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(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.

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(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.

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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.

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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

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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 provisions.

- (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

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- (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 –

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- (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.

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(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.

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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;

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- (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,