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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 –

Prohibition on
carriage of spirits
and tobacco.

- (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,

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.

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(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.

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(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 –

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- (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.

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(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, 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. Right of access.

(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.

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(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.

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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

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(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 impractical 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

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(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.

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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,