

THE UNLAWFUL POSSESSION OF
PROPERTY ACT

ARRANGEMENT OF SECTIONS

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SCHEDULE

THE UNLAWFUL POSSESSION OF PROPERTY
ACT

Cap. 401.
Acts
17 of 1982
3rd Sch.,
3 of 2014
3rd. Sch.

[8th May, 1952.]

1. This Act may be cited as the Unlawful Possession of Property Act. Short title

2. In this Act—

Interpreta-
tion

“article of agricultural produce” means any article of agricultural produce for the time being specified in the Schedule;

Schedule

“authorized person” means any person authorized and appointed to arrest suspected persons;

“suspected person” means any person who—

(a) has had in his possession or under his control in any place any thing being an article of agricultural produce; or

(b) has in his possession or under his control in any place any thing including an article of agricultural produce,

under such circumstances as shall reasonably cause any constable or authorized person to suspect that the thing has been stolen or unlawfully obtained.

3.—(1) The Board or Committee of Management of the Jamaica Agricultural Society or of any agricultural society affiliated to the Jamaica Agricultural Society may nominate any person to the Commissioner of Police to be an authorized person.

Selection of
authorized
persons

(2) It shall be lawful for the Commissioner of Police on the nomination of any person as provided in subsection (1), to appoint the person so nominated to be a person authorized to arrest and deal with suspected persons in accordance with the provisions of section 5.

(3) The Commissioner of Police may at any time revoke any appointment made under subsection (2).

(4) Every appointment or revocation of an appointment under this section shall be published in the *Gazette*.

(5) Production of the *Gazette* containing a notice of an appointment under this section shall be *prima facie* evidence in all courts and for all purposes of such appointment.

Remuneration of authorized persons.

4. The Minister may make regulations providing for the circumstances in which and the rates at which authorized persons appointed under section 3 shall be remunerated in respect of their services under this Act.

Arrest and trial of suspected persons.

5.—(1) Subject to the provisions of section 7, any constable or authorized person may arrest a suspected person without a warrant.

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(2) Subject to the provisions of section 14 of the Praedial Larceny (Prevention) Act (which relates to perishable goods), as soon as possible after the arrest of a suspected person, the constable or authorized person making the arrest shall bring the suspected person, together with anything found in his possession or under his control which is reasonably suspected to have been stolen or unlawfully obtained, before a Resident Magistrate sitting in Court.

(3) If a Resident Magistrate is not sitting in Court within forty-eight hours after the arrest of a suspected person, the constable or authorized person shall take the suspected person before a Justice who may bail the

suspected person to appear at the earliest convenient date before a Resident Magistrate sitting in Court, or may remand the suspected person in custody to be brought at the earliest convenient date before a Resident Magistrate sitting in Court.

(4) If the suspected person does not, within a reasonable time to be assigned by the Resident Magistrate, give an account to the satisfaction of the Resident Magistrate by what lawful means he came by the same, he shall be guilty of an offence against this Act and shall, on summary conviction before a Resident Magistrate, be liable to a fine not exceeding one million dollars or to imprisonment with or without hard labour for a term not exceeding one year, and upon a subsequent conviction on a similar charge, to imprisonment with or without hard labour for a term not exceeding three years.

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(5) If any suspected person escapes from any constable or authorized person attempting to arrest him, or lets fall or throws away anything reasonably suspected to have been stolen or unlawfully obtained, it shall be lawful for any Resident Magistrate or Justice, upon application, to issue his warrant for the arrest of that person, and upon his arrest that person shall be deemed to have been arrested within the meaning of subsection (1) and may be dealt with in the manner laid down in subsections (2), (3) and (4).

6. Whenever a constable or authorized person has reasonable cause to believe that any person has in his possession or under his control anything which the constable or authorized person has reasonable cause to suspect has been stolen or unlawfully obtained such constable or authorized person may require such person to disclose and permit him to inspect the contents of any sack, basket, bundle, package, vehicle or other receptacle in possession or under the control of such person and if

Power of
constable or
authorized
person on
reasonable
cause for
belief.

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any person refuses or neglects to disclose and permit the constable or authorized person to inspect such contents he shall be guilty of an offence against this Act and shall on summary conviction be liable to a fine not exceeding one million dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding one year.

Powers of
authorized
person
extend only
to agricul-
tural
produce.

7. The powers conferred by sections 5 and 6 shall be exercisable by authorized persons only in cases in which the thing reasonably suspected to have been stolen or unlawfully obtained is an article of agricultural produce.

Search
warrant.

8.—(1) If information is given on oath to any Resident Magistrate or Justice that there is reasonable cause for suspecting that anything stolen or unlawfully obtained is concealed or lodged in any house, store, yard or other place, or on any land (whether enclosed or not) or in any vessel, the Resident Magistrate or Justice may, by warrant under his hand directed to any constable, cause the house, store, yard, place, land or vessel to be entered and searched at any time of day or, if the warrant so authorizes, by night.

(2) A Resident Magistrate or Justice issuing a warrant under subsection (1) may, by such warrant, if it shall appear necessary to him, give authority to the constable, with such assistance as may be found necessary, to use force for the purpose of effecting an entry, whether by breaking open doors or otherwise, but before using force for the purpose aforesaid the constable shall make known his authority.

(3) If upon search made in accordance with the provisions of subsections (1) and (2), anything which the constable has reasonable cause to suspect to have been

stolen or unlawfully obtained is found, the constable shall arrest and bring before a Resident Magistrate—

- (a) the person in whose house, store, yard, place or vessel or on whose land such thing is found; and
- (b) any other person found in such house, store, yard, place or vessel or on such land,

if the constable has reasonable cause to suspect that such person placed or was privy to the placing of the thing in such house, store, yard, place or vessel or on such land knowing or having reasonable cause to suspect the same to have been stolen or unlawfully obtained.

(4) If a constable fails or is for any reason whatsoever unable to arrest any person mentioned in paragraphs (a) and (b) of subsection (3), a Resident Magistrate or Justice may issue—

- (a) a warrant for the arrest of such person; or
- (b) a summons requiring such person to appear before a Resident Magistrate at a time and place to be mentioned in the summons.

9.—(1) Any constable may go on board a vessel in any harbour, bay, roadstead or river and remain on board the vessel for such reasonable time as he deems expedient. If he has reasonable ground to suspect that there is on board the vessel anything stolen or unlawfully obtained, he may search, with any assistants, any and every part of the vessel, and, after demand and refusal of the keys, break open any receptacle. Upon discovery of anything which he may reasonably suspect to have been stolen or unlawfully obtained, the constable may take such thing and the person in whose possession it is found before a Resident Magistrate.

Power to
board vessel,
etc.

(2) A constable may pursue and detain any person in the act of conveying away from any vessel anything

which the constable may reasonably suspect to have been stolen or unlawfully obtained, whether that person has landed or not, together with anything so conveyed away or found in his possession.

Trial of person
brought before
Resident
Magistrate
under sections
8 or 9

10. A Resident Magistrate may call upon any person brought or appearing before him under the provisions of section 8 or 9 to give an account to the satisfaction of the Resident Magistrate—

- (a) by what lawful means anything reasonably suspected to have been stolen or unlawfully obtained came to be in the house, store, yard, place or vessel or on the land where it was found; or
- (b) that he was not privy to the placing of the thing in such house, store, yard, place or vessel or on such land knowing or having reasonable cause to suspect the same to have been stolen or unlawfully obtained,

and any person who fails, within a reasonable time to be assigned by the Resident Magistrate, so to satisfy the Resident Magistrate shall be guilty of an offence against this Act and shall, on summary conviction before the Resident Magistrate, be liable to a fine not exceeding one million dollars or to imprisonment with or without hard labour for a term not exceeding one year, and, upon a subsequent conviction on a similar charge, to imprisonment with or without hard labour for a term not exceeding three years.

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Tracing
possession

11.—(1) If any person brought or appearing before a Resident Magistrate under the provisions of section 5, 8 or 9 declares that he received anything reasonably suspected to have been stolen or unlawfully obtained from some other person, or that he was employed as a carrier, agent,

or servant to convey that thing for some other person, the Resident Magistrate may cause every such other person, and also any other person through whose possession that thing shall previously have passed, to be brought before him either by summons, or by warrant, as the Resident Magistrate shall in each case deem fit.

(2) Upon any such person as is in subsection (1) mentioned being brought before him, the Resident Magistrate may examine that person on oath as to whether he has been in possession or control of the thing reasonably suspected to have been stolen or unlawfully obtained, and, upon his admitting such possession or control, or upon it being proved to the satisfaction of the Resident Magistrate that that person has been in possession or control of that thing, the Resident Magistrate may call upon that person to give an account to the satisfaction of the Resident Magistrate by what lawful means he came by that thing, and, if that person fails, within a reasonable time to be assigned by the Resident Magistrate, to give such account, he shall be guilty of an offence against this Act and shall, on summary conviction before the Resident Magistrate, be liable to a fine not exceeding one million dollars or to imprisonment with or without hard labour for a term not exceeding one year, and upon a subsequent conviction on a similar charge, to imprisonment with or without hard labour for a term not exceeding three years.

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(3) For the purposes of this section, the possession of a carrier, agent, or servant shall be deemed to be the possession of the person who employed the carrier, agent or servant to convey the thing reasonably suspected to have been stolen or unlawfully obtained.

Power of constables and authorized persons to summon assistance

12. A constable or authorized person may call upon any person to aid and assist him in the execution of his duties under this Act, and if any person so called upon neglects or refuses without lawful excuse to aid and assist the constable or authorized person he shall be guilty of an offence against this Act and shall, on summary conviction before a Resident Magistrate be liable to a fine not exceeding two hundred dollars and in default of payment thereof to imprisonment for a term not exceeding three months.

17/1982
3rd Sch.

Penalty for assaulting, etc., constables, authorized persons and their assistants

13. If any person shall assault, obstruct, hinder or resist any constable or authorized person in the execution of his duties under this Act, or any person acting in the aid of such constable or authorized person, every such offender shall be guilty of an offence against this Act and shall, on summary conviction before a Resident Magistrate, be liable to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment with or without hard labour for a term not exceeding six months.

3/2014
3rd Sch

Power to vary Schedule.

14. The Minister may, if he considers it expedient so to do, by order published in the *Gazette*, delete from or add to the Schedule any article of agricultural produce.

SCHEDULE

(Sections
2,14)

Annatto	Jippi-jappa
Apples of any kind	Lancewood
Arrowroot	Kola
Avocado Pears	Lignum-vitae
Badoos	Logwood
Bamboo	Mahoe
Bananas	Mahogany
Bitter damsel wood	Mahogany bark
Bitterwood spars	Mangoes
Breadfruit	Mangrove bark, red and white
Broadleaf	Nutmeg
Bullet tree, black red and white	Orange sticks
Burn-nose or Wild Ackee	Paddy
Cacao or chocolate	Peas, Beans
Canes	Pepper-leaf sweetwood
Cashew nuts	Pimento
Cassava	Pimento sticks
Cedar	Pineapples
Citrus fruit of any kind	Plantains
Citrus oils of any kind	Potatoes and sweet potatoes
Coconut oil	Prickly yellow wood
Coconuts	Pumpkins
Cocoas, and head of cocoes	Foliage and seeds of Ramoon and Breadnut trees
Coffee	Sarsaparilla
Ebony	Satin wood
Fanbroom	Seed cotton
Fodder grass of any kind	Sweet peppers
Forbiddenfruit	Thatch or thatch head
Fustic	Tobacco
Garden vegetables	Tomatoes
Ginger	Toyas
Grapes	Yams of any kind, and heads of yams
Guinea corn	
Indian corn or maize	Plants or suckers of any of the above.