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**Bounty (Two-Stroke Engines) Act 1984**

**No. 66 of 1984**

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**Bounty (Two-Stroke Engines) Act 1984**

**No. 66 of 1984**

**An Act to provide for the payment of bounty on the production of certain two-stroke engines**

[*Assented to 25 June 1984*]

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* (*Two-Stroke Engines*) *Act 1984.*

**Commencement**

**2.** This Act shall be deemed to have come into operation on 12 January 1984.

**Interpretation**

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

“approved form” means a form approved by the Comptroller-General in writing;

“authorized officer” means a person who is an authorized officer for the purposes of this Act by virtue of an appointment under section 14;

“bountiable engine” means a two-stroke internal combustion piston engine that—

(a) is designed—

(i) to use a mixture of petrol and oil as its fuel;

(ii) to use a spark plug for its ignition; and

(iii) to be air-cooled; and

(b) has a maximum power output at the crankshaft that does not exceed 4.5 kilowatts;

“bounty” means bounty under this Act;

“bounty period” means the period commencing on 12 January 1984 and ending on 11 January 1986;

“Collector” has the same meaning as it has in the *Customs Act 1901;*

“Comptroller-General” means the Comptroller-General of Customs;

“manufacturer”, in relation to a bountiable engine, means the person who completed the manufacture of the engine, whether or not he manufactured all the components of the engine;

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

**(2)** For the purposes of this Act, the manufacture of a bountiable engine shall be taken to be completed when it has been assembled as a working unit to the stage where it includes—

(a) a starter assembly;

(b) a muffler;

(c) an air filter assembly;

(d) a throttle assembly; and

(e) a snorkel assembly,

but does not include—

(f) a dress cowl and fuel tank assembly; or

(g) a mounting plate.

**(3)** For the purposes of this Act, where a person manufactures a lawn mower or other machine, a component of which is a bountiable engine, that person shall be taken to have used that engine.

**Factory cost and Australian factory cost**

**4. (1**) For the purposes of this Act—

(a) the factory cost of a bountiable engine is such amount as is determined by the Comptroller-General to be the factory cost of the bountiable engine; and

(b) the Australian factory cost of a bountiable engine is the factory cost of the engine less such amount as is determined by the Comptroller-General to be the value known as the into-store value of imported parts and materials supplied to the manufacturer and used by him in the manufacture of the bountiable engine.

**(2)** In determining the factory cost of a bountiable engine the Comptroller-General shall make allowance for factory overhead costs (including factory administration costs and research and development expenditure) but shall not make any allowance for general administration, selling or service costs or taxation.

**(3)** A determination under this section shall be made in writing.

**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 51 (iii) of the Constitution.

**Specification of bounty**

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

**(2)** Bounty in respect of a bountiable engine is payable to the manufacturer of the bountiable engine.

**(3)** A manufacturer of a bountiable engine is not entitled to receive a payment of bounty in respect of the bountiable engine unless the Comptroller-General is satisfied that—

(a) the manufacture of the bountiable engine was completed—

(i) by the manufacturer at registered premises; and

(ii) during the bounty period;

(b) the Australian factory cost of the bountiable engine is not less than 55% of the factory cost of the engine;

(c) during the bounty period, the bountiable engine was—

(i) used by the manufacturer in Australia; or

(ii) sold, or otherwise disposed of, by the manufacturer for use by another person in Australia; and

(d) the bountiable engine is of good and merchantable quality.

**(4)** For the purposes of this Act, where bounty is payable in respect of a bountiable engine, it shall be deemed to have become payable when the manufacture of the bountiable engine was completed.

**(5)** Where—

(a) by virtue of sub-section 11 (4), the Minister determines that the registration of premises shall take effect on and from 12 January 1984; and

(b) the person who applied for the registration of the premises—

(i) was, on 12 January 1984, the owner of a bountiable engine; and

(ii) had completed the manufacture of the engine at those premises before 12 January 1984.

that engine shall, for the purposes of this Act, be deemed to be an engine the manufacture of which was completed by that person at the registered premises on 12 January 1984.

**Amount of bounty**

**7.** The bounty payable in respect of a bountiable engine is $6.

**Limit of available bounty**

**8.** **(1)** Each of the following periods is, for the purposes of this section, a relevant period:

(a) the period commencing on 12 January 1984 and ending on 11 January 1985;

(b) the period commencing on 12 January 1985 and ending on 11 January 1986.

**(2)** The amount available for payment of bounty in respect of bountiable engines in respect of which bounty becomes payable during a relevant period is $1,200,000.

**(3)** Where the amount available for payment of bounty in respect of bountiable engines in respect of which bounty becomes payable during a relevant period is insufficient for the payment in full of all valid claims in respect of those bountiable engines, 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.

**(4)** If the Comptroller-General is of the opinion that the amount available for payment of bounty in respect of bountiable engines in respect of which bounty becomes payable during a relevant period will be insufficient for the payment in full of all valid claims in respect of those bountiable engines, 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 in writing.

**(2)** If, at the expiration of a year, a person has received, by way of advances on account of bounty that may become payable to him during that year, an amount greater than the amount of bounty that became payable to him during that year, he is liable to repay to the Commonwealth the amount of the excess.

**(3)** If a person receives, by way of advances on account of bounty in respect of a particular bountiable engine, an amount greater than the amount of bounty payable to him in respect of that bountiable engine, he is liable to repay to the Commonwealth the amount of the excess.

**(4)** If a person receives an amount by way of advances on account of bounty that may become payable to him and the bounty does not become

payable to him, he is liable to repay to the Commonwealth the amount so received.

**(5)** Where a person is liable to repay an amount to the Commonwealth under this section, the Commonwealth may recover that amount as a debt due to the Commonwealth by action in a court of competent jurisdiction.

**(6)** Where a person is liable to repay an amount to the Commonwealth under this section, that amount may be deducted from any other amount that is payable to the person under this Act and, where the first-mentioned amount is so deducted, the other amount shall, notwithstanding the deduction, be deemed to have been paid in full to the person.

**Claims for payment of bounty**

**10.** **(1)** A person who claims to be entitled to be paid an amount of bounty in respect of bountiable engines may lodge a claim for payment of the amount to that person.

**(2)** The claim shall—

(a) be in accordance with the appropriate approved form;

(b) include such information as is required by the form;

(c) be signed and witnessed as required by the form; and

(d) be lodged with the Comptroller-General within 12 months after the manufacture of the bountiable engines was completed.

**(3)** As soon as practicable after the lodgement of the claim, the Comptroller-General shall, after examining the claim and causing such inquiries as he considers necessary to be made (including inquiries under sections 15 and 16)—

(a) if he is satisfied that the claim complies with sub-section (2) and that the claimant is otherwise entitled to be paid an amount of bounty in respect of bountiable engines to which the claim relates—approve, in writing, payment of the amount; or

(b) if he is not so satisfied—refuse, in writing, to approve payment of bounty in respect of the engines to which the claim relates.

**(4)** Where the Comptroller-General makes a decision under sub-section (3) approving, or refusing to approve, payment of bounty, he shall cause to be served on the person who lodged the claim, either personally or by post, a notice in writing setting out the decision.

**Registration of premises**

**11.** **(1)** Subject to this section, premises may be registered under this section for the purposes of this Act.

**(2)** An application for the registration of premises under this section may be made to the Minister, in writing, by a person who carries on, or proposes to carry on, the manufacture of bountiable engines at those premises.

**(3)** Subject to sub-sections (6), (7) and (8), where an application for the registration of premises is made under sub-section (2) by a person who, in the opinion of the Minister, carries on, or proposes to carry on, the manufacture of bountiable engines at those premises, the Minister shall—

(a) register those premises in the name of the applicant by causing a notice, in writing, stating that the premises have been so registered to be served, either personally or by post, on the applicant; or

(b) refuse to register those premises and cause a notice, in writing, stating that he has refused to register those premises to be served, either personally or by post, on the applicant.

**(4)** The registration of premises under this section has effect from the date on which the notice under paragraph (3) (a), in relation to the premises, is given, or such earlier date, not being a date earlier than 12 January 1984, as is determined by the Minister and specified in that notice.

**(5)** The regulations may prescribe conditions to be complied with in connection with the manufacture of bountiable engines at registered premises.

**(6)** If conditions have been prescribed under sub-section (5), the Minister shall not register premises under this section unless he is satisfied that the conditions have been, or will be, complied with in respect of those premises.

**(7)** The Minister may require an applicant for the registration of premises under this section 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.

**(8)** Where an applicant for the registration of premises under this section was not, on 12 January 1984, engaged in the manufacture of bountiable engines at those premises, the Minister shall refuse to register those premises unless, in the opinion of the Minister, the registration of those premises will permit the orderly development in Australia of the industry manufacturing bountiable engines.

**(9)** Where—

(a) premises are registered under this section; and

(b) the person in whose name the premises are so registered and a person who carries on, or proposes to carry on, the manufacture of bountiable engines at those premises (in this sub-section referred to as the “transferee”) make a joint application in writing to the Minister for the transfer of the registration of the premises to the name of the transferee,

the Minister shall transfer the registration of those premises to the name of the tranferee by causing a notice, in writing, stating that the registration has been so transferred to be served, either personally or by post, on the transferee.

**(10)** A transfer under sub-section (9) has effect from such date as is specified in the notice under that sub-section in relation to the transfer, being a

date after the commencement of the bounty period and not earlier than 6 months before the date on which the application for the transfer was made.

**(11)** Where the Minister becomes satisfied, in respect of premises registered under this section—

(a) that bountiable engines are not being manufactured at those premises;

(b) that the manufacture of bountiable engines at those premises is being carried on by a person other than—

(i) the person in whose name the premises are registered; or

(ii) a person who has made an application under paragraph (9) (b) in relation to the premises; or

(c) if any conditions have been prescribed under sub-section (5), that bountiable engines are being manufactured at those premises otherwise than in accordance with those conditions,

the Minister may cancel the registration of those premises by causing a notice, in writing, stating that he has cancelled the registration of those premises to be served, either personally or by post, on—

(d) the occupier of those premises; and

(e) if the occupier is not the person in whose name those premises are registered, on the person in whose name the premises are registered.

**(12)** For the purposes of the application of section 29 of the *Acts Interpretation Act 1901* to the service on a person by post of a notice under this section in relation to premises, such a notice posted as a letter addressed to that person at the premises shall be deemed to be properly addressed.

**Accounts**

**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 or use of bountiable engines manufactured by him and such other information in relation to those bountiable engines as the Minister, by notice in writing served, either personally or by post, on the person, requires.

**Securities**

**13.** The Minister may, by notice in writing served, either personally or by post, on a person to whom bounty could become payable, require the person 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 the person with the provisions of this Act and the regulations, or for the purpose of an undertaking given by the person for the purposes of this Act or the regulations, and, where a person is so required to give security, the person is not entitled to bounty, or an advance on account of bounty, unless the person gives security in accordance with the requirement.

**Appointment of authorized officers**

**14.** **(1)** The Minister may, by writing signed by him, appoint—

(a) a specified officer;

(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 authorized officer, or authorized officers, for the purposes of this Act.

**(2)** In sub-section (1), “officer” means an officer of the Department.

**Stock-taking and inspection of production and accounts, &c.**

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

(a) registered premises;

(b) premises where there is stored a bountiable engine in respect of which bounty has been claimed, or, in the opinion of the authorized officer, is likely to be claimed; or

(c) premises where there are kept any accounts, books, documents or other records relating to the manufacture, storage, sale or other disposal or use, of a bountiable engine,

and may—

(d) inspect any bountiable engine or take stock of any bountiable engines;

(e) inspect any process in the manufacture of any bountiable engine; and

(f) inspect the accounts, books, documents and other records relating to the manufacture (including the cost of manufacture), sale or other disposal, or use, of a bountiable engine,

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

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

Penalty: $1,000.

**Power to require persons to answer questions and produce documents**

**16.** **(1)** Subject to sub-section (2), a Collector or an authorized officer 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), sale or other disposal, or use, of bountiable engines 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), sale or other disposal, or use, of bountiable engines as are referred to in the notice.

**(2)** A notice under sub-section (1) requiring a person to produce an account, book, document or record shall set out the effect of sub-section (3).

**(3)** A person who, in pursuance of a notice under sub-section (1), produces an account, book, document or record kept, made or prepared by another person that, to the knowledge of the first-mentioned person, is false or misleading in a material particular shall, upon so producing the account, book, document or record, give to the person to whom the first-mentioned person is required to produce the account, book, document or record, a statement in writing signed by the first-mentioned person or, in the case of a body corporate, by a competent officer of the body corporate—

(a) stating that the account, book, document or record is, to the knowledge of the first-mentioned person, false or misleading in a material particular; and

(b) setting out, or referring to, the material particular in respect of which the account, book, document or record is, to the knowledge of the first-mentioned person, false or misleading.

Penalty: $1,000 or imprisonment for 6 months, or both.

**(4)** A Collector or an authorized officer may make and retain copies of, or take and retain extracts from, any accounts, books, documents or other records produced in pursuance of this section.

**(5)** 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, or the production by him of any such account, book, document or other record, is not admissible in evidence against him in criminal proceedings other than proceedings under, or arising out of or by virtue of, sub-section (3) or paragraph 18 (3) (a).

**(6)** Where a manufacturer of bountiable engines, or a person employed by a manufacturer of bountiable engines, 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 in writing, until the manufacturer or that person, as the case may be, 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)** A Collector or an authorized officer 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 the 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 of him will be true.

**Offences**

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

(a) to attend before a Collector or an authorized officer;

(b) to take an oath 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 knowingly obtain or attempt to obtain bounty that is not payable.

Penalty: $2,000 or imprisonment for 12 months, or both.

**(3)** A person shall not—

(a) make to an authorized officer or other person exercising a power or performing a function or duty in relation to this Act a statement, either orally or in writing, that is to his knowledge false or misleading in a material particular; or

(b) present (otherwise than in pursuance of sub-section 16 (1)) to an authorized officer or other person exercising a power or performing a function or duty in relation to this Act an account, book, document or other record that is to his knowledge false or misleading in a material particular.

Penalty: $1,000 or imprisonment for 6 months, or both.

**(4)** Where a person is convicted of an offence against sub-section (2) or (3), 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.

**(5)** Where a court has made an order under sub-section (4), 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 refundable may be filed in a court having civil jurisdiction to the extent of the amount and is thereupon enforceable in all respects as a final judgment of that court.

**(6)** In this section, “bounty” includes an advance on account of bounty under section 9.

**Return for Parliament**

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

(a) the name and address of each person to whom bounty was paid in that financial year;

(b) the amount of bounty paid to each person in that financial year; 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.

**(3)** In this section, “bounty” includes an advance on account of bounty under section 9.

**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 to a person 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.

**Application for review**

**21.** **(1)** 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 under paragraph 10 (3) (a) approving payment of bounty;

(c) a decision of the Comptroller-General under paragraph 10 (3) (b) refusing to approve payment of bounty;

(d) a decision of the Minister under paragraph 11 (3) (b) refusing to register premises, not being a refusal by virtue of sub-section 11 (8);

(e) a requirement by the Minister under sub-section 11 (7);

(f) a decision by the Minister under sub-section 11 (9) transferring the registration of premises;

(g) a decision of the Minister under sub-section 11 (11) cancelling the registration of premises; or

(h) a requirement by the Minister under section 13.

**(2)** In sub-section (1), “decision” has the same meaning as in the *Administrative Appeals Tribunal Act 1975.*

**Statement to accompany notice of decisions**

**22.** **(1)** Where the Minister, or the Comptroller-General makes a determination, decision or requirement of a kind referred to in sub-section 21 (1) and gives to the person or persons whose interests are affected by the determination, decision or requirement notice in writing of the making of the determination, decision or requirement, that notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975,*

application may be made to the Administrative Appeals Tribunal for review of the determination, decision or requirement to which the notice relates by or on behalf of the person or persons whose interests are affected by the determination, decision or requirement.

**(2)** Any failure to comply with the requirements of sub-section (1) in relation to a determination, decision or requirement does not affect the validity of the determination, decision or requirement.

**Appropriation**

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

**Transitional**

**24.** Sections 15, 16 and 18 do not operate so as to render unlawful anything done, or omitted to be done, before the day on which this Act receives the Royal Assent.

**Regulations**

**25.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters—

(a) permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.