

PART XVIII
PROOF IN PROCEEDINGS

Burden of proof.

243. (1) Subject to subsection (4), this section applies to proceedings respecting the intent to defraud the revenue of the Customs Department.

(2) Subject to subsection (4), in any proceedings under this Act instituted by or on behalf of or against the State, other than a prosecution of an individual for an indictable offence, every allegation made on behalf of the State in any statement of claim, statement of defence, plea or information which relates to—

- (a) the identity or nature of any goods;
- (b) the value of any goods liable to duty;
- (c) the country or time of exportation of any goods;
- (d) the fact or time of the importation of any goods;
- (e) the place of manufacture, production or origin of any goods; or
- (f) the payment of any duty on any goods, is presumed to be true unless the contrary is proved.

(3) Subject to subsection (4), the presumption in subsection (2) shall not be countered by the fact that evidence is produced on behalf of the State in support of any such allegation.

(4) Subject to this Act, where it is alleged, in any proceedings for an offence against this Act, that a defendant intended to commit the offence, the prosecution has the burden of proving that intent beyond a reasonable doubt.

(5) In any prosecution under this Act or any other customs enactment, the onus is on the defendant to prove, on a balance of probability, that—

- (a) the duties assessed have been paid; and
- (b) the goods were, where applicable—
 - (i) lawfully transferred from a vessel or an aircraft to another vessel or aircraft;
 - (ii) lawfully loaded into or unloaded from any vessel or aircraft; and
 - (iii) lawfully imported or exported.

Averment in proceedings.

244. (1) The averment that—

- (a) goods thrown overboard, staved or destroyed were so dealt with to prevent or avoid their seizure;
- (b) a person is or was appointed or authorised by the Comptroller to discharge any duty;
- (c) a person was engaged by order, or with the concurrence, of the Comptroller in the discharge of any duty;
- (d) a person is or was the Minister, the Comptroller, a customs officer or a police officer;
- (e) any place is within—
 - (i) the limits of a customs port, approved wharf, customs airport or other customs controlled area; or
 - (ii) the territorial sea or contiguous zone of Saint Christopher and Nevis;
- (f) the Comptroller is or is not satisfied with any matter which he or she is required to be satisfied with by reason of this Act or any other customs enactment; or
- (g) proceedings were instituted by order of the Comptroller, is sufficient evidence of the matter in question, until the contrary is proved.

(2) Where, in proceedings brought by or against a competent person or against any other person in respect of anything purporting to have been done in the exercise of a power or duty under this Act or any other customs enactment, a question arises respecting any or all of the following—

- (a) the place from which goods have been brought;
- (b) whether or not customs duty has been paid or secured in respect of goods;
- (c) whether or not goods are of the description or nature alleged in the information, writ or other process;

- (d) whether or not goods were lawfully brought to any place for the purpose of being loaded into a vessel or an aircraft or exported;
 - (e) whether or not goods were exported; or
 - (f) whether or not goods are or were subject to any prohibition or restriction on their importation, exportation or carriage coastwise, the burden of proof lies on the other party to the proceedings.
- (3) For the purposes of this section, “competent person” means—
- (a) the Comptroller;
 - (b) the Director of Public Prosecutions;
 - (c) the Attorney- General;
 - (d) a customs officer;
 - (e) an authorised person; or
 - (f) a police officer.

Evidence of officers.

245. (1) Where in any proceedings instituted under this Act a question arises as to whether a person is a proper officer, evidence or certification of the Comptroller is sufficient evidence of the matter.

(2) Any proper officer is deemed a competent witness upon the trial of any suit or information regarding any seizure of goods or penalty under this Act, regardless of whether the officer is entitled or is likely to be entitled to a reward upon the conviction of the party charged in the suit or information.

Proof of certain documents.

246. (1) A document which is purported to be signed by—

- (a) the Minister or any other member of the Cabinet;
- (b) the Comptroller; or
- (c) a person with the authority or order of the Minister or other member of the Cabinet or the Comptroller,

is deemed to have been so signed, until the contrary is proved.

(2) The matters contained in any document referred to in subsection (1) may, in any proceedings under this Act or any other customs enactment, be proved by the production of that document or any document purporting to be a copy of that document.

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

(4) In any proceeding under this Act or any other customs enactment, the production of a certificate purporting to be signed by the competent authority is sufficient evidence of all matters stated in the certificate, unless the contrary is proved.

Presumption of authenticity of documents.

247. All documents purporting to be sealed with the seal of the Customs Department, are, in every court and in all proceedings under this Act and any other Act, deemed to have been sealed with due authority, unless the contrary is proved.

Valuation of goods for penalty.

248. (1) Where the fine for an offence under a customs enactment is an amount which is to be determined by the value of goods, such value shall be determined in accordance with the Second Schedule.

(2) A certificate signed by the proper officer attesting to the value of the goods is *prima facie* evidence of the value of the goods.

Certificate of condemnation.

249. Condemnation by a court under any customs enactment may be proved in any court, or before any competent tribunal, by the production of a certificate of condemnation purporting to be signed by a Magistrate.