

Bounty (Ships) Act 1980

No. 48 of 1980

An Act to provide for the payment of bounty on the production of certain ships and other vessels

[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 (Ships) Act 1980*.

Commencement

2. This Act shall come into operation on 1 July 1980.

Interpretation

3. (1) In this Act, unless the contrary intention appears—

“Australian waters” includes inland waters of Australia;

“authorized person” means a person who is an authorized person for the purposes of this Act by virtue of an appointment under section 13;

“bountiable vessel” means a vessel designed for use in navigation, other than air navigation, and includes—

- (a) a barge, lighter or like vessel;
- (b) a floating structure designed for use in the exploration of, or the exploitation of the natural resources of, any submerged lands;
- (c) a dredger; and
- (d) a floating dock,

but does not include—

- (e) a hovercraft;
- (f) a vessel of 150 gross construction tons or less, other than a fishing vessel; and
- (g) a fishing vessel the length of which on the designed load water line is 21 metres or less;

“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;
- “fishing operations” include any operations relating to fish or other animals, including marine organisms, that live in the sea or other waters;
- “fishing vessel” means a vessel designed for commercial fishing operations;
- “modification”, in relation to a vessel, means changing the structure or specification of the vessel to alter its capacity or capability, but does not include any changing of that structure or specification before the construction of the vessel has been completed;
- “period to which this Act applies” means the period that commenced on 1 July 1980 and ends on such date as is fixed by the Minister, by notice published in the *Gazette*, 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;
- “premises” includes an area of waters;
- “registered yards” means premises registered by the Minister under section 10;
- “shipbuilder” means a person who carries out the construction or modification of bountiable vessels.

(2) For the purposes of this Act—

- (a) the construction of a bountiable vessel shall be taken to have commenced on the day on which a major unit from which the vessel is constructed was set up at registered yards;
- (b) the construction or modification of a bountiable vessel shall be taken to have been completed on such date as the Comptroller-General, having regard to the practices of the shipbuilding industry, determines to be the date on which that construction or modification was completed;
- (c) the number of tons in the gross construction tonnage of a vessel shall be ascertained in accordance with the formula $\frac{Z}{2.83}$, where Z is a number equal to the number of cubic metres in the total volume, measured in relation to their moulded lines, of the enclosed spaces in the vessel, including tween-deck spaces, water ballast spaces, voids, cofferdams, machinery spaces, erections, superstructures, houses, casings and funnel and mast spaces;
- (d) where a part of the construction or modification of a vessel is carried out on behalf of a shipbuilder at the premises of another person—that part of that construction or modification shall be deemed to have been carried out by the shipbuilder at registered yards; and
- (e) the modification of a vessel that, before the modification, was not, but, after and by reason of the modification, was, a bountiable vessel shall be taken to be the modification of a bountiable vessel.

Costs of construction or modification

4. (1) For the purposes of this Act, the cost of the construction or modification of a bountiable vessel shall be deemed to be the amount that the Comptroller-General determines, in accordance with sub-section (2), is, in his opinion, the cost of that construction or modification.

(2) In determining the cost of the construction or modification of a bountiable vessel for the purposes of sub-section (1), the Comptroller-General—

- (a)** may have regard to the cost of construction or modification work in shipyards in Australia or overseas that is comparable to the work comprised in that construction or modification;
- (b)** may disregard, in whole or in part, any costs or expenses relating to the construction or modification of the vessel having regard to the nature or extent of the work or other matters to which those costs or expenses relate; and
- (c)** without limiting the generality of paragraph (b), shall make an allowance for yard overhead charges, design costs, interest charges and general administration expenses relating to the construction or modification of the vessel.

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, that is to say, the construction or modification, in Australia of bountiable vessels.

(2) Bounty in respect of a bountiable vessel is payable to the shipbuilder of the vessel.

(3) A shipbuilder is not entitled to receive a payment of bounty in respect of the construction or modification of a bountiable vessel unless—

- (a)** the construction or modification has been commenced during the period to which this Act applies and has been carried out by the shipbuilder at registered yards; and
- (b)** the owner of the vessel at the time the construction or modification is completed intends to use the vessel, or to sell the vessel for use, in operations in Australian waters, in commercial fishing operations based on a port in Australia or, as a vessel registered in Australia, in any other operations.

(4) Bounty is not payable in respect of the modification of a vessel unless the cost of that modification exceeds \$400,000.

(5) Bounty is not payable in respect of the construction or modification of a bountiable vessel if bounty under the *Ship Construction Bounty Act 1975* is payable in respect of that construction or modification.

Rate of bounty

7. (1) The bounty in respect of the construction of a bountiable vessel is an amount equal to—

- (a) where construction is commenced during the period of 6 months commencing on 1 July 1980 and the vessel is of more than 1,000 gross construction tons—29½% of the cost of that construction;
- (b) where construction is commenced during that period of 6 months and the vessel is not more than 1,000 gross construction tons—27½% of the cost of that construction;
- (c) where construction is commenced during the period commencing on 1 January 1981 and ending on 30 June 1984—27½% of the cost of that construction;
- (d) where construction is commenced during the period of 12 months commencing 1 July 1984—25% of the cost of that construction;
- (e) where the construction is commenced during the period of 12 months commencing on 1 July 1985—22½% of the cost of that construction; and
- (f) where construction is commenced after 30 June 1986—20% of the cost of that construction.

(2) The bounty in respect of the modification of a bountiable vessel is an amount equal to 20% of the cost of that modification.

Advances on account of bounty

8. (1) An advance on account of bounty may be made to a person on such terms and conditions, including terms and conditions relating to the insurance of the vessel, as are approved by the Minister.

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

(3) If a person receives an amount by way of advances on account of bounty and the bounty does not become payable, he is liable to repay to the Commonwealth the amount so received and the Commonwealth may recover that amount as a debt due to the Commonwealth by action in a court of competent jurisdiction.

Approval of payment of bounty

9. Where an application for bounty in respect of the construction or modification of a bountiable vessel is lodged in accordance with the regulations, the Minister shall—

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

Registration of premises

10. (1) The regulations may prescribe conditions to be complied with, for the purposes of this Act, in connection with the construction or modification at registered yards of bountiable vessels.

(2) Where a person carries on, or proposes to carry on, the construction or modification at any premises of bountiable vessels, 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) Subject to sub-sections (3) and (4), if, in the opinion of the Minister, bountiable vessels are, or are proposed to be, constructed or modified at the premises in respect of which the application is made, he shall register those premises for the purposes of this Act.

(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 1 July 1980, as is specified by the Minister.

- (7) Where the Minister is satisfied, in respect of any registered yards—
- (a) that bountiable vessels are not being constructed or modified at the yards;
 - (b) that the construction or modification of bountiable vessels at the yards is not being carried on by the person who applied for the registration of the yards; or
 - (c) if any conditions have been prescribed under sub-section (1), that bountiable vessels being constructed or modified at the yards are being constructed or modified 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 yards, and, if the occupier is not the person who applied for the registration of the yards, on that person, cancel the registration of the yards.

(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) 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 yards, at the registered yards shall be deemed to be properly addressed.

Accounts

11. 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 construction and modification of bountiable vessels and such other information in relation to those bountiable vessels as the Minister requires.

Securities

12. The Minister may require a shipbuilder 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 shipbuilder is not entitled to bounty unless he gives security accordingly.

Appointment of authorized persons

13. 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 production and accounts, &c.

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

- (a) registered yards; or
- (b) premises where there are bountiable vessels 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 any bountiable vessel;
- (d) inspect any process in the construction or modification of any bountiable vessel; and
- (e) inspect the accounts, books, documents and other records relating to the construction or modification of any bountiable vessel.

(2) The occupier or person in charge of registered yards, 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

15. (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 construction or modification of a bountiable vessel 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 construction or modification of a bountiable vessel 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 17 (1) (c) or 17 (2) (c).

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

16. (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 15 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

17. (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 6 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

18. (1) The Comptroller-General shall, as soon as practicable after the end of each financial year 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 year;
- (b) the amount of bounty paid to each person in that year and the number and kinds of bountiable vessels 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

19. (1) The Minister of 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

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

- (a) a determination by the Comptroller-General made for the purposes of paragraph 3 (2) (b);
- (b) a determination by the Comptroller-General made for the purposes of sub-section 4 (1) or a refusal of the Comptroller-General to make a determination for the purposes of that sub-section;
- (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 10;
- (e) a determination by the Minister made for the purposes of sub-section 10 (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 10 (7);
or
- (g) a requirement by the Minister under section 12.

Appropriation

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

Regulations

22. 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 applicants for bounty; and
- (c) penalties not exceeding \$200 for offences against the regulations.