



Bounty (Ships) Amendment Act 1999

No. 14, 1999



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**An Act to amend the *Bounty (Ships) Act 1989*, and
for related purposes**

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No. 14, 1999

An Act to amend the *Bounty (Ships) Act 1989*, and for related purposes

[Assented to 9 April 1999]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Bounty (Ships) Amendment Act 1999*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Transitional—registration

(1) If:

- (a) a person commenced the construction or modification of a bountiable vessel in Australia after 31 December 1997 and before the commencing day; and
- (b) the person was not a registered shipbuilder during a part or all of the period of construction or modification that occurred before the commencing day; and
- (c) the person is a body corporate incorporated under a law of the Commonwealth or of a State or Territory;

the person may apply for registration as a registered shipbuilder under this section within 30 days after the commencing day.

(2) The application must be in accordance with the appropriate approved form.

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- (3) If a person makes an application under this section, the Minister must:
- (a) register the applicant as a registered shipbuilder; or
 - (b) refuse to register the applicant as a registered shipbuilder, and cause a notice in writing to be served on the applicant stating that the Minister has refused to register the applicant.
- (4) The Minister registers the applicant as a registered shipbuilder by:
- (a) signing a notice stating that the applicant is registered as a registered shipbuilder for the period:
 - (i) commencing on the first day on which the person was not a registered shipbuilder in the period referred to in paragraph (1)(b); and
 - (ii) ending on the day of issue of the notice; and
 - (b) causing the notice to be served on the applicant.
- (5) The Minister may require an applicant to give such information as the Minister considers necessary for the purposes of this Act and may refuse to register the applicant unless the information is given to the satisfaction of the Minister.
- (6) The registration of a person in respect of whom the Minister has issued a notice under paragraph (4)(a) has effect according to the terms of the notice.

5 Transitional—claims

If:

- (a) a person claims to be entitled to be paid an amount of bounty in respect of the construction or modification of a vessel; and
- (b) the construction or modification was completed:
 - (i) after 31 December 1997; and
 - (ii) more than 12 months before the commencing day;

a claim in respect of the construction or modification may, in spite of paragraph 11(2)(d) of the *Bounty (Ships) Act 1989*, be lodged under section 11 of that Act within 30 days after the commencing day.

6 Application—firm commitment requirement

Paragraph 8(3)(a) of the *Bounty (Ships) Act 1989* as in force immediately before the commencing day is to be taken not to apply to any construction or modification completed after 31 December 1997.

7 Definition

In this Act:

commencing day means the day on which this Act receives the Royal Assent.

Schedule 1—Bounty (Ships) Act 1989

1 Section 3

Omit “Chief Executive Officer of Customs”, substitute “Secretary”.

2 Subsection 4(1) (definition of *approved form*)

Omit “CEO”, substitute “Secretary”.

3 Subsection 4(1)

Insert:

approved hydrographic test facility is a facility that is:

- (a) located outside Australia; and
- (b) used for hydrographic design and testing; and
- (c) approved by the Secretary for the purposes of subsection 10(3).

4 Subsection 4(1) (definition of *authorised officer*)

Repeal the definition, substitute:

authorised officer means a person appointed to be an authorised officer under section 20.

5 Subsection 4(1) (definition of *bounty*)

Repeal the definition, substitute:

bounty means an eligible costs bounty or an eligible research and development expenditure bounty.

6 Subsection 4(1) (definition of *CEO*)

Repeal the definition.

7 Subsection 4(1) (definition of *Collector*)

Repeal the definition.

8 Subsection 4(1)

Insert:

eligible costs has the meaning given in section 5.

9 Subsection 4(1)

Insert:

eligible costs bounty means the bounty referred to in subsection 8(2).

10 Subsection 4(1)

Insert:

eligible research and development expenditure has the meaning given in section 5A.

11 Subsection 4(1)

Insert:

eligible research and development expenditure bounty means the bounty referred to in subsection 8(3A).

12 Subsection 4(1)

Insert:

forecast eligible costs, in relation to the construction or modification of a vessel, means the amounts constituting the estimate lodged with the Minister under subsection 8(3E) in relation to the construction or modification.

13 Subsection 4(1)

Insert:

officer means an officer of the Department.

14 Subsection 4(1)

Insert:

other Commonwealth assistance has the meaning given in section 5C.

15 Subsection 4(1) (definition of *period to which this Act applies*)

Omit “30 June 1999”, substitute “30 June 2004”.

16 Subsection 4(1) (at the end of the definition of *registered shipbuilder*)

Add “of this Act or section 4 of the *Bounty (Ships) Amendment Act 1999*”.

17 Subsection 4(1)

Insert:

Secretary means the Secretary to the Department.

18 Subsection 4(2)

Repeal the subsection, substitute:

- (2) The construction or modification of a bountiable vessel is taken, for the purposes of this Act, to have been completed on the date the Secretary determines to be the date on which that construction or modification was completed.

19 Subsection 5(1)

Omit “, or business plan evidencing a firm commitment to,” (wherever occurring).

20 After section 5

Insert:

5A Eligible research and development expenditure

- (1) For the purposes of this Act, *eligible research and development expenditure* is expenditure incurred by a shipbuilder in respect of eligible research and development activities (see section 5B).
- (2) The expenditure must be incurred during the period commencing on 1 July 1999 and ending on 30 June 2004.

- (3) If a shipbuilder incurs expenditure in respect of eligible research and development activities that are carried on by the shipbuilder on behalf of another person, the expenditure is not eligible research and development expenditure of the shipbuilder carrying on the activities.

5B Eligible research and development activities

- (1) For the purposes of section 5A, *eligible research and development activities* are research and development activities:
- (a) carried on by or on behalf of a shipbuilder during the period commencing on 1 July 1999 and ending on 30 June 2004; and
 - (b) relating to the construction or modification of bountiable vessels; and
 - (c) to which one of the following applies:
 - (i) some or all of the activities are carried on in Australia;
 - (ii) the activities are design and testing activities carried on at an approved hydrographic test facility.
- (2) The activities must be:
- (a) systematic, investigative or experimental in nature and carried on for the purposes of improving the shipbuilder's business through:
 - (i) acquiring knowledge (whether or not that knowledge will have a specific practical application to that business); or
 - (ii) creating new or improved materials, products, devices, processes or services for that business; or
 - (b) carried on for a purpose directly related to the carrying on of activities of a kind referred to in paragraph (a).
- (3) The Minister may determine, in writing, that a class of activity is not an eligible research and development activity for the purposes of this section.
- (4) A determination under subsection (3) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
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5C Other Commonwealth assistance

- (1) For the purposes of this Act, a shipbuilder has received *other Commonwealth assistance* if the shipbuilder has received, and is entitled to, financial assistance (other than bounty) provided by the Commonwealth for eligible research and development activities.
- (2) The Minister may determine, in writing, that a specified form of assistance provided by the Commonwealth:
 - (a) is not financial assistance for the purposes of this section; or
 - (b) is financial assistance for the purposes of this section.
- (3) If the determination specifies that a form of assistance is financial assistance, the determination may also specify the method by which the amount of the assistance received is to be worked out.
- (4) A determination under subsection (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Note: The amount of other Commonwealth assistance received by a shipbuilder is relevant to working out the amount of eligible research and development expenditure bounty to which the shipbuilder is entitled (see subsection 10(3)).

21 Subsection 6(1)

Omit “CEO” (wherever occurring), substitute “Secretary”.

22 After subsection 6(1)

Insert:

- (1A) Where the Secretary:
 - (a) is unable to verify the eligible research and development expenditure incurred by a shipbuilder in relation to the construction or modification of bountiable vessels; or
 - (b) having regard to sound accounting principles, forms the opinion that the expenditure included in the eligible research and development expenditure:
 - (i) is incorrect or overestimated; or
 - (ii) should not have been characterised as eligible research and development expenditure; or

- (iii) is unduly higher than expenditure incurred by other shipbuilders in respect of similar eligible research and development activities; or
- (iv) has been fixed in order to obtain an increase in eligible research and development expenditure bounty; or
- (v) has been increased as the result of the influence of a relationship between the shipbuilder and an associate of the shipbuilder; or
- (vi) is higher than would have been the case if the shipbuilder had provided the services that were provided, and charged for, by an associate of the shipbuilder;

the Secretary may, in writing, determine the expenditure that is, for the purposes of this Act, to be taken to be the eligible research and development expenditure incurred by a shipbuilder in relation to the construction or modification of bountiable vessels.

23 Subsection 6(2)

Omit “CEO” (wherever occurring), substitute “Secretary”.

24 Subsection 6(2)

After “eligible costs were” (wherever occurring), insert “, or eligible research and development expenditure was,”.

25 Subsection 6(3)

Omit “CEO”, substitute “Secretary”.

26 Subsection 6(3)

After “subsection (1)”, insert “or (1A)”.

27 Section 7

Omit “CEO”, substitute “Secretary”.

28 Subsections 8(2) to (3B)

Repeal the subsections, substitute:

Eligible costs bounty

- (2) Bounty in respect of the construction or modification of a bountiable vessel is payable to the shipbuilder, or each shipbuilder, who incurs an eligible cost in undertaking, or undertaking a part of, the construction or modification.
- (3) However, bounty is not payable under subsection (2) in respect of a construction or modification completed after 31 December 2003.

Eligible research and development expenditure bounty

- (3A) Bounty in respect of the construction or modification of a bountiable vessel is payable to the shipbuilder, or each shipbuilder who:
 - (a) undertakes, or undertakes a part of, the construction or modification; and
 - (b) incurs eligible research and development expenditure before the completion of the construction or modification.
- (3B) However, bounty is not payable under subsection (3A) in respect of a construction or modification completed after 30 June 2004.

Entitlement to eligible costs bounty for vessels completed on or before 31 December 2000

- (3C) If a shipbuilder completes the construction or modification of a bountiable vessel on or before 31 December 2000, the shipbuilder is not entitled to a payment of eligible costs bounty in respect of the construction or modification unless the shipbuilder is a registered shipbuilder at all times during the construction or modification.

Entitlement to eligible costs bounty for vessels completed after 31 December 2000 and on or before 31 December 2003

- (3D) If a shipbuilder completes the construction or modification of a bountiable vessel after 31 December 2000 and on or before 31 December 2003, the shipbuilder is not entitled to a payment of eligible costs bounty in respect of the construction unless:
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- (a) the shipbuilder is a registered shipbuilder at all times during the construction or modification; and
 - (b) the vessel is delivered on or before 31 December 2003 into the possession of the vessel's owner or the owner's agent; and
 - (c) the construction or modification is carried out as a result of a contract entered into before 1 January 2001; and
 - (d) the following documents are lodged with the Minister before 14 January 2001:
 - (i) a copy of the contract or other evidence that satisfies the Minister of the existence of the contract;
 - (ii) the approved form.
- (3E) The approved form referred to in paragraph (3D)(d) must contain the following details:
- (a) the amount to be paid to the shipbuilder under the contract;
 - (b) an estimate of each of the eligible costs of the construction or modification;
 - (c) the specifications of the vessel, including the gross construction tonnage worked out according to the formula in subsection 4(3);
 - (d) the timetable for carrying out the construction or modification, including commencement and completion date;
 - (e) the place where the construction or modification is being or will be carried out;
 - (f) the name of the person intending to purchase the vessel, or for whom the vessel is being modified;
 - (g) the date and place of delivery of the vessel upon completion.

*Entitlement to eligible research and development expenditure
bounty for vessels completed on or before 30 June 2004*

- (3F) A shipbuilder who incurs eligible research and development expenditure before the construction or modification of a bountiable vessel undertaken by the shipbuilder is completed is not entitled to a payment of eligible research and development expenditure bounty in respect of the construction or modification unless the

shipbuilder is a registered shipbuilder at all times during the construction or modification.

29 Subsection 9(1)

Omit “CEO”, substitute “Secretary”.

30 Subsection 10(1)

Omit all the words before paragraph (a), substitute:

Eligible costs bounty

- (1) Eligible costs bounty in respect of the construction or modification of a bountiable vessel that is completed before 31 December 2003 is an amount equal to such amounts set out below as is, or to the sum of such amounts set out below as are, appropriate:

31 At the end of subsection 10(1)

Add:

- ; (g) in respect of any eligible costs incurred between 1 July 1999 and 31 December 2000, inclusive—the product of:

$1.2 \times 3\% \times$ Amount of the costs so incurred

- (h) in respect of any eligible costs incurred between 1 January 2001 and 31 December 2003, inclusive—the lesser of the following amounts:

- (i) the product of:

$1.2 \times 3\% \times$ Amount of the costs so incurred

- (ii) the product of:

$1.2 \times 3\% \times$ Forecast eligible costs

Note: For *forecast eligible costs* see subsection 4(1).

32 Subsection 10(2)

Repeal the subsection, substitute:

Eligible research and development expenditure bounty

- (2) Eligible research and development expenditure bounty in respect of the construction or modification of a vessel that is completed before 1 July 2004 is an amount equal to the lesser of the following amounts:
- (a) the shipbuilder's adjusted eligible research and development expenditure;
 - (b) the product of:

$$1.2 \times 2\% \times \begin{array}{l} \text{Amount of eligible costs incurred in respect} \\ \text{of the construction or modification} \end{array}$$

- (3) A shipbuilder's adjusted eligible research and development expenditure is worked out using the following formula:

$$\frac{\text{Eligible R and D expenditure incurred}}{2} - \left(\text{Bounty already paid} + \text{Other assistance} \right)$$

where:

bounty already paid is the amount of eligible research and development expenditure bounty that has been paid to the shipbuilder.

eligible research and development expenditure incurred is an amount equal to such amount set out below as is, or to the sum of such amounts set out below as are, appropriate:

- (a) in respect of eligible research and development activities that are design and testing activities carried on at an approved hydrographic testing facility—the amount of the eligible research and development expenditure incurred by the shipbuilder in relation to those activities by the time of the completion of the construction or modification of the vessel;
 - (b) in respect of other eligible research and development activities—the lesser of the following amounts:
 - (i) the eligible research and development expenditure incurred by the shipbuilder by the time of the
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completion of the construction or modification of the vessel;

- (ii) the eligible research and development expenditure incurred by the shipbuilder by the time of completion of the construction or modification of the vessel, in relation to eligible research and development activities carried on in Australia, multiplied by a factor of 1.2.

other assistance, in relation to the construction or modification of a vessel, is the amount of other Commonwealth assistance received by the shipbuilder for the eligible research and development activities carried on by or on behalf of the shipbuilder by the time of completion of the construction or modification.

Note 1: For *eligible research and development activities* see section 5B.

Note 2: For *other Commonwealth assistance received* see section 5C.

33 Paragraph 11(2)(d)

Repeal the paragraph, substitute:

- (d) be lodged with an authorised officer, or with the Secretary, within 12 months after the construction or modification was completed.

34 Subsection 11(3)

Omit “CEO” (wherever occurring), substitute “Secretary”.

35 Subsection 11(4)

Omit “CEO” (wherever occurring), substitute “Secretary”.

36 Section 12

Before “bounty” (wherever occurring), insert “eligible costs”.

37 Subsection 12(1)

Omit “CEO”, substitute “Secretary”.

38 Paragraph 13(2)(d)

Repeal the paragraph, substitute:

(d) be lodged with an authorised officer, or with the Secretary, within 12 months after the construction or modification was completed.

39 Subsection 13(4)

Omit “CEO” (wherever occurring), substitute “Secretary”.

40 Subsection 13(5)

Omit “CEO” (wherever occurring), substitute “Secretary”.

41 Paragraph 14(2)(d)

Repeal the paragraph, substitute:

(d) be lodged with an authorised officer, or with the Secretary.

42 Subsection 14(4)

Omit “CEO” (wherever occurring), substitute “Secretary”.

43 Subsection 15(1)

Omit “CEO” (wherever occurring), substitute “Secretary”.

44 Subsection 15(2)

Omit “CEO” (wherever occurring), substitute “Secretary”.

45 Subsection 15(3)

Omit “CEO” (wherever occurring), substitute “Secretary”.

46 Subsections 17(7A), (7B), (7C) and (7D)

Repeal the subsections.

47 Paragraph 18(1)(a)

Omit “CEO” (wherever occurring), substitute “Secretary”.

48 Subparagraph 18(1)(a)(i)

Before “bounty”, insert “eligible costs”.

49 After subparagraph 18(1)(a)(i)

Insert:

- (ia) such particulars relating to the incurring of eligible research and development expenditure in respect of which eligible research and development expenditure bounty is, or may become, payable as are specified by the Secretary in a notice published in the *Gazette*; and

50 Section 19

Omit “CEO” (wherever occurring), substitute “Secretary”.

51 Section 20

Repeal the section, substitute:

20 Appointment of authorised officers

The Secretary may, by writing signed by him or her, appoint:

- (a) a specified officer; or
- (b) the officer for the time being holding, or performing the duties of, a specified office; or
- (c) officers included in a specified class of officers;

to be an authorised officer, or authorised officers, for the purposes of a provision, or provisions, of this Act.

52 Paragraph 21(1)(a)

Repeal the paragraph, substitute:

- (a) inspect any bountiable vessel in respect of which a relevant activity or an eligible research and development activity has been, is being, or is intended to be, carried out; and

53 After paragraph 21(1)(b)

Insert:

- (ba) inspect any step in the carrying out of an eligible research and development activity; and

54 At the end of subsection 21(1)

Add:

- ; and (d) inspect the accounts, books, documents and other records relating to an eligible research and development activity, and

may make and take copies of, or take extracts from, any such accounts, books, documents or other records.

55 Paragraph 22(2)(a)

Repeal the paragraph, substitute:

- (a) premises where there is a bountiable vessel in respect of which a relevant activity or an eligible research and development activity has been, is being, or is intended to be, carried out; or

56 After paragraph 22(2)(b)

Insert:

- (ba) premises on which any step in the carrying out of an eligible research and development activity is taking, or is intended to take, place; or

57 After paragraph 22(2)(c)

Insert:

- or (d) premises where there are kept any accounts, books, documents or other records relating to an eligible research and development activity;

58 Paragraph 22(4)(a)

Repeal the paragraph, substitute:

- (a) to inspect any bountiable vessel in respect of which a relevant activity or an eligible research and development activity has been, is being, or is intended to be, carried out; and

59 After paragraph 22(4)(b)

Insert:

- (ba) to inspect any step in the carrying out of an eligible research and development activity; and

60 After paragraph 22(4)(c)

Insert:

and (d) to inspect accounts, books, documents and other records relating to an eligible research and development activity;

61 Subsection 23(1)

After “bountiable vessel,” insert “or in relation to an eligible research and development activity,”.

62 Subsection 23(6)

Omit “CEO”, substitute “Secretary”.

63 Subsection 27(3)

Omit “CEO”, substitute “Secretary”.

64 Subsection 29(1)

Omit “CEO”, substitute “Secretary”.

65 Subsection 30(1)

Omit “Officer of Customs within the meaning of the *Customs Act 1901*”, insert “officer”.

66 Subsection 31(1)

Omit “CEO” (wherever occurring), substitute “Secretary”.

67 Paragraph 31(1)(aa)

Repeal the paragraph.

68 At the end of paragraph 31(1)(g)

Add “or subsection 4(3) of the *Bounty (Ships) Amendment Act 1999*”.

69 Paragraph 31(2)(a)

Repeal the paragraph, substitute:

- (a) if a determination under section 6 in respect of the amount of eligible costs, the amount of eligible research and development expenditure, or the time that those eligible costs were, or the eligible research and development expenditure was, incurred has been made in respect of that construction or modification, either:

- (i) set aside that determination; or
- (ii) set aside that determination and make a further determination under that section in respect of the construction or modification to which the determination so set aside applied; or

70 Subsection 32(1)

Omit “CEO”, substitute “Secretary”.

*[Minister’s second reading speech made in—
House of Representatives on 10 February 1999
Senate on 10 March 1999]*

(9/99)
