

PART VIII
Duties, Drawback, Prohibitions and Restrictions

Duty on Imported Goods

65. (1) Save as permitted by or under this Act or any other enactment relating to customs, no imported goods shall be delivered or removed on importation until the importer has paid to the proper officer any duty chargeable thereon, and that duty shall, in the case of goods of which entry is made, be paid on making the entry.

Time at which
duty chargeable
and payable.

(2) 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 Saint Christopher and Nevis or an entry is delivered in respect of goods to be exported out of Saint Christopher and Nevis, 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 Saint Christopher and Nevis, 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, aircraft or transit shed 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 or other use, then, subject to subsection (3), 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.

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(3) Where goods are warehoused by virtue of any requirement of section 28 (1) (c) or any Order made under section 53 (6) then if an entry in respect of those goods is delivered to the proper officer within seven working days of those goods being imported into Saint Christopher and Nevis, 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.

Goods to be warehoused without payment of duty.

66. Any goods which are on their importation permitted to be entered for warehousing shall be allowed to be warehoused without payment of duty.

Relief from duty of goods entered for transit or transshipment.

67. Where goods are entered for transit or transshipment, the Comptroller may allow the goods to be removed for that purpose, subject to such conditions and restrictions as he sees fit, without payment of duty.

Calculation of duty chargeable.

68. (1) Without prejudice to any other provision of this Act, any amount due by way of customs duty shall be recoverable as a debt to the Government.

(2) 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 of that quantity or weight of the goods, and the amount payable or allowable on any such fraction shall be calculated proportionately:

Provided that the Comptroller may determine the fractions to be taken into account in the case of any weight or quantity.

(3) For the purpose of calculating any amount due from or to any person under any customs enactment by way of duty, drawback, allowance, repayment or rebate, any fraction of a cent in that amount shall be disregarded.

Special provisions.

69. (1) If any goods being goods chargeable with any duty on their importation into or exportation out of Saint Christopher and Nevis –

- (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;

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- (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; and
- (d) are brought or come into Saint Christopher and Nevis or derelict jetsam, flotsam or as a, or part of a wreck, or as droits of admiralty and are sold in Saint Christopher and Nevis, 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.

(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 containers of the size specified in the Order, the quantity of goods in that container shall be deemed to be the specified quantity.

70. (1) Where any goods, being goods previously enter for home use in Saint Christopher and Nevis, are imported into Saint Christopher and Nevis after exportation from Saint Christopher and Nevis and it is shown to the satisfaction of the comptroller that –

- (i) no duty was chargeable on those goods on any previous importation in Saint Christopher and Nevis 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 Saint Christopher and Nevis 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 or not complied with, 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 be liable to forfeiture.

Reliefs from
duty of re-imported
goods.

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(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 such goods he shall be guilty of an offence and liable on summary conviction 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.

Abatement of
duty.

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

- (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 Saint Christopher and Nevis; 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 to the Comptroller within six months of the date of the payment of the duty.

Goods imported
only temporarily
for re-exportation.

72. (1) Where the Minister is satisfied that goods are imported only temporarily with a view to subsequent re-exportation, the Minister may prescribe that the goods shall be delivered on importation subject to such conditions and to the payment of such proportion of the duty thereon as he shall specify in the Regulations and the Minister may impose different conditions for different classes of goods.

(2) Regulations under subsection (1) may provide for the imposition of a fine of an amount not exceeding ten thousand dollars for any contravention of or failure to comply with any such Regulation and for the forfeiture of any goods.

Goods imported
other than as cargo,
stores, or baggage.

73. Any goods brought or coming into Saint Christopher and Nevis by sea otherwise than as cargo, stores or baggage carried in a vessel shall be chargeable with the like duty, if any, as would be applicable to those goods if they had been imported as merchandise; and if any question arises as to the origin of the goods they shall be deemed to be the produce of such country as the Comptroller may on investigation determine.

Personal reliefs and
power to make
Regulations.

74. (1) The Minister may by Order make provision for conferring on persons entering Saint Christopher and Nevis relief from customs duties on goods or classes or description of goods specified in the Order.

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- (2) Any relief granted under subsection (1) may be either –
- (a) an exemption from duty; or
 - (b) a sum payable by way of duty less than the full amount due.
- (3) Any Order made under subsection (1) may:
- (a) make any relief for which it provides subject to such conditions as the Minister thinks fit including conditions to be complied with after the importation of goods to which the relief applies;
 - (b) make different provision for different cases.

(4) Without prejudice to the generality of subsection (1) an Order 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 provision of the Order or any direction given under such Order, and for the forfeiture of any goods involved in any such offence.

75 Without prejudice to any other enactment relating to customs, and notwithstanding the provisions of section 70, if it is shown to the satisfaction of the Comptroller that any goods manufactured or produced in Saint Christopher and Nevis are re-imported into Saint Christopher and Nevis after exportation therefrom, have not undergone any process outside Saint Christopher and Nevis since their exportation, the goods may on their re-importation be delivered for home use without payment of duty.

Relief from duty on re-imported goods locally produced.

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

Power of Cabinet to refund duty.

(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 it fit to impose.

(3) Notwithstanding the provisions of subsections (1) and (2) if any amount is paid as duty and such amount is in excess of the duty due and payable the Comptroller may refund the excess.

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

Recovery of amounts due.

(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.

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Valuation.

78. (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 provisions of the Second Schedule.

Second Schedule.

(2) When it is necessary, in determining the value referred to in subsection (1) to establish the equivalent in Eastern Caribbean currency, the rate of exchange to be used shall in any period be that provided for this purpose by the Comptroller and published by him in the manner he considers appropriate.

(3) This section comes into operation on such date as the Minister may appoint by notice published in the *Gazette*.

Drawback

Extent of drawback.

79. (1) Subject to the provisions of this section where goods are entered –

- (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 such proportion of any duty paid on their importation into Saint Christopher and Nevis as the Minister may by Order specify.

(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 Saint Christopher and Nevis 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 Saint Christopher and Nevis, 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 entered for shipment for use as stores, the provisions of this subsection shall not apply.

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

Claims for drawback.

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

(2) No drawback shall be payable –

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- (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 70, until all the goods which are the subject of the claim have been exported.

81. (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.

Drawback on goods destroyed or damaged after shipment.

(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 Saint Christopher and Nevis and –

- (a) if re-entered for home use shall be chargeable with the duty chargeable on the importation of such damaged goods; or
- (b) if abandoned to the Comptroller or destroyed, the importer 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.

(3) Any goods in respect of which an offence under subsection (1) is committed shall be liable to forfeiture; but in the case of a claim for drawback, the Comptroller may, if he sees fit, instead of seizing the goods either refuse to allow any drawback thereon or allow only such drawback as he considers proper.

(4) Without prejudice to the foregoing provisions of this section, if, in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made, it is found that those goods do not correspond with any entry made thereof in connection with that claim, the goods shall be liable to forfeiture and any person by whom any such entry or claim was made shall be guilty of an offence and liable to a fine of five thousand dollars.

82. (1) If any person obtains or attempts to obtain or does anything

Offences in relation to drawback

whereby there might be obtained by any person any amount by way of drawback in respect of goods for which there is no entitlement, he shall be guilty of an offence and 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) If any person, 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, he shall be guilty of an offence and liable to a fine of five thousand dollars, or three times the amount obtained, attempted to be or might have been obtained, whichever is the greater, or to imprisonment for two years, or both, and may be arrested.

(3) Any goods in respect of which an offence under the foregoing subsections is committed shall be liable to forfeiture.

83. (1) If it is shown to the satisfaction of the Comptroller that duty has been paid on goods on importation and that such goods –

- (a) have undergone a process of manufacture; and
- (b) have been exported,

the Comptroller shall, subject to such conditions and restrictions as he sees fit to impose, repay to the importer upon a claim being made an amount equivalent to the duty on the importation of the goods.

(2) Any such claim shall be made in such form and manner and contain such particulars as the Comptroller may direct.

Prohibitions and Restrictions

84. (1) No goods, class or description of goods prescribed may be imported into Saint Christopher and Nevis.

(2) No goods, class or description of goods, prescribed may be imported into Saint Christopher and Nevis except in accordance with the conditions and restrictions prescribed.

(3) The Minister, may by Order –

- (a) prescribe in a Schedule
 - (i) goods prohibited under subsection (1), and
 - (ii) goods restricted under subsection (2), and the conditions and restrictions;
- (b) delete from, vary or add to the goods, classes or description of goods prescribed or vary the conditions and restrictions;
- (c) 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

Refund where duty paid on goods imported which are exported after undergoing a process of manufacture.

General provisions.

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- (d) 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 Saint Christopher and Nevis so specified.

85. (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, tobacco etc.

no spirits, wines, beer, tobacco, cigars, cigarillos, cigarettes, goods from warehouse, and Customs warehouse, drawback goods, ship stores or transshipment goods, and be imported into or exported out of Saint Christopher and Nevis in any vessel of less than thirty tons burden.

(2) Where any goods specified in subsection (1) are imported into or exported out of Saint Christopher and Nevis in contravention of subsection (1), the goods shall be liable to forfeiture and any person concerned in that importation or exportation shall be guilty of an offence and liable to a fine of five thousand dollars and any vessel carrying such goods in contravention of subsection (1) shall be liable to forfeiture.