

LAWS OF DOMINICA

76 **Chap. 69:01** *Customs (Control and Management)*

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.

LAWS OF DOMINICA

Customs (Control and Management) Chap. 69:01

77

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.

L.R.O. 1/1991

LAWS OF DOMINICA

78 **Chap. 69:01** *Customs (Control and Management)*

(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.

LAWS OF DOMINICA

Customs (Control and Management) **Chap. 69:01**

79

(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

L.R.O. 1/1991

LAWS OF DOMINICA

80 **Chap. 69:01** *Customs (Control and Management)*

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.

LAWS OF DOMINICA

Customs (Control and Management) **Chap. 69:01**

81

(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.

LAWS OF DOMINICA

82 **Chap. 69:01** *Customs (Control and Management)*

(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.

LAWS OF DOMINICA

Customs (Control and Management) **Chap. 69:01**

83

(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

LAWS OF DOMINICA

84 **Chap. 69:01** *Customs (Control and Management)*

<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

LAWS OF DOMINICA

Customs (Control and Management) **Chap. 69:01**

85

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

L.R.O. 1/1991

LAWS OF DOMINICA

86 **Chap. 69:01** *Customs (Control and Management)*

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