

TARIFF BOARD.

No. 21 of 1921.

An Act relating to the Tariff Board.

[Assented to 15th December, 1921.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *Tariff Board Act* 1921. Short title.
2. This Act shall commence on a date to be fixed by Proclamation. Commencement.
3. The *Customs Act* 1901-1920 shall be incorporated and read as one with this Act. Incorporation.
4. In this Act, except where otherwise clearly intended— Definitions.
 - “ The Board ” means the Tariff Board appointed under this Act ;
 - “ The Chairman ” means the Chairman of the Tariff Board appointed under this Act ;
 - “ Member ” means a Member of the Tariff Board appointed under this Act, and includes the Chairman of the Board ; and
 - “ The Minister ” means the Minister of State for the time being administering the Department of Trade and Customs.
5. For the purposes of this Act there shall be a Tariff Board consisting of three members. Tariff Board.
- 6.—(1.) The Governor-General shall, as soon as conveniently practicable, appoint three persons to be members of the Board, and on the happening of any vacancy in the office of member the Governor-General shall appoint a person to the vacant office. Appointment of Board.
 - (2.) One of the three persons to be so appointed shall be a person who holds an administrative office in the Department of Trade and Customs.
 - (3.) Every such appointment shall be for such a term as is specified in the appointment, but not being less than one year nor more than five years ; and, on the expiration of his term of office, every person so appointed shall, subject to this Act, be eligible for re-appointment.
 - (4.) In case of the illness, suspension, or absence of any member of the Board, the Governor-General may appoint a person to act as a

deputy of the member during the illness, suspension, or absence, and the deputy shall, while so acting, have all the powers and perform all the duties of a member.

(5.) An officer of the Commonwealth Public Service who is appointed a member of the Board shall retain all his existing and accruing rights, and the period of his membership on the Board shall for all purposes be included as part of his period of service in the Commonwealth Public Service.

The Chairman
of the Board.

7.—(1.) The Governor-General shall appoint as Chairman of the Board a member who holds an administrative office in the Department of Trade and Customs, and on the happening of any vacancy in the office of Chairman the Governor-General shall appoint an administrative officer of the Department of Trade and Customs to fill that office.

(2.) In case of the illness, suspension, or absence of the Chairman, the Governor-General shall appoint one of the other members to act as Chairman during the illness, suspension, or absence.

Remuneration
of members
of the Board.

8.—(1.) The Chairman shall receive, in addition to his salary as an officer of the Public Service, an allowance which, together with his salary, shall not exceed Fourteen hundred pounds a year, and each of the other members shall receive an allowance of Five guineas per sitting.

(2.) There shall be paid to each member, on account of his expenses in travelling to discharge the duties of his office, such sums as are considered reasonable by the Governor-General.

Oath or
affirmation
of allegiance
and office.

9. Every member of the Board shall, before proceeding to discharge the duties of his office, take an oath or affirmation of allegiance in the form of the Schedule to the Constitution, and also an oath or affirmation in the form following :—

I, A.B., do swear that I will well and truly serve our Sovereign Lord the King in the office of a Member of the Tariff Board, and that except in the course of my duty I will not divulge any information which is furnished to me or to the Department in connexion with matters which are being or which may be dealt with by the Board : So help me God.

Or I, A.B., do solemnly and sincerely promise and declare that I will well and truly serve our Sovereign Lord the King in the office of a member of the Tariff Board, and that except in the course of my duty I will not divulge any information which is furnished to me or to the Department in connexion with matters which are being or which may be dealt with by the Board.

Suspension
of member.

10.—(1.) The Governor-General may suspend any member from office for misbehaviour or incapacity. The Minister shall, within seven days after the suspension, if the Parliament is then sitting, or, if the Parliament is not then sitting, within seven days after the next

meeting of the Parliament, cause to be laid before both Houses of the Parliament a full statement of the grounds of suspension.

(2.) A member who has been suspended shall be restored to office unless each House of the Parliament, within forty days after the statement has been laid before it, and in the same session, passes an address praying for his removal on the grounds of proved misbehaviour or incapacity.

11.—(1.) Subject to the regulations, the Board may hold sittings in any part of the Commonwealth in such place or places as it may deem most convenient for the transaction of its business or proceedings, and shall keep minutes of its proceedings in the prescribed form.

Sittings of the Board.

(2.) Sittings of the Board shall be convened by the Chairman.

(3.) The Chairman shall preside at all meetings of the Board at which he is present, and in his temporary absence from any meeting the members present shall elect one of the members to preside as Chairman.

12.—(1.) For the conduct of business any two members shall be a quorum, and shall have, subject to the next sub-section, all the powers of the Board.

Quorum of Board.

(2.) At meetings of the Board the decision of the majority shall prevail.

(3.) The Chairman shall have a deliberate vote, and, in the event of an equality of voting, a second or casting vote.

13.—(1.) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of there being, at the time when the act or proceeding was done, taken, or commenced, a vacancy in the membership of the Board.

Vacancy not to invalidate proceedings.

(2.) Notwithstanding anything contained in this section, the Board shall not commence or continue the determination of any matter unless two members are available to inquire into and report upon the matter.

14. A member shall not exercise any power by this Act conferred upon him in any matter in which he has a direct or indirect pecuniary interest.

Member not to act when interested.

15.—(1.) The Minister shall refer to the Board for inquiry and report the following matters :—

Reference of certain matters to Board.

- (a) the classification of goods under all Tariff Items which provide for classification under by-laws ;
- (b) the determination of the value of goods for duty under section one hundred and sixty of the *Customs Act 1901-1920* ;
- (c) any dispute arising out of the interpretation of any Customs Tariff or Excise Tariff, or the classification of articles in any Tariff, in which an appeal is made to the Minister from the decision of the Comptroller-General ;
- (d) the necessity for new, increased, or reduced duties, and the deferment of existing or proposed deferred duties ;

- (e) the necessity for granting bounties for the encouragement of any primary or secondary industry in Australia ;
- (f) the effect of existing bounties or of bounties subsequently granted ;
- (g) any proposal for the application of the British Preferential Tariff or the Intermediate Tariff to any part of the British Dominions or any foreign country, together with any requests received from Australian producers or exporters in relation to the export of their goods to any such part or country ;
- (h) any complaint that a manufacturer is taking undue advantage of the protection afforded him by the Tariff, and in particular in regard to his—
 - (i) charging unnecessarily high prices for his goods ; or
 - (ii) acting in restraint of trade to the detriment of the public ; or
 - (iii) acting in a manner which results in unnecessarily high prices being charged to the consumer for his goods,

and shall not take any action in respect of any of those matters until he has received the report of the Board.

(2.) The Minister may refer to the Board for their inquiry and report the following matters :—

- (a) the general effect of the working of the Customs Tariff and the Excise Tariff, in relation to the primary and secondary industries of the Commonwealth ;
- (b) the fiscal and industrial effects of the Customs laws of the Commonwealth ;
- (c) the incidence between the rates of duty on raw materials and on finished or partly finished products ; and
- (d) any other matter in any way affecting the encouragement of primary or secondary industries in relation to the Tariff.

(3.) If the Board finds on inquiry that any complaint referred to it under paragraph (h) of sub-section (1.) of this section is justified, it may recommend—

- (a) that the amount of duty payable on the goods the subject of the complaint be reduced or abolished ; or
- (b) that such other action as the Board thinks desirable be taken, but shall, before it makes any such recommendation, consider carefully the conditions obtaining in the industry as a whole.

Action upon receipt of report of Board.

16.—(1.) Upon receipt of a report from the Board in pursuance of the last preceding section, the Minister may, if he thinks fit, take action according to law in respect of any of the matters dealt with by the Board in its report.

(2.) A copy of every report made in pursuance of sub-section (3.) of the last preceding section shall be laid on the table of each House

of the Parliament within seven days, if the Parliament is then sitting, and, if the Parliament is not then sitting, then within seven days of the next meeting of the Parliament.

17. The Board may on its own initiative inquire into and report on any of the matters referred to in sub-section (2.) of section fifteen of this Act.

Power of Board to inquire and report.

18.—(1.) The Board shall, in the month of June in each year, report to the Minister generally as to the operation of the Tariff and the development of industries, and shall in such report set out the recommendations made by the Board during the preceding twelve months, other than any recommendations whose inclusion the Minister and the Board agree is not in the public interest.

Annual report.

(2.) A copy of the report of the Board shall be laid on the table of each House of the Parliament within seven days of its receipt by the Minister, if the Parliament is then sitting, and, if the Parliament is not then sitting, then within seven days of the next meeting of the Parliament.

(3.) The report shall be accompanied by a statement by the Minister setting out what action (if any) has been taken in respect of each recommendation of the Board.

19.—(1.) For the purposes of this Act any member of the Board may on resolution of the Board by writing under his hand summon any person to attend the Board at a time and place named in the summons, and then and there to give evidence and to produce any books, documents or writings in his custody or control which he is required by the summons to produce.

Power to send for witnesses and documents.

(2.) The Board may, in its discretion, on the application of any party to an inquiry before the Board, summon any person to appear as a witness before the Board.

20. Every witness who has been summoned to attend the Board shall appear and report himself from day to day, unless excused by the Chairman or until he is released from further attendance by the Chairman.

Duty of witness to continue in attendance.

21. Any member of the Board may administer an oath to any person appearing as a witness before the Board, whether the witness has been summoned or appears without being summoned, and may examine the witness upon oath.

Power to examine upon oath.

22.—(1.) Where any witness to be examined before the Board conscientiously objects to take an oath, he may make an affirmation that he conscientiously objects to take an oath, and that he will state the truth, the whole truth, and nothing but the truth, to all questions that may be asked him.

Affirmation in lieu of oath.

(2.) An affirmation so made shall be of the same force and effect, and shall entail the same liabilities as an oath.

Penalty for failing to attend or produce documents;

23.—(1.) If any person served with a summons to attend the Board, when the summons is served personally, fails without reasonable excuse to attend the Board, or to produce any documents, books, or writings in his custody or control which he was required by the summons to produce, he shall be guilty of an offence.

Penalty : Two hundred and fifty pounds.

(2.) It shall be a defence to a prosecution under this section for failing without reasonable excuse to produce any documents, books, or writings, if the defendant proves that the documents, books, or writings were not relevant to the inquiry which the Board was making.

Penalty for refusing to be sworn or to give evidence.

24. If any person appearing as a witness before the Board refuses to be sworn or to make an affirmation or to answer any question relevant to the investigation or proceeding put to him by any of the members he shall be guilty of an offence.

Penalty : Two hundred and fifty pounds.

Acts or omissions on different days to constitute separate offences.

25.—(1.) Where any person has on any day done or omitted to do something, and his act or omission amounts to an offence against either of the last two preceding sections, and does or omits to do the same thing at any meeting of the Board held on some other day, each such act or omission shall be a separate offence.

(2.) Where any person, who has been convicted of any offence against either of the last two preceding sections, is subsequently convicted on information by the Attorney-General of any offence against either of those sections, committed by him after the first-mentioned conviction and in relation to the same inquiry, he shall be liable to a penalty not exceeding Five hundred pounds and to imprisonment for a period not exceeding three months.

Witness need not disclose secret process.

26. Nothing in this Act shall make it compulsory for any witness before the Board to disclose to the Board any secret process of manufacture.

Power of Board in relation to documents produced.

27. The Board may inspect any documents, books, or writings, before it, and may retain them for such reasonable period as it thinks fit, and may make copies of such matter as is relevant to the inquiry or take extracts from them.

Giving false testimony.

28. Any witness before the Board who knowingly gives false testimony touching any matter, material to any inquiry, shall be guilty of an indictable offence.

Penalty : Imprisonment for five years.

Bribery of witness.

29. Any person who—

- (a) gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for, any person, upon any agreement or understanding that any person called or to be called as a witness before the Board shall give false testimony or withhold true testimony ; or

(b) attempts by any means to induce a person called or to be called as a witness before the Board to give false testimony, or to withhold true testimony; or

(c) asks, receives, or obtains, or agrees or attempts to receive or obtain any property or benefit of any kind for himself, or any other person, upon any agreement or understanding that any person shall as a witness before the Board give false testimony or withhold true testimony,

shall be guilty of an indictable offence.

Penalty : Imprisonment for five years.

30. Any person who practises any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness before the Board, with intent to affect the testimony of that person as a witness, shall be guilty of an indictable offence.

Fraud on witness.

Penalty : Imprisonment for two years.

31. Any person who, knowing that any book, document, or writing is or may be required in evidence before the Board, wilfully destroys it or renders it illegible or undecipherable or incapable of identification, with intent thereby to prevent it from being used in evidence, shall be guilty of an indictable offence.

Destroying books or documents.

Penalty : Imprisonment for two years.

32. Any person who wilfully prevents or wilfully endeavours to prevent any person, who has been summoned to attend as a witness before the Board, from attending as a witness, or from producing anything in evidence pursuant to the summons to attend, shall be guilty of an indictable offence.

Preventing witness from attending.

Penalty : Imprisonment for one year.

33. Any person who uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage to any person for or on account of his having appeared as a witness before the Board, or for or on account of any evidence given by him before the Board, shall be guilty of an indictable offence.

Injury to witness.

Penalty : Five hundred pounds, or imprisonment for one year.

34.—(1.) Any employer who dismisses any employee from his employment, or prejudices any employee in his employment, for or on account of the employee having appeared as a witness before the Board, or for or on account of the employee having given evidence before the Board, shall be guilty of an indictable offence.

Dismissal by employers of witness.

Penalty : Two hundred and fifty pounds, or imprisonment for one year.

(2.) In any proceeding for any offence against this section, it shall lie upon the employer to prove that any employee, shown to have been dismissed or prejudiced in his employment, was so dismissed or prejudiced for some reason other than the reasons mentioned in sub-section (1.) of this section.

(3.) Any prosecution under this section shall be commenced within three months from the date of the commission of the alleged offence.

Allowances
to witness.

35.—(1.) The Governor-General may make regulations prescribing a scale of allowances to be paid to any witness summoned under this Act for his travelling and other expenses.

(2.) The claim to allowance of any such witness, certified by the Chairman, shall be paid by the Treasurer out of moneys to be provided by the Parliament for the purposes of the Board.

Regulations.

36. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or are necessary or convenient to be prescribed, for giving effect to this Act.

Duration of Act.

37. This Act shall continue in force for a period of two years and no longer.
