



ST. CHRISTOPHER AND NEVIS

CHAPTER 20.06

CUSTOMS TARIFF ACT

Revised Edition

showing the law as at 31 December 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Cap. 1.03.

This edition contains a consolidation of the following laws—

CUSTOMS TARIFF ACT

Act 12 of 1984 ... in force 31st January 1985

Amended by: Act 9 of 1985

Act 13 of 1993

Act 2 of 1994

Act 1 of 2001

Act 1 of 2003

S.R.O. 13/ 1993

S.R.O. 16/ 1994

S.R.O. 9/ 1995

S.R.O. 23/ 1996

S.R.O. 15/ 2003 [Note: Was Retrospective]

S.R.O. 10/ 2005

S.R.O. 38/ 2007

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CHAPTER 20.06

CUSTOMS TARIFF ACT

AN ACT TO MAKE PROVISION FOR CUSTOMS TARIFFS; AND FOR THE IMPOSITION OF A CUSTOMS SERVICE CHARGE; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

Short title.

1. This Act may be cited as the Customs Tariff Act.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Community Territories” means the Territories set out in the First Schedule to the Caribbean Community and Common Market Agreement Act;

“Common Market” means any Territory set out in the Second Schedule to the Caribbean Community and Common Market Agreement Act;

“Comptroller” means the comptroller of Customs;

“duty” means any tariff of customs under this Act;

“goods” include wares, merchandise, animals, articles, stores and baggage.

*“Minister” means the Minister for the time being charged with the responsibility for the administration of the Customs Department.

Imposition of Customs Service Charge.

3. There shall be charged upon goods imported into Saint Christopher and Nevis a customs service charge at the rate of six percentum of the value of goods inclusive of cost, insurance and freight.

(Inserted by Act 1 of 2003 as section 6A)

Charge of customs duties.

4. There shall be charged upon all goods imported into Saint Christopher and Nevis or taken out of bond for consumption in Saint Christopher and Nevis the rates of customs duties set out in the Schedule to this Act subject to the conditions as specified in the Schedule and to such other conditions as may be prescribed for the carrying out of the provisions of the tariff.

Exemption from port duties.

5. The list of conditional duty exemptions and reductions as listed in the Schedule to this Act may be imported without payment of customs duties subject to such conditions as may be prescribed.

Amendment of Schedule.

6. (1) The Minister may, by Order published in the *Gazette*, amend the Schedule to this Act.

(2) An Order made under subsection 1 of this Section may specify terms or conditions subject to which any article to which the Order relates may be imported free of customs duties or at the rate of duties expressed in the Order.

* Originally section 3

(3) An Order made under this section shall be laid in the National Assembly and if within a period of forty days beginning with the day on which the Order is laid before the National Assembly and excluding any time during which the National Assembly is dissolved or prorogued, the National Assembly resolves that the Order be annulled, the Order shall cease to have effect, but without prejudice to its previous operation.

Derelict, etc., goods liable to full duty unless damaged.

7. All goods derelict, jetsam, flotsam and wreck brought or coming into Saint Christopher and Nevis, and all droits of admiralty sold in Saint Christopher and Nevis shall be subject to the same duty as goods of the like kind on importation into Saint Christopher and Nevis are subject, unless it be shown to the satisfaction of the Comptroller that such goods are damaged.

Obligation to pay duty and duties short levied or erroneously refunded.

8. (1) Where goods are imported into Saint Christopher and Nevis or removed from bond or otherwise, and any obligation has been incurred by any person for the payment of customs duties such obligation shall be deemed to be an obligation on that person to pay all the duties which are legally payable under this Act or any other enactment.

(2) When any customs duties have been short levied or erroneously refunded, the person who should have paid the amount short levied, or to whom the refund has erroneously been made shall, on demand being made by the Comptroller, pay the amount short levied or repay the amount erroneously refunded.

Goods used contrary to purpose for which imported.

9. (1) Except where otherwise provided by any law, where goods are imported on special conditions, or for use for some special purpose or because they are the property of or intended for use by some particular person or body and are entered at a lower rate of duty, or free of duty, the full duty or balance of duty upon the goods shall become payable forthwith if within four years of their importation—

- (a) the conditions under which the goods were imported are not observed;
- (b) the goods are used for a purpose other than the specified purpose; or
- (c) the goods, being goods entered as the property of or for use by some particular person or body are sold or transferred to another person or body.

(Amended by Act 9 of 1985)

(2) Where under subsection 1 of this section the full duty or the balance of duty on goods becomes payable and is not paid forthwith the goods shall be liable to forfeiture.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section the Minister may, in his or her discretion, remit in whole or in part any duty payable under this section and in that event the goods shall not be liable to forfeiture.

(4) The provisions of subsection (1) of this section shall not apply to any goods imported or taken out of bond by any government department and sold or transferred by order or with the approval of the Cabinet.

(5) The importer and any other person concerned in making use of or disposing any goods to which the provisions of subsection (1) of this section apply contrary to the condition or purpose for which such goods were allowed to be

entered, shall, where such goods are liable to forfeiture, each be liable to a penalty of three thousand dollars or three times the value of the goods whichever is the greater.

Penalty for producing goods.

10. (1) In relation to goods imported under section 9 of this Act the Comptroller or any officer authorised by him or her shall at any time within three years of the importation of the goods have power to—

- (a) demand that the importer produce the goods so imported; or
- (b) require the importer to satisfactorily account for the goods so imported.

(2) Any person who imports goods under the provisions of section 9 of this Act and on demand by the Comptroller or any officer authorised by him or her is unable within three years of the importation of the goods to—

- (a) produce the goods so imported; or
- (b) account satisfactorily for the goods so imported,

shall be liable to a penalty of three thousand dollars or to three times the value of the goods whichever is the greater.

Goods imported for temporary use or purpose.

11. (1) The Comptroller shall have power to permit any person to import goods without payment of duty if he or she is satisfied that the goods are imported for temporary use or for a temporary purpose only.

(2) Any permission granted under subsection (1) of this section shall, except where provided by any other enactment, be subject to the provisions of section 12 and section 13 of this Act and to the following conditions, namely—

- (a) that the importer shall give adequate security for the duty payable on the goods; or
- (b) that the person to whom such permission is given shall deposit with the Accountant-General the amount of duty on such goods; and
- (c) that such goods shall be exported within three months of the date of such permission.

Disposal of deposit.

12. (1) If any goods are imported under the provisions of section 12 of this Act and are not exported within three months of the date of the said permission, the deposit in the hands of the Accountant-General, shall be brought into account as customs duties, or if security has been given, then the importer shall pay to the Comptroller the full duties on the goods, and if such goods are exported, the deposit shall be refunded, or the security cancelled).

(2) Notwithstanding the provisions of section 11 and of subsection (1) of this section the Comptroller may, in his or her discretion and on the provision of additional security if he or she so requires, allow an additional period where he or she is satisfied that the goods are the *bona fide* property of or *bona fide* in the use of any person on a temporary visit to Saint Christopher and Nevis.

Exception of certain goods.

13. The Minister may by Notice published in the *Gazette* declare that—
- (a) any goods described in the Notice shall not be imported under the provisions of section 11 of this Act; or
 - (b) any goods which are permitted to be imported under the provision of section 12 of this Act shall be subject to a proportion of the duty payable on them as shall be specified in the Notice.

Goods entered for transshipment or intransit exempt from duty.

14. Goods entered for transshipment or intransit through Saint Christopher and Nevis in accordance with any regulations in that behalf made under law relating to duties of customs shall be exempt from the payment of import duty.

Method of determining value of goods for assessing customs duty *ad valorem*.

15. (1) For the purpose of any law for the time being in force whereunder a duty of customs is chargeable on goods the value of such goods for the purpose of assessing duty shall subject to the provisions of section 16 of this Act, and subject to the following provisions of this section be taken to be the price which the Comptroller in exercise of his or her discretion in accordance with the provisions of this section considers such goods would fetch in the open market in Saint Christopher and Nevis at the time of their importation; and duty shall be paid on that value.

(2) For the purpose of computing the price to be arrived at for the purposes of subsection (1) of this section the Comptroller shall assume that—

- (a) the goods to be valued are to be delivered to the buyer at the port or place of importation, freight, insurance, commission and all other costs, charges and expenses incidental to the making of the contract of sale and the delivery of the goods at that port or place (except any duties of customs payable in Saint Christopher and Nevis levying commission not exceeding five per centum of the total value which is shown to the satisfaction of the Comptroller to have been paid to an agent) having been paid by the seller;
- (b) in converting the selling price of the said goods from foreign currency to East Caribbean Currency the rate of exchange shall be the selling rate for sight drafts notified from time to time by the Comptroller;
- (c) any portion of any charge for primage which is refundable on the performance by the importer of any specified conditions is not paid by the importer, whether the importer intends to fulfil such condition or not;
- (d) the price is the sole consideration for the sale of the said goods; and
- (e) neither the seller nor any person associated in business with him or her has any interest, direct or indirect, in the subsequent resale or disposal of the said goods; and
- (f) there has not been and will not be any commercial relationship between the seller and the buyer, whether created by contract or otherwise, other than that created by the sale of the said goods.

(3) For the purpose of paragraph (e) of subsection (2) of this section two persons shall be deemed to be associated in business, with one another, if whether

directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property or some third person has any interest in the business or property of both of them.

Flat rate Duty in certain cases.

16. (1) Where the total value of the goods of small value of an uncommercial character, either contained in passenger baggage or imported by air, sea or parcel post, does not exceed two hundred dollars, a flat rate of duty of thirty per cent shall be charged *in lieu* of the normal rates of duty in cases where the goods fall under three or more different tariff headings.

(2) The flat rate of duty specified in subsection (1) shall not apply in relation to—

- (a) goods imported by members of the crew of ships or aircraft; or
- (b) wines, vermouths described under Tariff heading 22.05 and 22.06, spirits and spirituous beverages described under 22.09, tobacco products described under heading 22.01 and 22.02, articles and jewellery described under Tariff heading 71.12 and imitation jewellery described under the heading 71.16.

(3) While determining for the purpose of this section, whether total value of goods exceeds two hundred dollars the following shall be excluded—

- (a) the value of the goods specified in subsection (2)(b);
- (b) the value of the goods in travellers' baggage which are exempt from duty; and
- (c) goods which are duty free.

(4) Where two or more consignments of goods by the same consignee arrive at the same time and the total value of the goods—

- (a) does not exceed two hundred dollars, the flat rate duty aforesaid shall apply in respect thereof as if the consignments were a single consignment;
- (b) exceeds two hundred dollars, the flat rate duty aforesaid shall not apply in respect of any of the goods.

Validation in regard to the use of metric units.

17. Notwithstanding the provisions of the Weights and Measures Act, Cap. 23.33 any act or thing which is required to be done or performed under this Act by reference to a metric unit of measurement shall be deemed to be valid and effectual.

Savings and the application of this Act to goods imported from this region.

18. (1) The provisions of the Caribbean Community and the Common Market Agreements Act, Cap. 25.03 and the rules made thereunder shall be read as part of this Act.

(2) The provisions of this Act shall apply to any community territory or common market territory whenever any goods imported into Saint Christopher and Nevis do not qualify under the rules of origin made under the Caribbean Community and Common Market Agreements Act.

Reference to Customs Tariff Act.

19. A reference in any enactment or in any document to the Customs Tariff Act shall, unless the context otherwise requires, be construed as a reference to this Act.

Regulations.

20. The Minister may make Regulations to give effect to the provisions of this Act and to prescribe matters as required by this Act.

(Section 21 spent)

SCHEDULE

(OMITTED DUE TO CUT – OFF DATE)
