

PHOSPHATE FERTILIZERS BOUNTY.

No. 78 of 1963.

An Act to provide for the payment of Bounty on the Production of certain Phosphate Fertilizers.

[Assented to 31st October, 1963.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title.

1. This Act may be cited as the *Phosphate Fertilizers Bounty Act* 1963.

**Commence-
ment.**

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Definitions.

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

“authorized person” means a person appointed by the Minister under section fifteen of this Act;

“bountiable products” means superphosphate and ammonium phosphate;

“bounty” means bounty under this Act and includes an advance on account of bounty under section twelve of this Act;

“Collector” means Collector of Customs for a State;

“fertilizer mixture” means a mixture resulting from the addition of other fertilizers to superphosphate or ammonium phosphate;

“phosphorus pentoxide content”, in relation to superphosphate in respect of which bounty is claimed, means the sum of—

(a) the phosphorus pentoxide content of so much of the superphosphate as is soluble in water; and

(b) the phosphorus pentoxide content of so much of the remainder of the superphosphate as is soluble in a neutral aqueous solution of ammonium citrate having a specific gravity of 1.09 at twenty degrees Centigrade;

“registered premises” means premises registered by the Minister under section thirteen of this Act;

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

**Specification
of bounty.**

4. Subject to this Act, bounty is payable in respect of superphosphate and ammonium phosphate produced at registered premises and—

(a) during the period of three years from and including the fourteenth day of August, One thousand nine hundred and sixty-three, sold for use in Australia as a fertilizer; or

(b) used during the period referred to in the last preceding paragraph by the producer in the production in Australia of a fertilizer mixture for use in Australia.

5. Subject to the next succeeding section, bounty is payable to the producer of the superphosphate or ammonium phosphate.

To whom
bounty payable.

6. Bounty payable to a producer may, subject to such conditions and restrictions, if any, as are prescribed, be paid to a person authorized by the producer to receive the bounty.

Bounty may be
paid to person
authorized by
the producer.

7. Where the Minister is not satisfied that the prices being charged by a producer to purchasers in respect of the sale of bountiable products, or fertilizer mixtures, produced by him at registered premises are such as to pass on to the purchasers the full benefit of the bounty in respect of the bountiable products, or the bountiable products used in the fertilizer mixtures, as the case may be, the Minister may direct that bounty shall not be paid to the producer.

Benefit of
bounty to
be passed on
to purchasers.

8.—(1.) Bounty in respect of superphosphate, not being superphosphate in respect of which the next succeeding subsection applies, is payable at the rate of Three pounds for each ton of superphosphate.

Rate of bounty
in respect of
superphosphate.

(2.) Where the percentage of the phosphorus pentoxide content of any superphosphate is less than nineteen and one-half per centum, or more than twenty and one-half per centum, by weight of the superphosphate, bounty in respect of that superphosphate is payable at the rate of Fifteen pounds for each ton of the phosphorus pentoxide content of that superphosphate.

(3.) The Minister may, from time to time, by notice published in the *Gazette*, determine that bounty shall be payable at the rate of Three pounds in respect of each ton of superphosphate the percentage of the phosphorus pentoxide content by weight of which is less than nineteen and one-half per centum and is greater than a percentage specified in the determination and, where such a determination is in force, the last preceding subsection has effect as if for the reference to nineteen and one-half per centum in that subsection there were substituted a reference to the percentage so specified.

9. Bounty in respect of ammonium phosphate is payable at the rate of Fifteen pounds for each ton of the phosphorus pentoxide content of the ammonium phosphate.

Rate of bounty
in respect of
ammonium
phosphate.

10. Bounty is not payable in respect of any bountiable products unless the Comptroller-General is satisfied that they are of good and merchantable quality.

Good quality
essential.

11. Bounty is not payable to a producer unless he satisfies the Minister that the requirements of this Act and the regulations have been substantially complied with.

Bounty not
payable unless
Act complied
with.

Advance on
account of
bounty.

12.—(1.) An advance on account of bounty may be made to a producer on such terms and conditions (including conditions with respect to the passing on to purchasers of bountiable products or fertilizer mixtures from the producer of the full benefit of the amount of the advance) as are approved by the Minister.

(2.) If a person receives by way of advances in respect of bounty on any bountiable products an amount greater than the amount of bounty payable in respect of those products, he is liable to repay to the Commonwealth the amount of the excess, and the Commonwealth may recover the amount of the excess as a debt due to the Commonwealth by action in a court of competent jurisdiction.

Registration
of premises.

13.—(1.) The regulations may prescribe conditions to be complied with, for the purposes of this Act, in connexion with the production of bountiable products at registered premises.

(2.) Where a person carries on, or proposes to carry on, the production of bountiable products at any premises, he may apply to the Minister for the registration of those premises for the purposes of this Act.

(3.) If any conditions have been prescribed under sub-section (1.) of this section, 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 an applicant 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.

(5.) Subject to the last two preceding sub-sections, if, in the opinion of the Minister, bountiable products are, or are proposed to be, produced 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 from a date specified by the Minister, which may be a date before the commencement of this Act.

(7.) Where the Minister is satisfied—

- (a) that bountiable products are not being produced at registered premises;
- (b) that bountiable products are not being so produced by the person who applied for registration of the premises; or
- (c) if any conditions have been prescribed under sub-section (1.) of this section, that bountiable products are not being so produced in accordance with those conditions,

he may, by notice in writing served on the occupier, and, if the occupier is not the person who applied for the registration of the premises, on that person, cancel the registration of the premises.

(8.) For the purposes of the application of section twenty-nine of the *Acts Interpretation Act* 1901–1963 to the service of a notice under the last preceding sub-section, a notice posted as a letter addressed to the occupier, or to the person who applied for the registration of the premises, at the registered premises shall be deemed to be properly addressed.

14.—(1.) A producer of bountiable products is not entitled to bounty unless he keeps, to the satisfaction of the Minister, accounts, books and documents showing, from time to time, the production and sale of bountiable products and fertilizer mixtures, the selling prices and receipts from sales of bountiable products and fertilizer mixtures and such other information in relation to the bountiable products and fertilizer mixtures as the Minister requires. Accounts, &c.

(2.) A producer of bountiable products is not entitled to bounty unless he furnishes to the Comptroller-General, in respect of each financial year in which bounty is payable—

- (a) a manufacturing account and trading account and such other information in relation to the bountiable products and fertilizer mixtures as the Minister requires; and
- (b) a certificate signed by the producer that the documents referred to in the last preceding paragraph are true and correct in every particular and a certificate, signed by an auditor, that those documents are true and correct to the best of the auditor's knowledge and belief.

(3.) For the purposes of the last preceding sub-section, “financial year”, in relation to a producer, means a year that is a year of income for the purposes of the law relating to income tax in its application to that producer.

15. The Minister may, by writing under his hand, appoint persons to be authorized persons for the purposes of this Act. Appointment of authorized persons.

16.—(1.) For the purposes of this Act, an authorized person may, at all reasonable times enter— Stocktaking and inspection of production and accounts, &c.

- (a) registered premises; or
- (b) any premises where there are stored bountiable products in respect of which, or fertilizer mixtures in respect of the bountiable products in which, bounty has been claimed, or, in the opinion of the authorized person, is likely to be claimed,

and may—

- (c) inspect or take stock of any bountiable products or fertilizer mixtures;
- (d) inspect the processes of production of any bountiable products or fertilizer mixtures;
- (e) take samples of any bountiable products or fertilizer mixtures; and
- (f) inspect the accounts, books and documents relating to the production and sale of bountiable products or fertilizer mixtures.

(2.) The occupier or person in charge of any registered premises or of premises referred to in paragraph (b) of the last preceding sub-section shall provide the authorized person with all reasonable facilities and assistance for the effective exercise of his powers under this section.

Penalty: Fifty pounds.

Power to
require person
to answer
questions and
produce
documents.

17.—(1.) The Comptroller-General, a Collector or an authorized person may, by notice in writing, require a person whom he believes to be capable of giving information relevant to the operation of this Act in relation to the production, storage, sale or use of bountiable products or fertilizer mixtures 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 and documents in relation to the production, storage, sale or use of bountiable products or fertilizer mixtures 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 or documents produced in pursuance of this section.

(3.) A person is not excused from answering a question or producing any accounts, books or documents when required so to do under this section on the ground that the answer to the question or the production of the accounts, books or documents 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 (c) of sub-section (1.) or paragraph (c) of sub-section (2.), of section twenty of this Act.

(4.) Where a producer or a person employed by a producer has failed to attend or to answer a question or to produce any account, book or document when required so to do under this section, bounty is not payable to the producer, unless the Minister otherwise directs, until the producer or that person has attended, answered the question or produced the account, book or document, as the case may be.

18.—(1.) The Comptroller-General, a Collector or an authorized person may administer an oath to a person required to attend before him in pursuance of the last preceding section and may examine that person on oath. Power to examine on oath.

(2.) Where any such person conscientiously objects to take an oath, he may make an affirmation that he conscientiously objects to take an oath and that he will state the truth, the whole truth and nothing but the truth to all questions asked him.

(3.) An affirmation so made is of the same force and effect, and entails the same penalties, as an oath.

19. The Minister may require a producer to give security 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 performance of an undertaking given by him for the purposes of this Act or the regulations, and the producer is not entitled to bounty unless he gives security accordingly. Security for compliance with Act.

20.—(1.) A person shall not 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 or document,

Offences.

when so required in pursuance of this Act.

Penalty: Fifty pounds.

(2.) A person shall not—

- (a) obtain bounty that is not payable;
- (b) obtain payment of bounty by means of a false or misleading statement; or
- (c) present to an officer or other person doing duty in relation to this Act or the regulations an account, book or document, or make to such an officer or person a statement, that is false or misleading in a material particular.

Penalty: Five hundred pounds or imprisonment for twelve months.

(3.) Where a person is convicted of an offence against the last preceding sub-section, 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.

(4.) Where a court has made an order under the last preceding sub-section, a certificate under the hand of 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.**

21.—(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 producer to whom bounty was paid;
- (b) the quantity of bountiable products in respect of which bounty was paid to each producer;
- (c) the amount of bounty paid to each producer; and
- (d) such other particulars, if any, as are prescribed.

(2.) The Minister shall cause a copy of the return to be tabled in each House of the Parliament within fifteen sitting days of that House after the return is received by him.

Delegation.

22.—(1.) The Minister or the Comptroller-General may either generally or in relation to a matter or class of matters and either in relation to the whole of the Commonwealth or to a State or part of the Commonwealth, by writing under his hand delegate all or any of his powers and functions under this Act (except this power of delegation).

(2.) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister or the Comptroller-General, as the case may be.

Appropriation.

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

Regulations.

24. 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 connexion with applications for bounty; and
- (c) penalties not exceeding Fifty pounds for offences against the regulations.