
CUSTOMS TARIFF (INDUSTRIES PRESERVATION).

No. 28 of 1921.

An Act relating to certain Special Duties of Customs.

[Assented to 16th 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 :—

Short title.

1. This Act may be cited as the *Customs Tariff (Industries Preservation) Act 1921*.

Incorporation

2. The *Customs Act 1901-1920* shall be incorporated and read as one with this Act.

3. In this Act, except where otherwise clearly intended—

Definitions.

“Ballast rates” means special rates chargeable on any goods shipped as ballast or stiffening for any vessel, and being lower than the rates chargeable on those goods when carried as ordinary cargo ;

“Subsidized ship” means any ship to the Master, Owners, Agents or Charterers of which there is paid any Government or other subsidy, bonus or bounty (not being payment for the actual carriage of mail matter at rates which the Minister considers to be fair and reasonable) which will permit of goods being carried at a rate of freight lower than would be the case if such subsidy, bonus or bounty were not paid ;

“the Export price” of goods exported to Australia means the price at which the goods are sold by the exporter to the importer in Australia (including the free on board charges in the country of export) ;

“the Fair Market Value” of goods means the fair market value of the goods, or of goods of the same class or kind, sold in the country of export in relation to which the expression is used, for home consumption in the usual and ordinary course of trade plus free on board charges in that country, but not including any Excise duties payable in that country ;

“the Tariff” means the Customs Tariff in force for the time being ; and

“the Tariff Board” or “the Board” means the Tariff Board appointed under the *Tariff Board Act 1921*.

4.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that goods exported to Australia, which are of a class or kind produced or manufactured in Australia, have been or are being sold to an importer in Australia at an export price which is less than the fair market value of the goods at the time of shipment, and that detriment may thereby result to an Australian industry, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

Dumping duty.

(2.) Upon the publication of the notice there shall be charged collected and paid to the use of the King for the purposes of the Commonwealth, on those goods imported into Australia a special duty (in this section referred to as “the dumping duty”).

(3.) The amount of the dumping duty in each case shall be the sum which represents the difference between the fair market value of the goods at the time of shipment and the export price :

Provided that where the importer satisfies the Minister that he purchased the goods within six months prior to the time of shipment and that after the date of purchase and prior to the date of shipment the fair market value of the goods had increased, the fair market value to be taken for the purposes of this section shall be the fair market value at the date of purchase.

(4.) The regulations may provide for the exemption of the following goods from the dumping duty :—

- (a) any goods or class of goods in respect of which the Minister is satisfied after report by the Tariff Board, that the goods or classes of goods are not made in Australia in substantial quantities and offered for sale to all purchasers on equal terms under like conditions having regard to the custom and usage of trade ;
- (b) any goods in respect of which the difference between the fair market value and the export price does not exceed five per centum of the fair market value ;
- (c) any goods in respect of which the difference between the fair market value and the export price does not exceed ten per centum of the fair market value, if the Minister is satisfied, after report by the Tariff Board, that the exemption would not be detrimental to any Australian industry ; and
- (d) goods, being articles of merchandise, for use *bonâ fide* as samples for the sale of similar goods.

Dumping below
cost duty.

5.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that goods produced or manufactured outside Australia have been or are being sold to an importer in Australia at an export price which is less than a reasonable price, and that detriment may thereby result to an Australian industry, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

(2.) Upon the publication of the notice, there shall be charged, collected and paid to the use of the King for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as “ the dumping below cost duty ”).

(3.) The amount of the dumping below cost duty in each case shall be the sum which represents the difference between a reasonable price of the goods at the time of shipment and the export price of the goods.

(4.) In this section “ a reasonable price ” means such a price as represents the cost of production of the goods, plus five per centum, plus free on board charges.

(5.) In the absence of satisfactory evidence as to the cost of production the Minister may, after report by the Tariff Board, fix such amount as he thinks fit as the cost of production, and the amount so fixed shall, for the purposes of this section, be deemed to be the cost of production.

Provisions in
case of goods
on consignment.

6.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that goods have been or are being consigned to Australia for sale, and that they may be sold at less than a reasonable selling price, and that detriment may thereby result to an Australian industry, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

(2.) Upon the publication of the notice in the *Gazette*, there shall be charged, collected, and paid to the use of the King, for the purposes

of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as "the dumping consignment duty").

(3.) The amount of the dumping consignment duty in each case shall be the sum which represents the difference between the wholesale selling price in Australia and a reasonable selling price.

(4.) In this section "a reasonable selling price" means the price ascertained upon the following basis, namely:—To the fair market value of the goods there shall be added the freight, insurance, landing and other charges, together with the amount of duty payable under the Customs Tariff, together with five per centum on the aggregate of all the items mentioned.

(5.) If the evidence of the fair market value is, in the opinion of the Minister, insufficient, the Minister may, for the purposes of the last preceding sub-section, substitute in lieu thereof the ascertained cost of production plus five per centum of such cost, or, if the cost of production is not ascertainable, the cost of production estimated from such information as is available, plus five per centum of such estimated cost.

7.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that any goods exported to Australia, of a class or kind produced or manufactured in Australia, have been or are being carried—

Dumping
freight duty.

- (a) in subsidised ships at rates of freight lower than the rates of freight prevailing at the date of shipment; or
- (b) at ballast rates of freight, being rates lower than the rates of freight prevailing at the date of shipment; or
- (c) freight free,

or that by reason of the granting of rebates, refunds, or other allowances the net amount of freight payable on goods exported to Australia, of a class or kind produced or manufactured in Australia, is lower than the rates of freight prevailing at the date of shipment, and that in any such case detriment may thereby result to an Australian industry, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

(2.) Upon the publication of the notice, there shall be charged, collected and paid to the use of the King, for the purposes of the Commonwealth, on those goods imported into Australia a special duty (in this section referred to as "the dumping freight duty").

(3.) The rate of the dumping freight duty shall be five per centum of the fair market value of the goods at the time of shipment.

8.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that the exchange value of the currency of the country of origin or export of any goods has depreciated, and that by reason of such depreciation goods have been or are being sold to an importer in Australia at prices which will be detrimental to an Australian industry, the Minister may publish a notice in the *Gazette* specifying the country as to the exchange value of the currency of

Dumping
exchange duty.

which he is so satisfied, and the goods originated in or exported from that country to which in his opinion the provisions of this section should apply.

(2.) Upon the publication of the notice, there shall be charged, collected and paid to the use of the King, for the purposes of the Commonwealth, on all goods specified in the notice, produced or manufactured in or exported from the country specified therein, a special duty, at a rate to be ascertained in accordance with the Schedule.

Dumping
Preference duty.

9.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that, by reason of the depreciation in exchange value of the currency of the country of origin or export of any goods, in comparison with the currency of the United Kingdom, goods exported to Australia, which have been produced or manufactured in any country other than the United Kingdom, and are of a class or kind produced or manufactured in the United Kingdom, have been or are being sold to an importer in Australia at an export price which is less than the fair market value of goods of like character or quality made in the United Kingdom, when sold for home consumption therein in the usual and ordinary trade course, plus the ordinary free on board charges therein (in this section referred to as “the fair market value in the United Kingdom”), the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

(2.) Upon the publication of the notice, there shall be charged collected and paid to the use of the King for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as “the dumping preference duty”).

(3.) The amount of the dumping preference duty in each case shall be the sum which represents the difference between the fair market value in the United Kingdom and the export price.

Dumped
materials
duty.

10.—(1.) If the Minister is satisfied, after inquiry and report by the Tariff Board, that goods have been or are being sold to an importer in Australia, which were manufactured wholly or in part from material supplied from any country whose currency has depreciated by comparison with the currency of the country to which the material was supplied, and that the manufactured goods have been or are being sold to an importer in Australia at a price below the price at which the same goods could have been manufactured in the country of manufacture if made from material of such country of manufacture, and allowing for a reasonable profit, the Minister may publish a notice in the *Gazette* specifying the goods as to which he is so satisfied.

(2.) Upon the publication of the notice there shall be charged, collected and paid to the use of the King, for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as “the dumped materials duty”).

(3.) The amount of the dumped materials duty shall be the sum which represents the difference between the price at which the goods

were or are being sold to Australia, and the price representing what would have been the fair market value of the same goods if the goods had been manufactured wholly in the country of export from materials of that country.

11. If the Minister is satisfied, after inquiry and report by the Tariff Board, that the duty imposed by either of the last two preceding sections is likely to be evaded by the consignment of goods to Australia for sale, he may direct that there shall be payable on any goods specified by him, by notice published in the *Gazette*, which have been consigned to Australia for sale, a duty in an amount which will in his opinion assure that the goods will not be sold in Australia at less than a reasonable selling price as defined in section six, and duty in that amount shall thereupon be charged, collected, and paid to the King for the purposes of the Commonwealth on such goods.

Evasion of duty under sections 9 and 10 by consignment.

12. The various duties imposed by this Act shall be separately charged, notwithstanding that more duties than one may apply to any particular goods:

Duties to be collected separately.

Provided that the duty payable on any particular goods under sections four to seven inclusive of this Act shall not either severally or collectively exceed fifteen per centum of the value for duty of the goods as ascertained in accordance with Division 2 of Part VIII. of the *Customs Act 1901-1920*.

13. The powers given by this Act to the Minister to publish notices specifying goods shall extend to the publication of notices specifying goods of any particular class or kind or to any particular shipment of goods or to goods exported by any particular exporter or to goods specified in such other manner as the Minister thinks fit, and, if the notice so provides, to all or any goods entered for home consumption on or before the date of issue of the notice as well as to goods entered for home consumption after that date.

Power to specify goods.

14.—(1.) Any notice published in pursuance of this Act may be revoked at any time if the Minister is satisfied that the conditions which occasioned the publication of the notice no longer exist, and that it is desirable that the notice should be revoked.

Power to revoke notices.

(2.) Upon the revocation of the notice the duties charged in consequence of the publication of the notice shall no longer be collected.

15. The special duties payable under this Act shall be in addition to such other duties (if any) as are payable under the Tariff.

Special duties to be additional to ordinary duties.

16. Where at the time of the entry for home consumption of any goods dutiable under this Act, the duty payable under this Act was not paid, the Collector may at any time call upon the importer to pay the duty, and the importer shall pay the duty accordingly.

Special duties may be collected by post entry.

17. The Governor-General may make regulations, not inconsistent with this Act, for carrying out or giving effect to this Act.

Regulations.

THE SCHEDULE.

The special duty provided by Section 8 of this Act shall be calculated as follows:—

(A.) As to the franc (French and Belgian currencies) and the lira (Italian currency) the mint par rate of exchange of which is 25·22 to £1 sterling—

If the bank rate of exchange between London and the country of export or origin at the date of export is greater than 25·22 (par) but is less than 30·00 no special duty shall be chargeable; and

If the said Bank rate of Exchange is not less than—	But is less than—	The Special Duty shall be chargeable <i>ad valorem</i> at the rate of—
30	35	8½ per cent.
35	40	15 "
40	45	21 "
45	50	26 "
50	55	30 "
55	60	33 "
60	65	36 "
65	70	38½ "
70	75	40½ "
75	80	42½ "
80	85	44½ "
85	90	46 "
90	95	47½ "
95	100	49 "
100	105	50 "
105	110	51½ "
110	115	53 "
115	120	54½ "
120	125	55½ "
125	130	56½ "
130	135	58 "
135	140	59 "
140	145	60 "
145	150	60½ "
150	155	61½ "
155	160	62½ "
160	165	63 "
165	170	64 "
170	175	64½ "
175	180	65 "
180	185	66 "
185	190	66½ "
190	195	67 "
195	200	67½ "
200	205	68 "
205	210	68½ "
210	215	69 "
215	220	69½ "
220	225	70 "
225	230	70½ "
230	235	70½ "
235	240	71 "
240	245	71½ "
245	250	72 "
250	255	72 "
255	260	72½ "
260	265	73 "
265	270	73 "
270	275	73½ "
275	280	73½ "
280	285	74 "
285	290	74 "
290	295	74½ "
295	300	74½ "
300	75 "

THE SCHEDULE—*continued*.

(B.) As to the mark (German Currency) the mint par rate of exchange of which is 20·43 to £1 sterling—

If the bank rate of exchange between London and the country of export or origin at the date of export is greater than 20·43 (par) but is less than 25 no special duty shall be chargeable; and

If the figure denoting the rate of exchange is not less than—	But is less than—	The Special Duty shall be chargeable <i>ad valorem</i> at the rate of—
25	30	10 per cent.
30	35	18 "
35	40	24½ "
40	45	30 "
45	50	34 "
50	55	37½ "
55	60	40 "
60	65	42½ "
65	70	45 "
70	75	47 "
75	80	48½ "
80	85	50 "
85	90	52 "
90	95	53½ "
95	100	55 "
100	105	56½ "
105	110	58 "
110	115	59½ "
115	120	60½ "
120	125	61½ "
125	130	62½ "
130	135	63½ "
135	140	64½ "
140	145	65 "
145	150	66 "
150	155	66½ "
155	160	67½ "
160	165	68 "
165	170	68½ "
170	175	69 "
175	180	69½ "
180	185	70½ "
185	190	71 "
190	195	71 "
195	200	71½ "
200	205	72 "
205	210	72½ "
210	215	73 "
215	220	73½ "
220	225	73½ "
225	230	74 "
230	235	74½ "
235	240	74½ "
240	75 "

(C.) As to currencies not provided for in the preceding paragraphs of this Schedule the special duty shall be chargeable at a rate to be proclaimed by the Governor-General. The rate to be so proclaimed shall be such a rate as in the opinion of the Governor-General approximates as nearly as practicable to the basis established in the foregoing tables.