

2002-2003

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

As read a third time

**Industry, Tourism and Resources
Legislation Amendment Bill 2003**

No. , 2003

**A Bill for an Act to amend and repeal legislation
relating to industry, tourism and resources, and for
related purposes**

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1 THIS Bill originated in the House of
2 Representatives; and, having this day passed,
3 is now ready for presentation to the Senate
4 for its concurrence.

5 I.C. HARRIS
6 *Clerk of the House of Representatives*

7 House of Representatives
8 26 March 2003
9

10 **A Bill for an Act to amend and repeal legislation**
11 **relating to industry, tourism and resources, and for**
12 **related purposes**

13 The Parliament of Australia enacts:

14 **1 Short title**

15 This Act may be cited as the *Industry, Tourism and Resources*
16 *Legislation Amendment Act 2003*.

17 **2 Commencement**

18 (1) Each provision of this Act specified in column 1 of the table
19 commences, or is taken to have commenced, on the day or at the
20 time specified in column 2 of the table.
21

1 **3 Schedule(s)**

2 Each Act that is specified in a Schedule to this Act is amended or
3 repealed as set out in the applicable items in the Schedule
4 concerned, and any other item in a Schedule to this Act has effect
5 according to its terms.

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Schedule 1—Miscellaneous amendments and repeals

ACIS Administration Act 1999

1 Subsection 4(1)

Omit “used to offset customs duty payable on”, substitute “applied against customs duty payable, or paid, on”.

2 Subsection 4(1)

After “Tariff”, insert “and section 75A of this Act”.

3 After paragraph 4(10)(b)

Insert:

(ba) applied against an earlier payment of duty on such eligible imports (Part 7); or

4 Subsection 6(1) (definition of *eligible imports*)

Repeal the definition, substitute:

eligible imports means:

- (a) goods described in column 2 of item 41E of Schedule 4 to the Tariff; or
- (b) goods that would have been goods so described if their importation had been by a person who owned and applied duty credits as mentioned in that column of that item.

5 After paragraph 66(a)

Insert:

(aa) when the person applies duty credit in accordance with section 75A against an earlier payment of duty on the importation of eligible imports;

6 Section 74

Repeal the section, substitute:

1 **74 Overview of Part**

2 This Part provides that duty credit:

- 3 (a) is transferable (Division 2); and
4 (b) may be applied against previously paid duty (Division 2A);
5 and
6 (c) may be subject to limited use restrictions (Division 3).

7 **7 After Division 2 of Part 7**

8 Insert:

9 **Division 2A—Application of duty credit against previously**
10 **paid duty**

11 **75A When can a person apply duty credit against duty that has**
12 **already been paid?**

- 13 (1) A person can apply duty credit the person owns against duty that
14 the person has already paid if that duty was paid in respect of the
15 importation, on or after 1 January 2001, of eligible imports.

16 Note: The purpose of applying duty credit in this way is to get a refund
17 (equal to the amount of duty credit applied) of duty that has already
18 been paid. For provisions about refunds, see the regulations made for
19 the purposes of section 163 of the *Customs Act 1901*.

- 20 (2) An application of duty credit under subsection (1) can only be
21 made by notifying the Secretary. The notification must:
22 (a) be in writing; and
23 (b) be in the approved form; and
24 (c) contain such information as the form requires; and
25 (d) be signed in the manner indicated in the form; and
26 (e) comply with any other applicable requirements specified in
27 regulations made for the purposes of this paragraph.

28 **8 After paragraph 76(1)(c)**

29 Insert:

- 30 (ca) by applying it in accordance with section 75A against an
31 earlier payment of duty on the importation of eligible
32 imports; or

1 **9 After paragraph 77(1)(c)**

2 Insert:

3 (ca) by applying it in accordance with section 75A against an
4 earlier payment of duty on the importation of eligible
5 imports; or

6 **10 At the end of subsection 115(2)**

7 Add “or paragraph 66(aa) (when duty credit is applied against
8 previously paid duty)”.

9 ***Aluminium Industry Act 1960***

10 **11 The whole of the Act**

11 Repeal the Act.

12 ***Bounty (Computers) Act 1984***

13 **12 Subsection 3(1) (definition of *operating software*)**

14 Omit “the Standards Association of Australia”, substitute “Standards
15 Australia International Limited”.

16 ***Bounty (Ships) Act 1989***

17 **12A Subsection 12(1)**

18 After “eligible costs bounty”, insert “, or eligible research and
19 development expenditure bounty,”.

20 **12B Subsection 12(2)**

21 After “eligible costs bounty” (first occurring), insert “, or eligible
22 research and development expenditure bounty,”.

23 **12C Subsection 12(2)**

24 Omit “eligible costs bounty” (second occurring), substitute “that bounty
25 that is”.

26 **12D Subsection 12(3)**

27 After “eligible costs bounty” (first occurring), insert “, or eligible
28 research and development expenditure bounty,”.

12E Subsection 12(3)

Omit “the eligible costs bounty”, substitute “that bounty”.

12F Treatment of past payments purporting to be advances on account of eligible research and development expenditure bounty

(1) A payment that:

- (a) purported to be an advance under subsection 12(1) of the *Bounty (Ships) Act 1989* (the ***Bounty Act***) on account of eligible research and development expenditure bounty; and
- (b) was made during the period that started on 9 April 1999 and ended on the commencement of this item;

may, to the extent that it has not already been repaid to the Commonwealth by that commencement, be recovered by the Commonwealth from the person as a debt due to the Commonwealth.

(2) A person to whom a payment referred to in subitem (1) was made is entitled, on the commencement of this item, to be paid, by the Commonwealth, an amount equal to the amount of the debt due to it by the person under subitem (1).

(3) The Consolidated Revenue Fund is appropriated for the purpose of payments under subitem (2).

(4) The Commonwealth may set-off the amount of a debt due to it by a person under subitem (1) against an amount that is payable to that person under subitem (2).

(5) Despite subitems (1) and (2), in applying subsection 12(2) or (3) of the **Bounty Act** after the commencement of this item to the construction or modification of a vessel, any payment made before that commencement in respect of the construction or modification that purported to be an advance on account of eligible research and development expenditure bounty is to be counted as though it had been validly made under subsection 12(1) of that Act.

Note: A person will therefore be liable to repay to the Commonwealth the amount of any excess of the purported advances over the amount of eligible research and development bounty payable to the person.

(6) This item does not, by implication, affect the recovery or set-off of other overpayments purporting to be made under the **Bounty Act**.

1 ***Management and Investment Companies Act 1983***

2 **13 The whole of the Act**

3 Repeal the Act.

4 ***Petroleum (Submerged Lands) Legislation Amendment Act***
5 ***2001***

6 **14 Item 17 of Schedule 1**

7 Omit “him or make”, substitute “him or to make”.

8 ***Pooled Development Funds Act 1992***

9 **15 Paragraph 4A(1)(a)**

10 Repeal the paragraph, substitute:

11 (a) it has 5 or more members; and

12 **16 Certain shareholdings in PDFs do not contravene**
13 **section 31**

14 (1) Section 31 of the *Pooled Development Funds Act 1992* is taken to have
15 applied in relation to a PDF during the period:

16 (a) starting on 8 October 1999; and

17 (b) ending on the commencement of this item;

18 as if paragraph 4A(1)(a) of that Act were required to be ignored in
19 determining whether a fund was a ***widely-held complying***
20 ***superannuation fund***.

21 Note: Paragraph 4A(1)(a) would have required that the fund not be an excluded
22 superannuation fund (within the meaning of the *Superannuation Industry (Supervision)*
23 *Act 1993*).

24 (2) If:

25 (a) because of the effect of subitem (1), a person’s holding of
26 shares in a PDF immediately before the commencement of
27 this item did not contravene section 31 of the *Pooled*
28 *Development Funds Act 1992* as then in force; but

29 (b) that holding of those shares would, but for this subitem,
30 result in a contravention of section 31 of that Act as it applies
31 after the commencement of this item;

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then the following provisions have effect:

- (c) subject to paragraph (e), the person’s continued holding of those shares in the PDF after that commencement is to be disregarded when applying section 31 of that Act as then in force to the person and the person’s associates;
- (d) if, after that commencement, any bonus shares in the PDF are issued to the person because the person is the holder of the shares referred to in paragraph (c), then, subject to paragraph (e), the person’s holding of those bonus shares is to be disregarded when applying section 31 of that Act as then in force to the person and the person’s associates;
- (e) however, if, after that commencement, the person, or any of the person’s associates, acquires additional shares in the PDF (otherwise than as mentioned in paragraph (d)), the shares to which paragraphs (c) and (d) apply are to be taken into account in determining whether the acquisition of those additional shares complies with section 31 of that Act as then in force.

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States Grants (Petroleum Products) Act 1965

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17 Section 1A

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Omit “Chief Executive Officer of Customs”, substitute “Secretary of the Department”.

23

18 Subsection 5(2)

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Omit “Chief Executive Officer of Customs” (wherever occurring), substitute “Secretary of the Department”.

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19 Paragraph 5(3)(a)

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Omit “Chief Executive Officer of Customs” (wherever occurring), substitute “Secretary of the Department”.

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20 Paragraph 5(3A)(a)

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Omit “Chief Executive Officer of Customs”, substitute “Secretary of the Department”.

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21 Paragraph 5(3A)(b)

1 Omit “Chief Executive Officer of Customs” (wherever occurring),
2 substitute “Secretary of the Department”.

3 **22 Section 7**

4 Omit “Chief Executive Officer of Customs”, substitute “Secretary of
5 the Department”.

6 **23 References in scheme to Chief Executive Officer of
7 Customs**

8 A reference in a scheme formulated under section 4 of the *States Grants*
9 *(Petroleum Products) Act 1965* to the Chief Executive Officer of
10 Customs is taken, after the commencement of this item, to be a
11 reference to the Secretary of the Department.

12 **24 Transitional provision—things previously done by the
13 Chief Executive Officer of Customs**

14 Anything that:

- 15 (a) was done under the *States Grants (Petroleum Products) Act*
16 *1965* (including under a scheme in relation to a State) by, or
17 in relation to, the Chief Executive Officer of Customs before
18 the commencement of this item; and
19 (b) was still in force, or having an effect, immediately before the
20 commencement of this item;

21 is taken, after that commencement, to have been done by, or in relation
22 to, the Secretary of the Department as if the amendments made by
23 items 17 to 23 of this Schedule had been in force when the thing was
24 done.

25 ***Trade Practices Act 1974***

26 **25 Section 65AA**

27 Omit all the words from and including “paragraph 53(eb)”, substitute
28 “paragraph 53(a) or (eb) or paragraph 75AZC(1)(a) or (i) (which all
29 deal with false or misleading representations)”.

30 **26 Sections 65AB and 65AC**

31 Omit “paragraph 53(eb) or paragraph 75AZC(1)(i)”, substitute
32 “paragraph 53(a) or (eb) or paragraph 75AZC(1)(a) or (i)”.

1 **27 Subsection 65AD(1)**

2 Omit “paragraph 53(eb) or paragraph 75AZC(1)(i)”, substitute
3 “paragraph 53(a) or (eb) or paragraph 75AZC(1)(a) or (i)”.

4 **28 Paragraph 65AN(1)(a)**

5 Omit “paragraph 53(eb) or paragraph 75AZC(1)(i)”, substitute
6 “paragraph 53(a) or (eb) or paragraph 75AZC(1)(a) or (i)”.

7 Note: The heading to section 65AN is replaced by the heading “**Proceedings relating to**
8 **false, misleading or deceptive conduct or representations**”.

9 **29 Application of amendments**

10 The amendments made by items 25 to 28 apply in respect of conduct
11 engaged in, or representations made, after those items commence.
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(152/02)