



Bounty Legislation Amendment Act 1995

No. 160 of 1995

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Bounty Legislation Amendment Act 1995

No. 160 of 1995

**An Act to amend the *Bounty (Fuel Ethanol) Act 1994*, the
Bounty (Computers) Act 1984 and the *Bounty (Machine
Tools and Robots) Act 1985*, and for related purposes**

[Assented to 16 December 1995]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

- 1.** This Act may be cited as the *Bounty Legislation Amendment Act 1995*.

Bounty Legislation Amendment No. 160, 1995

Commencement

2.(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Schedule 1 is taken to have commenced on 1 July 1994.

PART 2—AMENDMENTS OF BOUNTY ACTS

Amendments

3. The Acts specified in the Schedules to this Act are amended as set out in the applicable items in the Schedules, and the other items in the Schedules have effect according to their terms.

**PART 3—VALIDATION OF CERTAIN ACTS AND THINGS
UNDER BOUNTY ACTS**

Definitions

4. In this Part:

bounty declaration means:

- (a) a declaration, or a revocation or amendment of a declaration, made or purportedly made under section 5 of the *Bounty (Computers) Act 1984* before the day on which this Act receives the Royal Assent; or
- (b) a declaration, or a revocation or amendment of a declaration, made or purportedly made under section 6, 7 or 8 of the *Bounty (Machine Tools and Robots) Act 1985* before the day on which this Act receives the Royal Assent.

rely on includes take account of.

Validation of bounty declarations

5.(1) A bounty declaration is taken:

- (a) to have been a valid declaration:
 - (i) from the time it was published in the *Gazette*; or
 - (ii) if it took effect, or purported to take effect, at a time before it was published in the *Gazette*—from that time; and
- (b) subject to revocation or amendment by a later declaration, to have continued to be a valid declaration until the start of the day on which this Act received the Royal Assent.

(2) For the purposes of paragraph (1)(b), a later declaration includes a bounty declaration that also depends on subsection (1) for its validity.

(3) At the start of the day on which this Act receives the Royal Assent, all bounty declarations not previously revoked by another bounty declaration are taken to be revoked.

(4) Section 50 of the *Acts Interpretation Act 1901* applies in relation to bounty declarations described in subsection (3) as if:

- (a) the bounty declarations were regulations; and
- (b) this Act had repealed the bounty declarations at the start of the day on which this Act received the Royal Assent.

(5) This section does not validate any bounty declaration that was disallowed by either House of the Parliament.

Validity of acts relying on bounty declarations

6.(1) A decision of the Comptroller-General of Customs, the Chief Executive Officer of Customs or the Minister made or purportedly made at any time (including a time after this Act receives the Royal Assent) relying on a bounty declaration is taken to have been, and to continue to be, a valid decision to the extent that it was or is made in reliance on the declaration.

(2) Any act or thing done at any time (including a time after this Act receives the Royal Assent) by any person or body relying, or purportedly relying, on a bounty declaration or a decision referred to in subsection (1) is taken to have been validly done, to the extent that it relied or relies on the bounty declaration or decision.

Taking account of payments made before this Act received Royal Assent

7.(1) This section applies if, before the day on which this Act received the Royal Assent, a person received an amount that:

- (a) purported to be an amount of bounty; and
- (b) was paid to the person in reliance on a bounty declaration.

(2) If the amount did not exceed any entitlement to bounty that the person had immediately before receiving the amount, the entitlement is taken to have been reduced by the amount.

(3) If the amount exceeded any entitlement to bounty that the person had immediately before receiving the amount, the amount must be taken into account as a payment to the person in calculations for the purposes of any of the following provisions dealing with overpayments that apply in relation to the person:

- (a) subsection 15(4), paragraph 17(3)(b) and section 18 of the *Bounty (Computers) Act 1984*;
- (b) subsection 23(4), paragraph 25(3)(b) and section 26 of the *Bounty (Machine Tools and Robots) Act 1985*.

(4) Any right of the Commonwealth to recover the amount is extinguished, except to the extent that:

- (a) the Commonwealth is entitled to recover the amount under a provision listed in subsection (3); or
 - (b) the amount was wrongfully obtained as a result of the commission of an offence against:
 - (i) subsection 15(1) or 27(2) or (3) of the *Bounty (Computers) Act 1984*; or
 - (ii) subsection 23(1) or 35(2) or (3) of the *Bounty (Machine Tools and Robots) Act 1985*.
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SCHEDULE 1

Section 3

AMENDMENTS OF THE BOUNTY (FUEL ETHANOL) ACT 1994

1. Subsection 5(1) (definition of *new production*):

Omit the definition.

2. Sections 6 and 7:

Repeal the sections, substitute:

Meaning of *bountiable fuel ethanol*

“7. For the purposes of this Act, *bountiable fuel ethanol* is the total volume of fuel ethanol produced from biomass feedstocks in a bounty year by a producer, if that volume is at least 350,000 litres.”

3. Section 8:

Omit “year” (wherever occurring), substitute “bounty year”.

4. Section 9:

Omit “other”.

5. Paragraph 12(4)(a):

Omit “new”.

6. Saving of applications under section 12 of the *Bounty (Fuel Ethanol) Act 1994*

An application under section 12 of the *Bounty (Fuel Ethanol) Act 1994* (the *Principal Act*) that was made before this Act received the Royal Assent is not invalid merely because it did not provide the information required by paragraph 12(4)(a) of the *Principal Act* as amended by this Act.

7. Extended time for application and processing applications for additional production allocation

(1) Subitem (2) applies to a person who is registered for years 1, 2 and 3 if the volume of the person’s production in year 1 of bountiable fuel ethanol, as defined in the *Bounty (Fuel Ethanol) Act 1994* (the *Principal Act*) as amended by this Act, is greater than the volume of the person’s production in year 1 of bountiable fuel ethanol as defined in the *Principal Act* before it was amended by this Act.

(2) The person may apply in writing to the Minister for an additional production allocation for year 2. The application must be received by the Minister before the end of 3 months after the day on which this Act receives the Royal Assent.

SCHEDULE 1—continued

- (3) If an application (the *fresh application*) is made under subitem (2):
- (a) the Minister is taken not to have made a decision under section 15 relating to any previous application made by the person who made the fresh application; and
 - (b) section 15 of the Principal Act applies in relation to the fresh application as if:
 - (i) references in that section to 31 July 1995 were references to the day 3 months after the day on which this Act receives the Royal Assent; and
 - (ii) any previous application made under that section by a person who later made a fresh application had not been made; and
 - (iii) the reference in subsection (4) of that section to 31 August 1995 were a reference to the day 4 months after the day on which this Act receives the Royal Assent; and
 - (iv) section 8 of the Principal Act did not apply to any calculations of production of bountiable fuel ethanol made for the purposes of section 15 of that Act.

(4) An additional allocation granted to a person as a result of a fresh application must not be less than any additional allocation to the person that was made as a result of an application made before 31 July 1995. This subitem has effect despite paragraph (3)(a) and subparagraph (3)(b)(ii).

(5) This item does not affect a production allocation granted on or before 31 August 1995 under section 15 of the Principal Act to a person who does not make a fresh application (whether or not the person was able to make a fresh application).

(6) A decision made under section 15 or 17 of the Principal Act on or before 31 August 1995 is not invalid merely because the Minister did not have regard to any fresh application that was made after the decision was made.

8. Paragraph 22(a):

Omit “new”.

9. Saving of decisions under the *Bounty (Fuel Ethanol) Act 1994*

A decision under section 13, 15 or 17 of the *Bounty (Fuel Ethanol) Act 1994* (the *Principal Act*) that was made before this Act received the Royal Assent is not invalid merely because it was not made having regard to the criterion in paragraph 22(a) of the Principal Act as amended by this Act.

SCHEDULE 1—continued

10. Transitional provision—extra time to claim bounty

(1) This item applies if:

- (a) before this Act received the Royal Assent, a producer had claimed bounty on the producer's production of bountiable fuel ethanol in year 1 on the basis of the *Bounty (Fuel Ethanol) Act 1994* (the *Principal Act*) as in force before it was amended by this Act; and
- (b) apart from section 8 of the Principal Act, the producer's production of bountiable fuel ethanol in year 1 would be greater than the production described in paragraph (a) as a result of the amendments made by this Act.

(2) The producer may make a claim for payment of bounty on the difference between the production described in paragraph (1)(a) and the production described in paragraph (1)(b).

(3) The claim must be made within 3 months after the day on which this Act receives the Royal Assent.

(4) This item has effect despite section 8 and subsection 26(3) of the Principal Act.

11. Subsection 28(2):

Omit "in year 1", substitute "in respect of year 1".

12. Subsection 28(2):

Omit "in the year", substitute "in respect of production in the year".

13. After subsection 28(2):

Insert:

"(2A) Any increase in the amount available for the payment of bounty in respect of production in a bounty year following another bounty year (the *earlier year*) takes place after decisions have been made under section 26 in relation to all claims for payment of bounty in respect of production in the earlier year."

14. Transitional provision—roll-over taken not to have occurred before Royal Assent

Any roll-over that occurred before this Act received the Royal Assent is taken not to have occurred. For this purpose, *roll-over* is an increase in the amount available for the payment of bounty in respect of year 2 by the amount that was available but was not paid out as bounty in respect of year 1.

SCHEDULE 2

Section 2

AMENDMENTS OF THE BOUNTY (COMPUTERS) ACT 1984

1. Subsection 3(1) (paragraphs (a) to (eb) (inclusive) of definition of *bountiable equipment*):

Add at the end "or".

2. Subsection 3(1) (definition of *bountiable equipment*):

After paragraph (eb) insert:

"(ec) computer equipment for incorporation into an optical character recognition and reading machine for the blind to which subheading 8543.80.90 in Schedule 3 to the Tariff Act and item 12 in Part I of Schedule 4 to that Act would apply if the machine were imported into Australia; or

(ed) computer equipment that is an implantable cardioverter defibrillator to which heading 9021 in Schedule 3 to the Tariff Act would apply if the equipment were imported into Australia; or

(ee) computer equipment that is an automotive controller:

(i) to which subheading 9032.89.90 in Schedule 3 to the Tariff Act would apply if the equipment were imported into Australia; and

(ii) designed to control a function of part of a passenger motor vehicle to which subheading 8703.21.19, 8703.22.19, 8703.23.19, 8703.24.19, 8703.31.19, 8703.32.19, 8703.33.19 or 8703.90.19 in Schedule 3 to the Tariff Act would apply if the vehicle were imported into Australia; or".

3. Subsection 3(1) (paragraph (f) of definition of *bountiable equipment*):

Add at the end "or".

4. Subsection 3(1) (definition of *bounty period*):

Omit "1995", substitute "2000".

5. Subsection 3(1) (definition of *computer based machine*):

Omit the definition, substitute:

"*computer based machine* means a machine incorporating at least one electronic microcircuit:

(a) to which heading 8542 in Schedule 3 to the Tariff Act would apply if the microcircuit were imported into Australia; and

(b) that is part of the microcircuitry of the machine that enables the machine to store and process, or manipulate, data."

SCHEDULE 2—continued

6. Paragraph 3A(1)(b):

Omit “within the bounty period”, substitute “before 1 January 1996”.

7. Subsection 5(2):

Omit the subsection.

8. Subsections 5(3), (4) and (5):

Omit “or (2)”.

9. Subsection 5(8):

Omit “1990”, substitute “1989”.

10. Subsection 6(2):

Omit the subsection, substitute the following subsection:

“(2) If:

(a) an accounting period, or a part of an accounting period, of a manufacturer of bountiable equipment occurs before 1 January 1996; and

(b) in that accounting period, or that part of that accounting period, the manufacturer meets expenditure on research and development in Australia in respect of bountiable equipment; and

(c) the bountiable equipment is of a kind that is, or is likely to be, manufactured in Australia by the manufacturer before that day;

the factory cost incurred by the manufacturer in that accounting period in connection with the process or processes in the manufacture of bountiable equipment carried out at registered premises includes that expenditure, but no other factory cost includes that expenditure.”.

11. Paragraph 6(5)(c):

Omit “, not being a process by way of research and development carried out in Australia on behalf of the manufacturer”, substitute “other than an allowable research and development process within the meaning of subsection (5A)”.

12. Paragraph 6(5)(r):

Omit the paragraph, substitute the following paragraph:

“(r) interest, other than:

(i) interest on money borrowed from another person for the purpose of financing bought-in material and stock or of financing work in progress;

SCHEDULE 2—continued

- (ii) interest incurred before 1 January 1996 on money borrowed from another person before that day for the purpose of financing research and development undertaken before that day, other than research and development relating to software that is not operating software or software for testing hardware; or
- (iii) interest on money borrowed from another person for the purpose of financing the purchase of production plant, production equipment, or factory buildings owned by the manufacturer;”.

13. After subsection 6(5):

Insert:

“(5A) For the purposes of paragraph (5)(c), a research and development process is an allowable research and development process if:

- (a) it is a process by way of research and development in respect of bountiable equipment; and
- (b) it is carried out in Australia on behalf of the manufacturer before 1 January 1996; and
- (c) the bountiable equipment is of a kind that is, or is likely to be, manufactured in Australia by the manufacturer before that day.”.

14. Paragraph 10(g):

Omit the paragraph, substitute the following paragraphs:

- “(g) where that condition is satisfied in relation to equipment on a day on or after 1 July 1994 and before 1 January 1997—an amount equal to 8% of the value added to the equipment by the manufacturer; or
- (h) where that condition is satisfied in relation to equipment on a day on or after 1 January 1997 and before 1 January 2001—an amount equal to 5% of the value added to the equipment by the manufacturer.”.

SCHEDULE 3

Section 3

**AMENDMENTS OF THE BOUNTY (MACHINE TOOLS AND
ROBOTS) ACT 1985**

1. Subsection 4(1) (paragraphs (a) to (g) (inclusive) of definition of *bountiable equipment AA*):

Add at the end "or".

2. Subsection 4(1) (paragraph (j) of definition of *bountiable equipment AA*):

Omit "force,", substitute "force; or".

3. Subsection 4(1) (definition of *bountiable equipment AA*):

After paragraph (j) insert:

"(k) goods:

- (i) to which heading 8466 in Schedule 3 to the Tariff Act would apply if the goods were imported into Australia; and
- (ii) that are designed for use solely or principally as a part for a computer controlled laser cutting machine or for a computer controlled plasma arc cutting machine;"

4. Subsection 4(1) (paragraph (b) of definition of *independent machine*):

Omit "or 8463", substitute ", 8463 or 8479".

5. Subsection 4(1) (paragraphs (a), (b) and (c) of definition of *robotic machine*):

Add at the end "and".

6. Subsection 4(1) (paragraph (f) of definition of *robotic machine*):

Add at the end "or".

7. Subsection 4(1) (definition of *robotic machine*):

Add at the end:

"or (i) lifting and handling machinery, known as a skip handling machine, to which subheading 8422.30.00 in Schedule 3 to the Tariff Act would apply if the machinery were imported into Australia;"

Bounty Legislation Amendment No. 160, 1995

***[Minister's second reading speech made in—
House of Representatives on 26 October 1995
Senate on 13 November 1995]***