

EXPLANATORY STATEMENT

BOUNTY (SHIP REPAIR) ACT 1986

BOUNTY (SHIP REPAIR) (RESERVATION OF BOUNTY)
REGULATIONS

STATUTORY RULES 1988 NO. 174

ISSUED BY THE AUTHORITY OF THE MINISTER OF STATE FOR SCIENCE,
CUSTOMS AND SMALL BUSINESS

Statutory Rules 1987 No. 117 of 1987 established the Bounty (Ship Repair) (Reservation of Bounty) Regulations, which requires claimants under the Scheme to reserve an amount of bounty prior to a formal claim for bounty, as well as prescribing the manner in which the Comptroller-General of Customs is to allot available amounts of bounty to eligible claimants.

Statutory Rules 1987 No. 117 permits the Comptroller-General of Customs to (amongst other things):

- . reject applications reserving bounty that do not comply with the formalities prescribed by Regulation 4 of the Regulations; and
- . to cancel a reservation of an amount of bounty in certain circumstances contained in regulation 8 of the Regulations.

Should the Comptroller take either of these actions, a registered repairer would be ineligible to be paid bounty for performing the repair that was the subject of the claim for bounty.

The Senate Standing Committee on Regulations and Ordinances was concerned that the Comptroller-General's discretion to reject applications and to cancel reservations of bounty could not be reviewed on its merit by an independent body.

The attached proposed Statutory Rules discharges an undertaking made to the Committee by the Minister for Science, Customs and Small Business on 19 November 1987 to give a person affected by a decision the right to have the exercise of the Comptroller's discretion reviewed by the Administrative Appeals Tribunal.

The commencement date of these regulations is to be deemed to be 15 June 1987 - the commencement date of the principal regulations. As the regulations confer a benefit, subsection 48(2) of the Acts Interpretation Act 1901 is not offended.

The regulations provide as follows:

Commencement

Regulation 1 deems regulation 2 (discussed below) to have commenced operation on 15 June 1987.

Regulation 2 Adds a new 8A and 8B to the Regulations:

Application for review

- . New regulation 8A is added to the regulations to permit the review by the Administrative Appeals Tribunal of a decision of the Comptroller-General of Customs to accept or reject an application for bounty based on:
 - whether or not the application is in accordance with the approved form; the service period to which the service contract relates; or
 - whether the form is signed and witnessed as required by the form;

(paragraph (a)); or

to cancel a reservation of bounty because:

- the repairer named in the reservation for bounty has ceased to be a repairer, or has become the owner of the vessel to which the reservation relates;
- the repairer named in the reservation for bounty has had an application to be a registered repairer for the purposes of the Act refused by the Minister; or
- the service contract under which the repairs were conducted has been terminated or the repairs have been abandoned

(paragraph (b))

Notice of reviewability

- . A new regulation 8B obliges the Minister to advise a person whose interests are affected by a decision of the Minister pursuant to the new regulation 8A of the Regulations (discussed above) of his or her right to have the Minister's decision reviewed by the Administrative Appeals Tribunal.
- . New subregulation 8B(2) provides that a failure to issue the notice will not itself invalidate the decision of the Minister.

(S.R. 115/88)