

PART IX

Powers

86. (1) Any person entering Saint Christopher and Nevis shall at such place and in such manner as the Comptroller may direct declare anything contained in his baggage or carried with him which -

- (a) he has obtained outside Saint Christopher and Nevis; or
- (b) being dutiable goods he has obtained in Saint Christopher and Nevis without payment of duty.

(2) Any person entering or leaving Saint Christopher and Nevis shall answer such questions as the proper officer may put to him with respect to his baggage and anything contained therein or carried with him, and shall, if required by the proper officer produce that baggage and any such thing for examination at such place as the Comptroller may direct.

(3) Any person failing to declare any baggage or thing as required by this section shall be guilty of an offence and liable to a fine of five thousand dollars or three times the value of the thing not declared or the baggage or thing not produced as the case may be whichever is the greater.

(4) Anything chargeable with any duty which is found concealed or is not cleared, and anything which is being taken into or out of Saint Christopher and Nevis contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue to any enactment, shall be liable for forfeiture.

Customs control of
persons entering or
leaving Saint
Christopher and
Nevis

The Customs (Control and Management) Act, 1992 - 4.

Right to access

87. (1) Without prejudice to any other power contained in this Act, any officer shall have a right of access to, and a power of search to, 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 or container which is locked and to which there is no access.

(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.

88. (1) At anytime while a vessel is in the territorial sea or an aircraft is at any customs airport, any officer may require that vessel or aircraft to stop and then may board it, and may remain on board it, 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; or
- (b) examine any goods in the course of their being unloaded; or
- (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; or
- (d) break open any place or container which is locked and to which there is no access; or
- (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 if any person on board prevents him from so doing, or refuses to produce any such document or book, or answer any such question, he shall be guilty of an offence and liable to a fine of five thousand dollars.

(3) Any goods found concealed on board a vessel within the limits of the port or an aircraft at any customs airport, shall be 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 shall be guilty of an offence and liable to a fine of five thousand dollars or to imprisonment for two years or to both and the vessel or aircraft shall be liable to forfeiture.

The Customs (Control and Management) Act, 1992-4.

89. The Comptroller may station an officer on board any vessel at any time while it is within the territorial sea and if the master of any vessel on which an officer is stationed by virtue of this section 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,

shall be guilty of an offence and liable to a fine of five thousand dollars.

90. (1) In relation to any assigned matter, any officer may patrol upon and pass freely either on foot or otherwise along and over and enter any part of Saint Christopher and Nevis other than a dwelling house whether or not that place is private property and any such officer so proceeding shall not be liable to any prosecution or any other action for so doing.

Power to patrol and moor.

(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 Saint Christopher and Nevis.

(3) Nothing in this section shall authorise the entry into or use of a private dwelling house.

91. (1) Without prejudice to any other power conferred by 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; or
- (b) which are in a warehouse or a Customs warehouse; or
- (c) which have been loaded into or unloaded from any vessel or aircraft at any place in Saint Christopher and Nevis; or
- (d) which have been entered for exportation or for use as stores; or
- (e) which have been brought to any place in Saint Christopher and Nevis 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

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(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 purpose of and incidental to the examination or for use as stores, or warehousing shall be done, and any facilities or assistance required for such 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 Act 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 the customs charge before they have been examined, those goods shall be liable to forfeiture.

92. (1) Any person required by the Comptroller under this Act to give security in respect of any premises shall -

- (a) provide and maintain such appliances and afford such other facilities reasonably necessary to enable an officer to take any account or make any examination or search or to perform any other of his duties on the premises of the trader or at the bonded premises or place as the Comptroller may direct;
- (b) keep any appliances so provided in a convenient place approved by the proper officer for that purpose; and
- (c) allow the proper officer at any time to use anything so provided and give him any assistance necessary for the performance of his duties,

and any person who contravenes or fails to comply with any provision of this subsection shall be guilty of an offence and liable to a fine of five thousand dollars.

(2) Any such person as aforesaid shall provide and maintain any fittings required for the purpose of affixing any lock which the proper officer may require to affix to the premises of that trader or person or any part thereof or to any vessel, utensil or other apparatus whatsoever kept thereon, and in default -

- (a) the fittings may be provided or any work necessary for its maintenance may be carried out by the proper officer, and any expenses so incurred shall be paid on demand by the trader or person aforesaid; and
- (b) if the trader or person aforesaid fails to pay those expenses on demand, he shall in addition be guilty of an

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offence and liable to a fine of five thousand dollars.

- (3) If any person aforesaid or any servant of his -
- (a) wilfully destroys or damages any such fittings as aforesaid or any lock or key provided for use therewith, or any label or seal placed on any such lock; or
 - (b) improperly obtains access to any place or article secured by any such lock; or
 - (c) has any such fittings or any article intended to be secured by means thereof so constructed that that intention is defeated,

he shall be guilty of an offence and liable to a fine of five thousand dollars and may be arrested.

93. (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.

Power to take samples.

(2) Any sample taken by an officer under subsection (1) shall be disposed of and accounted for in such manner as the Comptroller may direct.

94. (1) Where an officer has reasonable grounds to believe that anything is liable to forfeiture by virtue of any customs enactment is kept at or concealed in any building or other place or any offence has been committed under or by virtue of any customs enactment he may after being authorised by the Comptroller in writing so to do -

Power to search premises.

- (a) enter any building or place at any time, and search for, seize, detain or remove anything which appears to him may be liable to forfeiture; and
- (b) so far as is reasonably necessary for the purpose of such entry, search, detention or removal, break open any door, window or container and force and remove any other impediment or obstruction; and
- (c) search for and remove any invoice, bill of lading or any other document or book relating to any assigned matter.

(2) Without prejudice to the power conferred by subsection (1) or to any other power conferred by this Act, if a Magistrate is satisfied by information upon oath given by an officer that there are reasonable grounds to suspect as aforesaid, he may by warrant under his hand given on any day authorise that officer or any other person named in the warrant to enter and search any building or place so named.

(3) Where in the case of an entry, search, seizure, detention or removal, damage to property 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 to the property.

Power to station officer on vessel.

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Power to search
vehicles.

95. (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 anything which is liable to forfeiture, he may stop and search that vehicle.

(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 shall be guilty of an offence and liable to a fine of five thousand dollars.

Power to search
persons.

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

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

(3) Any person to be searched in pursuance of subsection (1) may require to be taken before a magistrate or a senior of the officer or other person concerned who shall consider the grounds for suspicion and direct whether or not the search is to take place.

Power to arrest.

97. (1) Subject to subsection (2) any officer or a police officer may arrest any person who has committed or whom there are reasonable grounds to suspect of having committed, any offence for which he is liable to be arrested under any customs enactment.

(2) No person may be arrested for an offence by virtue of subsection (1) more than five 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.

98. (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 -

- (a) for the preservation of life;
- (b) for the summoning to of a vessel in accordance with the provisions of subsection 88 (4); or
- (c) to fire upon a vessel which has failed to bring to when summoned.

Power to summon
vessels to bring to

99. (1) If any part of the cargo of a vessel is thrown overboard or is stowed or destroyed to prevent seizure -

- (a) while the vessel is within the territorial sea; or

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- (b) where the vessel, having been properly summoned to bring to by any vessel in the service of the Government, fails so to do and chase is given, at any time during the chase,

the vessel shall be liable to forfeiture.

(2) If, save for just and sufficient cause, any vessel which is liable to forfeiture or examination under or by virtue of any provision of this Act does not bring to when summoned to do so the master of the vessel shall be guilty of an offence and shall be liable to a fine of five thousand dollars.

(3) Where any vessel liable to forfeiture or examination as aforesaid to bring to when summoned to do so and chase has been given thereto by any vessel in the service of the Government, and after the commander of that vessel has caused a gun to be fired as a signal, the vessel still fails to bring to, the vessel may be fired upon.

(4) For the purpose of this section a vessel shall be deemed to have been properly summoned to bring to -

- (a) if the vessel making the summons did so by means of an international signal code or two shots are fired in the air or any other recognised means and while flying her proper ensign; and
- (b) if at the time the summons was made the vessel was within the territorial sea.

100. The Comptroller may, with the approval of the Minister, provided that such approval need not be sought for a sum not exceeding five hundred dollars reward any person, including an officer, for any service in relation to an assigned matter including any information relating to any offence against the customs enactment or for assisting in the recovery of any fine or penalty, which appears to him to merit reward.

Power to pay rewards.

101. (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 at any port or the aircraft is at any customs airport, require the 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.

Power to require attendance.

(2) Any master or commander who fails to comply with any requirement of subsection (1) shall be guilty of an offence and liable to a fine of five thousand dollars.

102. (1) Any officer may, at any time within five years of the importation, exportation or carriage coastwise of any goods, require any person -

Power to require information and the production of evidence

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

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

to furnish to him in such form and manner as he 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.

(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 repayment of duty is claimed.

(3) Any person who without reasonable cause, fails to comply with any requirement imposed on him under subsection (1) or (2) shall be guilty of an offence and liable to a fine often thousand dollars.

103. (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 in such form and manner as the Comptroller may direct, for the observance of any condition or restriction in connection with any assigned matter.

- (2) Any bond taken for the purpose of any assigned matter -
 - (a) shall be taken on behalf of the Government;
 - (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.