# THE UNLAWFUL POSSESSION OF PROPERTY ACT

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#### SCHEDULE

# THE UNLAWFUL POSSESSION OF PROPERTY ACT

Cap. 401. Act 17 of 1982

[8th May, 1952.]

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

## 2. In this Act—

Interpreta-

"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 that thing has been stolen or unlawfully obtained.

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

- (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 two thousand dollars or to 17/1982 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.

(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 Power of reasonable cause to believe that any person has in his authorized possession or under his control anything which the person on reasonable constable or authorized person has reasonable cause to cause for 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

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 two thousand dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding one year.

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Powers of authorized person extend only to agricultural 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, vard, 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, vard, 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 Power to 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.

(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 and 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 two thousand 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 two thousand dollars or to imprison- 17/1982 ment 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 17/1982 3rd. Sch. a term not exceeding three years.

(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.

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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 one hundred dollars or to imprisonment with or without hard labour for a term not exceeding six months.

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

Badoos

Logwood

Bamboo

Bananas

Mahoe

Bananas

Mahogany

Bitter damsel wood

Mahogany bark

Bitterwood spars Mangoes

Breadfruit Mangrove bark, red and white

Broadleaf Nutmeg
Bullet tree, black red and Orange sticks

white Paddy

Burn-nose or Wild Ackee Peas, Beans

Cacao or chocolate Pepper-leaf sweetwood

Canes Pimento
Cashew nuts Pimento sticks
Cassava Pineapples
Cedar Plantains

Citrus fruit of any kind Potatoes and sweet potatoes

Citrus oils of any kind Prickly yellow wood

Coconut oil Pumpkins

Coconuts Foliage and seeds of Ramoon and

Cocoes, and head of cocoes

Coffee

Ebony

Fanbroom

Breadnut trees

Sarsaparilla

Satin wood

Seed cotton

Forbidden grass of any kind Sweet peppers

Forbidden fruit Thatch or thatch head

Fustic Tobacco
Garden vegetables Tomatoes

Garden vegetables Tomatoes
Ginger Toyas

Grapes Yams of any kind, and heads of

Guinea corn yams

Indian corn or maize Plants or suckers of any of the

above.