

Bounty (Rotary Cultivators) Act 1979

No. 70 of 1979

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Bounty (Rotary Cultivators) Act 1979

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An Act to provide for the payment of bounty on the production of certain prime movers of rotary cultivators, hoes and tillers.

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

1. This Act may be cited as the *Bounty (Rotary Cultivators) Act* 1979.¹ Short title
2. This Act shall be deemed to have come into operation on 5 February 1979. Commencement
3. (1) In this Act, unless the contrary intention appears— Interpretation
- “authorized person” means a person who is an authorized person for the purposes of this Act by virtue of an appointment under section 17;
- “bountiable prime mover” means a prime mover that is designed to have equipment attached to it so that the prime mover with that equipment attached is a rotary cultivator, whether or not the prime mover is also designed to have other equipment attached to it;
- “bounty” means bounty under this Act;
- “Collector” means a Collector of Customs for a State or Territory;
- “Comptroller-General” means the Comptroller-General of Customs;
- “registered premises” means premises registered by the Minister under section 14;
- “rotary attachment”, in relation to a bountiable prime mover, means equipment designed to be attached to the prime mover so that the prime mover with that equipment attached is a rotary cultivator;
- “rotary cultivator” means—
- (a) a rotary cultivator;
 - (b) a rotary hoe; or
 - (c) a rotary tiller,
- that is—
- (d) self-propelled; and
 - (e) designed to be operated by a person on foot.

(2) For the purposes of this Act, the manufacture of a bountiable prime mover or a rotary attachment for a bountiable prime mover may be taken to have been carried out by a manufacturer notwithstanding that the manufacture of the engine or of another component of the prime mover, or a component of the rotary attachment, as the case may be, was not carried out by that manufacturer.

(3) For the purposes of this Act, the manufacture of a bountiable prime mover or a rotary attachment for a bountiable prime mover may be taken to have been carried out at registered premises notwithstanding that the manufacture of the engine or of another component of the prime mover, or a component of the rotary attachment, as the case may be, was not carried out at registered premises.

(4) Where bounty becomes payable in respect of a bountiable prime mover and the sale of the prime mover referred to in paragraph 8 (3) (b) took place in a period to which this Act applies, the bounty shall, for the purposes of this Act, be deemed to have become payable in respect of that prime mover during that period.

Periods
during which
bounty
payable

4. (1) Subject to sub-section (3), the period of 12 months commencing on 5 February 1979 and ending on 4 February 1980 and each subsequent period of 12 months are periods to which this Act applies.

(2) The Minister may, by notice published in the *Gazette*, fix a date, not being a date earlier than the publication of the notice, as the date after which bounty is not to become payable under this Act.

(3) Where a date is fixed under sub-section (2)—

- (a) no period referred to in sub-section (1) commencing after that date is a period to which this Act applies; and
- (b) if the date so fixed is not 4 February in any year—any period referred to in sub-section (1) in which the date so fixed occurs is not a period to which this Act applies but the period commencing on the date of commencement of that period and ending on the date so fixed is a period to which this Act applies.

Factory cost
and
Australian
factory cost

5. (1) For the purposes of this Act—

- (a) the factory cost of a bountiable prime mover or a rotary attachment for a bountiable prime mover is such amount as is determined by the Comptroller-General to be the factory cost of the prime mover or rotary attachment, as the case may be; and
- (b) the Australian factory cost of a bountiable prime mover or a rotary attachment for a bountiable prime mover is such amount as is determined by the Comptroller-General to be the amount of the factory cost of the prime mover or the rotary attachment, as the case may be, that is attributable to materials and parts manufactured, and work performed, in Australia.

(2) In determining the factory cost of a bountiable prime mover or a rotary attachment for a bountiable prime mover, the Comptroller-General shall make allowance for factory overhead charges but shall not make any allowance for general administration, selling costs, service charges or taxation.

(3) In determining the Australian factory cost of a bountiable prime mover or a rotary attachment for a bountiable prime mover, the Comptroller-General shall make an allowance for factory overhead charges incurred in Australia but shall not make any allowance for general administration, selling costs, service charges or taxation.

6. For the purposes of this Act, the Australian percentage of a prime mover and a rotary attachment for the prime mover is the percentage that represents $(A + B)$ expressed as a percentage of $(C + D)$, where—

- A is the Australian factory cost of the prime mover;
- B is the Australian factory cost of the rotary attachment;
- C is the factory cost of the prime mover; and
- D is the factory cost of the rotary attachment.

7. 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.

8. (1) Bounty is payable in accordance with this Act on the production in Australia of bountiable prime movers.

(2) Bounty in respect of a bountiable prime mover is payable to the manufacturer of the prime mover.

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

- (a) the manufacture of the bountiable prime mover has been carried out by the manufacturer at registered premises and has been completed during a period to which this Act applies;
- (b) during that period or a later period to which this Act applies, the prime mover has been sold together with a rotary attachment, or rotary attachments, for the prime mover for use in Australia, whether or not the prime mover has also been sold together with other equipment;
- (c) the manufacture of that rotary attachment or at least one of those rotary attachments, as the case may be, has been carried out by the manufacturer at registered premises and has been completed during a period to which this Act applies; and
- (d) the Australian percentage of the prime mover and that rotary attachment, or of the prime mover and at least one of those

rotary attachments, being a rotary attachment that complies with paragraph (c), as the case may be, is not less than 60%.

Rate of
bounty

9. (1) The rate at which bounty is payable in respect of a bountiable prime mover is \$40 per kilowatt of the power output of the prime mover's engine.

(2) The reference in sub-section (1) to the power output of an engine shall be read as a reference to the intermittent rating of the engine ascertained by the test for ascertaining that rating set out in the approved standard when conducted under the conditions relating to that test specified in that standard.

(3) In sub-section (2), "approved standard" means such standard or code for rating engines adopted in the motor engine industry as is approved by the Comptroller-General for the purposes of this section.

Limit of
available
bounty

10. (1) The amount available for payment of bounty in respect of bountiable prime movers in respect of which bounty becomes payable during a period to which this Act applies is \$60,000.

(2) Where the amount available for the payment of bounty in respect of bountiable prime movers in respect of which bounty becomes payable during a period to which this Act applies is insufficient for the payment in full of all valid claims in respect of those bountiable prime movers, the bounty otherwise payable in respect of each of those claims shall be reduced to an amount that bears the same proportion to the amount of the claim as the amount so available bears to the total amount of all those claims.

(3) If the Minister is of the opinion that the amount available for the payment of bounty in respect of bountiable prime movers in respect of which bounty becomes payable during a period to which this Act applies will be insufficient for the payment in full of all valid claims in respect of those bountiable prime movers he may withhold payment of the whole or any part of the bounty otherwise payable upon such a claim until he has ascertained the total amount of all those claims.

Advances on
account of
bounty

11. (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, at the expiration of a period to which this Act applies, a person has received during that period, by way of advance on account of bounty, an amount greater than the amount of bounty that became payable to him under this Act during that period, he is liable to repay to the Commonwealth the amount of the excess, and that amount may be recovered as a debt due to the Commonwealth by action in a court of competent jurisdiction.

Good quality
essential

12. Bounty is not payable in respect of a bountiable prime mover unless the Comptroller-General is satisfied that the bountiable prime

mover and the rotary attachment, or each of the rotary attachments, for the prime mover that is sold together with the prime mover are of good and merchantable quality.

13. Where an application for bounty in respect of a bountiable prime mover 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 prime mover—approve the payment of the bounty; or
- (b) if he is not so satisfied—refuse to approve payment of the bounty.

14. (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 bountiable prime movers or rotary attachments for bountiable prime movers. Registration
of premises

(2) Where a person carries on, or proposes to carry on, the manufacture at any premises of bountiable prime movers or rotary attachments for bountiable prime movers, he may apply to the Minister for the registration of those premises for the purposes of this Act.

(3) If conditions have been prescribed under sub-section (1), the Minister shall not register the premises unless he is satisfied that those conditions have been, or will be, complied with.

(4) The Minister may require the applicant to furnish such information as the Minister considers necessary for the purposes of this Act, and may refuse to register the premises until the information is furnished to his satisfaction.

(5) Where an applicant under this section was not, on 4 February 1979, engaged in the manufacture of bountiable prime movers or rotary attachments for bountiable prime movers at the premises to which the application relates, the Minister shall refuse to register those premises unless, in the opinion of the Minister, the registration of those premises will promote the orderly development in Australia of the industry manufacturing rotary cultivators.

(6) Subject to sub-sections (3), (4) and (5), if, in the opinion of the Minister, bountiable prime movers or rotary attachments for bountiable prime movers 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.

(7) If the Minister so determines, the registration shall be deemed to have taken effect on and from a date specified by the Minister, which, in the case of the registration of premises at which the manufacture of bountiable prime movers or rotary attachments for bountiable prime movers was carried out before 5 February 1979, may be a date earlier than that date.

(8) Where the Minister is satisfied, in respect of any registered premises—

- (a) that bountiable prime movers or rotary attachments for bountiable prime movers are not being manufactured at the premises;
- (b) that the manufacture of bountiable prime movers or rotary attachments for bountiable prime movers at the premises is not being carried on by the person who applied for the registration of the premises; or
- (c) if any conditions have been prescribed under sub-section (1), that bountiable prime movers or rotary attachments for bountiable prime movers that are being manufactured at registered premises are being manufactured otherwise than in accordance with those conditions,

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, on that person, cancel the registration of the premises.

(9) 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 (8) of this section, such 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.

Accounts

15. 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 prime movers or rotary attachments for bountiable prime movers and such other information in relation to those prime movers or rotary attachments as the Minister requires.

Securities

16. The Minister may require a manufacturer of bountiable prime movers 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.

Appointment of authorized persons

17. The Minister may, by writing signed by him, appoint a person to be an authorized person for the purposes of this Act.

18. (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 bountiable prime movers in respect of which bounty has been claimed, or, in the opinion of the authorized person, is likely to be claimed or rotary attachments for such bountiable prime movers,

and may—

- (c) inspect or take stock of any bountiable prime movers or rotary attachments for bountiable prime movers;
- (d) inspect any process in the manufacture of any bountiable prime movers or rotary attachments for bountiable prime movers; and
- (e) inspect the accounts, books, documents and other records relating to the manufacture, storage, sale or use of bountiable prime movers or rotary attachments for bountiable prime movers.

(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.

19. (1) The Comptroller-General, a Collector or an authorized person may, by notice signed by him, 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 bountiable prime movers or rotary attachments for bountiable prime movers 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 bountiable prime movers or rotary attachments for bountiable prime movers as are referred to in the notice.

Power to require persons to answer questions and produce documents

(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 21 (1) (c) or 21 (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 so to do 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.

20. (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 19 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.

Offences

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

- (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, 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.

22. (1) The Comptroller-General shall, as soon as practicable after the end of each period to which this Act applies in which bounty is payable, furnish 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 period;
- (b) the amount of bounty paid to each person in that period and the number of the bountiable prime movers in respect of which the bounty was paid; and
- (c) 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.

23. (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 to a person any of his powers under this Act, other than this power of delegation. 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.

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

- (a) a determination by the Comptroller-General made for the purposes of sub-section 5 (1);
- (b) a decision of the Comptroller-General made for the purposes of section 12;
- (c) an approval of the Minister given under section 13 or a refusal of the Minister to give an approval under that section;
- (d) a refusal of the Minister to register premises under section 14, not being a refusal by virtue of sub-section 14 (5);
- (e) a determination by the Minister made for the purposes of sub-section 14 (7) 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 14 (8); or
- (g) a requirement by the Minister under section 16.

25. Bounty is payable out of the Consolidated Revenue Fund, which is appropriated accordingly. Appropriation

26. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to Regulations

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 furnished by applicants in connexion with applications for bounty; and
 - (c) penalties not exceeding \$100 for offences against the regulations.
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NOTE

1. Act No. 70, 1979; assented to 15 June 1979.