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to furnish to him in such form and manner as the officer 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 in that person's control or possession.

(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 drawback, allowance, rebate, remission or repayment of duty is claimed.

88. (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 for the observance of any condition or restriction in connection with an assigned matter.

Power to require security.

(2) Any bond taken for the purposes of any assigned matter –

- (a) shall be taken on behalf of the Government of Dominica;
- (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.

PART XI

OFFENCES

OFFENCES IN RELATION TO OFFICERS

89. If, for the purpose of obtaining admission to any building or other place, or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, any person falsely assumes the name, designation or character of the Comptroller, of an officer or of any other person appointed by the Comptroller to discharge any duty relating to an assigned matter, he may be arrested and, in addition to any other proceedings which may be taken against him, he is liable to a fine of ten thousand dollars and to imprisonment for two years.

Unlawful assumption of character of Comptroller or officer.

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Bribery and
collusion.

90. (1) If the Comptroller, an officer or any other person appointed by the Comptroller to discharge any duty relating to an assigned matter –

- (a) directly or indirectly asks for or takes in connection with any of his duties any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward, not being a payment or reward which he is lawfully entitled to claim or receive; or
- (b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Government of Dominica is or may be defrauded or which is otherwise unlawful, being an act or thing relating to an assigned matter,

he is liable to a fine of ten thousand dollars and to imprisonment for two years, and may be arrested.

(2) Any person who –

- (a) directly or indirectly offers or gives to the Comptroller, an officer or to any other person appointed by the Comptroller to discharge any duty relating to an assigned matter any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward; or
- (b) proposes or enters into any agreement with the Comptroller, officer or other person so appointed, in order to induce him to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Government of Dominica is or may be defrauded or which is otherwise unlawful, being an act or thing relating to an assigned matter, or otherwise to take any course contrary to his duty,

is liable to a fine of ten thousand dollars and to imprisonment for two years, and may be arrested.

Offences against
officers.

91. (1) Any person who –

- (a) obstructs, hinders, molests or assaults any person engaged in the performance of any duty or the exercise of any power, imposed or conferred on him by any customs enactment, or any person acting in his aid;

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- (b) does anything which impedes or is calculated to impede the carrying out of any search for any thing which is liable to forfeiture or the detention, seizure or removal of any such thing;
- (c) rescues, damages or destroys any thing which is liable to forfeiture or does any thing calculated to prevent the procuring or giving of evidence as to whether or not any thing is liable to forfeiture; or
- (d) prevents the arrest of any person under any customs enactment or rescues any person so arrested,

or who attempts to do any such act, or aids and abets any person doing such an act, is liable to a fine of ten thousand dollars and to imprisonment for two years, and may be arrested.

(2) Where an offence under subsection (1) is committed by a person armed with a lethal weapon, or with sticks or stones or other like instruments, or in any violent manner, that subsection shall have effect subject to the modification that, for the liability to imprisonment for two years, there shall be substituted a liability to imprisonment for five years.

(3) Any person who uses abusive or offensive language to any officer engaged in the performance of any duty or the exercise of any power imposed or conferred on him by any customs enactment, is liable to a fine of five thousand dollars.

92. (1) If any vessel or aircraft departs from Dominica carrying on board without his consent any officer, the master of that vessel or the commander of that aircraft is liable to a fine of ten thousand dollars. Carrying away officers.

(2) Without prejudice to the liability of any person under subsection (1), the amount of any expenses incurred by the Comptroller or the Government of Dominica by reason of the carrying away of any officer may be recovered from that person or from the owner of the vessel or aircraft.

OFFENCES IN RELATION TO SMUGGLING

93. (1) Any person who, save for just and sufficient cause, interferes in any way with any vessel, aircraft, vehicle, buoy, anchor, chain, rope or mark which is being used by an officer in the performance of his duty is liable to a fine of five thousand dollars. Interfering with Customs vessels.

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(2) Any person who fires upon any vessel, aircraft or vehicle being used by any officer in the performance of his duty, is liable to imprisonment for five years.

Signalling to
smugglers.

94. (1) In this section references to a “prohibited signal” or a “prohibited message” are references to a signal or message connected with the smuggling or intended smuggling of goods into or out of Dominica.

(2) Any person who by any means sends any prohibited signal or transmits any prohibited message from any place in Dominica or from any vessel or aircraft, for the information of any person in any vessel or aircraft, is liable to a fine of five thousand dollars and to imprisonment for twelve months, and may be arrested, and any equipment or apparatus used for the sending of the signal or message is liable to forfeiture.

(3) Subsection (2) applies whether or not the person for whom the signal or message is intended is in a position to receive it or is actually engaged at that time in smuggling.

(4) If, in any proceedings against a person under subsection (2), any question arises as to whether any signal or message was a prohibited signal or a prohibited message, the burden of proof shall lie on the defendant.

(5) If any officer or police officer has reasonable grounds to believe that a prohibited signal or a prohibited message is being or is about to be made or transmitted from any vessel, aircraft, vehicle, building or other place in Dominica, he may board or enter that vessel, aircraft, vehicle, building or place and take such steps as are reasonably necessary to stop or prevent the sending of that signal or message.

Communicating
with arriving
vessels.

95. Save as the Comptroller may otherwise permit, any person on board any boat, canoe, sloop or other vessel who communicates in any way with any vessel arriving from a place outside Dominica before that arriving vessel has been cleared by an officer, is liable to a fine of five thousand dollars and may be arrested.

Offering goods
for sale as
smuggled goods.

96. If any person offers for sale any goods as having been imported without payment of duty, or as having been otherwise unlawfully imported, then, whether or not those goods were in fact chargeable with duty or were so imported, the goods are liable to forfeiture and the person so offering them for sale is liable to a fine of five thousand dollars, or three times the value of the goods, whichever is the greater, and may be arrested.

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97. If any person concerned in the movement, carriage or concealment of goods – Special penalty where offender armed or disguised.

- (a) contrary to or for the purpose of contravening any prohibition or restriction for the time being in force under or by virtue of any written law with respect to the importation, exportation or carriage coastwise of those goods; or
- (b) without payment having been made of or security given for any duty payable on those goods,

and, while so concerned, is armed with any offensive weapon or disguised in any way, and if any person so armed or disguised is found in Dominica in possession of any thing which is liable to forfeiture under any customs enactment, he is guilty of an offence and liable to imprisonment for five years, and may be arrested.

GENERAL OFFENCES

98. (1) Any person who – Untrue declarations.

- (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Comptroller or an officer, any declaration, notice, certificate or other document; or
- (b) makes any statement in answer to any question put to him by an officer which is required by or under any written law to answer,

being a document or statement produced or made for any purpose of any assigned matter, which is untrue in a material particular, is liable to a fine of five thousand dollars, and any goods in relation to which the document or statement was made are liable to forfeiture.

(2) Any person who knowingly or recklessly –

- (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Comptroller or an officer, any declaration, notice, certificate or other document; or
- (b) makes any statement in answer to any question put to him by an officer which he is required by or under any written law to answer,

being a document or statement produced or made for any purpose of an assigned matter, which is untrue in a material particular, is liable to a

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fine of ten thousand dollars, and to imprisonment for two years, and may be arrested, and any goods in relation to which the document or statement was made shall be liable to forfeiture.

(3) Where by reason of any such document or statement as is mentioned in subsection (1) or (2), the full amount of any duty payable is not paid or any overpayment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of duty unpaid or of the overpayment shall be payable immediately to the Comptroller, and may be recovered accordingly.

Counterfeiting
documents.

99. Any person who –

- (a) counterfeits or falsifies any document which is required by or under any customs enactment or which is used in the transaction of any business relating to an assigned matter;
- (b) knowingly accepts, receives or uses any such document so counterfeited or falsified;
- (c) alters any such document after it has been officially issued;
or
- (d) counterfeits any seal, signature, initials or other mark of, or used by, any officer for the verification of such a document or for the security of any goods or for any other purpose relating to an assigned matter,

is liable to a fine of ten thousand dollars and/or to imprisonment for two years, and may be arrested.

False scales.

100. (1) Any person who, where required by any customs enactment to provide scales, provides, uses or permits to be used any scales which do not give a true reading, is liable to a fine of five thousand dollars.

(2) Where any article is or is to be weighed, counted, gauged or measured for the purpose of the taking of an account or the making of an examination by an officer, then if –

- (a) any such person as is mentioned in subsection (1); or
- (b) any person by whom or on whose behalf the article is or is to be weighed, counted, gauged or measured,

does anything whereby the officer is or might be prevented from, or hindered or deceived in, taking a true account or making a due examination, he is liable to a fine of five thousand dollars.

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(3) In this section, “scales” includes weights, measures and weighing or measuring machines or instruments.

101. (1) Without prejudice to any other provision of any customs enactment, if any person – Fraudulent evasion.

- (a) knowingly acquires possession of any of the following goods, that is to say –
 - (i) goods which have been unlawfully removed from a warehouse or a customs warehouse;
 - (ii) goods which are chargeable with any duty which has not been paid; or
 - (iii) goods with respect to the importation, exportation or carriage coastwise of which any prohibition or restriction is for the time being in force under or by virtue of any written law; or
- (b) is in any way knowingly concerned with smuggling, unshipping, landing, carrying, removing, depositing, harbouring, keeping or concealing or in any manner dealing with any such goods,

and does so with fraudulent intent, he 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, and any goods in respect of which the offence was committed are liable to forfeiture.

(2) Without prejudice to any other provision of any customs enactment, where any person is, in relation to any goods, in any way concerned in a fraudulent evasion or attempt at evasion –

- (a) of any duty chargeable on those goods; or
- (b) of any prohibition or restriction for the time being in force with respect to the importation, exportation or carriage coastwise of those goods under or by virtue of any written law,

and is so concerned with fraudulent intent, he 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, and any goods in respect of which the offence was committed are liable to forfeiture.

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(3) Any person who attempts to induce, or directs or solicits any person to commit any offence under this section is liable to a fine of five thousand dollars.

Removing locks,
seals or marks.

102. (1) Where, in pursuance of any power conferred by any customs enactment, any lock, seal or mark is used to secure or identify any goods or place or container in which goods are kept then if, without the authority of the proper officer –

(a) that lock, seal or mark is unlawfully and prematurely removed or tampered with by any person; or

(b) at any time before the lock, seal or mark is lawfully removed, any of the goods are wilfully removed by any person,

that person and the person then in charge of the goods are liable to a fine of five thousand dollars.

(2) For the purposes of subsection (1), goods in a vessel or aircraft shall be deemed to be in the charge of the master of that vessel or the commander of that aircraft.

PART XII

LEGAL PROCEEDINGS, FORFEITURE
AND SALE OF GOODS

GENERAL PROVISIONS AS TO LEGAL PROCEEDINGS

Institution of
proceedings.

Sixth Schedule.

103. (1) Subject to the powers of the Director of Public Prosecutions under the Constitution and to subsection (3), no proceedings for an offence under any customs enactment, or for condemnation under the Sixth Schedule, shall be commenced except –

(a) by order of the Comptroller; and

(b) in the name of an officer.

(2) In the case of the death, removal, discharge or absence of the officer in whose name any proceedings were commenced by virtue of subsection (1) (b), those proceedings may be continued by any officer authorised in that behalf by the Comptroller.

(3) Where any person has been arrested for any offence under any customs enactment, any court before which he is brought may proceed to deal with the case against him.

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104. Save as otherwise expressly provided for in this Act and notwithstanding any other provision of any other written law, proceedings for an offence under any customs enactment may be commenced at any time within, but shall not be commenced later than, three years from the date of the commission of the offence. Time limit on proceedings.

105. Proceedings for an offence under any customs enactment may be commenced – Place of trial.

- (a) in any court having jurisdiction in the place –
 - (i) where the offence was committed;
 - (ii) where the person charged with the offence resides or is found; or
 - (iii) in the case of a body corporate charged with the offence, where that body corporate has its registered or principal office; and
- (b) if any thing was detained or seized in connection with that offence, in any court having jurisdiction in the place where that thing was so detained or seized or was found or condemned as forfeited.

106. Any proceedings before a Magistrate's Court in relation to an assigned matter may be conducted by an officer or any other person authorised in that behalf by the Comptroller. Persons who may conduct proceedings.

107. (1) Any summons or other process issued for the purpose of any customs enactment shall be deemed to have been duly served on a person – Service of process.

- (a) if delivered to him personally;
- (b) if left at his last known place of abode or business or, in the case of a body corporate, at its registered or principal office; or
- (c) if left on board any vessel or aircraft to which he may belong or have lately belonged.

(2) Any summons, notice, order or other document issued for the purposes of any proceedings under any customs enactment, or of an appeal from a decision of any court in any such proceedings, may be served by an officer.

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Incidental
provisions.

108. (1) Where liability for an offence under any customs enactment is incurred by two or more persons jointly, those persons shall each be liable for the full amount of any fine and may be proceeded against either jointly or severally as the Comptroller may think fit.

(2) Where an offence under a customs enactment, which has been committed by a body corporate, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of that body corporate, or any person purporting to act in such capacity, he as well as the body corporate shall be liable to be proceeded against and punished accordingly.

(3) Every person who aids or abets the commission of an offence under a customs enactment may be tried and convicted whether the principal offender has or has not been convicted or is amenable to justice.

(4) Where a penalty for an offence under a customs enactment is required to be fixed by reference to the value of any goods, that value shall be taken as the price those goods might reasonably be expected to have fetched, after payment of any duty chargeable on them, if they had been sold in the open market at or about the date of the commission of the offence for which the penalty is imposed.

(5) Where, in any proceedings for an offence under a customs enactment, any question arises as to the duty or rate chargeable on any imported or exported goods, or goods which were intended to be exported, and it is not possible to ascertain the relevant time specified in section 55, the duty or rate shall be determined as if the goods had been imported, exported or brought to a place for exportation at the time when the proceedings were commenced.

Sixth Schedule.

(6) In any proceedings for an offence under a customs enactment, or for condemnation under the Sixth Schedule, the fact that security has been given for payment of any duty or compliance with any condition in respect of the non-payment of which or non-compliance with which the proceedings are instituted, shall not be a defence.

Power to
compound
offences.

109. Subject to the powers of the Director of Public Prosecutions under the Constitution, the Comptroller may, subject to such conditions and restrictions as he may see fit to impose, direct that any offence committed by a person under any customs enactment shall be compounded; and such conditions may include a condition for payment of four times the amount of the duty payable on the goods.

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110. (1) Any document purporting to be signed by the Cabinet, the Minister, the Comptroller, or by their order, or by any person with their authority, shall, until the contrary is proved, be deemed to have been so signed, and the matters contained in that document may, in any proceedings under any customs enactment, be proved by the production of that document or any document purporting to be a copy of that document.

Proof of certain documents.

(2) Where any book or other document is required to be kept by a customs enactment, the production of that book or other document, or a copy of it certified as a true copy by an officer, shall in any proceedings under such an enactment be *prima facie* evidence of the matters stated in it.

111. (1) An averment in any process in any proceedings under a customs enactment –

Proof of certain matters other than documents.

- (a) that those proceedings were instituted by order of the Comptroller;
- (b) that any person is or was the Minister, the Comptroller, an officer or a police officer;
- (c) that any person is or was appointed or authorised by the Comptroller to discharge, or was engaged by the orders or with the concurrence of the Comptroller in the discharge of, any duty;
- (d) that the Comptroller is or is not satisfied as to any matter as to which he is required by any customs enactment to be satisfied;
- (e) that any place is within the limits of a customs port, approved wharf, customs airport or other customs area, or within the waters or the territorial waters of Dominica; or
- (f) that any goods thrown overboard, stowed or destroyed were so dealt with in order to prevent or avoid their seizure,

shall, until the contrary is proved, be sufficient evidence of the matter in question.

(2) Where in any proceedings relating to an assigned matter, instituted by the Director of Public Prosecutions, the Comptroller, an

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