

Export Incentive Grants

No. 110 of 1971

An Act relating to Grants for the purpose of providing
Export Incentives.

[Assented to 6 December 1971]

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

PART I.—PRELIMINARY.

- Short title.** 1. This Act may be cited as the *Export Incentive Grants Act 1971*.
- Commencement.** 2. This Act shall come into operation on the day on which it receives the Royal Assent.
- Parts.** 3. This Act is divided into Parts, as follows:—
Part I.—Preliminary (Sections 1–4).
Part II.—Administration (Sections 5–8).
Part III.—Export Grants (Sections 9–28).
Part IV.—Objections, Reviews and Appeals (Sections 29–31).
Part V.—Miscellaneous (Sections 32–36).
- Interpretation.** 4.—(1.) In this Act, unless the contrary intention appears—
“Board of Review” means a Board of Review constituted under the *Income Tax Assessment Act 1936–1971*;
“claim” means a claim under section 15 of this Act;
“commercial container” means a container other than—
(a) a tank or other compartment that forms part of a ship or aircraft; or
(b) a container system unit or other container in which goods have been placed primarily and principally for the purpose of their carriage in a ship or aircraft;
“company” includes all bodies and associations, corporate or unincorporate, and partnerships;
“complete motor vehicle” includes a motor vehicle of a kind ordinarily used on roads for the transport of goods that has been assembled to a stage at which it is capable of being driven under its own power;

“complete unit”, in relation to prescribed goods of a particular kind, means a unit of prescribed goods of that kind that has been manufactured or assembled to a stage where it is capable of being used for the purpose for which prescribed goods of that kind are manufactured or produced;

“components for prescribed goods”, in relation to prescribed goods of a particular kind, means goods that—

- (a) are components (including accessories and handbooks) for prescribed goods of that particular kind; and
- (b) are exported from Australia for use, without the substantial addition of other goods, in the original manufacture or assembly, in the country to which the goods are exported, of complete units of prescribed goods of the particular kind or for sale or disposal with such units,

and includes the containers (not being container system units) in which such components are so exported;

“consideration receivable” means—

- (a) in relation to a disposal of prescribed goods, industrial property rights or know-how—

- (i) in the case of a disposal other than one to which the next succeeding sub-paragraph applies—the amount or value of the consideration received or receivable for the disposal; or

- (ii) where the disposal is part of, or is connected with, a transaction in which any other assets, or any services, are disposed of or supplied—such part of the amount or value of the consideration or considerations received or receivable in respect of the transaction as is reasonably attributable to the disposal of the prescribed goods, industrial property rights or know-how,

less, in the case of a disposal of prescribed goods, any amounts paid or payable (otherwise than as agent) by the person disposing of the prescribed goods by way of freight for carriage of the prescribed goods outside Australia or by way of insurance (other than export payments insurance) or other outgoings, in relation to the prescribed goods, attributable to events or contingencies occurring or arising, or services performed, after the placing of the prescribed goods on a ship or aircraft for export from Australia; and

- (b) in relation to the supply of prescribed professional services—the amount or value of the consideration received or receivable for the supply of the services;

“container” includes any inner or outer covering in which goods are packed, secured or otherwise placed, but does not include a container, other than a container system unit, that is exported while not containing goods;

“ container system unit ” means a container (including a lift-van or a tank, but not including a vehicle)—

(a) designed for repeated use as a unit of cargo-handling equipment in the transport of goods by ships or aircraft specially constructed, adapted or equipped for the handling and carrying of containers of the kind to which the container belongs in the course of a transportation system in which goods are transported to, in and from the ship or aircraft in containers of that kind; and

(b) fitted with devices to permit its ready handling in the course of that system,

and includes normal accessories and equipment of such a container when exported from Australia with the container;

“ Deputy Commissioner ” means a Deputy Commissioner of Taxation;

“ disposal ” includes sale, grant, assignment or supply, and “ disposed of ” has a corresponding meaning;

“ employer ” has the same meaning as in the *Pay-roll Tax Assessment Act 1941–1969*;

“ export certificate ” means an export certificate duly issued under section 23 of this Act, and includes an export certificate issued under section 16s of the *Pay-roll Tax Assessment Act* before the first day of September, One thousand nine hundred and seventy-one;

“ exported ” does not include exported by way of gift;

“ export merchant ” means a person who, in the course of carrying on business in Australia—

(a) exports from Australia prescribed goods in relation to which a previous owner is the producer for export; or

(b) sells to another person prescribed goods that are later exported from Australia and of which a previous owner is the producer for export;

“ grant ” means a grant under this Act;

“ grant value ” means—

(a) in relation to an increase in export sales of a person for a grant year—an amount ascertained in accordance with the formula—

$$\frac{21a}{200}$$

$$200$$

where a is the increase in export sales of that person for that grant year; and

(b) in relation to an export certificate—the amount specified in the certificate as the grant value of the certificate or, in the case of an export certificate issued under section 16s of the *Pay-roll Tax Assessment Act*, the amount specified in the certificate as the rebate value of the certificate;

- “ grant year ” means the financial year beginning on the first day of July, One thousand nine hundred and seventy-one, or the next succeeding financial year;
- “ industrial property rights ” means rights in relation to inventions or trade marks, or copyright in relation to works, designs and other things, being—
- (a) inventions, works, designs or things that have, to a substantial extent, resulted from research or work performed in Australia; or
 - (b) trade marks that have been used commercially in Australia and were not, before that use, used commercially in any other country;
- “ know-how ” means scientific or technological knowledge or information in relation to industrial operations, being knowledge or information that has, to a substantial extent, resulted from research or other work performed in Australia, and includes drawings, models or other material things, or services, supplied for the purpose of enabling or facilitating the use or enjoyment of such knowledge or information or of industrial property rights;
- “ marketing authority ” means an authority constituted under a law of the Commonwealth, of a State or of a Territory of the Commonwealth, or under two or more such laws, and having the function of marketing goods produced in Australia;
- “ minerals ” means—
- (a) minerals, other than petroleum, of a kind obtainable by mining operations, and products of such minerals obtained by—
 - (i) concentration;
 - (ii) any other treatment applied to the minerals before concentration or, in the case of minerals not requiring concentration, that would, if the minerals had required concentration, have been applied before the concentration; or
 - (iii) sintering or calcining;
 - (b) the following products, namely—
 - (i) alumina;
 - (ii) pellets and other agglomerated forms of iron;
 - (iii) coke; and
 - (iv) briquettes of coal or of coke,and other products obtained by the processes by which those products are produced, or processes carried on in connexion with those processes;
 - (c) petroleum, including petroleum gas and shale oil, and products of petroleum obtained by refining, treating or blending processes;

- (d) materials of a kind obtainable by quarrying operations, and products of such materials obtained by splitting or roughly squaring; or
- (e) precious and semi-precious stones and natural or cultured pearls, including stones and pearls that have been polished, cut or otherwise treated but not including stones or pearls that are mounted, set or permanently strung,

but does not include—

- (f) gold;
- (g) goods of a kind used as fertilisers; or
- (h) salt, or products obtained by the treatment of salt;

“motor vehicle” means a motor vehicle of a kind ordinarily used on roads for the transport of persons or of goods;

“motor vehicle components” means goods that—

- (a) are components (including accessories and handbooks) for a motor vehicle; and
- (b) are exported from Australia for use in the original manufacture or assembly, in the country to which the goods are exported, of a complete motor vehicle or for sale or disposal with such a vehicle,

and includes the containers (not being container system units) in which such components are exported;

“notional tax”, in respect of a financial year, means tax (not including additional tax) that would, but for the enactment of the *Pay-roll Tax (Termination of Commonwealth Tax) Act 1971*, be imposed on wages paid or payable by the employer concerned in respect of that financial year;

“original commercial container” means a commercial container in which no other container is contained;

“person” includes a company;

“prescribed goods” means goods other than minerals;

“prescribed professional services” means services supplied by a person for the purposes of the construction of a building or other work outside Australia, being services of one or more of the following kinds, namely, architectural, design, engineering or surveying services, where—

- (a) the work involved in the supply of the services is performed by the person supplying the services or his employees; and
- (b) a predominant part of the cost of supplying the whole of the services is attributable to work performed in Australia,

but does not include services supplied—

- (c) under a contract for the construction of a building or other work by the person supplying the services unless the contract specifies an amount of consideration as being attributable to the services; or

- (d) to a person for the purposes of the construction of a building or other work by that person in the course of a business carried on by him in Australia;

“producer for export” means a person of one of the following descriptions:—

- (a) in relation to prescribed goods that have been exported from Australia in an original commercial container in which they were placed in Australia (whether or not that original commercial container was, before the export, placed in another container)—the person who was the owner of the prescribed goods at the time when they were placed, or were last placed, in that original commercial container;
- (b) in relation to other prescribed goods, being prescribed goods (other than containers) that have been exported from Australia after having been, by manufacture, production, assembling or processing, or by grading and sorting, carried out in Australia, brought into the form or condition in which they were so exported—the person who was the owner of those prescribed goods when they were brought into that form or condition;
- (c) in relation to containers (other than container system units) in which prescribed goods have been exported from Australia and in which those prescribed goods were placed by the person who is the producer for export of those prescribed goods—that person; and
- (d) in relation to a container system unit that has been exported from Australia after having been, by manufacture or assembling carried out in Australia, brought into the condition in which it was ready for use as a container system unit—the person who was the owner of the container system unit at the time when it was brought into that condition;

“Second Commissioner” means a Second Commissioner of Taxation;

“supplier of components” means a person who supplies goods in relation to which the expression is used to another person and is not a producer for export in relation to those goods;

“the base period”, in relation to a person, means, in relation to a grant year—

- (a) except where that person is a new exporter and the grant year is one of the first eight export years—the period comprising the first three of the eight financial years immediately preceding that grant year; or
- (b) where that person is a new exporter and the grant year is one of the first eight export years other than the first export year—the period comprising the years the values of

export sales for which are referred to in the formula applicable in relation to that grant year under sub-section (4.) of section 10 of this Act;

- “ the Commissioner ” means the Commissioner of Taxation;
- “ the last grant year ” means the grant year beginning on the first day of July, One thousand nine hundred and seventy-two;
- “ the Pay-roll Tax Assessment Act ” means the *Pay-roll Tax Assessment Act* 1941 or that Act as amended and in force from time to time;
- “ the Secretary ” means the Secretary to the Department of Trade and Industry;
- “ value of export sales ”, in respect of a year or other period, means, in relation to a person, the sum of—
 - (a) the amounts of consideration receivable by that person in respect of the disposal of prescribed goods that have been exported from Australia during that period, being prescribed goods that were disposed of by him before or at the time at which they were exported and in relation to which he was a producer for export;
 - (b) the amounts of consideration receivable by that person in respect of the disposal of prescribed goods that have been exported from Australia, being goods that were, after they were exported, disposed of by him during that period and in relation to which he was a producer for export;
 - (c) the amounts of consideration receivable by that person, otherwise than as royalties or payments in the nature of royalties, in respect of the disposal by him in that period, in the course of carrying on a business in Australia, to a person resident outside Australia of industrial property rights or know-how to be used or enjoyed outside Australia;
 - (d) the amounts of consideration receivable by that person as royalties, or payments in the nature of royalties, in respect of the use or enjoyment outside Australia in that period of industrial property rights or know-how disposed of by him, in the course of carrying on a business in Australia, to a person resident outside Australia; and
 - (e) the amounts of consideration receivable by that person in that period in respect of the supply by him of prescribed professional services.

(2.) For the purposes of this Act—

- (a) a person is a new exporter if the first year after the year that ended on the thirtieth day of June, One thousand nine hundred and fifty-eight, in respect of which there was or is, in relation to that person, a value of export sales was or is the year that ended on the thirtieth day of June, One thousand nine hundred and sixty-two, or a later year;

- (b) the first export year of a new exporter is the first year after the year that ended on the thirtieth day of June, One thousand nine hundred and sixty-one, in respect of which there was or is, in relation to him, a value of export sales; and
- (c) the second, third, fourth, fifth, sixth, seventh and eighth export years of a new exporter are the first, second, third, fourth, fifth, sixth and seventh years, respectively, after his first export year.

(3.) For the purposes of this Act, where a person has received or is entitled to receive an amount under a policy of insurance or otherwise in respect of loss, destruction or damage that has occurred in respect of goods owned by him after their export from Australia—

- (a) in the case of loss or destruction—that person shall be deemed to have sold those goods, at the time of the loss or destruction, for a consideration equal to that amount; and
- (b) in the case of damage—
 - (i) if that person has sold the goods for a consideration—the consideration shall be deemed to be increased by that amount; and
 - (ii) if that person ceased to be the owner of the goods in any other manner—he shall be deemed to have sold the goods, at the time when he so ceased, for a consideration equal to that amount.

(4.) For the purposes of this Act, goods shall be taken to have been physically included in goods exported from Australia if they have been used, directly or indirectly, in the manufacture, production, assembling or processing of the goods that have been exported so that the whole or a substantial part of the goods so used has been incorporated in the goods exported, or so that the goods exported have been derived solely from the goods so used (whether or not the goods so used have retained their identity or physical or chemical form or condition).

(5.) For the purposes of this Act, goods, other than container system units, shall not be taken to be exported from Australia where they are taken or sent out of Australia with the intention that they will, at a later time, be brought or sent back to Australia.

(6.) For the purposes of this Act, where a person who carried on the production of motor vehicles in Australia during the whole or any part of the base period has, during the base period, exported from Australia motor vehicle components in relation to which he would not, but for this sub-section, have been a producer for export—

- (a) that person shall be deemed to have been a producer for export in relation to those components; and
- (b) any other person who would, but for this sub-section, have been a producer for export in relation to those components, shall be deemed not to have been a producer for export in relation to those components.

(7.) For the purposes of this Act, where, in relation to a grant year, a person is deemed, by virtue of sub-section (2.) of section 9 of this Act, to be a producer for export of components for prescribed goods, being prescribed goods of a particular kind, and, in any year (in this sub-section referred to as "the base year") that is included in the base period in relation to that grant year, that person carried on in Australia the production of prescribed goods of that particular kind and exported from Australia components for prescribed goods, being prescribed goods of that kind, in relation to which he would not, but for this sub-section, have been a producer for export—

- (a) that person shall, for the purposes of his increase in export sales in respect of that grant year or of any later grant year in respect of which the base year is included in the base period, be deemed to have been a producer for export in relation to those components so exported in the base year; and
- (b) any other person who would, but for this sub-section, have been a producer for export in relation to those components shall be deemed not to have been a producer for export in relation to those components so exported in the base year.

(8.) For the purposes of this Act—

- (a) the performance by a person, or by employees of a person, of work of a particular kind for the purposes of the carrying out by that person of a contract for the construction by that person of a building or other work shall be deemed to be the supply by that person of services of a corresponding kind; and
- (b) except as otherwise expressly provided in the contract, moneys payable at any time under such a contract to the person supplying the services, to the extent to which those moneys do not exceed the amount of consideration specified in the contract as being attributable to the supply of those services, less any amount payable at any earlier time that is, or under this sub-section is to be deemed to be, payable for the supply of those services, shall be deemed to be payable for the supply of those services.

(9.) For the purposes of sub-section (7.) of this section—

- (a) a financial year that is a rebate year for the purposes of the Pay-roll Tax Assessment Act shall be deemed to be a grant year for the purposes of this Act; and
- (b) a notice issued under sub-section (2.) of section 16B of the Pay-roll Tax Assessment Act in relation to such a year has effect as if this Act had been in force at the time it was issued and it had been issued under sub-section (2.) of section 9 of this Act.

PART II.—ADMINISTRATION.

5. The Commissioner has the general administration of this Act.

6.—(1.) A Second Commissioner has all the powers and may perform all the functions of the Commissioner under this Act.

Powers and
functions of
Second
Commissioner
of Taxation.

(2.) The exercise of a power or the performance of a function of the Commissioner under this Act by a Second Commissioner does not prevent the exercise of that power or the performance of that function by the Commissioner.

(3.) The Commissioner has, in relation to an act of a Second Commissioner, the same powers as if that act were done by himself.

(4.) Where, under this Act, the exercise of a power or the performance of a function by the Commissioner is dependent upon the opinion, belief or state of mind of the Commissioner in relation to a matter, that power may be exercised or that function performed by a Second Commissioner upon the opinion, belief or state of mind of that Second Commissioner in relation to that matter.

(5.) A reference in this Act to the Commissioner shall be deemed to include, in respect of matters as to which a Second Commissioner has exercised a power or performed a function of the Commissioner conferred upon him by this Act, a reference to that Second Commissioner.

7.—(1.) The Commissioner may, by instrument in writing, delegate to a Deputy Commissioner or other person, either generally or otherwise as provided by the instrument of delegation, all or any of his powers and functions under this Act, except this power of delegation.

Delegation by
Commissioner.

(2.) A power or function so delegated may be exercised or performed by a delegate in accordance with the instrument of delegation and this Act has effect in relation to the exercise of the power or the performance of the function by the delegate as if a reference in this Act to the Commissioner were a reference to the delegate.

(3.) Where, under this Act, the exercise of a power or the performance of a function by the Commissioner is dependent upon the opinion, belief or state of mind of the Commissioner in relation to a matter and that power or function has been delegated in pursuance of this section, that power may be exercised or that function performed by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.

(4.) A delegation under this section is revocable in writing at will, and does not prevent the exercise of a power or the performance of a function by the Commissioner.

(5.) A delegation under this section may be made subject to a power of review and alteration by the Commissioner, within a period specified in the instrument of delegation, of acts done in pursuance of the delegation, and a decision given upon such a review or alteration shall be deemed to be the decision of the Commissioner.

Secrecy.

8.—(1.) In this section, unless the contrary intention appears, “ officer ” means a person—

(a) who is or has been appointed or employed by the Commonwealth; or

(b) to whom powers or functions have been delegated by the Commissioner under this Act,

and who, by reason of that appointment or employment or in the course of that employment, or by reason of, or in the course of carrying out powers and functions under, the delegation, as the case may be, may acquire or has acquired information with respect to the affairs of any other person disclosed or obtained under this Act.

(2.) Subject to this section, an officer shall not, either directly or indirectly, except in the performance of his duties as an officer, and either while he is, or after he ceases to be, an officer, make a record of, or divulge or communicate to any person, any information acquired by him as referred to in the last preceding sub-section.

Penalty: Five hundred dollars.

(3.) An officer shall not be required to produce in court a claim, application or notice made or given for the purposes of this Act, or to divulge or communicate to a court a matter or thing that has come to his notice in the performance of his duties as an officer, except when it is necessary to do so for the purpose of carrying into effect the provisions of this Act.

(4.) Nothing in this section prevents the Commissioner or a Second Commissioner, or a person authorized by the Commissioner or a Second Commissioner, from communicating any information to—

(a) a Board of Review;

(b) a person performing, as an officer, a function or duty arising under an Act administered by the Commissioner, for the purpose of enabling that person to carry out that function or duty; or

(c) the Commonwealth Statistician, for the purposes of the *Census and Statistics Act 1905–1966*.

(5.) A person to whom information is communicated under the last preceding sub-section and an employee or other person under his control are, in respect of that information, entitled to rights and privileges, and subject to obligations and liabilities, under sub-sections (2.) and (3.) of this section as if they were officers.

(6.) An officer shall, if and when required by the Commissioner, a Second Commissioner or a Deputy Commissioner to do so, make an oath or declaration, in a manner and a form approved by the Commissioner, to maintain secrecy in conformity with the provisions of this section.

(7.) Where the Treasurer is satisfied that it is desirable to do so for the purpose of enabling the Government of the Commonwealth to review the operation of this Act, he may, by writing under his hand, request the

Commissioner to communicate to him, or to a person specified in the request, being a Minister of State, the Secretary to the Department of the Treasury or the Secretary to the Department of Trade and Industry, information relating to such matters as are specified in the request, and, notwithstanding anything contained in this section, the Commissioner, or an officer authorized by him, shall communicate information relating to those matters to the person specified in the request.

(8.) The Secretary to the Department of the Treasury, the Secretary to the Department of Trade and Industry or any other officer or employee of the Commonwealth shall not, either while he is, or after he ceases to be, such an officer or employee—

- (a) except in the performance of a duty as an officer or employee of the Commonwealth, make a record of, or divulge or communicate to a Minister of State or any other officer or employee of the Commonwealth, any information relating to the affairs of a person acquired by him by reason, directly or indirectly, of a communication in accordance with the last preceding sub-section; or
- (b) divulge or communicate any such information to any person who is not a Minister of State or officer or employee of the Commonwealth.

Penalty: Five hundred dollars.

(9.) A person to whom the last preceding sub-section applies shall not be required to produce in court a document containing information referred to in that sub-section, or to divulge or communicate to a court any such information.

PART III.—EXPORT GRANTS.

9.—(1.) Where the Secretary or a person authorized by him certifies to the Treasurer that he is of opinion that, and the Treasurer is satisfied that, a person who, during a specified period, carried on the production in Australia of, and the export from Australia of motor vehicle components for, motor vehicles of a specified kind has significantly assisted in the development of manufacturing in Australia, and of the export from Australia of goods manufactured in Australia, by following a policy of using for the purposes of that production and export, to such extent as is reasonably practicable, components manufactured in Australia, the Treasurer shall, by notice in writing to the Commissioner signed by or on behalf of the Treasurer, direct that that person shall, for the purposes of this Act, be deemed to have been a producer for export in relation to motor vehicle components (being components in relation to which he would not otherwise have been a producer for export) that—

Exports of
certain
components.

- (a) were exported from Australia by that person during the period specified in the certificate; and
- (b) were components for motor vehicles of the kind specified in the certificate,

and, where such a direction is given, any other person who would, but

for this sub-section, have been a producer for export in relation to those components shall, for the purposes of this Act, be deemed not to have been a producer for export in relation to those components.

(2.) Where the Secretary or a person authorized by him certifies to the Treasurer that he is of opinion that, and the Treasurer is satisfied that—

- (a) a person who, during a grant year, carried on the production in Australia of prescribed goods of a particular kind and the export from Australia of components for prescribed goods of that kind, has followed a policy of using for the purposes of that production and export, to such extent as is reasonably practicable, components that are Australian products; and
- (b) the amount by which the total of the considerations receivable by that person for the sale of components for prescribed goods of that kind exported by him from Australia during the grant year exceeds the total cost to that person of components that are not Australian products and are included in the components for which those considerations are receivable is not less than one-half of the total of those considerations,

the Treasurer shall, by notice in writing to the Commissioner signed by or on behalf of the Treasurer, direct that that person shall, for the purposes of this Act, be deemed to have been a producer for export in relation to components for prescribed goods of that kind exported by the employer from Australia during the grant year, and, where such a direction is given, any other person who would, but for this sub-section, have been a producer for export in relation to those components shall, for the purposes of this Act, be deemed not to have been a producer for export in relation to those components.

(3.) Where, in relation to any goods, being motor vehicle components or components for prescribed goods, that were exported from Australia by a person during a specified period, the Secretary or the Treasurer is satisfied that that person should not be deemed, in accordance with sub-section (1.) or (2.) of this section, to be a producer for export of those goods, he shall cause that person to be notified accordingly.

(4.) A certificate under sub-section (2.) of this section in relation to a grant year shall not be issued unless an application for the certificate is lodged with the Secretary within six months after the end of that grant year.

(5.) In sub-section (2.) of this section—

“Australian products” means goods that have, by manufacture, production, assembling or processing, or by grading and sorting, carried out in Australia, been brought into the form or condition in which they were used in the production of prescribed goods of the kind concerned or were exported from Australia;

“ cost ”, in relation to components, not being Australian products, that are exported by a person, means—

- (a) where that person imported the components into Australia—the cost to that person of the components, excluding any customs duty paid or payable in respect of the importation; or
- (b) in any other case—the cost to that person of the components, less any customs duty that became payable by any other person upon the importation of the components into Australia;

“ prescribed goods of a particular kind ” does not include—

- (a) motor vehicles; or
- (b) parts, fittings or accessories for motor vehicles, not being goods of a kind marketed as additions to complete motor vehicles.

10.—(1.) For the purposes of this Act, the amount of the increase in export sales of a person for a grant year shall be ascertained in accordance with this section. Ascertainment of increase in export sales.

(2.) Subject to the next succeeding sub-section, the amount is the excess, if any, of the value of export sales of the person for the grant year over one-third of the value of export sales of the person for the base period.

(3.) In the case of a person who is a new exporter, the amount in relation to a grant year that is the first, second, third, fourth, fifth, sixth, seventh or eighth export year is the excess, if any, of the value of export sales of the person for the grant year over the amount, if any, ascertained in respect of that year in accordance with the next succeeding sub-section.

(4.) The amount to be ascertained for the purposes of the last preceding sub-section is—

- (a) in respect of the first export year—nil; and
- (b) in respect of any other year—the amount ascertained in accordance with the formula set out opposite the reference to that year in the following table:—

	a
Second export year	$— \frac{—}{8}$
	$a + b$
Third export year	$— \frac{—}{8}$
	$a + b + c$
Fourth export year	$— \frac{—}{8}$
	$a + b + c$
Fifth export year	$— \frac{—}{6}$

$$\begin{array}{rcl}
 \text{Sixth export year} & \text{---} & \frac{5(a+b+c)}{24} \\
 \\
 \text{Seventh export year} & \text{---} & \frac{a+b+c}{4} \\
 \\
 \text{Eighth export year} & \text{---} & \frac{7(a+b+c)}{24}
 \end{array}$$

(5.) For the purposes of the formulae in the last preceding sub-section, a , b and c are the value of export sales of the person for the first, second and third export years respectively.

Changes in
ownership of
business, &c.

11.—(1.) Where, during or after the period that is the base period in relation to a person in relation to a grant year but before the commencement of that grant year, that person (in this sub-section referred to as “the purchaser”) acquired from another person (in this sub-section referred to as “the vendor”), whether by purchase or otherwise, a business or any industrial property rights, the amount that would otherwise be the value of export sales of the purchaser for that base period shall be deemed to be increased—

- (a) except where the next succeeding paragraph applies—by an amount equal to so much of the value of export sales (apart from this section) of the vendor, and an amount equal to so much of the value of export sales (apart from this section) of any previous owner of the business or rights, for a year that is included in the base period in relation to the vendor in relation to the grant year as is attributable to the business or rights, as the case may be; or
- (b) where the acquisition took place during the base period first referred to in this sub-section and the base periods of the vendor and the purchaser respectively in relation to the grant year are not the same period—such part of the amount, or of each of the amounts, specified in the last preceding paragraph as bears to that amount, or to that sum, the same proportion as the number of days from and including the first day of the base period of the purchaser in relation to the grant year to and including the day next preceding the day of the acquisition bears to the number of days in the whole of that base period.

(2.) Where, during a grant year, a person acquired from another person, whether by purchase or otherwise, a business or any industrial property rights, the amount that would otherwise be the value of export sales of the first-mentioned person for a year of the base period in relation to that person in relation to that grant year shall be deemed to be increased by an amount or amounts equal to so much of any amount by which that value would be required, under the last preceding sub-section,

to be deemed to be increased if the acquisition had taken place immediately before the grant year as bears to that amount, or as bears to each of those amounts, as the case may be, the same proportion as the number of days from the date of the acquisition to the end of the grant year bears to the number of days in the whole of the grant year.

(3.) Where, during or after the base period in relation to a person in relation to a grant year, that person has disposed of a business or any industrial property rights, the amount that would otherwise be the value of export sales of that person for that base period shall be reduced—

- (a) where the disposal took place before the commencement of the grant year—by an amount equal to so much of that value of export sales as is attributable to that business or those rights (including any amount that is, under the preceding provisions of this section, to be deemed to be added to that value of export sales by reason of a previous acquisition by that person of that business or of those rights); or
- (b) where the disposal took place during the grant year—by an amount that bears to the amount first-mentioned in the last preceding paragraph the same proportion as the number of days from the date of disposal to the end of the grant year bears to the number of days in the whole of the grant year.

(4.) In this section—

- (a) a reference to the value of export sales of a person shall be read as a reference to the value of export sales of that person apart from any reduction under section 21 of this Act or under section 16Q of the Pay-roll Tax Assessment Act; and
- (b) a reference to a business shall be read as including a reference to a part of a business.

12.—(1.) Subject to this Act, the grant entitlement of an employer in respect of a grant year is the amount, if any, by which the sum of—

Grant entitlements.

- (a) the grant value of any increase in export sales of the employer for that grant year; and
- (b) the total of the grant values of export certificates issued to the employer in relation to that grant year,

exceeds the total of the grant values of export certificates issued by the employer in relation to that grant year.

(2.) The grant values of export certificates issued to the employer as an export merchant shall not be taken into account for the purposes of the last preceding sub-section to the extent, if any, to which the total of those grant values exceeds the amount calculated in accordance with the formula—

$$\frac{ab}{c}$$

where—

- a* is the amount of notional tax in respect of the grant year;
- b* is a number equal to the number of dollars included in the total of considerations receivable by that employer for disposals in the grant year of prescribed goods purchased by him from the producers for export of the goods and exported by him from Australia; and
- c* is a number equal to the number of dollars included in the total of considerations receivable by that employer in respect of all disposals of goods by him during the grant year.

Grants.

13.—(1.) Subject to this Act, there is allowable to an employer, in respect of a year for which it has been determined under this Act that he has a grant entitlement, a grant of an amount equal to the grant entitlement so determined.

(2.) For the purposes of this Act—

- (a)* an employer shall be taken to have a grant credit for a grant year if his grant entitlement for that grant year, as determined under this Act, exceeds his notional tax for that grant year; and
- (b)* the amount of the grant credit is so much of the amount of that excess as does not exceed one-half of the amount of that notional tax.

(3.) Subject to the next succeeding section, where an employer has a grant credit for a grant year, a grant is allowable to the employer in respect of a financial year that is one of the three next succeeding years (including a financial year subsequent to the last grant year) of an amount equal to so much of the grant credit as exceeds any grant that has, by virtue of that grant credit, become allowable under this sub-section in respect of an earlier year.

(4.) Subject to the next succeeding section, where—

- (a)* by virtue of sub-section (2.) of section 16F of the Pay-roll Tax Assessment Act, an employer had, for the purposes of that Act, a rebate credit for a rebate year, being a year before the financial year that commenced on the first day of July, One thousand nine hundred and seventy-one; and
- (b)* if the *Pay-roll Tax (Termination of Commonwealth Tax) Act 1971* had not been enacted, a rebate would have been allowable under sub-section (3.) of section 16F of the Pay-roll Tax Assessment Act to the employer in respect of the financial year that commenced on the first day of July, One thousand nine hundred and seventy-one, or in respect of one of the two next succeeding financial years,

a grant is allowable to the employer in respect of the financial year in respect of which the rebate would have been so allowable of an amount equal to that rebate.

14.—(1.) A grant allowable under sub-section (1.), sub-section (3.) or sub-section (4.) of the last preceding section in respect of a financial year, and the sum of the grants allowable under those sub-sections in respect of a financial year, shall not exceed the amount of the employer's notional tax for that financial year. Limit and order of grants.

(2.) Where, by reason of the last preceding sub-section, two or more grants otherwise allowable to an employer in respect of a financial year are not allowable in full—

- (a) a grant allowable under sub-section (1.) of the last preceding section is allowable in priority to a grant under sub-section (3.) or sub-section (4.) of that section;
- (b) a grant allowable under sub-section (4.) of that section is allowable in priority to a grant under sub-section (3.) of that section;
- (c) a grant allowable under sub-section (3.) of that section in respect of a grant credit for an earlier financial year is allowable in priority to a grant allowable under that sub-section in respect of a grant credit for a later financial year; and
- (d) a grant allowable under sub-section (4.) of that section in respect of a rebate credit for an earlier financial year is allowable in priority to a grant allowable under that sub-section in respect of a rebate credit for a later financial year.

15.—(1.) A person may make a claim in accordance with the next succeeding sub-section in respect of a grant year or any of the three years next succeeding the last grant year. Claims.

(2.) The claim shall be—

- (a) in accordance with a form determined by the Commissioner;
- (b) accompanied by such documents and declarations (including declarations made by or on behalf of the person making the claim) as are indicated on the form; and
- (c) lodged with the Commissioner within one year after the end of the year in respect of which it is made, or within such further time as the Commissioner allows.

16.—(1.) Where a person has duly made a claim in respect of a grant year, the Commissioner shall determine— Determinations.

- (a) whether the person has a grant entitlement for that year and, if so, the amount of the grant entitlement; and
- (b) whether that person has a grant credit for that year and, if so, the amount of the credit.

(2.) Where a person has duly made a claim, whether in respect of a grant year or a year subsequent to the last grant year, the Commissioner shall determine whether a grant is allowable to the employer in respect of that year under sub-section (1.), sub-section (3.) or sub-section (4.) of section 13 of this Act and, if so, the amount of any such grant allowable.

(3.) Subject to sub-section (5.) of this section, if the person, in the claim, claims that there is, in relation to him, a value of export sales for the grant year, the determination shall, whether or not a grant entitlement is determined, include a determination of the value of export sales of the person for each year of the base period and for the grant year.

(4.) Except as otherwise required by reason of the provisions of sub-section (6.) or sub-section (7.) of section 4, section 11, section 21 or section 22 of this Act, the value of export sales of a person for a year of the base period as determined in relation to a claim in respect of a grant year, or in relation to a claim under the Pay-roll Tax Assessment Act in respect of a year that is a rebate year for the purposes of that Act, shall be adopted in any determination in relation to a claim by that person in respect of a subsequent grant year in the base period in relation to which the first-mentioned year is included.

(5.) Subject to the next succeeding sub-section, if the Commissioner is not satisfied, upon consideration of the information furnished or otherwise available to him, as to the value of export sales of a person for the base period in relation to a grant year, the Commissioner is not required to determine that value and this Act has effect, in relation to any grant entitlement of that person or the issue of export certificates by that person, in relation to that grant year, as if that person had no increase in export sales for that grant year.

(6.) Where, in a case to which the last preceding sub-section would otherwise apply, the Commissioner is satisfied that the value of export sales of the person for the base period does not exceed a particular amount, but is not satisfied that the value is less than that amount, this Act has effect, for the purposes referred to in that sub-section, as if that amount were the value of export sales of the person for the base period.

(7.) As soon as conveniently may be after a determination is made, the Commissioner shall serve upon the person making the claim, by post or otherwise, a notice in writing of the determination.

Amendment of
determinations.

17.—(1.) Subject to this section, the Commissioner may at any time amend a determination in such manner as he thinks necessary.

(2.) Where a person making a claim has made to the Commissioner a full and true disclosure of all the material facts necessary for the making of a determination and a determination is made after that disclosure, an amendment of that determination adversely affecting that person shall not be made except to correct an error in calculation or a mistake of fact and no such amendment shall be made more than three years from the date of service upon that person of notice of the determination.

(3.) An amendment favourable to the person to whom the determination relates shall not be made to a determination except to correct an error in calculation or a mistake of fact, and no such amendment shall be made more than three years from the date of service upon that person of notice of the determination.

(4.) Nothing in this section prevents the amendment of a determination—

- (a) in order to give effect to a decision upon an appeal or a review or upon an application under section 21 or section 22 of this Act;
- (b) as a consequence of an amendment of a determination (including an amendment of a determination under the Pay-roll Tax Assessment Act) in relation to the value of export sales for a year of the base period;
- (c) as a consequence of the issue or receipt of export certificates by the person to whom the determination relates after the making of the claim to which the determination relates;
- (d) in order to give effect, in relation to a grant allowable under sub-section (4.) of section 13 of this Act, to an assessment, or an amendment of an assessment, under the Pay-roll Tax Assessment Act; or
- (e) in a manner favourable to the person to whom the determination relates, in pursuance of an objection made by him or pending an appeal or review.

(5.) An amendment of a determination shall, for the purposes of this Act, be deemed to be a determination.

18.—(1.) Notwithstanding anything contained in this Act, grants under this Act are allowable in accordance with this section and not otherwise. Allowance of grants.

(2.) The amount of a grant allowable in accordance with this section is the amount of the grant as determined in accordance with this Act.

(3.) Subject to this section, the amount of a grant allowable to an employer is a debt due and payable to the employer by the Commissioner on behalf of the Commonwealth.

(4.) The Commissioner may apply the whole or a part of a grant allowable to an employer in total or partial discharge of any liability to the Commonwealth of the employer arising under or by virtue of this Act or any other Act of which the Commissioner has the general administration.

(5.) Where, under the last preceding sub-section, the Commissioner has applied an amount of grant in discharge of a liability of an employer to the Commonwealth, that employer shall be deemed to have paid the amount so applied for the purpose for which, and at the time at which, it has been so applied.

(6.) Where, by reason of an amendment of a determination, the amount, or the sum of the amounts, applied or paid by the Commissioner in respect of a grant exceeds the amount of the grant allowable to the employer, the amount of the excess is a debt due to the Commonwealth by the employer and may be sued for and recovered in a court of competent jurisdiction by the Commissioner or a Deputy Commissioner suing in his official name.

(7.) An amount payable by the Commissioner under this section is payable out of the Consolidated Revenue Fund, which is, to the necessary extent, appropriated accordingly.

Declarations
regarding goods
exported.

19.—(1.) A person (in this sub-section referred to as “ the producer ”) from whom prescribed goods were, during the base period in relation to a grant year or within one year before that base period, acquired by a person who was, at the time of the acquisition, an export merchant (in this sub-section referred to as “ the export merchant ”) may, by notice in writing, require the export merchant to furnish to the Commissioner a declaration in accordance with this section giving particulars of all prescribed goods that were acquired by the export merchant at any time from the producer and were exported from Australia during that base period, other than prescribed goods—

- (a) of which the export merchant or some other person became, by reason of something done by him to or in relation to the prescribed goods since the acquisition, the producer for export; or
- (b) which were, after the acquisition and before being exported, physically included in other goods,

and the producer is not entitled to have a claim in respect of that grant year considered unless—

- (c) he has made such a requirement and states that fact in the claim, specifying the name and address of the export merchant; or
- (d) he satisfies the Commissioner that it was impossible or impracticable for him to make such a requirement or that the failure to make the requirement will not prejudice the proper determination of the claim.

(2.) A person (in this sub-section referred to as “ the producer ”) from whom prescribed goods were, during a grant year or within one year before a grant year, acquired by a person who was, at the time of the acquisition, an export merchant (in this sub-section referred to as “ the export merchant ”) may, by notice in writing require the export merchant to furnish to the Commissioner a declaration in accordance with this section giving particulars of all prescribed goods that were acquired by the export merchant at any time from the producer and were exported from Australia during that grant year, other than prescribed goods—

- (a) of which the export merchant or some other person became, by reason of something done by him to or in relation to the prescribed goods after the acquisition, the producer for export;
- (b) which were, after the acquisition and before being exported, physically included in other goods;
- (c) that are motor vehicle components that have been exported from Australia by a person who carried on the production of motor vehicles in Australia, not being components in respect of which a notification under sub-section (3.) of section 9 of this Act has been given; or

- (d) that are components for prescribed goods of a particular kind that have been exported from Australia by a person who carried on the production in Australia of prescribed goods of that kind, not being components in respect of which a notification under sub-section (3.) of section 9 of this Act has been given.

(3.) Subject to the next succeeding sub-section, a person who receives a notice in accordance with either of the last two preceding sub-sections shall, within sixty days after the receipt by him of the notice, or within such further time as the Commissioner in special circumstances allows, furnish to the Commissioner a declaration in accordance with the notice and the requirements of sub-section (6.) of this section.

Penalty: Two hundred dollars.

(4.) Where a person who receives a notice in accordance with sub-section (1.) or (2.) of this section does not know, and is unable to ascertain from his books, accounts or records, a matter that is required by this section to be contained in the declaration, a declaration furnished by him to the Commissioner shall be taken to comply with the requirements of this section so far as that matter is concerned if the declaration states that that person does not know and is unable to ascertain that matter and sets out adequate reasons for the inability.

(5.) A person who, in pursuance of this section, furnishes a declaration to the Commissioner shall, at the same time, furnish a copy of the declaration to the person who requested that the declaration be so furnished.

Penalty: Forty dollars.

(6.) A declaration furnished in pursuance of this section shall specify the amount of the consideration given, or to be given, by the person furnishing the declaration in respect of the prescribed goods referred to in the declaration and shall be in accordance with a form determined by the Commissioner.

(7.) A person shall not—

- (a) in a declaration furnished to the Commissioner by reason of a request made in accordance with sub-section (1.) of this section, knowingly specify as the amount of a consideration an amount that is less than the true consideration; or
- (b) in a declaration furnished to the Commissioner by reason of a request made in accordance with sub-section (2.) of this section, knowingly specify as the amount of a consideration an amount that is greater than the true consideration.

Penalty: An amount equal to the amount by which the consideration is understated or overstated, as the case may be, or One thousand dollars, whichever is the greater.

(8.) A person shall not, in a declaration furnished to the Commissioner by reason of a notice under sub-section (2.) of this section, knowingly specify a consideration in respect of goods that should not be included in the declaration.

Penalty: An amount equal to the consideration specified in the declaration or One thousand dollars, whichever is the greater.

Notice to
Commissioner
as to incorrect
declarations.

20.—(1.) Where a person has reason to believe that a copy of a declaration that has been furnished to him in pursuance of the last preceding section contains information that is incorrect or does not contain information that should be contained in it, he shall, not later than the day prescribed by the next succeeding sub-section, notify the Commissioner in writing accordingly, giving particulars of the extent to which he believes the information to be incorrect or deficient.

Penalty: One thousand dollars.

(2.) The prescribed day for the purposes of the last preceding sub-section is—

- (a) the last day of the financial year next succeeding the relevant grant year or if, on or before that day, the Commissioner has allowed to the person a further time for the making of a claim in respect of that grant year, the day on which that further time expires; or
- (b) the day on which that person makes a claim in respect of that grant year,

whichever is the earlier day, but, where that day is earlier than the thirtieth day after the day of receipt by the person of the copy of the declaration, the prescribed day is that thirtieth day.

Review of
base period
export sales.

21.—(1.) Subject to sub-section (8.) of this section, a person may, in relation to a grant year, apply in writing to the Commissioner for a reduction in the amount that would, apart from this section and section 11 of this Act, be the value of export sales of that person for a financial year (in this section referred to as “the base year”) that is included in the base period in relation to the grant year on the ground that, by reason of abnormal trading conditions or other extraordinary circumstances during the base year, that amount is greater than it would otherwise have been and he is, by reason of that fact, unfairly disadvantaged for the purposes of this Act.

(2.) Applications under this section in relation to the one grant year may be made in respect of more than one base year.

(3.) An application under this section shall be made at the time of the making by the applicant of a claim in respect of the grant year in relation to which the application is made or at any time after the making of such a claim and before the expiration of sixty days from the date of service on the applicant of notice of a determination of that claim by the Commissioner, but such an application shall not be considered before such a notice has been served.

(4.) The Commissioner shall refer every application duly made under this section to a Board of Review.

- (5.) The Board of Review shall determine—
- (a) whether the amount to which the application relates is, for the reasons referred to in sub-section (1.) of this section, greater than it would otherwise have been and, if so, the amount of the excess; and
 - (b) if there is such an excess, whether any reduction should be made in the value of export sales for the base year on the ground that the applicant is unfairly disadvantaged for the purposes of this Act by reason of the excess, and the extent of the reduction that should be so made.
- (6.) In making a determination under paragraph (b) of the last preceding sub-section, the Board of Review shall take into account—
- (a) the amount, if any, of rebate of tax in respect of the base year allowed to the person under the Pay-roll Tax Assessment Act that was attributable to the amount of the excess or the amount, if any, of grant in respect of the base year allowed to the person under this Act that was attributable to the amount of the excess; and
 - (b) where there was such an amount of rebate or grant, the amount of grant that will be, or is likely to be, attributable to the effect of the determination on the grant entitlement of the person for each of the grant years in relation to which the base year is, or will be, included in the base period.
- (7.) Where, upon an application under this section or under section 16Q of the Pay-roll Tax Assessment Act, a Board of Review has determined that the value of export sales of a person for the base year should be reduced by a specified amount, the value of export sales as reduced by that amount shall, for the purposes of this Act but subject to the application of section 11 of this Act and the next succeeding section, be deemed to be the value of export sales of that person for that year for the purpose of ascertaining the increase in export sales of that person for the grant year and for any subsequent grant year in relation to which the base year is included in the base period, and the Commissioner shall give effect to the determination accordingly.
- (8.) A person is not entitled to make more than one application under this section in relation to the one base year, and is not entitled to make an application under this section in relation to a base year in relation to which he has made an application under section 16Q of the Pay-roll Tax Assessment Act.

22.—(1.) Where a person has acquired a business or any industrial property rights and, under section 11 of this Act, an amount is to be deemed to be added to the value of export sales of that person for the base period in relation to a grant year, being the whole or a part of the value of export sales of a previous owner of the business or of the industrial property rights for a year (in this section referred to as “the vendor’s base year”), that first-mentioned person may, in relation to that grant year, apply in writing to the Commissioner for a reduction,

Review of amounts added to value of export sales for base period under section 11.

for the purpose of calculating the amount to be so added, of the amount that represents so much of the value of export sales of the previous owner (apart from section 11 of this Act) for the vendor's base year as is attributable to that business or those industrial property rights, on the ground that, by reason of abnormal trading conditions or other extraordinary circumstances during the vendor's base year, the amount to which the application relates is greater than it would otherwise have been and the applicant is, by reason of that fact, unfairly disadvantaged for the purposes of this Act.

(2.) Applications under this section in relation to the one grant year may be made in respect of the value of export sales of more than one previous owner.

(3.) An application under this section shall be made at the time of the making by the applicant of a claim in respect of the grant year in relation to which the application is made or at any time after the making of such a claim and before the expiration of sixty days from the date of service on the applicant of notice of a determination of that claim by the Commissioner, but such an application shall not be considered before such a notice has been served.

(4.) The Commissioner shall refer every application duly made under this section to a Board of Review.

(5.) The Board of Review shall determine—

(a) whether the amount to which the application relates is, for the reasons referred to in sub-section (1.) of this section, greater than it would otherwise have been and, if so, the amount of the excess; and

(b) if there is such an excess, whether any reduction should be made in the amount on the ground that the applicant is unfairly disadvantaged for the purposes of this Act by reason of the excess, and the extent of the reduction that should be made.

(6.) Where, upon an application under this section, a Board of Review has determined that the amount to which the application relates should be reduced, that amount shall be deemed to be reduced, to the extent determined by the Board, for the purposes of the application of section 11 of this Act in relation to the applicant in respect of the grant year to which the application related or in respect of any later grant year in relation to which that amount is relevant, and no further application under this section shall be made in respect of that amount in respect of any later grant year.

(7.) Where, upon an application under section 16R of the Pay-roll Tax Assessment Act, a Board of Review has determined that the amount to which the application relates should be reduced, that amount shall be deemed to be reduced, to the extent determined by the Board, for the purposes of the application of section 11 of this Act in relation to the applicant in respect of each grant year in relation to which that amount is relevant, and no application under this section shall be made in respect of that amount in respect of any grant year.

23.—(1.) Export certificates may be issued in accordance with this section, and every export certificate—

Export
certificates.

- (a) shall be in a form determined by the Commissioner; and
- (b) shall specify a grant value within the limits provided by this section and such other matters as are indicated on the form.

(2.) Subject to and in accordance with this section a person being—

- (a) a person who has, in a grant year, acquired from a supplier of components goods of the same kind as—
 - (i) prescribed goods that have, in that grant year, been exported from Australia and in relation to which that person was the producer for export; or
 - (ii) goods that have been physically included in goods referred to in the last preceding sub-paragraph; or
- (b) a supplier of components who has received an export certificate in relation to a grant year in respect of goods and has, in that grant year, acquired from another supplier of components goods of the same kind as the goods to which the certificate relates or goods of the same kind as goods that have been physically included in the goods to which the certificate relates,

may, during or after the end of the grant year in which he so acquired those goods from the supplier of components, issue to the supplier of components an export certificate in relation to that grant year.

(3.) Where a person issues an export certificate in relation to a grant year to a supplier of components in respect of goods of any kind—

- (a) he shall not specify in the certificate a grant value that, when added to the grant values specified in respect of goods of that kind in any other export certificate issued by him to suppliers of components (including that supplier) in relation to that grant year, exceeds the amount ascertained in accordance with the formula—

$$\frac{21a}{200}$$

$$200$$

where a is the total of the considerations for which the person issuing the certificate has, during that grant year and on or before the date of issue of the certificate, acquired from suppliers of components goods of that kind; and

- (b) where the total of the considerations for which he has, during that grant year and on or before the date of issue of the certificate, acquired from that supplier of components goods of that kind is less than one-tenth of the total of the considerations for which he has, during that grant year and on or before that date, acquired from suppliers of components (including that supplier) goods of that kind—he shall not specify in the certificate a grant value that, when added to the grant values specified in respect of goods of that kind in any other export certificates issued by him in

relation to that grant year in respect of goods of that kind to that supplier of components, exceeds the amount ascertained in accordance with the formula—

$$\frac{21a}{200}$$

where a is the total of the considerations for which he has, during that grant year and on or before the date of issue of the certificate, acquired from that supplier of components goods of that kind.

Penalty: The greater of—

- (a) One thousand dollars; or
- (b) the amount ascertained in accordance with the formula—

$$\frac{200a}{21}$$

where a is the amount of the excess.

(4.) Where—

- (a) a person has, during a grant year, sold prescribed goods of any kind to an export merchant;
- (b) any of those goods have, whether during that grant year or later, been exported from Australia and the first-mentioned person is the producer for export of the goods so exported; and
- (c) goods of that kind have been exported from Australia during that grant year by that export merchant,

that first-mentioned person may, subject to and in accordance with this section, issue to that export merchant an export certificate in relation to that grant year.

(5.) A person shall not, in an export certificate issued under the last preceding sub-section in relation to a grant year by reference to the sale to an export merchant of goods of any kind, specify a grant value that, when added to the grant values specified in other export certificates issued by him under that sub-section in relation to that grant year to export merchants (including that export merchant) by reference to sales of goods of that kind, gives a total exceeding the amount ascertained in accordance with the formula—

$$\frac{21a}{200}$$

where a is the total of the considerations for which the person issuing the certificate has, during that grant year and on or before the date of issue of the certificate, sold goods of that kind, to export merchants who have, during that grant year, exported goods of that kind.

Penalty: The greater of—

- (a) One thousand dollars; or

- (b) the amount ascertained in accordance with the formula—

$$\frac{200a}{21}$$

where a is the amount of the excess.

(6.) A person shall not specify in an export certificate issued by him in relation to a grant year a grant value that, when added to the grant values specified in any other export certificates issued by him in relation to that grant year, gives a total exceeding—

- (a) if the certificate is issued after the grant year—the total of the grant values of the increase in export sales of the person for the grant year and of any export certificates issued to him in respect of that grant year; or
- (b) if the certificate is issued during the grant year—the total of the grant values of the amount that would be the increase in export sales of the person for the grant year if the grant year ended on the day on which the certificate is issued and of any export certificates issued to him on or before that day in respect of that grant year.

Penalty: The greater of—

- (a) One thousand dollars; or
- (b) an amount ascertained in accordance with the formula—

$$\frac{200a}{21}$$

where a is the amount of the excess.

(7.) A person shall not, except with the approval in writing of the Commissioner, issue an export certificate in relation to a grant year—

- (a) after the making of a claim by that person in respect of the grant year; or
- (b) after the expiration of one year from the end of the grant year and of the further time, if any, allowed by the Commissioner for the making of a claim by that person in respect of that grant year.

Penalty: The greater of—

- (a) One thousand dollars; or
- (b) an amount ascertained in accordance with the formula—

$$\frac{200a}{21}$$

where a is the grant value specified in the export certificate.

(8.) In this section—

(a) a reference to prescribed goods shall be read as not including—

(i) a reference to motor vehicle components that have, in a grant year, been exported from Australia by a person who carried on the production of motor vehicles in Australia and in relation to which the exporter is not the producer for export; or

(ii) a reference to components for prescribed goods of a kind in relation to which sub-section (2.) of section 9 of this Act applies, being components that have, in a grant year, been exported from Australia by a person who carried on the production of prescribed goods of that kind in Australia and in relation to which the exporter is not the producer for export,

not being components in respect of which a person is, by virtue of section 9 of this Act, deemed to be a producer for export or in respect of which a notification under sub-section (3.) of section 9 of this Act has been given; and

(b) a reference to the increase in export sales of a person for a grant year shall be read as not including a reference to such part (if any) of that increase as is attributable to components in relation to which the last preceding paragraph applies.

Certain
arrangements
and
transactions.

24.—(1.) Where the Commissioner is satisfied that arrangements have been made between any persons with a view to the affairs of those persons being so arranged or conducted that this Act would have effect more favourably in relation to one of those persons than would otherwise have been the case, the amount of any increase in export sales, or of any grant entitlement, of that person shall not exceed the amount that would, in the opinion of the Commissioner, have been the amount of that increase in export sales or of that grant entitlement if those arrangements had not been made.

(2.) Where—

(a) by virtue of sub-section (8.) of section 4 of this Act, prescribed professional services are to be deemed to have been supplied by a person in relation to a contract for the construction by that person of a building or other work, being a contract that specifies an amount of consideration as being attributable to those services; and

(b) that amount exceeds the amount that, in the opinion of the Commissioner, could reasonably be expected to have been the cost to that person of obtaining the performance of the work involved in those services by a person other than himself and his own employees, being a person with whom he was dealing at arm's length,

the Commissioner may treat the consideration receivable for the supply of those services as being reduced by the amount of the excess.

25. Where a trade or business, or more than one trade or business, is carried on by the Crown in right of a State, this Act applies as if— Business conducted by States.

- (a) the Crown were, in respect of each trade or business, a separate employer; and
- (b) the Crown were not, as such an employer, entitled to any deduction under section 14 of the Pay-roll Tax Assessment Act for the purpose of ascertaining notional tax applicable to the Crown.

26.—(1.) A marketing authority that came into existence on or after the date of commencement of the *Pay-roll Tax Assessment Act* 1968, or within sixty days before that date, may, by notice in writing lodged with the Commissioner, elect to be treated, for the purposes of this Act, as a producer for export in relation to prescribed goods produced in Australia of a class specified in the election exported or sold for export by the authority (including goods exported or sold before the date of the election), being goods in relation to which the authority would not, but for the election, be the producer for export. Elections by marketing authorities.

(2.) A notice under this section shall be lodged not later than sixty days after the date on which the marketing authority came into existence.

(3.) Where a marketing authority duly makes an election under this section in relation to any goods—

- (a) the marketing authority shall be deemed to be, and to have been, a producer for export in relation to those goods; and
- (b) no other person shall be taken to be, or to have been, a producer for export in relation to those goods.

(4.) For the purposes of this section, an election by a marketing authority that had effect, immediately before the date of commencement of the *Pay-roll Tax Assessment Act* 1968, for the purposes of section 16p of the *Pay-roll Tax Assessment Act* 1941–1967, or an election by a marketing authority that had effect immediately before the date that is the terminating date for the purposes of the *Pay-roll Tax (Termination of Commonwealth Tax) Act* 1971, for the purposes of section 16w of the Pay-roll Tax Assessment Act, shall be deemed to be an election duly made under this section.

27.—(1.) For the purposes of this Act, where gold has been delivered in accordance with section 42 of the *Banking Act* 1959— Gold.

- (a) the gold shall be deemed to have been exported from Australia on the date on which the gold was so delivered;
- (b) the person who by mining (including the working of alluvial or surface deposits) produced the minerals from which the gold was obtained, and no other person, shall be deemed to be the producer for export of the gold;
- (c) except in a case to which the next succeeding paragraph applies, the value of export sales of that producer shall be deemed to include, in relation to the financial year in which the gold was

so delivered, the consideration received in respect of the delivery of the gold by the person who so delivered the gold (whether the gold was so delivered by that producer or by another person);

- (d) where, at any time during the financial year in which the gold was so delivered, the producer referred to in paragraph (b) of this sub-section was a shareholder in a prescribed company, the value of export sales of that producer shall be deemed to include—
- (i) in relation to the financial year in which the gold was so delivered—so much of the consideration received in respect of the delivery of the gold by the person who so delivered the gold (whether the gold was so delivered by that producer or by another person) as exceeds the amount that bears to that consideration the same ratio as the prescribed ratio in relation to that financial year; and
 - (ii) in relation to any financial year (including the financial year in which the gold was so delivered)—so much of the total of any dividends of the kind referred to in sub-section (2.) of section 23C of the *Income Tax and Social Services Contribution Assessment Act* 1936-1951, or of that Act as amended and in force for the time being, received by him in that financial year as exceeds the amount that bears to the total of those dividends the same ratio as the prescribed ratio in relation to that financial year; and
- (e) except for the purpose of calculating the prescribed ratio in relation to a financial year that is a financial year later than the financial year that ended on the thirtieth day of June, One thousand nine hundred and sixty-eight, any actual export of the gold shall not be taken into account for the purposes of this Act.

(2.) Notwithstanding the provisions of the last preceding sub-section, the provisions of this Act apply in relation to the export from Australia of gold that—

- (a) has been purchased from the Reserve Bank; and
- (b) has been exported by a person other than the Reserve Bank or a prescribed company,

as if this section had not been enacted.

(3.) For the purposes of this section, gold delivered in accordance with section 42 of the *Banking Act* 1959 shall be deemed to have been so delivered at the time treated by the Reserve Bank as the time of delivery of the gold for the purpose of payment of the price fixed and published under section 44 of the *Banking Act* 1959.

(4.) A reference in this section to the *Banking Act* 1959 shall be read as including a reference to that Act as amended and in force for the time being.

(5.) In this section—

“ prescribed company ” means a company approved by the Treasurer for the purposes of section 23C of the *Income Tax and Social Services Contribution Assessment Act* 1936–1951 or of that Act as amended and in force for the time being;

“ the prescribed ratio ” means—

- (a) in relation to a financial year that ended on the thirtieth day of June of a year specified in the first column of the table in the Schedule to this Act—the ratio of the number specified in the second column of that table opposite to that year to the number specified in the third column of that table opposite to that year; and
- (b) in relation to a financial year that is a financial year later than the financial year that ended on the thirtieth day of June, One thousand nine hundred and sixty-eight—the ratio of the total quantity of gold purchased from the Reserve Bank sold during the immediately preceding financial year by prescribed companies, being gold other than gold exported by or on behalf of a prescribed company, to the total quantity of all gold purchased from the Reserve Bank sold during that immediately preceding financial year by prescribed companies;

“ the Reserve Bank ” means the Reserve Bank of Australia.

28. For the purposes of this Act, all amounts shall be expressed in terms of Australian currency.

Amounts to be expressed in Australian currency.

PART IV.—OBJECTIONS, REVIEWS AND APPEALS.

29.—(1.) A person who is dissatisfied with a determination made in relation to him by the Commissioner under section 16 of this Act may, within sixty days after service on him of notice of the determination, post to or lodge with the Commissioner an objection in writing stating fully and in detail the grounds on which he relies.

Objections.

(2.) The Commissioner shall consider the objection, and may either disallow it or allow it, either wholly or in part.

(3.) The Commissioner shall give to the objector written notice of his decision on the objection.

(4.) A person who is dissatisfied with the decision on an objection by that person may, within sixty days after service on him of notice of the decision, request the Commissioner, in writing, to refer the decision to a Board of Review for review.

30.—(1.) Where a person has, in accordance with the last preceding section, requested the Commissioner to refer a decision to a Board of Review, the Commissioner shall, if the person's request is accompanied by a fee of Two dollars, refer the decision to a Board of Review as soon as is practicable after receipt of the request.

Reference to Board of Review.

(2.) On the review—

- (a) the person who made the request is limited to the grounds stated in his objection; and
- (b) the burden of proving that the person has a grant entitlement, and the amount of the grant entitlement, lies on that person.

(3.) If the determination has been varied by the Commissioner after considering the objection, the determination as varied shall be that to be dealt with by the Board of Review under the next succeeding sub-section.

(4.) The Board, on review, shall give a decision and may confirm or vary the determination.

(5.) The Commissioner, or a person who requested a review by a Board of Review, may appeal to the High Court from a decision of the Board under this section that, in the opinion of the High Court, involves a question of law, and the Board shall, upon the request of the Commissioner or such a person, refer to the High Court any question of law arising before the Board of Review and the decision of the High Court thereon is final and conclusive.

(6.) If the determination is varied in a manner favourable to the person who requested the review, either by an amendment or as a result of the decision of the Board of Review or the High Court, the fee paid in accordance with sub-section (1.) of this section shall be refunded to him.

Powers of Board.

31. A Board of Review has power to review such decisions of the Commissioner, a Second Commissioner or a Deputy Commissioner as are referred to it by the Commissioner under this Act and, for the purposes of reviewing such a decision, has all the powers and may perform all the functions of the Commissioner in making determinations and decisions under this Act, and the determinations and decisions of the Board, and the decisions of the Board upon review, shall be deemed to be determinations or decisions, as the case may be, of the Commissioner.

PART V.—MISCELLANEOUS.

Commissioner may obtain information and evidence.

32.—(1.) For the purpose of inquiring into, or ascertaining the entitlement of a person under this Act, the Commissioner may, by notice in writing, require a person—

- (a) to furnish the Commissioner with such information as the Commissioner requires;
- (b) to attend and give evidence before the Commissioner or before an officer authorized by the Commissioner for the purpose; and
- (c) to produce any books, documents and other papers in the custody or under the control of the person.

(2.) The Commissioner may require the person to give the information or evidence on oath, and either orally or in writing, and for that purpose the Commissioner or a person authorized by him may administer an oath.

(3.) Where the person conscientiously objects to making an oath, he may make an affirmation that he so objects and that the information or

evidence he will give will be the truth, the whole truth and nothing but the truth, and an affirmation so made is of the same force and effect, and entails the same liabilities, as an oath.

(4.) A person who is required in pursuance of this section to attend and give evidence before the Commissioner or an officer authorized by the Commissioner for the purposes of an inquiry into, or the ascertaining of, the entitlement of another person under this Act is entitled to payment of an allowance in respect of his expenses of attending and giving evidence of an amount determined by the Commissioner in accordance with the regulations.

33.—(1.) For the purposes of this Act, an officer authorized by the Commissioner to exercise powers under this section— Access to books, &c.

- (a) may, at all reasonable times, enter upon any land;
- (b) shall have full and free access at all reasonable times to all books, documents and other papers; and
- (c) may, for those purposes, take extracts from, and make copies of, any books, documents or papers.

(2.) An officer who enters upon land in pursuance of this section is not authorized to remain on the land if, on request by the occupier of the land, he does not produce a certificate in writing under the hand of the Commissioner certifying that he is an officer authorized to exercise powers under this section.

34.—(1.) A person who, by wilful act, default or neglect, by fraud, Offences. art or contrivance or by a wilfully false statement—

- (a) obtains or attempts to obtain a determination of a grant entitlement to which he is not entitled; or
- (b) obtains or attempts to obtain a determination of a grant entitlement of an amount exceeding the amount of the grant entitlement to which he is entitled,

is guilty of an offence punishable, on conviction—

- (c) in the case of an offence to which paragraph (a) of this sub-section applies—by a fine of not less than One hundred dollars and the amount of the grant entitlement and not more than One thousand dollars and treble the amount of the grant entitlement; or
- (d) in the case of an offence to which paragraph (b) of this sub-section applies—by a fine of not less than One hundred dollars and the amount of the excess and not more than One thousand dollars and treble the amount of the excess.

(2.) A person who—

- (a) fails or neglects to comply with a requirement of the Commissioner as and when required by or under this Act or the regulations;
- (b) without just cause shown by him, refuses or neglects duly to attend and give evidence when required by the Commissioner or an officer duly authorized by him, or to answer truly and fully

any questions put to him, or to produce a book, document or paper required of him, by the Commissioner or any such officer; or

- (c) makes a false answer, whether orally or in writing, to a question duly put to him by the Commissioner or an officer duly authorized by the Commissioner,

is guilty of an offence punishable, on conviction, by a fine not exceeding Two hundred dollars.

(3.) In a prosecution of a person for an offence to which paragraph (c) of the last preceding sub-section applies, being a person who has not previously been convicted of an offence against this Act, it is a defence if the defendant proves—

- (a) that the answer to which the prosecution relates was prepared or made by him personally; and
(b) that the false answer was given through ignorance or inadvertence.

Report by
Commissioner.

35.—(1.) The Commissioner shall, as soon as practicable after the end of each grant year, furnish to the Treasurer a report on the operation of this Act.

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

Regulations.

36.—(1.) 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 notices required or permitted by this Act to be given to or by, or lodged with, the Commissioner, may be given or lodged; and
(b) penalties not exceeding a fine of Forty dollars for offences against the regulations.

THE SCHEDULE

Section 27.

TABLE FOR ASCERTAINING THE PRESCRIBED RATIO FOR THE PURPOSES OF SECTION 27.

Column 1							Column 2	Column 3
1964	..	..	..	..	..	..	60,192	1,040,998
1965	..	..	..	..	..	..	70,777	952,940
1966	..	..	..	..	..	..	89,006	911,875
1967	..	..	..	..	..	..	90,479	803,192
1968	..	..	..	..	..	..	112,217	738,952