8.00 a.m. of the following day	20.00
On Tuesdays to Fridays –	
Between 4.00 p.m. and 7.00 p.m.	15.00
Between 7.00 p.m. and 8.00 a.m. of the following day	20.00
On Saturdays –	
Between 8.00 a.m. and 7.00 p.m.	15.00
Between 7.00 p.m. and midnight	20.00
On Sundays and Holidays with a minimum charge of \$25.00	20.00
(2) Fees payable for visiting any vessel –	
On Sundays and Bank Holidays –	
Between 5.00 a.m. and 5.00 a.m. of the following day, and on Mondays to Saturdays between 7.00 p.m. and 5.00 a.m. of the following day	20.00
On Mondays –	
Between 5.00 a.m. to 8.00 a.m. and between 5.00 p.m. to 7.00 p.m.	15.00
On Tuesdays to Fridays –	
Between 5.00 a.m. and 8.00 a.m. and between 4.00 p.m. and 7.00 p.m.	15.00
On Saturdays –	
Between 5.00 a.m. and 7.00 p.m.	15.00

SECOND SCHEDULE

Section 47 (1).

**GOODS NOT PERMITTED TO BE WAREHOUSED
ON IMPORTATION**

Aircraft
Animals, living
Arms, ammunition and explosives, fireworks
Asphalt, all kinds including pitch and tar
Bottles, empty in bags
Bricks
Cement and cement products
Chemicals including acids
Coal
Coke
Cylinders
Earthenware not in packages
Empty packages whether set up or collapsed or however packed
Film, cinematograph
Fireclay
Fish, dried or pickled
Flour
Fruits and nuts (other than in tins packed in cases)
Goods of a perishable nature
Goods on which duty is not collectable
Hay and chaff and other feeding stuff for animals (other than in tins packed in cases)
Iron and hardware not in packages
Lumber, wood and timber of all descriptions, shooks, staves, spars and headings except plywood
Lime
Matches
Machinery and parts
Meats (other than in tins packed in cases)
Molasses
Patent fuel
Petroleum and petroleum products (except petroleum jelly and vaseline)
Salt
Seeds for expressing oil therefrom
Shingles
Ships, boats and launches
Tiles
Tar
Tresshoops
Woodhoops

Vegetables (other than in tins packed in cases)
 Goods for cold storage
 Any goods which in the opinion of the Comptroller are likely to cause damage
 to other goods stored in the same warehouse.

Section 52(3).

THIRD SCHEDULE

CUSTOMS WAREHOUSE RENTS

	<i>For each day or part of a day</i>		
	<i>between 3 days and 7 days inclusive</i>	<i>between 7 days and 30 days inclusive</i>	<i>over 30 days</i>
	\$ ¢	\$ ¢	\$ ¢
Bag not exceeding 100 lbs. or 2 cu. ft. each	.20	.30	.40
Bag exceeding 100 lbs. or 2 cu. ft. each	.40	.60	.80
Keg not exceeding 15 gals. capacity each	.20	.30	.40
Keg exceeding 15 gals. capacity each	.40	.60	.80
Barrel, cask, drum, etc., not exceeding 30 gals. capacity each	.90	1.35	1.80
Barrel, cask, drum, etc., exceeding 30 gals. capacity and not exceeding 60 gals. capacity each	1.80	2.70	3.60
Cask, hogshead, puncheon, etc., exceeding 60 gals. capacity and not exceeding 108 gals. capacity each	3.60	5.40	7.20
Cask, hogshead, puncheon, pipe, etc., exceeding 108 gals capacity each	7.20	10.80	14.40

		<i>For each day or part of a day</i>		
		<i>between 3 days and 7 days inclusive</i>	<i>between 7 days and 30 days inclusive</i>	<i>over 30 days</i>
		\$ ¢	\$ ¢	\$ ¢
Bucket, pail and tub not exceeding 15 gals. capacity	each	.20	.30	.40
Demijohn and carboy not exceeding 4 gals. capacity	each	.60	.90	1.20
Demijohn and carboy exceeding 4 gals. capacity	each	1.20	1.80	2.40
Hardware not in packages	per cwt.	1.20	1.80	2.40
Tierce not exceeding 108 gals. capacity	each	3.60	5.40	7.20
All unenumerated pack- ages and articles	per cu. ft.	.20	.30	.40

FOURTH SCHEDULE

(Section 62(1)).
[8 of 1991].

VALUE OF IMPORTED GOODS

1. (1) In this Schedule –

- (a) 'customs value of imported goods' means the value of goods for the purposes of levying *ad valorem* duties of customs on imported goods;
- (b) 'produced' includes grown, manufactured or mined;
- (c) 'identical goods' means goods produced in the same country which are the same in all respects including physical characteristics, quality and reputation. Minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical;

- (d) 'similar goods' means goods produced in the same country which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable.

The quality of goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar;

- (e) 'identical goods' and 'similar goods', as the case may be, do not include goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under paragraph 8(1)(b)(iv) because such elements were undertaken in Dominica;
- (f) 'goods of the same class or kind' means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods.

(2) For the purposes of this Schedule –

- (a) persons shall be deemed to be related only if –
- (i) they are officers or directors of one another's businesses;
 - (ii) they are legally recognised partners in business;
 - (iii) they are employer and employee;
 - (iv) any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares or both of them;
 - (v) one of them directly or indirectly controls the other;
 - (vi) both of them are directly or indirectly controlled by a third person;
 - (vii) together they directly or indirectly control a third person; or
 - (viii) they are members of the same family;
- (b) one person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter;
- (c) persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be

deemed to be related only if they fall within the criteria of subparagraph (2)(a);

- (d) the term 'person' means a natural or legal person;
- (e) an event shall be deemed to occur about the same time as another event if the first event occurs on the same day as the other event or within the forty-five days immediately before or the forty-five days immediately after, the day on which the other event occurs.

2. (1) The customs value of imported goods shall be determined under paragraph 3 whenever the conditions prescribed therein are fulfilled.

(2) Where such value cannot be determined under paragraph 3, it shall be determined by proceeding sequentially through paragraphs 4 to 7, inclusive, to the first such paragraph under which it can be determined, subject to the proviso that, where the importer requests it and the Comptroller agrees, the order of application of paragraphs 6 and 7 shall be reversed.

(3) Except as provided for in subparagraph (2), it is only when the customs value of imported goods cannot be determined under a particular paragraph that the provisions of the next paragraph in the sequence established by subparagraph (2) can be applied.

(4) Where the customs value of imported goods cannot be determined under paragraphs 3 to 7, inclusive, it shall –

- (a) be determined using reasonable means consistent with the principles and general provisions of this Schedule;
- (b) to the greatest extent possible, be based on previously determined customs values; and
- (c) make use of the methods of valuation laid down in paragraphs 3 to 7, inclusive, using, where necessary, reasonable flexibility in their application.

(5) No customs value shall be determined under subparagraph (4) on the basis of –

- (a) the selling price in Dominica of goods produced in Dominica;
- (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (c) the price of goods on the domestic market of the country of exportation;
- (d) the cost of production, other than computed values which have been determined for identical or similar goods in accordance with paragraph 7;

- (e) the price of goods for export to a country other than Dominica;
- (f) minimum customs values; or
- (g) arbitrary or fictitious values.

3. (1) The customs value of imported goods determined under this paragraph shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to Dominica, adjusted in accordance with paragraph 8, and in appropriate cases paragraph 9, provided –

- (a) that there are no restrictions as to the disposition or use of the goods by the buyer, other than restrictions which –
 - (i) are imposed or required by law or by the public authorities in Dominica;
 - (ii) limit the geographical area in which the goods may be resold; or
 - (iii) do not substantially affect the value of the goods;
- (b) that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- (c) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with paragraph 8; and
- (d) that the buyer and seller are not related, or, where the buyer and seller are related, that the transaction value is acceptable for customs purposes under subparagraph (2).

(2) (a) In determining whether the transaction value is acceptable for the purposes of subparagraph (1), the fact that the buyer and the seller are related within the meaning of paragraph 1 shall not in itself be grounds for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the importer or otherwise, the Comptroller has grounds for considering that the relationship influenced the price, he shall communicate the grounds to the importer who shall be given a reasonable opportunity to respond.

(b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with subparagraph (1) whenever the importer demonstrates that such value closely approximates to one of the following occurring at or about the same time:

- (i) the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to Dominica;
- (ii) the customs value of identical or similar goods, as determined under paragraph 6;
- (iii) the customs value of identical or similar goods, as determined under paragraph 7.

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in paragraph 8 and costs incurred by the seller in sales in which he and the buyer are not related that are not incurred by the seller in sales in which he and the buyer are related.

(c) The tests set forth in subparagraph (2)(b) shall be used at the initiative of the importer and only for comparison purposes. Substitute values may not be established under that subparagraph.

(3) (a) The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods. Payments may be made directly or indirectly, need not necessarily take the form of a transfer of money, and include –

- (i) all payments made or to be made as a condition of sale of the imported goods by the buyer to the seller or by the buyer to the third party to satisfy an obligation of the seller; and
- (ii) any settlement by the buyer, whether in whole or in part, or a debt owed by the seller.

(b) Activities, including marketing activities, undertaken by the buyer on his own account, other than those for which an adjustment is provided in paragraph 8, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller, and their cost shall not be added to the price actually paid or payable in determining the customs value of imported goods.

(4) The customs value of imported goods shall not include the following charges or costs provided that they are distinguished from the price actually paid or payable for the imported goods –

- (a) charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation on imported goods such as industrial plant, machinery or equipment;
- (b) customs duties and other taxes payable in Dominica by reason of the importation or sale of the goods;

(c) the cost of transport after importation.

(5) The fact that goods which are the subject of a sale are entered for home use within Dominica shall be regarded as adequate indication that they were sold for export to Dominica. This indication shall also apply where successive sales of the goods have taken place before valuation. Where such successive sales have taken place each price resulting from them may be used as a basis for valuation.

4. (1) (a) The customs value of imported goods determined under this paragraph shall be the transaction value of identical goods sold for export to Dominica and exported at or about the same time as the goods being valued.

(b) In applying this paragraph, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in value.

(2) Where the costs and charges referred to in paragraph 8(1)(e) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.

(3) In applying this paragraph –

- (a) if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods;
- (b) a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under subparagraph (1) for identical goods produced by the same persons as the goods being valued; and
- (c) a condition for adjustment because of different commercial levels or different quantities shall be that such adjustment shall be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment.

(4) For the purposes of this paragraph, the transaction value of identical imported goods means a customs value previously determined under paragraph 3, adjusted as provided for in subparagraphs (1)(b) and (2) of this paragraph.

5. (1) (a) The customs value of imported goods determined under this paragraph shall be the transaction value of similar goods sold for export to Dominica and exported at or about the same time as the goods being valued.

(b) In applying this paragraph, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of similar goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in value.

(2) Where the costs and charges referred to in paragraph 8(1)(e) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

(3) In applying this paragraph –

(a) if more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods;

(b) a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under subparagraph (1) for similar goods produced by the same person as the goods being valued;

(c) a condition for adjustment because of different commercial levels or different quantities shall be that such adjustment shall be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment.

(4) For the purposes of this paragraph, the transaction value of similar imported goods means a customs value previously determined under paragraph 3, adjusted as provided for in subparagraphs (1)(b) and (2) of this paragraph.

6. (1) (a) If the imported goods or identical or similar imported goods are sold in Dominica in the condition as imported, the customs value of the imported goods, determined under this paragraph, shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following:

- (i) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses (including the direct and indirect costs of marketing the goods in question) in connection with sales in Dominica of imported goods of the same class or kind;
- (ii) the usual costs of transport and insurance and associated costs incurred within Dominica; and
- (iii) the customs duties and other taxes payable in Dominica by reason of the importation or sale of the goods.

(b) If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value of imported goods determined under this paragraph shall, subject otherwise to the provisions of subparagraph (1)(a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in Dominica in the condition as imported at the earliest date after the importation of goods being valued but before the expiration of ninety days after such importation.

(2) If neither the imported goods nor identical nor similar imported goods are sold in Dominica in the condition as imported, then, if the Comptroller so decides, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in Dominica who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in subparagraph (1)(a). Where this method of valuation is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction and other industry practices shall form the basis of the calculations.

(3) In this paragraph, the unit price at which imported goods or identical or similar imported goods are sold in the greatest aggregate quantity is the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

(4) Any sale in Dominica to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in paragraph 8(1)(b), shall not be taken into account in establishing the unit price for the purposes of this paragraph.

(5) For the purposes of subparagraph (1)(a)(i) –

- (a) 'profit and general expenses' shall be taken as a whole. The figure for the purposes of this deduction shall be determined on the basis of information supplied by or on behalf of the importer unless his figures are inconsistent with those obtaining in sales of imported goods of the same class or kind. Where the importer's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the importer;
- (b) in determining either the commissions or the additions usually made for profit and general expenses, the question whether certain goods are of the same class or kind as other goods shall be determined on a case by case basis by reference to the circumstances involved. In doing this, sales for which the necessary information can be provided of the narrowest group or range of imported goods of the same class or kind as the goods being valued should be examined; and
- (c) 'goods of the same class or kind' includes goods imported from the same country as the goods being valued as well as goods imported from other countries.

(6) For the purposes of subparagraph (1)(b), the 'earliest date' shall be the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

7. (1) The customs value of imported goods determined under this paragraph shall be based on a computed value which shall consist of the sum of –

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Dominica;
- (c) the cost or value of the items referred to in paragraph 8(1)(e).

(2) The cost or value of materials and fabrication referred to in subparagraph (1)(a) includes the cost of elements specified in paragraph 8(1)(a)(ii) and (iii). It also includes the value, duly apportioned, of any element specified in paragraph 8(1)(b) which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in paragraph 8(1)(b)(iv) which are undertaken

in Dominica shall be included only to the extent that such elements are charged to the producer. No cost or value of an element referred to in this subparagraph shall be counted more than once in determining the computed value.

(3) The 'cost or value' referred to in subparagraph (1)(a) shall be determined on the basis of information relating to the production of the goods being valued, supplied by or on behalf of the producer. It shall be based upon the commercial accounts of the producer, provided that these accounts are consistent with the generally accepted accounting principle applied in the country where the goods are produced.

(4) For the purpose of subparagraph (1)(b) –

- (a) the 'amount for profit and general expenses' shall be taken as a whole and shall be determined on the basis of information supplied by or on behalf of the producer unless his figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Dominica;
- (b) if the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of the goods of the same class or kind referred to in subparagraph (4)(a) the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods;
- (c) 'goods of the same class or kind' means goods imported from the same country as the goods being valued;
- (d) whether goods are 'of the same class or kind' as other goods shall be determined on a case by case basis with reference to the circumstances involved. In doing this, sales for export to Dominica of the narrowest group or range of goods of the same class or kind as the goods being valued for which the necessary information can be provided should be examined;
- (e) the 'general expenses' referred to cover the direct and indirect cost of producing and selling the goods for export which are not included under subparagraph (1)(a).

8. (1) In determining the customs value under paragraph 3, there shall be added to the price actually paid or payable for the imported goods –

- (a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods –

- (i) commission and brokerage, except buying commissions;
 - (ii) the cost of containers which are treated as being one for customs purposes with the goods in question;
 - (iii) the cost of packing, whether for labour or materials;
- (b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable –
- (i) materials, components, parts and similar items incorporated in the imported goods;
 - (ii) tools, dies, moulds and similar items used in the production of the imported goods;
 - (iii) materials consumed in the production of the imported goods;
 - (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in Dominica and necessary for the production of the imported goods;
- (c) royalties and licence fees, which, among other things, may include payments in respect of patents, trademarks and copyrights, related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
- (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;
- (e)
- (i) the cost of transport of the imported goods to the port or place of importation;
 - (ii) loading and handling charges associated with the transport of the imported goods to the port or place of importation; and
 - (iii) the cost of insurance.

(2) No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this paragraph.

(3) Additions to the price actually paid or payable shall be made under this paragraph only on the basis of objective and quantifiable data; and if such do not exist a transaction value shall not be determined under the provisions of paragraph 3.

(4) In this paragraph, the term 'buying commissions' means fees paid by an importer to his agent for the service of representing him abroad in the purchase of the goods being valued.

(5) Notwithstanding subparagraph (1)(c) –

- (a) charges for the right to reproduce the imported goods in Dominica shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and
- (b) payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to Dominica of the goods.

9. (1) Charges for interest under a financing arrangement entered into by the buyer and related to the purchase of imported goods shall not be included in the customs value determined under paragraph 3 provided that –

- (a) the charges are distinguished from the price actually paid or payable for the goods;
- (b) the financing arrangement has been made in writing;
- (c) where required by the Comptroller, the buyer can demonstrate that –
 - (i) such goods are actually sold at the price declared as the price actually paid or payable; and
 - (ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided.

(2) The provisions of subparagraph (1) shall apply regardless of whether the finance is provided by the seller, a bank or another person; and it shall also apply, *mutatis mutandis* where customs value is determined under a method other than the transaction value.

FIFTH SCHEDULE

(Section 67).

PROHIBITIONS AND RESTRICTIONS

PART I

PROHIBITED GOODS

1. All gold and silver articles of foreign manufacture bearing imitations of British assay marks, and all gold and silver articles bearing marks purporting to be British assay marks, but which are below the standard indicated by the marks. British assay marks.
2. Base or counterfeit coin of any country. Counterfeit coin.
3. Coin of legal tender in Dominica or any coin purporting to be such, not being of the established standard in weight and fineness. Substandard coin.
4. Articles of food intended for human consumption declared by the Ministry responsible for public health to be unfit for such purpose. Food unfit for human consumption.
5. Indecent or obscene prints, paintings, photographs, books, cards, lithographic or other engraving or any other indecent or obscene articles or matter. Indecent or obscene articles.
6. Infected cattle, sheep or other animals, or their carcasses, hides, skins, horns, hoofs or any other parts, the importation of which may be prohibited by the Ministry responsible for agriculture in order to prevent the introduction or spread of any communicable disease. Infected animals.
7. Any pistol or other apparatus in the form of a stylographic pen or pencil capable of firing any kind of shot or cartridge, and any cartridge for such a pistol or apparatus containing tear gas. Certain pistols.
8. Any goods bearing the Coat of Arms of Dominica or of any other country or arms so closely resembling such arms as to be calculated to deceive, unless the manufacturer of such goods holds the appropriate Government's authority to use them in connection with his trade, business, calling or profession. Coat of Arms.
9. Shaving brushes manufactured in or exported from Japan. Shaving brushes.
10. Fictitious stamps and any die, plate, instrument or materials capable of making any such stamps. Stamps.
11. Goods the importation of which is prohibited by any other enactment. General.

PART II
RESTRICTED GOODS

- | | |
|------------------------------|--|
| Arms and ammunition. | 1. Arms and ammunition except with the written permission of the Commissioner of Police. |
| Fireworks. | 2. Fireworks except under licence from the Commissioner of Police. |
| Cannabis. | 3. Cannabis sativa (known as Indian hemp or bhang), cannabis indica, choras, ganja or any preparation or mixture of such goods, except under licence from the Chief Medical Officer. |
| Gunpowder. | 4. Gunpowder, blasting powder, detonators and high explosives of any description, except any such as may be imported for Government use. |
| Imitation notes. | 5. Any goods which bear a design in imitation of any currency or bank notes or coin in common use in Dominica or elsewhere, except with the permission of the Minister. |
| Kerosene. | 6. Kerosene oil and other petroleum products with a flash point below 73 degrees F (Fahrenheit) (Abel close test), except with the permission of the Minister. |
| Spirits. | 7. Spirits and wine, unless specifically reported as such, and unless –
(a) in a cask containing five gallons or more;
(b) in a demijohn containing one gallon or more; or
(c) in glass or stone bottles properly packed in cases, each case containing one gallon or more,
except as expressly permitted by the Comptroller in writing. |
| Tobacco. | 8. Tobacco, cigars, cigarillos or cigarettes, unless specifically reported as such and, unless imported by Parcels Post, in whole and complete packages each containing not less than twenty pounds net weight of tobacco, cigars, cigarillos or cigarettes. |
| Tobacco extracts. | 9. Extracts, essences, or other concentrations of tobacco or any admixture of such goods, tobacco stalk stripped from the leaf, whether manufactured or not, and tobacco stalks flour, except under such conditions as the Comptroller, with the approval of the Minister, may either generally or in any particular case permit. |
| Cigarette making appliances. | 10. Cigarette making appliances, either machine or paper, except with the permission of the Minister. |

11. Tear gas, except where imported by the Government of Dominica. Tear gas.
12. Goods, the importation of which is restricted by any other enactment, General.
except in accordance with that enactment.

SIXTH SCHEDULE

(Section 116(4)).

FORFEITURE RULES

1. (1) The Comptroller shall, except as provided by subrule (2), give Notice of seizure.
notice of the seizure of any thing seized as liable to forfeiture and of the grounds
of that seizure to any person who to his knowledge was the owner of, or one
of the owners of, that thing at the time of its seizure.
- (2) Notice shall not be required to be given under subrule (1) if the
seizure was made in the presence of –
- (a) the person whose offence or suspected offence occasioned
the seizure;
 - (b) the owner or any of the owners of the thing seized or any
servant or agent of his; or
 - (c) in the case of any thing seized in a vessel or aircraft, the
master or commander of that vessel or aircraft.
2. Notice under rule 1 shall be given in writing and shall be deemed to
have been duly served on the person concerned –
- (a) if delivered to him personally;
 - (b) if addressed to him and left or forwarded by post to him at his usual
or last known place of abode or business, or, in the case of a body
corporate, at its registered or principal office; or
 - (c) where the person has no address in Dominica, or his address is
unknown, by publication of the notice of seizure in the *Gazette*.
3. Where any person, who was at the time of the seizure of any thing the Notice of claim.
owner or one of the owners of it, claims that it was not liable to forfeiture, he
shall, within one month of the date of service of the notice of seizure or, where
no such notice was served, within one month of the date of seizure, give notice
of his claim in writing to the Comptroller at any customs office.
4. Any notice under rule 3 shall specify the name and address of the
claimant and, in the case of a claimant who is outside Dominica, shall specify

the name and address of a solicitor in Dominica who is authorised to accept service and act on behalf of the claimant, and service upon a solicitor so specified shall be deemed to be proper service upon the claimant.

Condemnation.

5. If, on the expiration of the relevant period under rule 3 for the giving of a notice of claim, no such notice has been given to the Comptroller, or where such notice is given, that notice does not comply with any requirement of rule 4, the thing seized shall be deemed to have been duly condemned as forfeited.

6. Where notice of claim in respect of any thing seized is duly given in accordance with rules 3 and 4, the Comptroller shall take proceedings for the condemnation of that thing by the Court, and if the Court finds that the thing was at the time of its seizure liable to forfeiture, that Court shall condemn that thing as forfeited.

7. Where any thing is in accordance with either rule 5 or 6 deemed to have been condemned or condemned as forfeited, then without prejudice to any restoration or sale, the forfeiture shall be deemed to have had effect from the date when the liability to forfeiture arose.

Proceedings for
condemnation by
a court.

8. Proceedings for the condemnation of any thing shall be civil proceedings and may be instituted –

(a) in any Magistrate's Court having jurisdiction in the place –

- (i) where any offence in connection with that thing was committed or where any proceedings for such an offence have been instituted;
- (ii) where the claimant resides or, if the claimant has specified a solicitor under rule 4, where that solicitor has his office; or
- (iii) where that thing was found, detained or seized or to where the thing was first brought after being found, detained or seized; or

(b) in the High Court.

9. (1) In any proceedings for condemnation, the claimant or his solicitor shall make oath that the thing was, or was to the best of his knowledge and belief, the property of the claimant at the time of the seizure.

(2) In any proceedings for condemnation before the High Court, the claimant shall give such security for the costs of the proceedings as may be determined by the Court.

(3) If any requirement of this rule is not complied with, the Court shall give judgment for the Comptroller.

10. (1) Any party to condemnation proceedings in a Magistrate's Court may appeal to the High Court against the decision of that Magistrate's Court in those proceedings.

(2) Where any appeal is made against the decision of any court in condemnation proceedings, the thing seized shall remain in the possession of, or be returned to the possession of the Comptroller until the final determination of the matter.

11. In any proceedings arising out of the seizure of any thing, the fact, form and manner of the seizure shall be taken to have been as set forth in the process, unless the contrary is proved. Provisions as to proof.

12. Where any thing is at the time of its seizure the property of a body corporate, two or more partners or any number of persons exceeding five not being in partnership, the oath required to be taken by rule 9, and any other thing required by this Schedule or the rules of court to be done by, or by any person authorised by, the claimant or owner may be taken or done by the following persons respectively, that is to say – Special provisions as to certain claimants.

- (a)** where the owner is a body corporate, the secretary or some other duly authorised officer of that body;
- (b)** where the owners are in partnership, any of those owners; or
- (c)** where the owners are any number of people exceeding five not being in partnership, any two of those persons on behalf of themselves and their co-owners.

13. (1) Where, under section 116(5), any thing is restored, sold or destroyed, and it is held in proceedings taken under this Schedule that the thing was not liable to forfeiture at the time of its seizure, the Comptroller shall on demand by the claimant tender to him – Effect of restoration, sale or destruction of goods.

- (a)** where the thing was restored, an amount equal to any amount paid as a condition of that restoration;
- (b)** where the thing was sold, an amount equal to its market value at the time of its seizure.

(2) Where an amount tendered under subrule (1) includes a sum on account of the duty chargeable on the thing which has not been paid, the Comptroller may deduct so much of that amount as represents that duty.

(3) If the claimant accepts an amount tendered to him under subrule (1), he shall not be entitled to maintain any further action on account of the seizure, detention, restoration, sale or destruction of the thing seized.

(4) Where the claimant and the Comptroller are unable to agree upon the market value of any thing destroyed under section 116(5), that value shall be determined by the Customs Appeal Commissioners.

SUBSIDIARY LEGISLATION

41/1985.
[51/1987
29/1988].

CUSTOMS SERVICE CHARGE IMPOSITION ORDER

made under section 54

Commencement.

[12th August 1985]

Short title.

**1. This Order may be cited as the –
CUSTOMS SERVICE CHARGE IMPOSITION ORDER.**

Interpretation.

2. In this Order –

“charge” means the Customs Service Charge levied under this Order;

“C.I.F. value” has the same meaning as in section 6 of the Act;

Cap. 265.
(1961 Ed.).

“Customs Tariffs” means the First Schedule to the Customs Import and Export Tariffs Ordinance;

“imported” has the same meaning as in the Act;

“Minister” means the Minister responsible for Finance;

Cap. 265.
(1961 Ed.).

“household and personal effects” has the same meaning as in the Second Schedule to the Customs Import and Export Tariffs Ordinance.

Levy of charge.
[51/1987
29/1988].

3. Subject to section 4, there shall be levied a Customs Service Charge on goods imported into the State at the rate of one per cent of the the C.I.F. value.

Exemptions.

4. There shall be exempt from charge –

(a) goods imported by the Government;

(b) goods imported by passengers as personal baggage or household and personal effects;

(c) goods temporarily imported into the State under the provisions of an international convention to which the Government of the Commonwealth of Dominica has acceded.

Power to vary charge.

5. The Minister may, from time to time by Order increase, reduce, abolish or otherwise vary the charge.

SUBSIDIARY LEGISLATION

STANDARD CAPACITIES OF CONTAINERS ORDER

4/1986.

made under section 57(2)

[12th August 1985]

Commencement.

1. This Order may be cited as the –

Short title.

STANDARD CAPACITIES OF CONTAINERS ORDER.

2. In this Order –

Interpretation.

“cl” means centilitre, which is one hundredth of a litre or ten millilitre;

“fl. oz.” means fluid ounce;

“l. gal.” means liquid gallon.

3. The following are specified as standard capacities for bottles, jars or similar receptacles containing spirits and wines in quantities within the limits set out for the purposes of section 57(2) of the Act –

Standard capacities.

(a) in respect of brandy, rum, whisky, gin and vodka –

(i) 40 fl. oz. if exceeding 39.6 fl. oz. but not exceeding 40 fl. oz.

(ii) 26.6 fl. oz. if exceeding 20 fl. oz. but not exceeding 26.6 fl. oz.

(iii) 13.3 fl. oz. if exceeding 9.7 fl. oz. but not exceeding 13.3 fl. oz.

(b) in respect of brandy –

(i) 6.6 fl. oz. if exceeding 5.1 fl. oz. but not exceeding 6.6 fl. oz.

(ii) 3.3 fl. oz. if exceeding 2.5 fl. oz. but not exceeding 3.3 fl. oz.

(c) in respect of all spirits and wines –

(i) 35.2 fl. oz. if exceeding 28.8 fl. oz. but not exceeding 35.2 fl. oz.

(ii) 17.6 fl. oz. if exceeding 14.4 fl. oz. but not exceeding 17.6 fl. oz.

- (iii) 8.8 fl. oz. if exceeding 7.2 fl. oz. but not exceeding 8.8 fl. oz.

Standard conversion.

4. The following are specified as the standard conversion of liquid volume from metric to imperial equivalent –

<i>Metric</i>	<i>Imperial</i>
18.75 cl	6.6 fl. oz. or .04125 of a l. gal.
37.5 cl	13.2 fl. oz. or .0825 of a l. gal.
56.825 cl	20 fl. oz. (1 pint) or .125 of a l. gal.
70 cl	24.64 fl. oz. or .154 of a l. gal.
75 cl	26.4 fl. oz. or .165 of a l. gal.
1 litre	35.2 fl. oz. or .22 of a l. gal.
1.125 litres	39.6 fl. oz. or .2475 of a l. gal.

SUBSIDIARY LEGISLATION

**ARRIVAL AND DEPARTURE OF VESSELS
(UNLOADING AND LOADING OF GOODS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title.
 2. Arrival of vessels.
 3. Transshipment of goods.
 4. Landing of goods.
 5. Deposit of goods for exportation.
 6. Loading of goods.
 7. Departure of vessels.
-

SUBSIDIARY LEGISLATION

5/1986.

**ARRIVAL AND DEPARTURE OF VESSELS
(UNLOADING AND LOADING OF GOODS) REGULATIONS**

made under sections 23, 31 and 40

Commencement.

[12th August 1985]

Short title.

1. These Regulations may be cited as the –

**ARRIVAL AND DEPARTURE OF VESSELS
(UNLOADING AND LOADING OF GOODS) REGULATIONS.**

Arrival of
vessels.

2. (1) Where a boarding station has been appointed at a customs port, then subject to subregulation (4) and save as the Comptroller may otherwise permit, the master of every vessel arriving at that port who is required by section 25(1) of the Act to deliver a report shall bring his vessel to that boarding station and shall not move it until ordered to proceed by the proper officer.

(2) Subject to subregulation (4) and save as the Comptroller may otherwise permit, the master of every vessel ordered to proceed from a boarding station under subregulation (1) and the master of every other vessel arriving at any port, shall bring their vessel as directly to the proper mooring or approved wharf as the nature of the port will permit, without touching at any other place, save as may be necessary for the safe navigation of the vessel.

(3) Where a vessel is brought to a mooring or an approved wharf as required by subregulation (2), it shall not be moved to any other place in Dominica –

(a) except directly to some other mooring or approved wharf; and

(b) unless the proper officer has been informed of the move.

(4) Nothing in this regulation shall prejudice any requirement of any written law relating to public health.

(5) Save as provided for by this regulation, where a vessel is not brought to any boarding station, mooring or approved wharf as required by, or is removed from such a place in contravention of, this regulation, the master of that vessel is liable to a fine of five thousand dollars.

3. (1) Goods unloaded from a vessel into another vessel for landing at an approved wharf shall not, except with the permission of the proper officer, be again removed into another vessel before they are landed, but shall be taken directly to and landed at that wharf. Transhipment of goods.

(2) Where any goods are removed in contravention of, or are not taken directly to an approved wharf as required by this regulation, the person responsible for that removal or failure is liable to a fine of five thousand dollars, and the goods in respect of which the offence was committed are liable to forfeiture.

4. (1) Save as the Comptroller may otherwise permit, goods for which an entry is required under section 26 of the Act – Landing of goods.

(a) shall not be landed except in the presence of the proper officer;

(b) when landed shall, unless they are already entered under that section or section 27 of the Act, be taken directly to and deposited in a transit shed; and

(c) shall not be permitted to be removed from their place of landing or a transit shed except in the presence of the proper officer.

(2) Where goods are landed or removed from their place of landing, not taken to, deposited in or removed from a transit shed, in contravention of this regulation, the person responsible for that landing, removal or failure is liable to a fine of five thousand dollars, and the goods in respect of which the offence was committed are liable to forfeiture.

5. (1) Where goods intended for exportation or for use as stores are taken into any customs port, they shall, except where they are to be loaded immediately, be taken to and deposited in a transit shed. Deposit of goods for exportation.

(2) Where goods are not taken to and deposited in a transit shed as required by this regulation, the person responsible for that failure is liable to a fine of five thousand dollars, and the goods in respect of which the offence was committed are liable to forfeiture.

6. (1) Save as the Comptroller may otherwise permit, no person shall load into any vessel or make waterborne for loading any goods for exportation or for use as stores except at an approved wharf and in the presence of the proper officer. Loading of goods.

(2) Any person who loads goods in contravention of this regulation is liable to a fine of two thousand dollars, and the goods in respect of which the offence was committed are liable to forfeiture.

Departure of
vessels.

7. (1) Save as provided by the Act and as the Comptroller may otherwise permit, every vessel with clearance to leave a port under section 35 or 42 of the Act shall leave that port by a direct route, without touching any other place save as may be necessary for the safe navigation of the vessel.

(2) Where a vessel leaving a port does not follow a route required or permitted by the Comptroller, or touches a place in contravention of this regulation, the master of that vessel is liable to a fine of five thousand dollars.

(3) Where a vessel departs as aforesaid under subregulation (1) on a voyage to a place outside of Dominica, if the vessel immediately returns to any place in Dominica or the waters thereof, unless this is done –

- (a) in accordance with the Act or any customs enactment;
- or
- (b) with the permission of the proper officer; or
- (c) for some cause which the master of the vessel shall explain to the satisfaction of the Comptroller,

then, the master of the vessel is liable to a fine of five thousand dollars.

SUBSIDIARY LEGISLATION

PLEASURE CRAFT REGULATIONS

6/1986.

made under section 20

[12th August 1985]

Commencement.

1. These Regulations may be cited as the –

Short title.

PLEASURE CRAFT REGULATIONS.

2. With the exception of the requirements imposed by the following sections of the Act, any other requirement imposed by Parts IV, V and VI of the Act shall not apply to pleasure craft –

Application of Act to pleasure craft.

(a) section 21 (procedure on arrival of vessels);

(b) section 25 (power to make Regulations as to arriving vessels and aircraft and the unloading of imported goods) in so far as any Regulation made thereunder requires a procedure to be followed by a vessel arriving at a customs port;

(c) section 25 (report inwards);

(d) section 31 (power to make Regulations as to the loading of goods and departing vessels and aircraft) in so far as any Regulation made thereunder requires a procedure to be followed by a vessel intending to leave ports for destinations outside Dominica; and

(e) section 35 (clearance).

3. No vessel shall be a pleasure craft at any time whilst it is carrying cargo.

SUBSIDIARY LEGISLATION

**ARRIVAL AND DEPARTURE OF AIRCRAFT
(UNLOADING AND LOADING OF GOODS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title.
 2. Arrival of aircraft.
 3. Unloading and removal of goods.
 4. Deposit of goods for exportation.
 5. Loading of goods.
-

SUBSIDIARY LEGISLATION**ARRIVAL AND DEPARTURE OF AIRCRAFT
(UNLOADING AND LOADING OF GOODS) REGULATIONS**

1/1986.

made under sections 23, 31 and 40

[12th August 1985]

Commencement.

1. These Regulations may be cited as the –

Short title.

**ARRIVAL AND DEPARTURE OF AIRCRAFT
(UNLOADING AND LOADING OF GOODS) REGULATIONS.**

2. (1) Save as the Comptroller may otherwise permit, the commander of every aircraft arriving at a customs airport who is required by section 25(2) of the Act to deliver a report shall immediately on landing take that aircraft or cause it to be taken to the examination station at that airport.

Arrival of aircraft.

(2) If through circumstances over which the commander of an aircraft has no control that aircraft is prevented from being taken to an examination station as required by this regulation, that commander shall –

(a) immediately make a report of that aircraft as required by section 25(2) of the Act; and

(b) remove all goods in the aircraft to a transit shed or such other place as may be required by the proper officer.

(3) Save as provided by subregulation (2), where any aircraft is not taken to an examination station as required by this regulation, the commander of that aircraft is liable to a fine of five thousand dollars.

3. (1) Save as the Comptroller may otherwise permit, no person shall unload, or permit the unloading of, any goods imported by air from any importing aircraft –

Unloading and removal of goods.

(a) except in the presence of the proper officer; and

(b) save as the proper officer may otherwise permit, at any place other than an examination station.

(2) Save as the Comptroller may otherwise permit, no person shall remove or permit to be removed any goods imported by air from any examination station or any other place where goods are permitted to be unloaded under subregulation (1)(b) –

(a) except to a transit shed; or

(b) in the case of goods entered under section 26 or 27 of the Act, except in the presence of the proper officer.

(3) Save as the Comptroller may otherwise permit, no person shall remove or permit to be removed any goods imported by air from any transit shed –

(a) except to a customs warehouse; or

(b) in the case of goods entered under section 26 or 27 of the Act, except in the presence of the proper officer.

(4) Where any goods are unloaded, removed or permitted to be removed in contravention of this regulation, the person responsible for that unloading, removal or permission is liable to a fine of five thousand dollars, and the goods in respect of which the offence was committed are liable to forfeiture.

Deposit of goods for exportation.

4. (1) Where goods intended for exportation or for use as stores are taken on to any customs airport, they shall, except where they are to be loaded immediately, be taken to and deposited in a transit shed.

(2) Where any goods are not taken to and deposited in a transit shed as required by this regulation, the person responsible for that failure is liable to a fine of five thousand dollars, and the goods in respect of which the offence was committed are liable to forfeiture.

Loading of goods.

5. (1) Save as the Comptroller may otherwise permit, no person shall load on to any aircraft about to depart on a flight to an eventual destination outside Dominica any goods for exportation or for use as stores –

(a) except in the presence of the proper officer; and

(b) save as the proper officer may otherwise permit, at any place other than an examination station.

(2) Where any person loads goods in contravention of this regulation, that person is liable to a fine of five thousand dollars, and the goods in respect of which the offence was committed are liable to forfeiture.

SUBSIDIARY LEGISLATION

WAREHOUSING REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title.
2. Interpretation.
3. Application.
4. Registration numbers.
5. Locks.
6. Alterations and additions.
7. Time of warehousing.
8. Licence fees.
9. Bonds and insurance.
10. Receipt of goods into and out of warehouse.
11. Charges for attendance of officers.
12. Quantities of goods to be warehoused.
13. Carriage of goods to and from warehouse.
14. Condition of warehouse.
15. Condition of warehoused goods.
16. Weighing.
17. Stowage.
18. Marking.
19. Examination of goods.
20. Samples.
21. Operations on warehoused goods.
22. Entry of goods.
23. Receipt of goods.
24. Stock account.
25. Preservation of records.
26. Stocktaking.
27. Removal of goods.
28. Access.
29. Production.
30. Abandonment and destruction.

SCHEDULE I.

SCHEDULE II.

SCHEDULE III.

SUBSIDIARY LEGISLATION

WAREHOUSING REGULATIONS

15/1986.
[55/1989].

made under section 46

Commencement.

[1st January 1986]

Short title.

1. These Regulations may be cited as the –
WAREHOUSING REGULATIONS.

Interpretation.

2. In these Regulations –
“general warehouse” means a warehouse where no restriction is placed on the ownership of the goods that may be warehoused in that warehouse;
“private warehouse” means a warehouse where the goods that may be warehoused in that warehouse are restricted to those owned by the occupier of that warehouse.

Application.

3. These Regulations shall apply to all warehouses and to all warehoused goods.

Registration numbers.

4. (1) The registration number of a warehouse, as allocated by the Comptroller, shall be legibly displayed on the outside of that warehouse.
(2) Where the registration number of a warehouse is not displayed as required by this regulation, the occupier of the warehouse is liable to a fine of five hundred dollars.

Locks.

5. (1) The principal entrance to every warehouse shall be secured by two good locks, the keys to one of which, in the case of a licensed warehouse, shall be furnished and kept by the owner or occupier of the warehouse, and the other by the Comptroller.
(2) Every entrance to a warehouse, other than the principal entrance, shall be fastened from the inside.
(3) Where any entrance to a warehouse is not secured as required by this regulation, the occupier of that warehouse is liable to a fine of five hundred dollars.

6. (1) The occupier of a warehouse shall maintain that warehouse in the same state in which it was approved under section 45 of the Act and save as the Comptroller may otherwise permit in writing or is required by these Regulations, shall not make or allow to be made any alteration or addition to it.

Alterations and additions.

(2) Where a warehouse is not maintained, or is altered or added to, in contravention of this regulation, the occupier of that warehouse is liable to a fine of five thousand dollars.

7. Goods brought to a warehouse shall become warehoused goods when they are placed in that warehouse for that purpose.

Time of warehousing.

8. (1) Subject to subregulation (3), no goods shall be warehoused at a warehouse in any calendar year unless there has been paid to the Comptroller the licence fee payable in respect of that warehouse for that year.

Licence fees.

(2) The licence fee payable in respect of a warehouse shall be as prescribed in Schedule I, and the licence fee shall only permit goods to be warehoused during the calendar year to which it applies.

Schedule I.

(3) Where a warehouse has been approved before the coming into operation of these Regulations, the licence fee prescribed for that warehouse may be paid at any time up to the expiration of twenty-eight days from the coming into operation of these Regulations.

(4) Where goods are warehoused in any warehouse in contravention of this regulation, the occupier of that warehouse is liable to a fine of five thousand dollars, and the goods in respect of which the offence was committed are liable to forfeiture.

9. (1) No goods shall be warehoused at a warehouse until the occupier of that warehouse has –

Bonds and insurance.

(a) deposited with the Comptroller a bond of sufficient surety to cover all the duty chargeable on those goods and all the other goods warehoused at that time in that warehouse; and

(b) insured against the loss or unlawful removal of those goods and all other goods warehoused at that time in that warehouse, such insurance to be for the duty paid value of those goods.

(2) Where goods are warehoused in any warehouse in contravention of this regulation, the occupier of that warehouse is liable to a fine of five thousand dollars, and the goods in respect of which the offence was committed are liable to forfeiture.

Receipt of goods into and out of warehouse.

10. (1) Save as the Comptroller may otherwise permit, no goods shall be received at or removed from a warehouse except in the presence of the proper officer.

(2) Subject to regulation 11(2), the Comptroller upon a request for the attendance of an officer by the occupier of a warehouse or the proprietor of goods –

(a) where the request is for the attendance of an officer during the working hours prescribed by section 7 of the Act, shall provide for the attendance of an officer; and

(b) where the request is for the attendance of an officer outside the working hours prescribed by section 7 of the Act, may provide for the attendance of an officer.

(3) Where the Comptroller considers it necessary to do so, he may require that an officer be in full-time attendance at a warehouse.

(4) Where goods are received at or removed from a warehouse in contravention of this regulation by the occupier or his agent or by any person under his direction or with his knowledge or consent, the occupier of that warehouse and any such other person is liable to a fine of five thousand dollars, and the goods in respect of which the offence was committed are liable to forfeiture.

Charges for attendance of officers.
Schedule II.

11. (1) In respect of any requested attendance of an officer at a warehouse there shall be payable to the Comptroller by the person who made the request the amounts prescribed by Schedule II.

(2) Any amount payable under this regulation shall be paid within fourteen days of the date of the invoice requiring payment and, where the payment is not made within such time –

(a) where the attendance was requested by the occupier of a warehouse, the Comptroller may refuse to provide an officer to further attend that or any other warehouse occupied by that person; and

(b) where the attendance was requested by the proprietor of the goods, the Comptroller may refuse to provide an

officer to further attend upon any dealing with any other goods belonging to that proprietor at any warehouse.

12. (1) No goods listed in Schedule III shall be warehoused or removed from a warehouse in quantities less than those stated in that Schedule, except that where any balance of such goods remaining in a warehouse is less than that quantity, those goods may be removed from that warehouse.

Quantities of goods to be warehoused. Schedule III.

(2) Where goods are warehoused in or removed from a warehouse in contravention of this regulation, the occupier of that warehouse is liable to a fine of five hundred dollars.

13. (1) Imported goods entered for warehousing shall, within two working days of the lodging of their entry with the proper officer, be removed by the person entering them and shall be conveyed under such conditions and supervision and in such vehicle or by such means only as shall be permitted by that officer.

Carriage of goods to and from warehouse.

(2) Any goods, other than goods entered for home use, shall, on their removal from a warehouse, be carried by the most direct route, or such other route as the proper officer may require, to the destination for which they are entered.

(3) No person shall carry any goods on a journey as referred to in this regulation unless he is insured for any loss or damage to those goods, such insurance to be for the duty paid value of the goods, and any person who so carries the goods whilst not so insured is liable to a fine of one thousand dollars.

(4) Where goods carried on a journey referred to in this regulation, are carried on a route other than one required by this regulation, the person carrying them is liable to a fine of one thousand dollars.

(5) Where any goods are not removed by the person entering them as required by this regulation, that person is liable to a fine of five hundred dollars, together with a further fine of ten dollars for each day on which the failure continues, to a maximum of one thousand dollars.

14. (1) The occupier of a warehouse shall –

Condition of warehouse.

(a) keep that warehouse free from the accumulation of any dirt or rubbish;

- (b) cause to be cleared or destroyed any goods deposited in that warehouse which have become dangerous or a source of contamination to other warehoused goods;
- (c) prevent any naked light of any description being lit or taken into that warehouse; and
- (d) prevent all smoking in that warehouse.

(2) Where the occupier of a warehouse fails to meet any requirement of this regulation, he is liable to a fine of five hundred dollars.

Condition of warehoused goods.

15. The proprietor of warehoused goods shall maintain in a proper state any container in which those goods are packed and any proprietor who fails to do so is liable to a fine of five hundred dollars, and any goods in a container not so maintained are liable to forfeiture.

Weighing.

16. (1) The occupier of a warehouse shall provide such weights, scales, measures and other facilities for the examination, securing and taking account of goods as the Comptroller may require.

(2) Any occupier of a warehouse who fails to provide anything required by this regulation is liable to a fine of five hundred dollars.

Stowage.

17. (1) Save as the Comptroller may otherwise permit –

- (a) warehoused goods shall be stowed in the containers or lots in which they were first entered for warehousing; and
- (b) every container or lot of warehoused goods shall be stowed so that safe and easy access may be had to each container or lot.

(2) The proper officer may require certain warehoused goods to be stowed in particular parts of a warehouse or in a particular manner.

(3) Where goods are not stowed as required by this regulation, the occupier of the warehouse is liable to a fine of five hundred dollars.

Marking.

18. The proprietor of warehoused goods shall mark and keep marked the containers or lots of warehoused goods in such manner as the proper officer may require, and where goods are not so marked the proprietor of them is liable to a fine of five hundred dollars.

19. Subject to the consent of the Comptroller and the occupier of the warehouse and the presence of the proper officer, the proprietor of any warehoused goods may – Examination of goods.

- (a) examine his goods and their packaging;
- (b) take any steps necessary to prevent any loss of the goods; and
- (c) display his goods for sale.

20. (1) The Comptroller may, subject to such conditions and re- Samples.strictions as he may see fit to impose, permit samples of any warehoused goods to be removed from a warehouse without entry or payment of duty.

(2) Where a sample is removed under this regulation, and is not returned to the warehouse from which it was taken, duty shall be payable on that sample when any of the goods of which it was a sample are removed from the warehouse.

21. (1) The Comptroller may permit, subject to such conditions and restrictions as he may see fit to impose, the sorting, separation, packing and repacking of warehoused goods and the carrying out of any other operation on them as may be covered by the permission. Operations on warehoused goods.

(2) Without prejudice to any condition or restriction imposed by the Comptroller under this regulation, any person carrying out an operation on warehoused goods as permitted by this regulation shall –

- (a) save as the Comptroller may otherwise permit, obtain the attendance of an officer at the warehouse during the operation;
- (b) carry out the operation in such part of the warehouse as the officer may require;
- (c) keep at the warehouse or such other place as the officer may permit such accounts and records of the operation as the officer may require;
- (d) furnish the officer with a receipt showing the quantity, class and description of goods resulting from the operation; and
- (e) comply with any other requirement which the proper officer may make in particular circumstances.

(3) The Comptroller may at any time for reasonable cause revoke or vary the terms of any permission granted under this regulation.

(4) Where any operation carried out on warehoused goods is not permitted by this regulation, or any condition or restriction imposed on a permission is contravened or not complied with, any person carrying out that operation or contravening that condition or restriction is liable to a fine of five thousand dollars, and the goods in respect of which the offence was committed are liable to forfeiture.

Entry of goods.

22. (1) Save as the Comptroller may otherwise permit, where any goods, other than goods entered for warehousing under section 26 of the Act, are brought to a warehouse for warehousing, their proprietor shall, before those goods are warehoused, deliver to the proper officer an entry of those goods in such form and manner and containing such particulars as the Comptroller may direct.

(2) Where any goods are warehoused before an entry is delivered as required by this regulation, the proprietor of those goods is liable to a fine of five hundred dollars and the goods in respect of which the offence was committed are liable to forfeiture.

Receipt of goods.

23. (1) Save as the Comptroller may otherwise permit, when goods are brought to a warehouse for warehousing, the occupier of that warehouse shall furnish the proper officer with a receipt showing –

(a) the date upon which the goods were put into the warehouse;

(b) the number of containers received; and

(c) the quantity, class and description of goods received.

(2) Any occupier of a warehouse who fails to furnish a receipt as required by this regulation is liable to a fine of five hundred dollars.

Stock account.

24. Save as the Comptroller may otherwise permit, the occupier of a warehouse shall keep at that warehouse a stock account in such form and manner and containing such particulars of –

(a) goods warehoused or removed from that warehouse, including samples;

(b) operations carried out on goods under regulation 21; and

(c) goods abandoned or destroyed under regulation 30, as the proper officer may require, and where any stock account is not kept as required by this regulation, the occupier of the warehouse is liable to a fine of five hundred dollars.

25. The occupier of a warehouse and the proprietor of warehoused goods shall preserve, for two years from the date that warehoused goods are removed from a warehouse, any record, stock account or other document in their possession relating to those goods and shall, upon being required to do so by the proper officer, produce to him such document and permit him to take copies of it and, where the document is a stock account, also to make notice in it; and where any requirement of this regulation is not complied with, the person failing to so comply is liable to a fine of five hundred dollars.

Preservation of records.

26. (1) The occupier of a warehouse shall take stock of the goods warehoused in his warehouse at intervals of not less than twelve months, or at such other time as the proper officer may for reasonable cause require.

Stocktaking.

(2) Where any stocktaking carried out by an occupier of a warehouse reveals any deficiency, surplus or other discrepancy from the stock account, that occupier shall notify the proper officer of that deficiency, surplus or other discrepancy, and shall, if so required by the proper officer, provide him with a copy of the stocktaking account.

(3) Any occupier of a warehouse who fails to take stock, notify an officer or provide him with a copy, as required by this regulation, is liable to a fine of one thousand dollars.

27. (1) Save as provided by regulation 20, before any goods are removed from a warehouse, their proprietor shall deliver to the proper officer an entry of those goods in such form and manner and containing such particulars as the Comptroller may direct.

Removal of goods.

(2) Save as provided for by the Act or these Regulations, no goods shall be removed from a warehouse until –

(a) the duty chargeable on them; and

(b) any amount payable by the proprietor of those goods under regulation 11,

has been either paid, secured or otherwise accounted for.

(3) Where any goods are removed from a warehouse in contravention of this regulation, their proprietor is liable, in addition to any duty payable, to a fine of one thousand dollars and the goods in respect of which the offence was committed are liable to forfeiture.

(4) Where goods have been entered under this regulation and all duties and other amounts payable in respect of them have been paid, their proprietor shall remove them from the warehouse within two working days, or such longer time as the Comptroller may permit, and where goods are not removed within the time required by this regulation, their proprietor is liable to a fine of five hundred dollars, together with a further fine of ten dollars for each day on which the failure continues.

Access.

28. (1) The occupier of a warehouse shall grant to any officer acting in the execution of his duty access to the warehouse or to any part of it.

(2) Where access is not granted as required by this regulation, the officer may obtain access by whatever means he considers necessary, including force, and any expenses incurred in obtaining such access shall be payable by the occupier to the Comptroller and neither the Comptroller nor the officer, nor any person acting with their authority, shall be responsible for any damage caused in the obtaining of such access.

Production.

29. The occupier of the warehouse shall, upon being required to do so by the proper officer, produce for inspection any goods which have been warehoused and not lawfully removed.

Abandonment
and destruction.

30. No duty shall be payable on –

- (a) any goods abandoned to the Comptroller; and
 - (b) any damaged goods which are destroyed under the supervision of the proper officer.
-

SCHEDULE I

(Regulation 8(2)).

LICENCE FEES

Licence fee payable for a private warehouse. (per calendar year) \$750

Licence fee payable for a general warehouse. (per calendar year) \$1,000



SCHEDULE II

(Regulation 11(1)).

CHARGES FOR ATTENDANCE OF OFFICERS

In respect of any requested attendance of an officer at a warehouse there shall be payable to the Comptroller by the person who made the request –

- (a) a fee of \$10.00 for every hour or part of an hour that the officer attends at the warehouse on working days during hours of general attendance of officers;
- (b) the fees set out in the First Schedule of the Customs (Control and Management) Act, for every hour or part of an hour that the officer attends at the warehouse outside the hours of general attendance of officers; and
- (c) where the warehouse is more than one mile from the office of the Comptroller, a fee of \$1.00 for each mile or part of a mile travelled by the officer to and from the warehouse.

In all other cases, the sums set out in the First Schedule to the Act.

For travel of officer

Where the warehouse is more than one mile from Custom House, for each mile or part of a mile travelled by the officer to and from the warehouse, or while in attendance at the warehouse\$1.00.



(Regulation
12(1)).**SCHEDULE III***Minimum quantities of goods which may be entered into or removed
from a warehouse*

Beef or pork in pickle	2 barrels
Butter	500 lbs.
Bread and biscuits	5 barrels or 20 boxes
Fish, dried or smoked or pickled	4 cwt.
Lard, butter, margarine, glue	300 lbs.
Malt, liquors, in wood	2 gallons
Malt, liquors, in bottles	one package
Soap	500 lbs.
Tobacco, leaf	50 lbs.
Tobacco, manufactured	10 lbs.
Whisky, gin, rum, still wines, in wood	one package
Whisky, gin, rum, still wines, in bottles	2 gallons
Goods subject to <i>ad valorem</i> duty	to the value of \$100.
Other goods entered for use of consumption in Dominica	one or more entire package the duty on which amounts to not less than \$20.
Goods for exportation or as ships stores	one entire package.

SUBSIDIARY LEGISLATION

**CUSTOMS BANANA CARTONS (RESTRICTION
OF EXPORT) REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title.
 2. Interpretation.
 3. Storage of banana cartons.
 4. Loading of banana cartons.
 5. Presumption of loading.
 6. Presumption of storage.
 7. Detention of vessel.
 8. Penalty.
 9. Exemption.
-

SUBSIDIARY LEGISLATION

50/1991.

**CUSTOMS BANANA CARTONS (RESTRICTION
OF EXPORT) REGULATIONS**

made under section 31(1)(a)

Commencement.

[16th December 1991]

Short title.

1. These Regulations may be cited as the –
CUSTOMS BANANA CARTONS (RESTRICTION
OF EXPORT) REGULATIONS.

Interpretation.

2. In these Regulations –

“banana carton” means any carton used by the Corporation for the export of bananas or bearing the name of the Corporation printed thereon;

Ch. 58:02.

“Corporation” means the Dominica Banana Marketing Corporation established by the Dominica Banana Marketing Corporation Act.

Storage of
banana cartons.

3. Subject to regulation 9 no person shall –
 - (a) store banana cartons for export;
 - (b) store goods in banana cartons for export.

Loading of
banana cartons.

4. Subject to regulation 9 no person shall load or cause or permit to be loaded on to any vessel or aircraft goods intended for export which are contained in or consist of banana cartons.

Presumption of
loading.

5. Any banana carton and any contents therein found on a vessel or aircraft shall, unless the contrary is proved, be presumed to have been loaded with intent to export the same.

Presumption of
storage.

6. Any banana carton and any contents therein found at a port or wharf shall, unless the contrary, is proved, be presumed to be stored for export.

7. The Comptroller or any proper officer may detain any vessel or aircraft which he reasonably believes has on board banana cartons in contravention of these Regulations and, may for that purpose – Detention of vessel.

- (a) refuse clearance of any vessel or aircraft;
- (b) where clearance has been granted to a vessel or aircraft and that vessel is within the waters of Dominica or the aircraft is at an airport, demand that clearance granted be returned to him.

8. (1) Any person who contravenes these Regulations or any owner or master of a vessel or owner or commander of any aircraft on which banana cartons are found in contravention of these Regulations is liable on summary conviction to a fine of three thousand dollars. Penalty.

(2) Where a person is convicted under subregulation (1) the cartons which formed the subject of the prosecution and the contents thereof shall be forfeited.

9. (1) These Regulations do not apply to any banana carton – Exemption.

(a) in the possession of Geest Industries (W.I.) Limited, ABC Containers (Dominica) Limited, WINBAN, and the Corporation;

(b) designated or labelled a used banana carton by the Corporation.

(2) A carton shall be deemed not to be a used carton until the contrary is proven.

SUBSIDIARY LEGISLATION

34/1992.

**CUSTOMS ENVIRONMENTAL CHARGE
IMPOSITION ORDER**

made under sections 23 and 54

Commencement.

[1st January 1993]

Short title.

1. This Order may be cited as the –

**CUSTOMS ENVIRONMENTAL CHARGE
IMPOSITION ORDER.**

Interpretation.

2. In this Order –

“charge” means the Customs Environmental Charge levied under this Order;

“tourist vessel” means cruise ships and yachts carrying not less than twenty passengers.

Levy of charge.

3. (1) The master of every tourist vessel arriving at a customs port from any place outside Dominica shall pay to the Comptroller an environmental charge of two dollars US or five dollars and forty cents EC per passenger on board.

(2) The environmental charge referred to in subsection (1) is payable irrespective of whether the tourist vessel comes alongside a dock or anchors off shore.

Penalty.

4. The master of any tourist vessel who contravenes section 3 is liable to a fine of five thousand dollars.
