

TARIFF BOARD.

No. 14 of 1958.

An Act to amend the *Tariff Board Act* 1921–1953,
and for other purposes.

[Assented to 21st May, 1958.]

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

Short title
and citation.

1.—(1.) This Act may be cited as the *Tariff Board Act* 1958.

(2.) The *Tariff Board Act* 1921–1953* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Tariff Board Act* 1921–1958.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

3. Section four of the Principal Act is repealed and the following section inserted in its stead:—

“ 4.—(1.) In this Act, unless the contrary intention appears— Interpretation.

‘ acting member ’ means a person appointed to be an acting member of the Board under sub-section (4.) of section six of this Act;

‘ meeting ’, in relation to the Board, includes a sitting of the Board for the purpose of taking evidence;

‘ member ’ means a member of the Board, and includes an acting member;

‘ the Acting Chairman ’ means a member appointed to be the Acting Chairman of the Board under sub-section (4.) of section seven of this Act;

‘ the Board ’ means the Tariff Board appointed under this Act;

‘ the Chairman ’ means the Chairman of the Board;

‘ the Department ’ means the Department of Trade;

‘ the Deputy Chairman ’ means the Deputy Chairman of the Board.

“ (2.) A reference in this Act to the functions of the Chairman shall be read as including a reference to the function of forming, together with three other members, a quorum of the Board.”

4. Section six of the Principal Act is amended—

(a) by omitting sub-section (2.) and inserting in its stead the following sub-section:—

Members of the Board.

“ (2.) The Governor-General shall so exercise his power to appoint members under the last preceding sub-section that two of those members, or, if the Governor-General thinks fit, three of those members, will be persons each of whom was, at the time of his appointment (or, if he has been appointed more than once, at the time of his first appointment) an officer of the Public Service of the Commonwealth.”; and

* Act No. 21, 1921, as amended by No. 25, 1923; No. 29, 1924; No. 5, 1929; No. 69, 1933; No. 45, 1934; No. 52, 1947; No. 13, 1950; No. 43, 1952; and No. 87, 1953.

(b) by omitting sub-sections (4.) and (5.) and inserting in their stead the following sub-sections:—

“(4.) In the case of the illness, suspension or absence of a member, the Governor-General may appoint a person to be an acting member of the Board and, subject to this section, a person so appointed holds office during the pleasure of the Governor-General.

“(5.) An acting member ceases to hold office as an acting member if the member by reason of whose illness, suspension or absence he was appointed ceases to be ill, suspended or absent.

“(6.) An acting member has all the powers and duties and shall perform all the functions of a member.

“(7.) Where a member was, immediately before his appointment, an officer of the Public Service of the Commonwealth—

(a) he retains his existing and accruing rights;

(b) for the purpose of determining those rights, his service under this Act shall be taken into account as if it were service in the Public Service of the Commonwealth; and

(c) the *Officers' Rights Declaration Act 1928-1953* applies as if this Act and this section had been specified in the Schedule to that Act.”.

Appointment
of Chairman,
Deputy
Chairman and
Acting
Chairman.

5. Section seven of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-sections:—

“(2.) The Governor-General may appoint a member to be the Deputy Chairman of the Board.

“(3.) Subject to the next succeeding sub-section, the Deputy Chairman has all the powers and duties, and shall perform all the functions, of the Chairman (including powers and functions delegated to the Chairman by the Minister under this Act) during the illness, suspension or absence of the Chairman.

“(4.) In the case of the illness, suspension or absence of the Chairman, the Governor-General may, if there is no Deputy Chairman or the Deputy Chairman is ill, suspended or absent, appoint one of the other members to be the Acting Chairman of the Board.

“(5.) The Acting Chairman ceases to hold office as the Acting Chairman if—

- (a) the Chairman or the Deputy Chairman ceases to be ill, suspended or absent; or
- (b) after the date of his appointment as the Acting Chairman, a person is appointed to be the Deputy Chairman.

“(6.) The Acting Chairman has all the powers and duties, and shall perform all the functions, of the Chairman (including powers and functions delegated to the Chairman by the Minister under this Act).”.

6. Sections eight and nine of the Principal Act are repealed and the following sections inserted in their stead:—

“ 8.—(1.) It is the duty of the Chairman to ensure the efficient and orderly conduct of the business of the Board and, for that purpose, he has, in addition to any other power, duty or function under this Act, power—

Duties of the Chairman.

- (a) to convene meetings of the Board at the times and places which he deems most convenient for the conduct of the business of the Board;
- (b) to determine the form of the records of meetings of the Board to be kept in accordance with this Act and the procedure to be adopted at such meetings;
- (c) to determine which members shall take part in a particular inquiry by the Board; and
- (d) to direct and control travel by members in connexion with their duties.

“(2.) A power of the Chairman under paragraph (a) or paragraph (b) of the last preceding sub-section shall be exercised, as far as practicable, only after consultation with the members.

“(3.) Where the services of officers or employees employed under the *Public Service Act* 1922–1957 are made available to the Board, the use of those services by members of the Board is subject to the control of the Chairman.

“ 9.—(1.) The Chairman may, by writing under his hand, delegate to the Deputy Chairman, either generally or otherwise as provided in the instrument of delegation, all or any of his powers, duties and functions under this Act (except this power of delegation).

Delegation of powers and functions by Chairman to Deputy Chairman.

“(2.) A power, duty or function so delegated may be exercised or performed by the Deputy Chairman in accordance with the instrument of delegation.

“(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a duty or function by the Chairman.

**Salary, and
outside
employment.**

“ 9A.—(1.) A member shall be paid salary at such rate as the Governor-General determines, but the salary of a member shall not be diminished during his term of office.

“ (2.) A member other than an acting member shall not engage in paid employment outside the duties of his office.

Allowances.

“ 9B. A member shall be paid such allowances (if any) as are determined by the Minister after consultation with the Public Service Board.

Leave.

“ 9C.—(1.) The Minister may grant leave of absence to a member.

“ (2.) The Minister may determine, either generally or in a particular case, the terms and conditions as to remuneration or otherwise applicable to leave granted under this section.

“ (3.) The Minister may, by writing under his hand, delegate to the Chairman, either generally or otherwise as provided in the instrument of delegation, all or any of his powers under the last two preceding sub-sections.

“ (4.) A power so delegated may be exercised by the Chairman in accordance with the instrument of delegation.

“ (5.) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Minister.

**Oath or
affirmation
by member.**

“ 9D. A member shall, before proceeding to discharge the duties of his office, take before a Justice of the Peace or a Commissioner for taking Affidavits an oath or affirmation in the form in the Schedule to this Act.”.

**Meetings of
the Board.**

7. Section eleven of the Principal Act is amended by omitting sub-sections (1.), (2.) and (3.) and inserting in their stead the following sub-sections:—

“ (1.) The Board may hold meetings in any part of the Commonwealth.

“ (2.) The Board shall keep records of its meetings.

“ (3.) Subject to sub-section (4.) of section twelve A of this Act, the Chairman shall preside at meetings of the Board.

“ (3A.) Subject to this Act and the regulations, the member presiding at a meeting of the Board may give directions regarding the procedure to be followed at or in connexion with the meeting.”.

8. Section twelve of the Principal Act is repealed and the following section inserted in its stead:—

Quorum, &c.

“ 12. At a meeting of the Board—

(a) the Chairman and three other members form a quorum;

- (b) all questions shall be decided by a majority of votes of the members present and voting; and
- (c) the Chairman or other member presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.”.

9. Section twelve A of the Principal Act is amended—

Exercise of powers of the Board by members specified by Chairman.

- (a) by omitting sub-section (2.) and inserting in its stead the following sub-sections:—

“(2.) The members specified in a determination made by the Chairman under the last preceding sub-section shall be not less than two nor more than four in number and shall not include more than one of the members referred to in sub-section (2.) of section six of this Act.

“(2A.) In the event of the illness, suspension or absence of a member who has been specified in a determination made by the Chairman under sub-section (1.) of this section in relation to an inquiry and report, the Chairman may direct another member to act in the place of that member for the purposes of that inquiry and report and that other member shall act in the place of the first-mentioned member for the purposes of the continuation and completion of the inquiry and report as if he had been specified in the determination.”; and

- (b) by omitting sub-section (4.) and inserting in its stead the following sub-sections:—

“(4.) At a meeting of the Board constituted in accordance with the last preceding sub-section at which the Chairman is not present, a member nominated for the purpose by the Chairman shall preside.

“(4A.) Notwithstanding the last preceding section, at a meeting of the Board constituted in accordance with sub-section (3.) of this section two members, of whom at least one is a member other than a member referred to in sub-section (2.) of section six of this Act, form a quorum.”.

10. Section fifteen of the Principal Act is amended—

Reference of certain matters to the Board by Minister.

- (a) by omitting paragraph (c) of sub-section (1.);
- (b) by omitting from paragraph (e) of sub-section (2.) the word “and”; and
- (c) by omitting paragraph (f) of sub-section (2.).

11. Section sixteen of the Principal Act is repealed and the following sections are inserted in its stead:—

Reference of
certain matters
to the Board
by Minister
for Customs
and Excise.

“ 16. The Minister of State for Customs and Excise may refer to the Board for inquiry and report the following matters:—

- (a) any matter in respect of which, under the *Customs Tariff (Industries Preservation) Act* 1921–1957, any action by that Minister may be taken only if he is satisfied as to certain facts after inquiry and report by the Board;
- (b) any matter in connexion with the interpretation of any Customs Tariff or Excise Tariff, or the classification of goods in any such Tariff, which has been referred to that Minister for review;
- (c) whether goods not prescribed in departmental by-laws made in connexion with any Customs Tariff Item or Excise Tariff Item should be so prescribed; and
- (d) the question of the value for duty of goods under section one hundred and sixty of the *Customs Act* 1901–1957.

Action on
report of
the Board.

“ 16A.—(1.) Upon the making of a report by the Board under this Act, the appropriate 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.) Where a report of the Board contains a recommendation referred to in sub-section (3.) of section fifteen of this Act, the Minister shall lay a copy of the report before each House of the Parliament within fifteen sitting days of that House from the date of receipt of the report by the Minister.”.

Annual report.

12. Section eighteen of the Principal Act is amended by omitting sub-sections (2.) and (3.) and inserting in their stead the following sub-sections:—

“ (2.) The Minister shall lay a copy of the report before each House of the Parliament within fifteen sitting days of that House from the date of receipt of the report by the Minister.

“ (3.) The copy of 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.”.

Schedule.

13. The Principal Act is amended by adding at the end thereof the following Schedule:—

“ THE SCHEDULE.

Section 9D.

OATH.

I, _____, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her in the office of member (or acting member) of the Tariff Board and that, except in the course of my duty, I will not divulge

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any information which is furnished to me or to the Department of Trade or the Department of Customs and Excise in connexion with matters which are being or which may be dealt with by the Tariff Board.

SO HELP ME GOD!

AFFIRMATION.

I, _____, do solemnly and sincerely promise and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her in the office of member (*or* acting 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 of Trade or the Department of Customs and Excise in connexion with matters which are being or which may be dealt with by the Tariff Board."

14. Notwithstanding anything in section five of the *Tariff Board Act* 1921-1958, the Tariff Board may, in the period commencing on the date of commencement of this section and ending on the thirty-first day of December, One thousand nine hundred and fifty-eight, consist of eight members.

Tariff Board
may consist
of eight
members for
limited period.