

TOBACCO CHARGES ASSESSMENT.

No. 58 of 1955.

**An Act relating to the Assessment and Collection
of certain Charges on Tobacco Leaf grown
in Australia.**

[Assented to 4th November, 1955.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Tobacco Charges Assessment* Short title.
Act 1955.

Commencement. 2. This Act shall come into operation on the first day of January, One thousand nine hundred and fifty-six.

Parts. 3. This Act is divided into Parts, as follows :—
Part I.—Preliminary (Sections 1-6).
Part II.—Administration (Sections 7-10).
Part III.—Liability to the Charges (Sections 11-12).
Part IV.—Returns (Sections 13-16).
Part V.—Collection and Recovery of the Charges (Sections 17-28).
Part VI.—Penal Provisions (Sections 29-39).
Part VII.—Miscellaneous (Sections 40-42).

Interpretation. 4.—(1.) In this Act, unless the contrary intention appears—
“Australian tobacco leaf” or “tobacco leaf” means tobacco leaf grown in Australia ;
“broker” means a broker engaged in the sale of tobacco leaf ;
“charge” means an amount of the charge imposed by the *Tobacco Charge Act (No. 1) 1955*, the *Tobacco Charge Act (No. 2) 1955* or the *Tobacco Charge Act (No. 3) 1955* ;
“company” includes a body or association, corporate or unincorporate, other than a partnership ;
“Deputy Commissioner” means a Deputy Commissioner of Taxation ;
“grower” means a person carrying on the business of tobacco-growing, and includes the legal personal representative of a deceased person who carried on that business ;
“liquidator”, in relation to a company, means the person required by law to carry out the winding-up of a company, whether appointed as liquidator or not ;
“manufacturer” means a person carrying on the business of manufacturing goods for smoking, being goods manufactured wholly or partly from tobacco leaf ;
“officer” means an officer of the Public Service of the Commonwealth ;
“the Commissioner” means the Commissioner of Taxation ;
“the Second Commissioner” means the Second Commissioner of Taxation.

(2.) For the purposes of this Act, a person shall be deemed to have sold tobacco leaf if, in the performance of a contract under which he has received, or is entitled to receive, valuable consideration, he supplies tobacco leaf the property in which passes, under the terms of the contract, to another person, and that other person shall be deemed to have purchased that tobacco leaf.

(3.) For the purposes of this Act, tobacco leaf grown by a manufacturer shall be deemed to be appropriated by him for manufacturing purposes if, and only if, it is placed in storage awaiting delivery to his factory for manufacture or, not having been so placed in storage, it is delivered to his factory for manufacture.

5.—(1.) In this section, “the Tobacco Leaf Marketing Board” means The Tobacco Leaf Marketing Board constituted under *The Primary Producers’ Organisation and Marketing Acts, 1926 to 1954*, of the State of Queensland.

Queensland Tobacco Leaf Marketing Board deemed to be broker.

(2.) For the purposes of this Act—

(a) the Tobacco Leaf Marketing Board shall, in exercising the powers to sell tobacco leaf conferred on it by or under *The Primary Producers’ Organisation and Marketing Acts, 1926 to 1954*, of the State of Queensland, be deemed to be a broker; and

(b) where that Board sells tobacco leaf that has been divested from a grower by or under those Acts, the grower shall be deemed to own that tobacco leaf immediately before the sale and the sale shall be deemed to be made by the Board on behalf of the grower.

6. This Act applies to and in relation to the assessment and collection of the charges imposed by the *Tobacco Charge Act (No. 1) 1955*, the *Tobacco Charge Act (No. 2) 1955* and the *Tobacco Charge Act (No. 3) 1955*.

Application of Act.

PART II.—ADMINISTRATION.

7. The Commissioner has the general administration of this Act.

Commissioner.

8.—(1.) Subject to this section, the Second Commissioner has and may exercise all the powers and functions of the Commissioner under this Act.

Powers of Second Commissioner.

(2.) Where in this Act the exercise of a power or function by the Commissioner, or the operation of a provision of this Act, is dependent upon the opinion, belief or state of mind of the Commissioner in relation to a matter, that power or function may be exercised by the Second Commissioner or that provision may operate, as the case may be, upon the opinion, belief or state of mind of the Second Commissioner in relation to that matter.

(3.) Nothing in this Act shall be deemed to prevent the exercise of a power or function by the Commissioner under this Act, and the Commissioner has, in relation to an act of the Second Commissioner, the same power as if that act were done by the Commissioner.

9. A reference in this Act to the Commissioner shall be deemed to include—

Reference to Commissioner.

(a) in respect of matters as to which the Second Commissioner has exercised a power or function conferred upon him by this Act—a reference to the Second Commissioner; and

(b) in respect of matters as to which a Deputy Commissioner has exercised a power or function conferred upon him by delegation—a reference to that Deputy Commissioner.

Officers to
observe
secrecy.

10.—(1.) In this section, “officer” means a person who is or has been appointed or employed by the Commonwealth and, by reason of that appointment or employment, or in the course of that employment, may acquire or has acquired information respecting the affairs of another person, disclosed or obtained under this Act.

(2.) Subject to this section, an officer shall not, either directly or indirectly, except in the performance of a duty as an officer, and either while he is, or after he ceases to be, an officer, make a record of, or divulge or communicate to another person, any such information so acquired by him.

(3.) An officer shall not be required to produce in a court a return, assessment or notice of assessment made or given for the purposes of this Act, or to divulge or communicate to a court a matter or thing coming under his notice in the performance of his duties as an officer, except when it is necessary for him to do so for the purpose of carrying this Act into effect.

(4.) Nothing in this section prohibits the Commissioner, the Second Commissioner or a Deputy Commissioner, or a person authorized to do so by the Commissioner, the Second Commissioner or a Deputy Commissioner, from communicating information to—

- (a) a person performing, in pursuance of an appointment or employment by the Commonwealth, any duty arising under an Act administered by the Commissioner, for the purpose of enabling that person to carry out that duty ;
- (b) a board exercising a function under an Act administered by the Commissioner, or a member of such a board ;
- (c) the authority administering an Act of a State relating to Stamp Duties or Succession Duties if that authority is authorized by law to afford similar information to the Commissioner ;
- (d) the Commonwealth Statistician ;
- (e) the Secretary to the Department of Commerce and Agriculture ;
or
- (f) the Comptroller-General of Customs.

(5.) A person to whom information is communicated under the last preceding sub-section, and a person or employee under his control is, in respect of that information, subject to the same rights, privileges, obligations and liabilities, under sub-sections (2.) and (3.) of this section, as if he were an officer.

(6.) An officer shall, if and when required by the Commissioner to do so, make an oath or declaration, in a manner and form approved by the Commissioner, to maintain secrecy in conformity with this section.

Penalty : Two hundred and fifty pounds or imprisonment for twelve months.

PART III.—LIABILITY TO THE CHARGES.

11. Subject to the next succeeding section—

Persons liable
to pay the
charges.

- (a) charge imposed by the *Tobacco Charge Act (No. 1) 1955* is payable by the person who owns the tobacco leaf immediately before it is sold ;
- (b) charge imposed by the *Tobacco Charge Act (No. 2) 1955* is payable by the manufacturer by whom the tobacco leaf is purchased ; and
- (c) charge imposed by the *Tobacco Charge Act (No. 3) 1955* is payable by the manufacturer by whom the tobacco leaf is grown.

12.—(1.) Where a broker sells tobacco leaf on behalf of another person to a manufacturer, the broker shall pay to the Commissioner the charge (if any) imposed by the *Tobacco Charge Act (No. 1) 1955* on that tobacco leaf by reason of the sale. Brokers.

(2.) Where a manufacturer purchases tobacco leaf from a broker, the broker may, by agreement with that manufacturer, pay to the Commissioner the charge (if any) imposed by the *Tobacco Charge Act (No. 2) 1955* on that tobacco leaf by reason of the purchase.

(3.) Where charge payable under the *Tobacco Charge Act (No. 1) 1955* or the *Tobacco Charge Act (No. 2) 1955* has been paid to the Commissioner by a person, or has been recovered by the Commissioner from a person, the liability of another person to pay that charge to the Commissioner is, by force of this sub-section, discharged to the extent of the amount so paid or recovered.

(4.) Where an amount of charge which a broker is required to pay under this section has been paid by, or recovered by the Commissioner from, the broker, the broker may recover the amount so paid or recovered from the person liable under the last preceding section to pay the charge.

(5.) Where a broker sells tobacco leaf on behalf of another person to a manufacturer, the broker may, for the purpose of payment of charge imposed by the *Tobacco Charge Act (No. 1) 1955*, retain so much of an amount payable to a person in respect of that tobacco leaf as is equal to the amount of charge on that tobacco leaf.

(6.) In the last two preceding sub-sections, "charge" does not include additional charge payable under this Act.

PART IV.—RETURNS.

13. For the purposes of this Act—

Returns.

- (a) a broker who, during a period of three months ending on the last day of March, June, September or December in any year, sells tobacco leaf on behalf of another person to a manufacturer ; and

(b) a person, other than a broker, who is liable to pay charge by reason of—

(i) a sale or purchase of tobacco leaf during such a period, not being a sale or purchase made through a broker ; or

(ii) the appropriation, during such a period, of tobacco leaf for manufacturing purposes,

shall, not later than twenty-one days after the end of that period, furnish to the Commissioner, in a form approved by the Commissioner, a return showing particulars of all such sales, purchases or appropriations made by him during that period.

Further
returns.

14. In addition to any return that is required under the last preceding section, the Commissioner may, by notice in writing, call upon a person to furnish to him, within a time specified in the notice, such return, or such further or fuller return, as the Commissioner requires.

Commissioner
to obtain
information
and evidence.

15.—(1.) For the purpose of inquiring into or ascertaining the liability of a person under this Act, the Commissioner may, by notice in writing, require a person—

(a) to furnish him with such information as he requires ; or

(b) to attend and give evidence before him or before an officer authorized by him to receive the evidence,

and may require that person to produce all books, documents and other papers in his custody or under his control relevant to that purpose.

(2.) Subject to the next succeeding sub-section, the Commissioner may require the information or evidence to be furnished or given on oath, and either orally or in writing, and for that purpose he or the officer so authorized by him may administer an oath.

(3.) Where a person required under this section to furnish information or give evidence on oath conscientiously objects to take an oath, he may make an affirmation instead of taking an oath.

(4.) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend before the Commissioner or an officer.

Proof of
returns.

16. A return purporting to be made and signed by or on behalf of a person shall, unless the contrary is proved, be deemed to have been made and signed by him or with his authority.

PART V.—COLLECTION AND RECOVERY OF THE CHARGES.

Due date of
payment.

17.—(1.) Subject to this section, charge on tobacco leaf sold, purchased or appropriated for manufacturing purposes during a period of three months ending on the last day of March, June, September or December in any year is due and payable upon the expiration of twenty-one days after that period.

(2.) The Commissioner may, in such cases as he thinks fit—

- (a) extend the time for payment of charge for such period or periods as he considers the circumstances warrant ; or
- (b) permit payment of charge to be made by instalments within such times as he considers the circumstances warrant.

18.—(1.) Subject to this section, where a person fails to pay charge payable by him on or before the date when it is due and payable or within such further time for payment as is allowed by the Commissioner under the last preceding section, that person, in addition to his liability to pay that charge, is liable to pay, by way of additional charge, an amount calculated at the rate of ten per centum per annum upon the charge unpaid, to be computed from the date on which the charge became due and payable or, where further time has been allowed by the Commissioner under the last preceding section, from the expiration of that further time, until he pays the charge or his liability to pay the charge is otherwise discharged. Additional charge.

(2.) Where a broker is required to pay charge under section twelve of this Act, a person liable under section eleven of this Act in respect of the same charge is not liable to pay additional charge under the last preceding sub-section unless the Commissioner has served on him a notice of assessment in respect of the charge, and the amount payable by that person by way of additional charge shall be computed from the date specified in that notice as the date on or before which the charge is to be paid.

(3.) The Commissioner may, in a particular case, for reasons which in his discretion he thinks sufficient, remit the whole or part of an amount payable under this section by way of additional charge.

19.—(1.) Where in any case the Commissioner is of the opinion that charge or further charge is payable by a person, the Commissioner may assess the amount of charge which, in his opinion, should be, or should have been, paid. Assessment of charge or further charge.

(2.) Where—

- (a) a person makes default in furnishing a return ;
- (b) the Commissioner is not satisfied with the return furnished by a person ;
- (c) the Commissioner has reason to believe or suspect that a person has avoided payment of any charge ; or
- (d) a person, not being a person liable to make a return under section thirteen of this Act, is liable to pay charge,

the Commissioner may cause an assessment to be made of the charge which, in his judgment, ought to be levied and that person is liable to charge accordingly, except in so far as he establishes that the assessment is excessive.

(3.) As soon as conveniently may be after an assessment is made under this section, the Commissioner shall cause notice in writing of the

assessment and charge or further charge payable in accordance with the assessment to be given to the person liable to pay the charge or further charge.

(4.) The amount of charge or further charge specified in the notice is payable on or before the date specified in the notice, together with any other amount which is payable in accordance with any other provisions of this Act.

(5.) The omission to give such a notice does not invalidate the assessment made by the Commissioner

Evidence.

20. The production of a notice of assessment or of a document under the hand of the Commissioner, the Second Commissioner or a Deputy Commissioner, purporting to be a copy of a notice of assessment, is evidence of the due making of the assessment and that the amount and all the particulars of assessment are correct.

Commissioner
may sue for
charge.

21.—(1.) Charge or additional charge shall be deemed, when it becomes due and payable, to be a debt due to the Queen on behalf of the Commonwealth and payable to the Commissioner in the manner and at the place prescribed.

(2.) Charge unpaid, including additional charge, may be sued for and recovered in a court of competent jurisdiction by the Commissioner suing in his official name.

Refunds of
charge.

22.—(1.) Subject to this section, where the Commissioner finds in any case that charge has been overpaid, he shall refund the amount of charge found to be overpaid.

(2.) A refund of an amount of charge shall not be made unless the Commissioner is satisfied that the person claiming the refund has not recouped himself to the extent of that amount by deduction from the proceeds of tobacco leaf sold on behalf of another person or otherwise or, if he has so recouped himself, that he has since repaid the amount to the person from whom he recouped himself.

(3.) A refund of an amount of charge shall not be made to a person unless he furnishes to the Commissioner such return or other information, certified in such manner as the Commissioner requires, as will enable the Commissioner to determine the amount of charge that has been overpaid and that should be refunded.

Persons leaving
Australia.

23.—(1.) Where the Commissioner has reason to believe that a person liable to charge or further charge may leave Australia before the charge or further charge becomes due and payable by him, the charge or further charge shall be deemed to become due and payable on such date as the Commissioner fixes and notifies to that person.

(2.) Upon the application of a person about to leave Australia, the Commissioner may, if he is satisfied—

(a) that that person is not liable to pay charge ;

(b) that arrangements have been made to the satisfaction of the Commissioner for the payment of charge that is or may become payable by that person ; or

(c) that the charge payable by that person is irrecoverable, issue a certificate that, for the purposes of this Act, there is no objection to the departure of that person from Australia.

24.—(1.) Unless and until a certificate under the last preceding section is presented to the office of the owner or charterer, or of the representative of the owner or charterer, of the ship or aircraft by which a person intends to leave Australia at the port or place at which his passage is booked, an authority for that person to travel by that ship or aircraft shall not be issued by the owner or charterer or a representative or employee of the owner or charterer.

Authority to travel not to issue without certificate.

(2.) A person who, in contravention of this section, issues an authority to a person to travel by a ship or aircraft is personally liable to pay the charge, if any, which is or may become due and payable by the last-mentioned person, and is guilty of an offence punishable, upon conviction, by a penalty of not less than Fifty pounds and not more than Two hundred pounds.

25.—(1.) The owner or charterer, or the representative of the owner or charterer, of a ship or aircraft which takes passengers on board at a port or place shall, on the first working day after the departure of the ship or aircraft from that port or place, lodge at the office of a Deputy Commissioner in the State in which that port or place is situated all certificates so presented, together with a list showing the name and last-known address in Australia of every person (other than members of the crew and staff of the ship or aircraft) who travelled on the ship or aircraft.

Certificates and list of passengers to be lodged.

(2.) An owner or charterer, or his representative, who fails to comply with this section is guilty of an offence punishable, upon conviction, by a penalty of not less than Ten pounds and not more than One hundred pounds.

26. The last two preceding sections do not apply in relation to travel by a member of the Defence Force who is certified by a person authorized in that behalf by the Minister of State for Defence to be travelling in the course of his duty as such a member.

Certificates not required by members of Defence Force.

27.—(1.) A person who is liquidator of a company which is being wound-up and is liable to pay charge shall, within fourteen days after—

Liquidators to give notice.

(a) that person has become liquidator of the company ; or

(b) the company has become liable to pay charge,

whichever last occurs, give notice in writing to the Commissioner that he is liquidator of the company.

(2.) The Commissioner shall, as soon as practicable after the receipt by him of a notice given under the last preceding sub-section, notify to the liquidator the amount which appears to the Commissioner to be sufficient to provide for any charge which then is, or will become, payable by the company.

(3.) The liquidator—

- (a) shall not, without leave of the Commissioner, part with any of the assets of the company until he has been so notified ;
- (b) shall, out of the assets available for the payment of the charge, set aside assets to the value of the amount so notified or, if the assets available are of less than that value, the whole of the assets available ; and
- (c) is, to the extent of the value of the assets which he is so required to set aside, liable as liquidator to pay the charge.

(4.) Where a liquidator fails to comply with a provision of this section or fails duly to pay the charge which he is liable, under the last preceding sub-section, to pay as liquidator—

- (a) the liquidator is, to the extent of the value of the assets of which he has taken possession and which are, or were at any time, available to him for the payment of the charge, personally liable to pay the charge ; and
- (b) the liquidator is guilty of an offence punishable, upon conviction, by a penalty not exceeding Fifty pounds.

(5.) Where two or more persons are liquidators of a company which is liable to pay charge—

- (a) the obligations and liabilities attaching to a liquidator under this section attach to each of those persons ; and
- (b) if any one of those persons has paid the charge due by the company, the other person or each of the other persons is liable to pay to that person his equal share of the amount of the charge so paid.

(6.) Notwithstanding anything contained in this section, all costs, charges and expenses which, in the opinion of the Commissioner, have been properly incurred by the liquidator in the winding-up of a company, including the remuneration of the liquidator, may be paid out of the assets of the company in priority to any charge payable by the company.

Provision for
payment of
charge by
legal personal
representative.

28.—(1.) Where at the time of a person's death, charge has not been paid on the whole of the tobacco leaf sold, purchased or appropriated for manufacturing purposes by that person before his death, the Commissioner has the same powers and remedies for the assessment and recovery of the charge from the legal personal representative of the deceased person as he would have had against that person, if that person were alive.

(2.) The legal personal representative shall furnish a return or returns of tobacco leaf in respect of which the deceased person, if he were alive, would be required by this Act to furnish a return or returns.

(3.) Where the legal personal representative fails, or is unable, to furnish a return, the Commissioner may make an assessment of the amount of charge which, in his judgment, ought to be paid.

(4.) Subject to any amendment of the assessment by the Commissioner, an assessment made under this section is evidence of the indebtedness of the deceased person to the Commissioner.

PART VI.—PENAL PROVISIONS.

29. In this Part, unless the contrary intention appears, Definition
“prosecution” means a proceeding by the Crown for the recovery of a pecuniary penalty under this Act.

30.—(1.) A person shall not—

Offences.

- (a) fail or neglect duly to furnish a return or information, or duly to comply with a requirement of the Commissioner under this Act or the regulations;
- (b) without just cause, refuse or fail duly to attend and give evidence, when required by the Commissioner or an officer authorized by the Commissioner, or to take an oath or make an affirmation when required by the Commissioner or such an officer, or to answer truly and fully questions put to him, or to produce any book, document or papers required to be produced by him, by the Commissioner or such an officer; or
- (c) make or deliver a return which is false in any particular or make a false answer, whether orally or in writing, to a question duly put to him by the Commissioner or an officer authorized by the Commissioner.

Penalty: Not less than Two pounds and not more than One hundred and fifty pounds.

(2.) A prosecution for an offence against paragraph (a) or (c) of the last preceding sub-section may be commenced at any time.

(3.) Upon the conviction of a person for an offence against paragraph (a) or (b) of sub-section (1.) of this section, the Court may order him, within a time specified in the order, to do the act which he had failed or neglected or refused to do, and that person shall comply with the order.

Penalty: Not less than Ten pounds and not more than Two hundred pounds.

(4.) An order under the last preceding sub-section may be made orally by the Court to the defendant or may be made in writing and served in the prescribed manner.

(5.) In a prosecution for an offence against paragraph (c) of sub-section (1.) of this section of a person who has not previously been convicted of an offence against this Act, it is a defence if the defendant proves that the false particulars were given, or the false statement was made, through ignorance or inadvertence.

Additional
charge in
certain cases.

31.—(1.) Notwithstanding anything contained in this Act—

- (a) a person who fails or neglects duly to furnish a return or information required by this Act or the regulations or by the Commissioner to be furnished is liable to pay by way of additional charge an amount calculated at the rate of ten per centum per annum upon the charge which he is liable to pay (that percentage to be calculated for the period commencing on the last day allowed for furnishing the return or information and ending on the day upon which the return or information is furnished or the day upon which an assessment of the charge is made, whichever first happens), or One pound, whichever is the greater; and
- (b) a person who fails to include particulars of any tobacco leaf in a return is liable to pay, by way of additional charge, the amount of the difference between the charge properly payable and the charge payable in respect of the tobacco leaf, if any, set out in the return furnished by him, or One pound, whichever is the greater.

(2.) An amount payable under the last preceding sub-section is in addition to any additional charge that may become payable in accordance with section eighteen of this Act.

(3.) The Commissioner may, in a particular case, for reasons which he thinks sufficient, remit an amount, or part of an amount, payable by way of additional charge under this section.

(4.) If the Commissioner considers that the circumstances of a case warrant action being taken to recover the penalty provided by sub-section (1.) of the last preceding section, that action may be taken by the Commissioner, and, in that case, the amount payable under this section by way of additional charge shall not be charged.

Penalties not
to relieve
from charge.

32. Except as provided by sub-section (4.) of the last preceding section, payment of penalties under this Act does not relieve a person from liability to assessment or payment of charge or additional charge.

Recovery of
penalties.

33. Where a pecuniary penalty is adjudged to be payable by a convicted person, the Court may exercise, for the enforcement and recovery of the penalty, a power of distress or execution possessed by the Court for the enforcement and recovery of penalties or money adjudged to be payable in any other case.

Institution of
prosecutions.

34. A prosecution may be instituted in the name of the Commissioner or a Deputy Commissioner.

Place where
offence
committed.

35. The following offences, namely :—

- (a) failure duly to furnish a return or information;
- (b) making or delivering a return which is false in any particular, or making a false answer; or
- (c) failure to comply with a requirement,

shall be deemed to have been committed either—

- (d) at the place where the return or information was furnished, or should, in accordance with this Act, the regulations or a requirement of the Commissioner, have been furnished, or where the answer was made, or where the requirement should have been complied with, as the case may be ; or
- (e) at the usual or last known place of business or abode of the defendant,

and may be charged as having been committed at either of those places.

36.—(1.) In a prosecution, an averment of the prosecutor contained in the information is evidence of the matter averred.

Averment of prosecutor sufficient.

(2.) This section applies to a matter so averred although—

(a) evidence in support or rebuttal of the matter averred or any other matter is given ; or

(b) the matter averred is a mixed question of law and fact, but where the matter averred is a mixed question of law and fact, the averment is evidence of the fact only.

(3.) Evidence given in support or rebuttal of the matter so averred shall be considered on its merits and the credibility and probative value of that evidence shall be neither increased nor diminished by reason of this section.

(4.) This section does not apply to an averment of the intent of the defendant.

(5.) This section does not lessen or affect any burden of proof falling upon the defendant.

37. Where a prosecution has been instituted by an officer in the name of the Commissioner or a Deputy Commissioner, the prosecution shall, unless the contrary is proved, be deemed to have been instituted by the authority of the Commissioner or the Deputy Commissioner, as the case may be.

Evidence of authority to institute proceedings.

38.—(1.) In an action, prosecution or other proceeding in a court by the Commissioner or a Deputy Commissioner, he may appear either personally or by a barrister or solicitor, or by an officer.

Appearance by Commissioner.

(2.) The appearance of such an officer, and his statement that he appears by authority of the Commissioner or Deputy Commissioner, is sufficient evidence of that authority.

39. In a prosecution the Court may award costs against any party, and the provisions of this Act relating to the recovery of penalties extend to the recovery of costs adjudged to be paid.

Costs.

PART VII.—MISCELLANEOUS.

40.—(1.) A company which carries on business as a grower, broker or manufacturer shall at all times be represented for the purposes of this Act by a public officer, being a person residing in Australia and duly appointed by the company or by its duly authorized agent or attorney.

Public officer of company.

(2.) The company shall appoint a public officer within three months after the commencement of this Act or after the company commences to carry on business as a grower, broker or manufacturer, as the case may be, whichever is the later, and shall keep the office of the public officer constantly filled.

Penalty : Two pounds for every day during which the failure to make the appointment continues.

(3.) The appointment of a public officer shall be deemed not to be duly made until after notice in writing of the appointment, specifying the name of the officer and an address for service upon him, has been given to the Commissioner.

(4.) Service of a document at the address for service, or on the public officer of the company, is sufficient service upon the company for all the purposes of this Act or the regulations, and if at any time there is no public officer then service upon any person acting or appearing to act in the business of the company is sufficient.

(5.) The public officer is answerable for the doing of all things which are required to be done by the company under this Act or the regulations, and in case of default is liable to the same penalties.

(6.) Everything done by the public officer which he is required to do in his representative capacity shall be deemed to have been done by the company.

(7.) The absence or non-appointment of a public officer does not excuse the company from the necessity of complying with any of the provisions of this Act or the regulations, or from a penalty for failure to comply with such a provision, but the company is liable to comply with the provisions of this Act as if there were no requirement to appoint a public officer.

(8.) A notice given to, or requisition made upon, the public officer shall be deemed to be given to or made upon the company.

(9.) Proceedings under this Act taken against the public officer shall be deemed to have been taken against the company, and the company is liable jointly with the public officer for any penalty imposed upon him.

(10.) Notwithstanding anything contained in this section, and without in any way limiting, altering or transferring the liability of the public officer of a company, every notice, process or proceeding which under this Act or the regulations may be given to, served upon or taken against the company or its public officer may, if the Commissioner thinks fit, be given to, served upon or taken against any director, secretary or other officer of the company, or any attorney or agent of the company, and that director, secretary, officer, attorney or agent has the same liability in respect of that notice, process or proceeding as the company or public officer would have had if it had been given to, served upon or taken against the company or public officer.

41. For the purposes of this Act, the Commissioner, or an officer authorized by him in that behalf, shall at all times have full and free access to all buildings, places, books, documents and other papers and may make extracts from or copies of any such books, documents or papers. Access to books, &c.

42. 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 which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. and, in particular— Regulations.

- (a) providing for the making of refunds of charge for the purpose of relieving a manufacturer from payment of charge at a higher rate than that applicable under the *Tobacco Charge Act (No. 1) 1955* where that manufacturer, having become liable to pay charge on tobacco leaf under the *Tobacco Charge Act (No. 3) 1955*, sells that tobacco leaf to another manufacturer ; and
 - (b) prescribing penalties not exceeding Twenty pounds for a breach of the regulations.
-