

## EXCISE PROCEDURE.

### No. 1 of 1908.

An Act relating to Procedure on Applications for a Declaration under the *Excise Tariff* 1906 (Act No. 16 of 1906).

[Assented to 18th February, 1908.]

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

Short title.

1. This Act may be cited as the *Excise Procedure Act* 1907.

Interpretation.

2. In this Act, unless the contrary intention appears—

“The President” means the President of the Commonwealth Court of Conciliation and Arbitration.

“Application” means an application under section two sub-section (d) of the *Excise Tariff* 1906 (No. 16 of 1906), and includes applications pending at the commencement of this Act.

President to be guided by equity and good conscience.

Cf. 1904, No. 13, s. 25.

3. In the hearing and determination of any application the President shall act according to equity good conscience and the substantial merits of the case, without regard to technicalities or legal forms, and shall not be bound by any rules of evidence, but may inform his mind on any matter in such manner as he thinks just.

Power to appoint assessors.

Cf. 1904, No. 13, s. 35.

4.—(1.) The President may at any stage of the application appoint two assessors for the purpose of advising him in relation to the subject matter of the application or any matter in connexion therewith, and the assessors shall discharge such duties as are directed by the President.

(2.) One of the assessors shall be a person nominated by the applicant, and the other shall be a person nominated in the interests of the employees in such manner as the President may direct.

(3.) If default is made in nominating either or both of the assessors as required by the President, or if the persons appearing on the application consent, the President may appoint an assessor or assessors without any nomination.

5. On the hearing of any application no party shall (except by consent of all the parties and by leave of the President) be represented by counsel or solicitor.

6. (1.) The President may issue an order to any person to take evidence on his behalf in relation to any application and that person shall have all the powers and be subject to all the duties of the President in relation to the summoning of witnesses the production of books and documents and the taking of evidence on oath or affirmation.

Power to issue orders to take evidence.  
Cf. 1904, No. 13, s. 37.

(2.) No person taking evidence under this section shall disclose any evidence relating to any trade secret or to the profits or financial position of any witness or party except to the President.

Penalty : One hundred pounds.

7. The President shall, as regards any application, have power—

- (a) to refer any technical matters or matters of account to an expert, and to accept his report as evidence ;
- (b) to summon any person as a witness, and to compel the production before him of books documents and things for the purpose of reference to such entries or matters only as relate to the application ;
- (c) to take evidence on oath or affirmation ; and
- (d) generally to give all such directions and do all such things as he deems necessary or expedient in the premises.

Powers of President.  
Cf. 1904, No. 13, s. 38.

8. No person shall, during the hearing of any application, wilfully insult or disturb the President, or interrupt the proceedings on the application, or use any insulting language towards the President or by writing or speech use words calculated to improperly influence the President or any assessor or any witness or to bring the President into disrepute, or be guilty in any manner of any wilful contempt of the President.

Contempt.  
Cf. 1904, No. 13, s. 39.

Penalty : One hundred pounds.

9. No person who has been summoned to appear or who has appeared on any application as a witness shall (without just cause the proof whereof shall lie on him)—

Contempt by witness.  
Cf. 1904, No. 13, s. 34.

- (a) disobey the summons to so appear ; or
- (b) refuse to be sworn as a witness ; or
- (c) refuse to answer any question which he is required by the President to answer ; or
- (d) refuse or fail to produce any books or documents which he is required by the President to produce.

Penalty : One hundred pounds.

Provided that no person shall be compelled to give any evidence relating to any trade secret or to the profits or financial position of any witness or party except to the President or to some person ordered by the President to take evidence on his behalf in relation to any application.

Evidence as to trade secrets and financial position.  
Cf. 1904, No. 13 s. 35.

No such evidence shall be disclosed or published in any way without the consent of the person entitled to the trade secret or non-disclosure.

10. No person shall use, cause, inflict, or procure any violence, punishment, damage, loss, or disadvantage to any person for or on

Protection of witnesses.

account of his having appeared as a witness on any application, or for or on account of any evidence given by him on any application.

Penalty : Fifty pounds.

Employers not to dismiss employees.

11. No employer shall dismiss any employee from his employment on account of the employee having appeared as a witness, or for or on account of any evidence given by him on any application, or on account of any award or declaration made in respect of any application.

Penalty : Fifty pounds.

Onus on employer.

In any proceeding for any contravention of this section it shall lie upon the employer to show that the dismissed employee was dismissed for some reason other than those mentioned in this section.

Employee not to cease work.

12. No employee shall cease to work in the service of an employer on account of the employer having appeared as a witness, or on account of any evidence given by him on an application, or on account of any award or declaration made in respect of any application.

Penalty : Ten pounds.

Onus on employee.

In any proceeding for any contravention of this section it shall lie upon the employee, who has ceased to work in the service of the employer, to show that he ceased so to work for some reason other than those mentioned in this section.

Intimidation of witnesses.

13. No person shall, by any threat or detriment or disadvantage of any kind whatsoever, or by any offer or promise or reward or advantage of any kind whatsoever, induce or attempt to induce any other person to refrain from giving evidence on any application.

Penalty : Fifty pounds.

President may prohibit publication of evidence.

14.—(1.) The President if he sees fit may prohibit the publication of any evidence given in relation to any application.

(2.) No person shall publish any evidence the publication of which is prohibited by the President.

Penalty : Fifty pounds.

Powers of authority to whom application referred by President.

15. Where an application is referred by the President to a Judge of the Supreme Court of a State or to any person or persons who compose a State Industrial Authority, the Judge or the person or persons who compose the State Industrial Authority shall have all the powers and privileges and shall be subject to the duties which are by this Act vested in or imposed upon the President.

Power to make Regulations.  
Cf. 1904, No. 13, s. 43.

16.—(1.) The President may, subject to the approval of the Governor-General, make regulations prescribing the practice and procedure on applications, and subject to such regulations the practice and procedure on any application shall be as directed by the President.

(2.) Until such Regulations are made, the practice and procedure on any application shall be as directed by the President.

(3.) Regulations made under this section shall be deemed to be Statutory Rules within the meaning of the *Rules Publication Act* 1903.