

# BOUNTY (METAL-WORKING MACHINE TOOLS) ACT 1978

## No. 154 of 1978

An Act to provide for the payment of bounties on the production of certain metal-working machine tools.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

- Short title      1. This Act may be cited as the *Bounty (Metal-working Machine Tools) Act 1978*.<sup>1</sup>
- Commence-  
ment            2. This Act shall be deemed to have come into operation on 25 May 1978.
- Interpret-  
ation            3. (1) In this Act, unless the contrary intention appears—
- “authorized person” means a person who is an authorized person for the purposes of this Act by virtue of an appointment under section 12;
- “bountiable machine tool” means a machine tool other than a machine tool in respect of which bounty has been paid, or is, or becomes, payable, under the *Bounty (Drilling Machines) Act 1978* or the *Metal Working Machine Tools Bounty Act 1972*;
- “bounty” means bounty under this Act, and includes an advance on account of bounty under section 10;
- “Collector” means a Collector of Customs for a State or Territory;
- “commencing date” means the date on which this Act is to be deemed to have come into operation;
- “Comptroller-General” means the Comptroller-General of Customs;
- “cutting”, in relation to a metal work-piece, means removing metal from the work-piece by mechanical means, but does not include sand-blasting, grit-blasting, shot-blasting or ultrasonic machining;
- “forming”, in relation to a metal work-piece, means changing the shape of the work-piece (without removing metal from the work-piece by means other than cutting and without melting any portion of the work-piece) by means of the application of pressure, with or without the application of heat, but does not include—
- (a) the moulding of metal powders;
  - (b) the compression of scrap metal into bales or blocks;

- (c) roller-crushing;
- (d) roller-grinding; or
- (e) cable-making;

“machine-tool” means a power-driven machine tool for the working of metal solely by means of cutting or forming, or solely by means of cutting and forming, but does not include—

- (a) a tool that is ordinarily operated while wholly held in hand;
- (b) a general-purpose press;
- (c) a rolling mill; or
- (d) a machine the principal purpose of which is measuring or testing;

“metal” means metal in its solid state;

“period to which this Act applies” means the period that commenced on the commencing date and ends on the terminating date;

“registered premises” means premises registered by the Minister under section 11;

“terminating date” means 30 June 1984 or such later date as, before 30 June 1984, is fixed by Proclamation as the terminating date for the purposes of this Act.

(2) A reference in this Act to a specified class of machine tools shall be read as a reference to one of the classes of machine tools specified in the Schedule.

4. (1) For the purposes of this Act—

Costs

- (a) the factory cost of a bountiable machine tool is such amount as is determined by the Comptroller-General to be the factory cost of the tool;
- (b) the bountiable portion of the factory cost of a bountiable machine tool is such portion of the factory cost of the tool as is determined by the Comptroller-General to be the portion of that cost that is attributable to materials and parts manufactured, and work performed, in Australia; and
- (c) the Australian design cost of a bountiable machine tool is such amount as is determined by the Comptroller-General to be the cost incurred by the manufacturer of the tool in respect of design work carried out in Australia in relation to the tool.

(2) In determining the factory cost of a bountiable machine tool, the Comptroller-General shall make an allowance for factory overhead charges and Australian and other design costs but shall not make any allowance for general administration, selling costs, service charges or taxation.

(3) In determining the bountiable portion of the factory cost of a bountiable machine tool, the Comptroller-General shall make an allowance for factory overhead charges and design costs incurred in Australia, but shall not make any allowance for general administration, selling costs, service charges or taxation.

(4) In determining the Australian design cost of a bountiable machine tool, the Comptroller-General shall make allowances for the remuneration paid or payable to staff actually engaged in design and drafting work directly related to the design of the tool and for directly related overheads, including office rental, computer costs and personnel management costs.

Uniformity

5. A power conferred on the Governor-General, the Minister or the Comptroller-General by this Act shall not be exercised in such a manner that bounty under this Act would not be uniform throughout the Commonwealth, within the meaning of paragraph (iii) of section 51 of the Constitution.

Specification of bounty

6. (1) Bounty is payable in accordance with this Act on the production in Australia of bountiable machine tools.

(2) Bounty in respect of a bountiable machine tool is payable to the manufacturer of the tool.

(3) A manufacturer is not entitled to receive a payment of bounty in respect of a bountiable machine tool unless—

- (a) the manufacture of the tool—
  - (i) was wholly carried out during the period to which this Act applies; or
  - (ii) was commenced before the commencing date, otherwise than in pursuance of a firm order, and completed during the period to which this Act applies;
- (b) the tool was manufactured at registered premises, being premises registered in respect of the class of machine tools in which the tool is included or, if the manufacture of the tool had been commenced but had not been completed before the commencing date, the manufacture of the tool is completed at registered premises, being premises so registered;
- (c) the bountiable portion of the factory cost of the tool is not less than 55% of the factory cost of the tool; and
- (d) the tool has been used, or sold by the manufacturer for use, in Australia.

(4) Where—

- (a) by virtue of sub-section 11 (6), the Minister determines that the registration of premises in respect of a specified class of machine tools shall be deemed to have taken effect on and from the commencing date; and

- (b) at the commencement of this Act, the person who applied for the registration of the premises in respect of that class of machine tools is the owner of a bountiable machine tool included in that class of machine tools, being a tool that—
- (i) was manufactured in Australia before the commencing date, whether at those premises or at other premises and whether by that person or another person; and
  - (ii) was not manufactured in pursuance of a firm order or for the use of the manufacturer,

that tool shall, for the purposes of this Act, be deemed to have been manufactured by the first-mentioned person at the registered premises on the commencing date.

(5) Where—

- (a) the manufacture of a bountiable machine tool—
  - (i) was commenced, or was undertaken in pursuance of a firm order placed, on or before the terminating date;
  - (ii) was completed after the terminating date; and
  - (iii) was carried out at premises that were, on the terminating date, registered premises in relation to the class of machine tools in which that tool is included; and
- (b) a claim for bounty under this Act is made in respect of that tool not later than the expiration of 1 year after the terminating date or of such further period as the Minister, by instrument in writing, allows,

that tool shall, for the purposes of this Act, be deemed to have been manufactured at those premises on the terminating date.

7. The bounty in respect of a bountiable machine tool is an amount equal to the sum of— Rate of bounty

- (a) an amount equal to one-third of the bountiable portion of the factory cost of the tool; and
- (b) an amount equal to one-quarter of the Australian design cost (if any) of the tool.

8. Bounty is not payable in respect of a bountiable machine tool unless the Comptroller-General is satisfied that it is of good and merchantable quality. Good quality essential

9. (1) Where an application for bounty in respect of a bountiable machine tool is lodged in accordance with the regulations, the Minister shall— Approval of payment of bounty

- (a) if he is satisfied that bounty is payable in respect of that tool—approve the payment of the bounty; or
- (b) if he is not so satisfied—refuse to approve payment of the bounty.

(2) In this section, “bounty” does not include an advance on account of bounty under section 10.

Advances on  
account of  
bounty

**10.** (1) An advance on account of bounty may be made to a person on such terms and conditions as are approved by the Minister.

(2) If a person receives by way of advances on account of bounty in respect of a bountiable machine tool an amount greater than the amount of bounty payable to him in respect of the tool, he is liable to repay to the Commonwealth the amount of the excess, and the Commonwealth may recover the amount of the excess as a debt due to the Commonwealth by action in a court of competent jurisdiction.

Registration  
of premises

**11.** (1) The regulations may prescribe conditions to be complied with, for the purposes of this Act, in connection with the manufacture at registered premises of a specified class of machine tools.

(2) Where a person carries on, or proposes to carry on, the manufacture at any premises of machine tools included in a specified class of machine tools, he may apply to the Minister for the registration of those premises, for the purposes of this Act, in respect of that class of machine tools.

(3) If conditions are applicable, by virtue of regulations made for the purposes of sub-section (1), to the manufacture at registered premises of the class of machine tools to which the application relates, the Minister shall not register the premises in respect of that class of machine tools unless he is satisfied that those conditions have been, or will be, complied with.

(4) The Minister may require the applicant to supply such information as the Minister considers necessary for the purposes of this Act, and may refuse to register the premises in accordance with the application until the information is supplied to his satisfaction.

(5) Subject to sub-sections (3) and (4), if, in the opinion of the Minister, machine tools of the class to which the application relates are, or are proposed to be, manufactured at the premises in respect of which the application is made, he shall register those premises, for the purposes of this Act, in respect of that class of machine tools.

(6) If the Minister so determines, the registration shall be deemed to have taken effect on and from such date, being a date not earlier than the commencing date, as is specified by the Minister.

(7) Where the Minister is satisfied, in relation to premises that are registered premises in relation to a specified class of machine tools, that—

(a) machine tools of that class are not being manufactured at those premises;

- (b) the manufacture of machine tools of that class at those premises is not being carried on by the person who applied for the registration of those premises; or
- (c) machine tools of that class are being manufactured at those premises otherwise than in accordance with such conditions (if any) as are applicable, by virtue of regulations made for the purposes of sub-section (1), to the manufacture at registered premises of that class of machine tools,

the Minister may, by notice in writing served either personally or by post on the occupier of the premises, and, if the occupier is not the person who applied for the registration of the premises in relation to the manufacture of that class of machine tools, on that person, cancel the registration of the premises in respect of that class of machine tools.

(8) For the purpose of the application of section 29 of the *Acts Interpretation Act* 1901 to the service by post of a notice under sub-section (7), a notice posted as a letter addressed to the occupier, or to the person who applied for the registration of the premises, at the registered premises shall be deemed to be properly addressed.

12. A person is not entitled to bounty unless he keeps, to the satisfaction of the Minister, accounts, books, documents and other records showing, from time to time, particulars relating to the manufacture (including the cost of manufacture) and sale of bountiable machine tools and such other information in relation to the tools as the Minister requires. Accounts

13. The Minister may require a manufacturer of bountiable machine tools to give security in an amount determined by the Minister by bond, guarantee or cash deposit, or by all or any of those methods, for compliance by him with the provisions of this Act and the regulations or for the purpose of an undertaking given by him for the purposes of this Act or the regulations, and the manufacturer is not entitled to bounty unless he gives security accordingly. Security

14. The Minister may, by writing signed by him, appoint persons to be authorized persons for the purposes of this Act. Appointment of authorized persons

15. (1) For the purposes of this Act, an authorized person may, at all reasonable times, enter— Stock-taking and inspection of manufacture and accounts, &c.

- (a) registered premises; or
- (b) premises where there are stored machine tools in respect of which bounty has been claimed, or, in the opinion of the authorized person, is likely to be claimed,

and may—

- (c) inspect or take stock of any machine tools;
- (d) inspect the processes of manufacture of any machine tools; and

(e) inspect the accounts, books, documents and other records relating to the manufacture and sale of machine tools.

(2) The occupier or person in charge of registered premises, or of premises referred to in paragraph (1) (b), shall provide the authorized person with all reasonable facilities and assistance for the effective exercise of his powers under this section.

Penalty: \$100.

Power to  
require  
person to  
answer  
questions  
and produce  
documents

**16.** (1) The Comptroller-General, a Collector or an authorized person may, by notice in writing, require a person whom he believes to be capable of giving information relevant to the operation of this Act in relation to the manufacture (including the cost of manufacture), storage, sale or use of machine tools to attend before him at the time and place specified in the notice and there to answer questions and to produce to him such accounts, books, documents and other records in relation to the manufacture (including the cost of manufacture), storage, sale or use of machine tools as are referred to in the notice.

(2) The Comptroller-General, a Collector or an authorized person may make and retain copies of, or extracts from, any accounts, books, documents or other records produced in pursuance of this section.

(3) A person is not excused from answering a question or producing any accounts, books, documents or other records when required so to do under this section on the ground that the answer to the question, or the production of the accounts, books, documents or other records, might tend to incriminate him or make him liable to a penalty, but his answer to any such question is not admissible in evidence against him in proceedings other than proceedings for an offence against paragraph 18 (1) (c) or 18 (2) (c).

(4) Where a manufacturer, or a person employed by a manufacturer, has failed to attend or to answer a question, or to produce any account, book, document or other record when required to do so under this section, bounty is not payable to the manufacturer, unless the Minister otherwise directs, until the manufacturer or that person has attended, answered the question or produced the account, book, document or other record, as the case may be.

Power to  
examine on  
oath, &c.

**17.** (1) The Comptroller-General, a Collector or an authorized person may examine, on oath or affirmation, a person attending before him in pursuance of section 16 and, for that purpose, may administer an oath or affirmation to that person.

(2) The oath or affirmation to be made by a person for the purposes of sub-section (1) is an oath or affirmation that the answers he will give to questions asked him will be true.

**18.** (1) A person shall not, without reasonable excuse, refuse or fail— Offences

- (a) to attend before the Comptroller-General, a Collector or an authorized person;
- (b) to be sworn or make an affirmation; or
- (c) to answer a question or produce an account, book, document or other record,

when so required in pursuance of this Act.

Penalty: \$1,000 or imprisonment for 3 months.

(2) A person shall not—

- (a) knowingly obtain, or attempt to obtain, bounty that is not payable;
- (b) obtain, or attempt to obtain, payment of bounty by means of a statement that he knows to be false or misleading or by means of a document which to his knowledge contains information that is false or misleading; or
- (c) make to an officer or other person doing duty in relation to this Act or the regulations, including the Comptroller-General, a Collector or an authorized person when exercising his powers under section 16, a statement that is false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 3 months.

(3) Where a person is convicted of an offence against sub-section (2), the court may, in addition to imposing a penalty under that sub-section, order the person to refund to the Commonwealth the amount of any bounty wrongfully obtained by him.

(4) Where a court has made an order under sub-section (3), a certificate signed by the appropriate officer of the court specifying the amount ordered to be refunded and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of that court.

**19.** (1) The Comptroller-General shall, as soon as practicable after the end of each financial year in which bounty is payable, submit to the Minister a return setting forth— Return for Parliament

- (a) the name and address of each person to whom bounty was paid in that year;
- (b) the amount of bounty paid to each person in that year and the number and value of the bountiable machine tools in respect of which the bounty was paid;
- (c) in relation to the manufacture by each manufacturer of bountiable machine tools in respect of which bounty was paid in that year—



- (i) the ratio of the aggregate of the bountiable portions of the factory cost of the tools to the total factory cost of the tools; and
- (ii) the ratio of the Australian design cost of the tools to the total factory cost of the tools; and
- (d) such other particulars (if any) as are prescribed.

(2) The Minister shall cause a copy of the return to be tabled in each House of the Parliament within 15 sitting days of that House after the return is received by him.

**Delegation**

**20.** (1) The Minister or the Comptroller-General may, either generally or otherwise as provided in the instrument of delegation, by writing signed by him, delegate all or any of his powers under this Act, other than this power of delegation.

(2) A power so delegated when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister or the Comptroller-General, as the case may be.

(3) A delegation under this section does not prevent the exercise of a power by the Minister or the Comptroller-General, as the case may be.

**Applications for review**

**21.** Applications may be made to the Administrative Appeals Tribunal for review of—

- (a) a determination by the Comptroller-General made for the purposes of sub-section 4 (1);
- (b) a decision of the Comptroller-General made for the purposes of section 8;
- (c) an approval of the Minister given under section 9 or a refusal of the Minister to give an approval under that section;
- (d) a refusal of the Minister to register premises under section 11;
- (e) a determination by the Minister made for the purposes of sub-section 11 (6) or a refusal of the Minister to make a determination for the purposes of that sub-section;
- (f) a decision of the Minister made for the purposes of sub-section 11 (7); or
- (g) a determination by the Minister of an amount of security made for the purposes of section 13.

**Appropriation**

**22.** Bounty is payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

**Regulations**

**23.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular prescribing—

- (a) the manner in which, and the time within which, applications for bounty shall be made;

- (b) the information to be supplied by applicants in connection with applications for bounty; and
- (c) penalties not exceeding \$100 for offences against the regulations.

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**SCHEDULE**

Sub-section 3 (2)

**CLASSES OF MACHINE TOOLS***Class 1*

Power-fed machine tools of the kind known as numerically-controlled machining centres or of the kind known as computer-controlled machining centres.

*Class 2*

Automotive reconditioning machine tools other than machine tools included in Class 1.

*Class 3*

Power-fed machine tools (other than machine tools included in Class 1 or 2 or machine tools of a metal-forming or metal-shearing kind) that—

- (a) have been designed for the purpose of performing, in relation to a particular kind of work-piece, a particular operation or particular operations; and
- (b) cannot, without structural alteration, be used for any other purpose.

*Class 4*

Machine tools other than machine tools included in Class 1, 2 or 3.

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**NOTE**

1. Act No. 154, 1978; assented to 24 November 1978.