

CONSTITUTIONAL LAW GUIDEBOOK

Chapter 14 – Excise Duties

Problem Question 1 (pg 218)

In answering this question, remember to look at the issue of when a law imposes a tax, discussed in Chapter 13.

The Queensland Parliament enacts the *Meat Processors Licensing Act 2007* (Qld), which provides as follows:

12 Licences

No person shall conduct any meat-processing business in Queensland unless they have been issued with such licences as are required by this Act.

13 Licence fees

The State Licensing Commissioner shall grant an annual Meat Processor's Licence to a person applying on the prescribed form and upon payment by that person of the following fees:

- (a) a fee of \$50 per annum
- (b) a fee of \$100 per carcass slaughtered in the 12-month period preceding the date of the licence application.

14 Special licence fees for dugongs

- (1) The processing of dugong meat is restricted to persons who were registered as Dugong Meat Processors as of 1 January 2006.
- (2) A person may not process dugong meat unless they hold a Dugong Meat Processing Licence in respect of each dugong to be processed.
- (3) No more than 300 Dugong Meat Processing Licences may be issued in any one year and no meat processor may be granted more than 20 such licences in any one year.
- (4) Subject to this section, the State Licensing Commissioner shall grant a Dugong Meat Processing Licence upon application on the prescribed form and payment of a licence fee of \$ 2000 per dugong processed by the applicant during the 12-month period prior to the date of the licence application.

Susan, who has been operating a meat-processing plant for a number of years and is registered as a Dugong Meat Processor under the Act, is worried about the application of this licensing regime on her business. She processes about 15,000 cattle carcasses per annum and wants to process 15 dugong carcasses this year. Advise her of her position under the Act.

How to answer this problem - issues to consider:

1. What section of the Constitution is relevant here?

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2. What is the nature of the exaction in s 13(a)? What test from case law would you use to answer that question?
3. What is the nature of the exaction in s 13(b)? Does the fact that it refers to slaughtering during a previous period make a difference to its validity?
4. What is the key factual difference between cattle and dugongs? What case does s 14(4) remind you of?