

Bounty (Penicillin) Act 1980

No. 47 of 1980

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. Periods to which Act applies
5. Uniformity
6. Specification of bounty
7. Rate of bounty
8. Limit of available bounty
9. Advances on account of bounty
10. Good quality essential
11. Approval of payment of bounty
12. Registered premises G
13. Registered premises V
14. Service of notices
15. Accounts
16. Securities
17. Appointment of authorized persons
18. Stock-taking and inspection of manufacture and accounts, & c.
19. Power to require persons to answer questions and produce documents
20. Power to examine on oath, & c.
21. Offences
22. Return for Parliament
23. Delegation
24. Applications for review
25. Appropriation
26. Regulations

Bounty (Penicillin) Act 1980

No. 47 of 1980

An Act to provide for the payment of bounty on the production of certain penicillin

[Assented to 23 May 1980]

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

Short title

1. This Act may be cited as the *Bounty (Penicillin) Act 1980*.

Commencement

2. This Act shall come into operation on a date to be fixed by Proclamation.

Interpretation

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 17;
 - “bountiable penicillin” means bountiable penicillin G or bountiable penicillin V;
 - “bountiable penicillin G” means benzylpenicillin in the form of a potassium salt;
 - “bountiable penicillin V” means phenoxymethylpenicillin in the form of an acid;
 - “bounty” means bounty under this Act;
 - “Collector” means a Collector of Customs for a State or Territory;
 - “commencing date” means the date on which this Act comes into operation;
 - “Comptroller-General” means the Comptroller-General of Customs;
 - “producer” means a person who produces bountiable penicillin;
 - “registered premises G” means premises registered by the Minister under section 12;
 - “registered premises V” means premises registered by the Minister under section 13.

(2) Where bounty becomes payable in respect of bountiable penicillin and the use, or sale for use, of the bountiable penicillin referred to in paragraph 6 (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 bountiable penicillin during that period.

Periods to which Act applies

4. (1) The period of twelve months commencing on the commencing date and each of the four next succeeding periods of twelve months are periods to which this Act applies.

(2) During the last period that, by virtue of sub-section (1), is a period to which this Act applies, the Minister may, by notice published in the *Gazette*, declare that a period of not more than twelve months commencing on the day immediately following the expiration of that period and ending on a specified date is a period to which this Act applies, and that declaration shall have effect accordingly.

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 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 penicillin.

(2) Bounty in respect of bountiable penicillin is payable to the producer of the penicillin.

(3) A producer is not entitled to receive a payment of bounty in respect of bountiable penicillin unless—

- (a) the production of the bountiable penicillin has been carried out by the producer at—
 - (i) in the case of bountiable penicillin G—registered premises G;
or
 - (ii) in the case of bountiable penicillin V—registered premises V,
and has been completed before the commencing date or during a period to which this Act applies; and
- (b) the bountiable penicillin has, during a period to which this Act applies (which, in the case of penicillin produced during such a period, may be that period or a later such period), been used by the producer, or sold (including sold after altering its form) by the producer for use, in the production in Australia of antibiotics.

Rate of bounty

7. (1) Subject to this section, the rate at which bounty is payable in respect of bountiable penicillin is—

- (a) in the case of bountiable penicillin G—\$29.00 per kilogram of the weight of the penicillin; and
- (b) in the case of bountiable penicillin V—\$38.00 per kilogram of the weight of the penicillin.

(2) The regulations may prescribe a factor for the purposes of this subsection, and, where a factor is so prescribed, then, for the purpose of calculating the bounty payable in respect of bountiable penicillin G produced at a time when the regulations prescribing that factor are in force, the amount specified in paragraph (1) (a) shall be multiplied by that factor.

(3) The regulations may prescribe a factor for the purposes of this subsection, and, where a factor is so prescribed, then, for the purpose of calculating the bounty payable in respect of bountiable penicillin V produced at a time when the regulations prescribing that factor are in force, the amount specified in paragraph (1) (b) shall be multiplied by that factor.

Limit of available bounty

8. (1) Subject to sub-sections (3) and (4), the amounts available for payment of bounty in respect of bountiable penicillin in respect of which bounty becomes payable during a period to which this Act applies, other than a period of less than twelve months, are—

- (a) in the case of penicillin G—\$250,000; and
- (b) in the case of penicillin V—\$650,000.

(2) Subject to sub-sections (3) and (4), the amounts available for payment of bounty in respect of bountiable penicillin in respect of which bounty becomes payable during a period to which this Act applies that is less than twelve months are—

- (a) in the case of penicillin G—an amount that bears to \$250,000 the same proportion as that period expressed in days bears to 365 days; or
- (b) in the case of penicillin V—an amount that bears to \$650,000 the same proportion as that period expressed in days bears to 365 days.

(3) The regulations may prescribe a factor for the purposes of this subsection in respect of a period to which this Act applies, and, where a factor is so prescribed, then, for the purpose of ascertaining the amount available for payment of bounty in respect of bountiable penicillin G in respect of which bounty becomes payable during that period, the amount specified in paragraph (1) (a) or (2) (a), as the case may be, shall be multiplied by that factor.

(4) The regulations may prescribe a factor for the purposes of this subsection in respect of a period to which this Act applies, and, where a factor is so prescribed, then, for the purpose of ascertaining the amount available for payment of bounty in respect of bountiable penicillin V in respect of which bounty

becomes payable during that period, the amount specified in paragraph (1) (b) or (2) (b), as the case may be, shall be multiplied by that factor.

(5) Where the amount available for payment of bounty in respect of bountiable penicillin G 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 that bountiable penicillin G, 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.

(6) Where the amount available for payment of bounty in respect of bountiable penicillin V 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 that bountiable penicillin V, 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.

(7) If the Minister is of the opinion that the amount available for the payment of bounty in respect of bountiable penicillin G or bountiable penicillin V 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 that bountiable penicillin G or bountiable penicillin V, as the case may be, 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

9. (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

10. Bounty is not payable in respect of bountiable penicillin unless the Comptroller-General is satisfied that the bountiable penicillin is of good and merchantable quality.

Approval of payment of bounty

11. Where an application for bounty in respect of bountiable penicillin is lodged in accordance with the regulations, the Minister shall—

- (a) if he is satisfied that bounty is payable in respect of that penicillin—
approve the payment of the bounty; or

(b) if he is not so satisfied—refuse to approve payment of the bounty.

Registered premises G

12. (1) The regulations may prescribe conditions to be complied with, for the purposes of this Act, in connection with the production at registered premises G of bountiable penicillin G.

(2) Where a person carries on, or proposes to carry on, the production at any premises of bountiable penicillin G, he may apply to the Minister for the registration of those premises as registered premises G.

(3) If conditions have been prescribed under sub-section (1), the Minister shall not register the premises under this section 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 under this section until the information is furnished to his satisfaction.

(5) Where an applicant under this section was not, on 1 January 1978, engaged in the production of bountiable penicillin G at the premises to which the application relates, the Minister shall refuse to register those premises under this section unless, in the opinion of the Minister, the registration of those premises will promote the orderly development in Australia of the production of penicillin G.

(6) Subject to sub-sections (3), (4) and (5), if, in the opinion of the Minister, bountiable penicillin G is, or is proposed to be, produced at the premises in respect of which the application is made, he shall register those premises as registered premises G.

(7) If the Minister so determines, the registration under this section 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 production of bountiable penicillin G was carried out before the commencing date, may be a date earlier than that date.

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

- (a) that bountiable penicillin G is not being produced at those premises;
- (b) that the production of bountiable penicillin G is not being carried on by the person who applied for the registration of the premises under this section; or
- (c) if any conditions have been prescribed in sub-section (1), that bountiable penicillin G that is being produced at those premises is being produced otherwise than in accordance with those conditions,

the Minister may, by notice in writing served either personally or by post on the occupier of those premises, and if the occupier is not the person who applied for

the registration of the premises as registered premises G, on that person, cancel the registration of the premises under this section.

Registered premises V

13. (1) The regulations may prescribe conditions to be complied with, for the purposes of this Act, in connection with the production at registered premises V of bountiable penicillin V.

(2) Where a person carries on, or proposes to carry on, the production at any premises of bountiable penicillin V, he may apply to the Minister for the registration of those premises as registered premises V.

(3) If conditions have been prescribed under sub-section (1), the Minister shall not register the premises under this section 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 under this section until the information is furnished to his satisfaction.

(5) Where an applicant under this section was not, on 13 October 1979, engaged in the production of bountiable penicillin V at the premises to which the application relates, the Minister shall refuse to register those premises under this section unless, in the opinion of the Minister, the registration of those premises will promote the orderly development in Australia of the production of penicillin V.

(6) Subject to sub-sections (3), (4) and (5), if, in the opinion of the Minister, bountiable penicillin V is, or is proposed to be, produced at the premises in respect of which the application is made, he shall register those premises as registered premises V.

(7) If the Minister so determines the registration under this section 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 production of bountiable penicillin V was carried out before the commencing date, may be a date earlier than that date.

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

- (a)** that bountiable penicillin V is not being produced at those premises;
- (b)** that the production of bountiable penicillin V is not being carried on by the person who applied for the registration of premises under this section; or
- (c)** if any conditions have been prescribed in sub-section (1), that bountiable penicillin V that is being produced at those premises is being produced otherwise than in accordance with those conditions,

the Minister may, by notice in writing served either personally or by post on the occupier of those premises, and if the occupier is not the person who applied for

the registration of the premises as registered premises V, on that person, cancel the registration of the premises under this section.

Service of notices

14. 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 12 (8) or 13 (8), such a notice posted as a letter addressed to the occupier, or to the person who applied for the registration of the premises under section 12 or 13, as the case may be, at the 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 production (including the cost of production) and sale of bountiable penicillin in respect of which he claims bounty and such other information in relation to that bountiable penicillin as the Minister requires.

Securities

16. The Minister may require a producer of bountiable penicillin 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 producer 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.

Stock-taking and inspection of manufacture and accounts, &c.

18. (1) For the purposes of this Act, an authorized person may, at all reasonable times, enter—

- (a) registered premises G or registered premises V; or
- (b) premises where there is stored bountiable penicillin 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 bountiable penicillin;
- (d) inspect any process in the production of bountiable penicillin; and
- (e) inspect the accounts, books, documents and other records relating to the production, storage, sale or use of bountiable penicillin.

(2) The occupier or person in charge of registered premises G or registered premises V, 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: \$500.

Power to require persons to answer questions and produce documents

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 production (including the cost of production), storage, sale or use of bountiable penicillin 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 production (including the cost of production), storage, sale or use of bountiable penicillin 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 21 (1) (c) or 21 (2) (c).

(4) Where a producer, or a person employed by a producer, 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 producer, unless the Minister otherwise directs, until the producer 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 subsection (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.

(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: \$2,000 or imprisonment for six 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.

Return for Parliament

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—

- (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 amount of bountiable penicillin 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 laid before each House of the Parliament within 15 sitting days of that House after the return is received by him.

Delegation

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.

(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

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

- (a) a decision of the Comptroller-General made for the purposes of section 10;
- (b) an approval of the Minister given under section 11 or a refusal of the Minister to give an approval under that section;
- (c) a refusal of the Minister to register premises under section 12, not being a refusal by virtue of sub-section 12 (5);
- (d) a determination by the Minister made for the purposes of sub-section 12 (7) or a refusal of the Minister to make a determination for the purposes of that sub-section;
- (e) a decision of the Minister made for the purposes of sub-section 12 (8);
- (f) a refusal of the Minister to register premises under section 13, not being a refusal by virtue of sub-section 13 (5);
- (g) a determination by the Minister made for the purposes of sub-section 13 (7) or a refusal of the Minister to make a determination for the purposes of that sub-section;
- (h) a decision of the Minister made for the purposes of sub-section 13 (8);
or
- (j) a requirement by the Minister under section 16.

Appropriation

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

Regulations

26. 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 furnished by applicants in connection with applications for bounty; and
- (c) penalties not exceeding \$200 for offences against the regulations.