

TARIFF BOARD.

No. 21 of 1962.

An Act to amend the *Tariff Board Act* 1921-1960.

[Assented to 17th April, 1962.]

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

- 1.—(1.) This Act may be cited as the *Tariff Board Act* 1962. Short title and citation.
 - (2.) The *Tariff Board Act* 1921-1960* 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* 1921-1962.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
 3. The title of the Principal Act is amended by adding at the end thereof the words “, and for other purposes”. Title.

4. Before

* 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; No. 87, 1953; No. 14, 1958; and No. 41, 1960.

Heading. 4. Before section one of the Principal Act the following heading is inserted:—

“ PART I.—PRELIMINARY.”.

5. After section two of the Principal Act the following section is inserted:—

Parts. “ 2A. This Act is divided into Parts, as follows:—
 Part I.—Preliminary (Sections 1–4).
 Part II.—The Tariff Board (Sections 5–14).
 Part III.—The Special Advisory Authorities (Sections 14A–14E).
 Part IV.—Inquiries and Reports by the Tariff Board (Sections 15–18).
 Part V.—Inquiries and Reports by the Special Advisory Authorities (Sections 18A–18G).
 Part VI.—Provisions Relating to Witnesses at Inquiries (Sections 19–34A).
 Part VII.—Miscellaneous (Sections 35–36).”.

Interpretation. 6. Section four of the Principal Act is amended—
 (a) by inserting in sub-section (1.), after the definition of “ acting member ”, the following definition:—
 “ ‘ authority ’ means a special advisory authority appointed under this Act; ”; and
 (b) by omitting from sub-section (1.) the definition of “ temporary duty ” and inserting in its stead the following definition:—
 “ ‘ temporary duty ’ means a duty of the kind referred to in sub-section (1.) of section eighteen E of this Act; ”.

Heading. 7. After section four of the Principal Act the following heading is inserted:—

“ PART II.—THE TARIFF BOARD.”.

Members of the Board. 8. Section six of the Principal Act is amended—
 (a) by inserting in sub-section (7.), after the word “ member ”, the words “ or an acting member ”; and
 (b) by omitting from paragraph (b) of sub-section (7.) the words “ under this Act ” and inserting in their stead the words “ as a member or an acting member ”.

Salary and outside employment. 9. Section nine A of the Principal Act is amended by adding at the end of sub-section (2.) the words “ otherwise than as an authority ”.

Oath or affirmation by member. 10. Section nine D of the Principal Act is amended by inserting before the word “ Schedule ” the word “ First ”.

11. Section

11. Section eleven of the Principal Act is amended by omitting sub-section (6.) and inserting in its stead the following sub-section:—

Meetings of
the Board.

“(6.) Before the Board commences to hold an inquiry referred to in sub-section (4.) of this section, the Board shall give reasonable notice in each State and in the Australian Capital Territory and the Northern Territory, by advertisement published in the *Gazette* and in a newspaper circulating in the State or Territory, as the case may be, of its intention to hold the inquiry, the subject of the inquiry and the time and place at which the inquiry is to be commenced.”.

12.—(1.) Section twelve A of the Principal Act is amended by omitting sub-section (2A.) and inserting in its stead the following sub-section:—

Exercise of
powers of
Board by
persons
specified by
Chairman.

“(2A.) If a member who has been specified in a determination under sub-section (1.) of this section in relation to an inquiry and report is ill, suspended or absent, 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 accordingly as if he had been specified in the determination, but, unless the Chairman otherwise directs, shall cease so to act when the member in whose place he is acting ceases to be so ill, suspended or absent.”.

(2.) Where—

- (a) the Chairman of the Tariff Board has made a determination under sub-section (1.) of section twelve A of the Principal Act for the purposes of an inquiry and report;
- (b) the inquiry and report were not completed before the commencement of this Act; and
- (c) a member specified in the determination was, immediately before the commencement of this Act, engaged in an inquiry under section seventeen A of the Principal Act,

sub-section (2A.) of section twelve A of the Principal Act continues to apply to and in relation to the inquiry and report for the purposes of which the determination was made as if the amendment made by the last preceding sub-section had not been made.

13. After section fourteen of the Principal Act the following Part and heading are inserted:—

“PART III.—THE SPECIAL ADVISORY AUTHORITIES.

“14A.—(1.) The Governor-General may appoint such persons as he thinks fit to be special advisory authorities for the purposes of this Act.

Special
advisory
authorities.

“(2.) An authority holds office, subject to this Act, for such period as is specified in the instrument of his appointment but is eligible for re-appointment.

“(3.) Where

“(3.) Where an authority 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 as an authority shall be taken into account as if it were service in the Public Service of the Commonwealth; and
- (c) the *Officers’ Rights Declaration Act 1928–1959* applies as if this Act and this section had been specified in the Schedule to that Act.

Remuneration and allowances.

“14B.—(1.) An authority shall be paid such remuneration (if any) as the Governor-General determines, but, subject to the next succeeding section, the rate of the remuneration of an authority shall not be diminished during his term of office.

“(2.) An authority shall be paid such allowances (if any) as are determined by the Minister after consultation with the Public Service Board.

Leave.

“14C.—(1.) The Minister may grant leave of absence to an authority.

“(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.

Oath or affirmation by authority.

“14D. An authority 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 accordance with the form in the Second Schedule to this Act.

Application of sections 10 and 14 to authority.

“14E. Sections ten and fourteen of this Act apply to and in relation to an authority in like manner as those sections apply to and in relation to a member of the Tariff Board.

“PART IV.—INQUIRIES AND REPORTS BY THE TARIFF BOARD.”.

Action pending Tariff Board report.

14.—(1.) Section seventeen A of the Principal Act is repealed.

(2.) Where the Minister of State for Trade has, under section seventeen A of the Principal Act, requested the Chairman of the Tariff Board to arrange for a Deputy Chairman of the Tariff Board to undertake an inquiry in relation to the importation of any goods and to report to the Minister, that section continues to apply in relation to those goods as if that section had not been repealed.

15. After section eighteen of the Principal Act the following Part and heading are inserted:—

“PART V.—INQUIRIES AND REPORTS BY THE SPECIAL ADVISORY AUTHORITIES.

Reference of certain matters to authorities by the Minister.

“18A. Where it appears to the Minister that urgent action may be necessary to protect an Australian industry, in relation

to

to the importation of any goods, pending receipt and consideration of a report of the Board in relation to those goods, he may request a special advisory authority specified by him to undertake an inquiry, either in relation to the importation of those goods generally or in relation to the importation of those goods from a particular country or countries, and to report to the Minister—

- (a) whether it is necessary that urgent action be taken to protect that Australian industry in relation to the importation of those goods; and
- (b) if such urgent action is necessary—whether, having regard to the public interest, the protection can appropriately be provided by means of a temporary duty or, if it cannot be so provided, whether it can appropriately be provided—
 - (i) by means of the temporary restriction of the importation of those goods; or
 - (ii) by means of a combination of both a temporary duty and the temporary restriction of the importation of those goods.

“ 18B.—(1.) Upon receipt of a request under the last preceding section, the authority shall forthwith undertake the inquiry.

Inquiries by authorities.

“ (2.) An authority undertaking an inquiry under this section in relation to any goods shall conduct the inquiry in such manner as he thinks fit.

“ 18C.—(1.) An authority who is or has been a member of the Board shall not undertake an inquiry under the last preceding section in relation to any goods if he has taken part in an inquiry by the Board in relation to those goods that was pending at the time he received the request for the first-mentioned inquiry.

Authorities not to take part in certain inquiries.

“ (2.) Where an authority who undertakes an inquiry under the last preceding section is or becomes a member of the Board, the authority shall not take part in any inquiry by the Board that was pending at the time he received the request for the first-mentioned inquiry, or, if no such inquiry by the Board was pending at that time, shall not take part in the next inquiry by the Board in relation to those goods.

“ (3.) Except as provided by the last preceding sub-section, an authority undertaking an inquiry under the last preceding section in relation to any goods who is or becomes a member of the Board is not precluded from taking part, during or after the inquiry, in any business of the Board.

“ 18D.—(1.) An authority undertaking an inquiry under section eighteen B of this Act in relation to any goods shall, as soon as practicable but not later than thirty days after the date of receipt by him of the request for the inquiry, report to the Minister on the matters that are the subject of the inquiry.

Reports by authorities.

“ (2.) Where

“(2.) Where the authority reports that it is necessary that urgent action be taken to protect an Australian industry in relation to the importation of any goods—

- (a) if the authority reports that the protection can appropriately be provided by means of, or by means of measures that include, a temporary duty—the authority shall also report what should be the rate of that duty; and
- (b) if the authority reports that the protection can appropriately be provided by means of, or by means of measures that include, the temporary restriction of the importation of those goods—the authority shall also indicate in the report the extent to which the protection should be so provided.

Temporary
duties.

“18E.—(1.) Notwithstanding sub-section (1.) of section fifteen of this Act, where—

- (a) an authority has, under the last preceding section, reported that it is necessary that urgent action be taken to protect an Australian industry in relation to the importation of any goods and that the protection can appropriately be provided by means of, or by means of measures that include, a temporary duty; and
- (b) the Minister has referred to the Board for inquiry and report the matter of the necessity for new or increased duties on those goods,

the Minister may take action for the purpose of the collection of a duty of customs in respect of those goods (in addition to any existing duty of customs) at a rate not exceeding the rate specified in the report of the authority and not to operate after the expiration of a period of three months from the date upon which the Minister receives the final report of the Board upon that reference.

“(2.) Where the Minister takes action for the purpose of the collection of a temporary duty, a copy of the relevant report under the last preceding section shall be laid before the House of Representatives—

- (a) if that House is sitting on the day on which the temporary duty commences to be collected—on or before that day; or
- (b) in any other case—within seven sitting days of that House after that day.

“(3.) On the day on which a copy of a report is laid before the House of Representatives under the last preceding sub-section or on the next sitting day of the Senate, a copy of that report shall be laid before the Senate.

“(4.) Where

“(4.) Where a temporary duty has commenced to be collected in respect of any goods, the Minister shall, as soon as practicable after receipt by him of the final report of the Board upon the reference to the Board with respect to those goods that was pending on the date as from which the duty commenced to be collected, notify in the *Gazette* the fact that he has received the final report of the Board upon that reference and the date upon which he received that report.

“18F.—(1.) Where—

- (a) an authority has, under section eighteen D of this Act, reported that it is necessary that urgent action be taken to protect an Australian industry in relation to the importation of any goods and that the protection can appropriately be provided by means of, or by means of measures that include, the temporary restriction of the importation of those goods; and
- (b) the Minister has referred to the Board for inquiry and report the matter of the necessity for new or increased duties on those goods,

Import
restrictions.

the Minister may take action for the purpose of the restriction of the importation of those goods.

“(2.) Where the Minister so takes action for the purpose of the restriction of the importation of any goods, a copy of the relevant report under section eighteen D of this Act shall be laid before the House of Representatives—

- (a) if that House is sitting on the day on which the Minister so takes action—on or before that day; or
- (b) in any other case—within seven sitting days of that House after that day.

“(3.) On the day on which a copy of a report is laid before the House of Representatives under the last preceding sub-section or on the next sitting day of the Senate, a copy of that report shall be laid before the Senate.

“(4.) Where the Minister has taken action under this section for the purpose of the restriction of the importation of any goods, he shall—

- (a) as soon as practicable after receipt by him of the final report of the Board upon the reference to the Board with respect to those goods that was pending on the date as from which the restrictions commenced to be imposed, notify in the *Gazette* the fact that he has received the final report of the Board upon that reference and the date upon which he received that report; and

(b) before

- (b) before the expiration of a period of three months from the date upon which he received that report, take action for the purpose of the removal of those restrictions.

Authority to have use of officers, and access to records, of the Board.

“ 18G.—(1.) An authority conducting an inquiry under section eighteen B of this Act shall, for the purposes of the inquiry—

- (a) have the use of the services of such of the officers and employees referred to in sub-section (3.) of section eight of this Act as the Chairman, after discussion with the authority, decides; and
 (b) have access to any evidence (including evidence of a confidential nature) taken by the Board, being evidence that is relevant to the inquiry.

“(2.) The use by an authority of the services of any officers or employees of the Board for the purposes of an inquiry is not subject to the control of the Chairman.

“ PART VI.—PROVISIONS RELATING TO WITNESSES AT INQUIRIES.”.

16. After section thirty-four of the Principal Act the following section and heading are inserted:—

Application of Part to inquiries by authorities.

“ 34A. This Part applies to and in relation to an inquiry by an authority in like manner as it applies to and in relation to inquiries by the Board, and for that purpose—

- (a) sub-section (1.) of section nineteen of this Act shall be read as if the words ‘ on resolution of the Board ’ were omitted;
 (b) a reference in this Part to the Board, to any member of the Board, to any of the members of the Board or to the Chairman shall be read as a reference to the authority; and
 (c) the reference in section twenty-five of this Act to a meeting of the Board shall be read as a reference to a sitting of the authority.

“ PART VII.—MISCELLANEOUS.”.

Allowances to witnesses.

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

“(2.) The claim to allowance of a witness summoned under this Act, being a claim certified—

- (a) in the case of a claim by a witness summoned to attend the Board—by the Chairman; or

(b) in

(b) in the case of a claim by a witness summoned to attend an authority—by the authority, shall be paid out of moneys to be provided by the Parliament for the purposes of the Board or the authority, as the case may be.”.

18. The heading to the Schedule to the Principal Act is omitted and the following headings are inserted in its stead:— First Schedule.

“ THE SCHEDULES.

FIRST SCHEDULE.”.

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

“ SECOND SCHEDULE.

Section 14D.

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 special advisory authority and that, except in the course of my duty, I will not divulge any information that is furnished to me, to the Department of Trade, to the Department of Customs and Excise or to the Tariff Board in connexion with matters that are being or that may be dealt with by me.

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 special advisory authority and that, except in the course of my duty, I will not divulge any information that is furnished to me, to the Department of Trade, to the Department of Customs and Excise or to the Tariff Board in connexion with matters that are being or that may be dealt with by me.”.