

AUTOMATIC DATA PROCESSING EQUIPMENT BOUNTY ACT 1977

No. 28 of 1977

An Act to provide for the Payment of a Bounty on the Production of certain Automatic Data Processing Equipment.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Automatic Data Processing Equipment Bounty Act 1977*.¹ Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commence-
ment.

3. (1) In this Act, unless the contrary intention appears— Interpret-
ation.
“authorized person” means a person who is an authorized person by virtue of an appointment under section 15;

“automatic data processing equipment” means—

(a) a digital machine (including such a machine with some analogue elements)—

(i) that has storage capable of storing a processing program or processing programs and the data to be processed and also a program for translating the formal programming language in which the programs for the machine are written into machine language;

(ii) the main storage of which is directly accessible for the execution of a program and has a capacity sufficient at least to store the parts of the processing and translating programs, and the data, that are immediately necessary for the current processing run; and

(iii) that is able, of itself, on the basis of instructions contained in the initial program to modify, by logical decision, the execution of the program during the processing run;

(b) an analogue machine (including such a machine with some digital elements) that is capable of simulating mathematical models and comprises, at least, analogue elements, control elements and programming elements;

(c) a magnetic or optical reader; or

(d) a machine for transcribing data on to data media in coded form or a machine for processing such data, and includes—

- (e) where equipment referred to in paragraph (a), (b), (c) or (d) includes a program for translating the formal programming language in which the programs for the equipment are written into machine language—the component that sets out that program; and
- (f) prepared tapes, wires, strips and like goods of a kind commonly used for magnetic recording of sound or similar recording, being goods for use with equipment referred to in paragraph (a), (b), (c) or (d) but not being goods on which a program or other information is recorded,

but does not include—

- (g) a cathode ray display terminal;
- (h) a calculating machine, accounting machine, cash register, postage-franking machine, ticket-issuing machine or a similar machine, or similar equipment, incorporating a calculating device;
- (i) a machine or equipment for punching or notching cards or documents for indexing purposes only;
- (j) a flight simulator;
- (k) a visual display keyboard unit having a keyboard that provides for graphic arts coding and is capable of use both as machinery for type-setting and machinery for transcribing data on to data media in coded form; or
- (l) a machine or equipment for the control of other machinery or equipment;

“bounty” means bounty under this Act, and includes an advance on account of bounty under section 11;

“Collector” means a Collector of Customs for a State or Territory;

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

“registered premises” means premises registered by the Minister under section 12.

(2) A reference in paragraph (a), (b) or (d) of the definition of “automatic data processing equipment” in sub-section (1) to a machine shall be read as including a reference to a system consisting of a variable number of separately-housed units each of which is specifically designed as part of the system and—

- (a) unless the unit is the central processing unit, is capable of being connected to the central processing unit, either directly or through one or more of the other units; and

- (b) unless the unit is a power supply unit, is able to accept or deliver data, in the form of code or signals, that can be used by the system.

(3) For the purposes of this Act, the production of automatic data processing equipment that was in the course of production on 29 March 1977 shall be deemed to have commenced on that day.

4. For the purposes of this Act, each of the following periods is a period to which this Act applies:—

- (a) the period commencing on 29 March 1977 and ending on 28 March 1980;
- (b) the period commencing on 29 March 1980 and ending on 28 March 1982; and
- (c) the period commencing on 29 March 1982 and ending on 28 March 1984.

Periods
during which
bounty
payable.

5. (1) For the purposes of this Act, the additional value in relation to automatic data processing equipment is an amount ascertained in accordance with the formula—

Additional
value.

$$A-B,$$

where—

- A is an amount determined by the Comptroller-General to be the factory cost with respect to the manufacture of the equipment; and
- B is an amount determined by the Comptroller-General to be the cost of the materials and parts supplied to the manufacturer and used by him in the manufacture of the equipment.

(2) In determining the factory cost with respect to the manufacture of automatic data processing equipment, the Comptroller-General shall make an allowance for research and development expenditure, system design and system engineering costs and factory overhead charges, but shall not make any allowance for general administration, selling costs, service charges, taxation, any cost incurred in respect of the development or production of auxiliary software or any cost incurred after the completion of manufacture.

(3) In sub-section (2), “auxiliary software” means programs that have specific application to the data and organization of a particular user, or particular users, of automatic data processing equipment.

6. (1) Bounty is payable in accordance with this Act on the production of automatic data processing equipment.

Specification
of bounty.

(2) Bounty in respect of automatic data processing equipment is payable to the manufacturer of the equipment.

(3) A manufacturer is not entitled to receive a payment of bounty in respect of automatic data processing equipment unless—

- (a) the equipment was produced at premises that throughout the whole course of that production were registered premises;
- (b) the production of the equipment was completed during a period to which this Act applies; and
- (c) the equipment was sold by the manufacturer during a period to which this Act applies.

Uniformity.

7. A power conferred on the Governor-General or the Minister by this Act shall not be exercised in such a manner that bounty under this Act would not be uniform throughout the Commonwealth, within the meaning of paragraph (iii.) of section 51 of the Constitution.

Amount of bounty.

8. The bounty payable in respect of automatic data processing equipment is an amount equal to—

- (a) where the production of the equipment is completed in the period specified in paragraph 4 (a)—20 per centum of the additional value of the equipment;
- (b) where the production of the equipment is completed in the period specified in paragraph 4 (b)—15 per centum of the additional value of the equipment; and
- (c) where the production of the equipment is completed in the period specified in paragraph 4 (c)—7.5 per centum of the additional value of the equipment.

Good quality essential.

9. Bounty is not payable in respect of automatic data processing equipment unless, in the opinion of the Comptroller-General, it is of good and merchantable quality.

Approval of payment of bounty.

10. (1) Where an application for bounty in respect of automatic data processing equipment is lodged in accordance with the regulations, the Minister shall—

- (a) if he is satisfied that bounty is payable in respect of that equipment—approve the payment of the bounty; or
- (b) if he is not so satisfied—refuse to approve payment of the bounty.

(2) In this section, “bounty” does not include an advance on account of bounty under section 11.

11. (1) An advance on account of bounty may be made to a person on such terms and conditions as are approved by the Minister.

Advances on account of bounty.

(2) If, at the expiration of a period to which this Act applies, a person has received during that period, by way of advance on account of bounty, an amount greater than the amount of bounty that became payable to him under this Act during that period, he is liable to repay to the Commonwealth the amount of the excess, and that amount may be recovered as a debt due to the Commonwealth by action in a court of competent jurisdiction.

12. (1) The regulations may prescribe conditions to be complied with, for the purposes of this Act, in connexion with the manufacture of automatic data processing equipment at registered premises.

Registration of premises.

(2) Where a person carries on, or proposes to carry on, the manufacture of automatic data processing equipment 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), 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) Where an applicant under this section was not, on 29 March 1977 engaged in manufacturing automatic data processing equipment at the premises to which the application relates, the Minister shall refuse to register those premises unless, in the opinion of the Minister, the registration of those premises will promote the orderly development of the manufacture of automatic data processing equipment in Australia.

(6) Subject to sub-sections (3), (4) and (5), if, in the opinion of the Minister, automatic data processing equipment is, or is proposed to be, manufactured at the premises in respect of which the application is made, he shall register those premises for the purposes of this Act.

(7) If the Minister so determines, the registration shall be deemed to have taken effect on and from a date specified by the Minister, being a date not earlier than 29 March 1977.

(8) Where the Minister is satisfied, in respect of any registered premises—

- (a) that automatic data processing equipment is not being manufactured at the premises;

- (b) that automatic data processing equipment is not being manufactured at the premises by the person who applied for registration of the premises; or
- (c) if any conditions have been prescribed under sub-section (1), that automatic data processing equipment is being manufactured at the premises otherwise than in accordance with those conditions,

the Minister may, by notice in writing served either personally or by post on the occupier of the premises 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.

(9) For the purposes of the application of section 29 of the *Acts Interpretation Act* 1901 to the service by post of a notice under sub-section (8) of this 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.

Accounts.

13. A person is not entitled to bounty unless he keeps, to the satisfaction of the Minister, accounts, books, documents and other records showing, from time to time, particulars of the manufacture and sale of automatic data processing equipment and such other information in relation to the equipment as the Minister requires.

Securities.

14. The Minister may require a manufacturer of automatic data processing equipment to give security, in an amount determined by the Minister, 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 purpose of an undertaking given by him for the purposes of this Act or the regulations, and the manufacturer is not entitled to bounty unless he gives security accordingly.

Appointment
of authorized
persons.

15. The Minister may, by writing signed by him, appoint a person to be an authorized person for the purposes of this Act.

Stock-taking
and
inspection of
manufacture
and
accounts, &c.

16. (1) For the purposes of this Act, an authorized person may, at all reasonable times, enter—

- (a) registered premises; or
- (b) premises where there is stored automatic data processing equipment in respect of 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 automatic data processing equipment;
- (d) inspect the processes of manufacture of any automatic data processing equipment; and

- (e) inspect the accounts, books, documents and other records relating to the manufacture, storage or sale of automatic data processing equipment.

(2) The occupier or person in charge of registered premises, or of premises referred to in paragraph (1) (b), shall provide the authorized person with all reasonable facilities and assistance for the effective exercise of his powers under this section.

Penalty: \$100.

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 manufacture, storage or sale of automatic data processing equipment 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, documents and other records in relation to the manufacture, storage or sale of automatic data processing equipment as are referred to in the notice.

Power to require persons to answer questions and produce documents.

(2) The Comptroller-General, a Collector or an authorized person may make and retain copies of, or extracts from, any accounts, books, documents or other records produced in pursuance of this section.

(3) A person is not excused from answering a question or producing any accounts, books, documents or other records when required so to do under this section on the ground that the answer to the question, or the production of the accounts, books, documents or other records, 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 19 (1) (c) or 19 (2) (c).

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

18. (1) The Comptroller-General, a Collector or an authorized person may examine, on oath or affirmation, a person attending before him in pursuance of section 17 and, for that purpose, may administer an oath or affirmation to that person.

Power to examine on oath, &c.

(2) The oath or affirmation to be made by a person for the purposes of sub-section (1) is an oath or affirmation that the answers he will give to questions asked him will be true.

Offences.

19. (1) A person shall not, without reasonable excuse, 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, document or other record,

when required in pursuance of this Act.

Penalty: \$1,000 or imprisonment for 3 months.

(2) A person shall not—

- (a) knowingly obtain or attempt to obtain bounty that is not payable;
- (b) obtain or attempt to obtain payment of bounty by means of a statement that he knows to be false or misleading or by means of a document that to his knowledge contains information that is false or misleading; or
- (c) make to an officer or other person doing duty in relation to this Act or the regulations, including the Comptroller-General, a Collector or an authorized person when exercising his powers under section 18, a statement that is false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 3 months.

(3) Where a person is convicted of an offence against sub-section (2), 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 by him.

(4) Where a court has made an order under sub-section (3), 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 respect as a final judgment of that court.

Return for
Parliament.

20. (1) The Comptroller-General shall, as soon as practicable after the end of a period to which this Act applies, furnish to the Minister a return setting forth—

- (a) the name and address of each person to whom bounty was paid in that period;
- (b) the amount of bounty paid to each person in that period and the quantity of automatic data processing equipment in respect of which the bounty was paid; and
- (c) 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 15 sitting days of that House after the return is received by him.

21. (1) The Minister or the Comptroller-General may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person any of his powers under this Act, other than this power of delegation. Delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister or the Comptroller-General, as the case may be.

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

22. Applications may be made to the Administrative Appeals Tribunal for review of— Applications for review.

- (a) a determination by the Comptroller-General made for the purposes of sub-section 5 (1);
- (b) a decision of the Comptroller-General made for the purposes of section 9;
- (c) an approval of the Minister given under sub-section 10 (1) or a refusal of the Minister to give an approval under that sub-section;
- (d) a refusal of the Minister to register premises under section 12, not being a refusal by virtue of sub-section 12 (5);
- (e) a determination by the Minister made for the purposes of sub-section 12 (7) or a refusal of the Minister to make a determination for the purposes of that sub-section;
- (f) a decision of the Minister made for the purposes of sub-section 12 (8); or
- (g) a determination by the Minister of an amount of security made for the purposes of section 14.

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

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— Regulations.

- (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 \$100 for offences against the regulations.

NOTE

1. Act No. 28, 1977; assented to 16 May 1977.