

# BOUNTY (COMMERCIAL MOTOR VEHICLES) ACT 1978

**No. 208 of 1978**

An Act to provide for the payment of bounty on the production of certain motor vehicles.

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 *Bounty (Commercial Motor Vehicles) Act 1978*.<sup>1</sup> Short title

2. This Act shall be deemed to have come into operation on 17 August 1978. Commence-  
ment

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

“assembler”, in relation to a bountiable vehicle, means the person who produced the vehicle by carrying out the last step in the assembly of the vehicle, whether or not he carried out any of the earlier steps in that assembly;

Interpret-  
ation

“Australian percentage” has the meaning given by section 5;

“authorized person” means a person who is an authorized person for the purposes of this Act by virtue of an appointment under section 15;

“bountiable vehicle” means a commercial motor vehicle that has not been completely constructed but has been assembled as a unit consisting of all the major mechanical components and electrical components relating to those components, including the motor that is to propel the vehicle, the transmission components, the brake components, the steering gear components, components of the suspension system, the axles and the wheels;

“bounty” means bounty under this Act;

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

“commercial motor vehicle” means a motor vehicle—

- (a) that is designed solely or principally for the transport on highways of people, animals or goods; and
- (b) the designed maximum laden weight of which, that is to say the weight known as the gross vehicle mass, is not less than 2.72 tonnes;

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

- “goods” includes materials, equipment, liquid and gas;
- “period to which this Act applies” means the period that commenced on 17 August 1978 and ends on 31 December 1984;
- “prescribed component” has the meaning given by section 4;
- “registered premises” means premises registered by the Minister under section 12;
- “vehicle component” means a component for a motor vehicle, and includes a component for such a component.

(2) For the purposes of this Act, bounty payable in respect of a bountiable vehicle shall be deemed to have become payable on the completion of the last step in the assembly of the vehicle.

(3) For the purposes of this Act, 2 persons shall be taken to be business associates if—

- (a) one has an interest, whether direct or indirect, in the business or property of the other;
- (b) both have an interest, whether direct or indirect, in the same business or property; or
- (c) another person has an interest, whether direct or indirect, in the business or property of each of them.

Prescribed  
component

4. (1) A reference in this Act to a prescribed component shall be read as a reference to—

- (a) an assembled basic vehicle component that was purchased by the assembler of a bountiable vehicle and used by him in the assembly of the vehicle, whether or not the basic vehicle component, when so purchased, was joined to any other vehicle component so used; or
- (b) an assembled or complete vehicle component that was purchased by the assembler of a bountiable vehicle and used by him in the assembly of a basic vehicle component used by him in the assembly of the vehicle, whether or not the vehicle component, when so purchased, was joined to any other vehicle component that was not used in the assembly of that basic component but was used in the assembly of the vehicle.

(2) In this section—

“air brake equipment” means equipment for operating an air brake, but does not include—

- (a) an air hose or air pipe used to connect an air compressor or reservoir with a wheel; or
- (b) a brake drum or brake shoe, or a brake disc or disc brake pad;

“basic vehicle component” means—

- (a) air brake equipment;
- (b) a hub to hub axle assembly;
- (c) a gearbox with operating devices;
- (d) a propeller shaft assembly;
- (e) a suspension system; or
- (f) a wheel.

(3) For the purposes of this section—

- (a) a component for a suspension system shall not be taken to form part of an axle assembly;
- (b) the gearing enclosed in a gearbox shall be taken to form part of the gearbox;
- (c) a chassis or sub-frame member shall not be taken to form part of a suspension system; and
- (d) a tyre or tube shall not be taken to form part of a wheel.

(4) For the purposes of this section, a component used in the assembly of a bountiable vehicle shall be taken to be a particular kind of basic vehicle component if, and only if, the Comptroller-General is satisfied, having regard to the type of vehicle and to the practices of the motor vehicle industry, that the component has the essential character of a basic vehicle component of that kind.

5. (1) A reference in this Act to the Australian percentage of a prescribed component used in the assembly of a bountiable vehicle is a reference to the percentage that represents  $A-B-C$  expressed as a percentage of  $A-B$ , where, subject to sub-section (2)—

**A** is the amount determined by the Comptroller-General, in accordance with sound accounting principles, to be the lowest ex-works selling price paid or payable to the manufacturer of the prescribed component for a vehicle component of the same kind as the prescribed component sold by him, during the financial year immediately preceding the financial year in which the prescribed component was delivered to the assembler of the vehicle, to any person (whether or not the assembler) who is not a business associate of the manufacturer of the prescribed component and is otherwise at arm's length with the manufacturer of the prescribed component for use as a vehicle component in a commercial motor vehicle;

**B** is the amount determined by the Comptroller-General, in accordance with sound accounting principles, to be the cost to the manufacturer of the prescribed component of the raw materials (if any) used by him in the manufacturing vehicle components used by him in the manufacture of the prescribed component; and

C is the amount determined by the Comptroller-General, in accordance with sound accounting principles, to be the duty paid cost to the manufacturer of the prescribed component of vehicle components imported into Australia and used by him in the manufacture of the prescribed component (if any) delivered into his store.

(2) Where the Comptroller-General is unable to determine the amount of a price or cost relating to a prescribed component that is A, B or C for the purposes of sub-section (1), that amount shall be taken to be such amount as is estimated by the Comptroller-General, having regard to all relevant circumstances and the nature of that price or cost, to be an appropriate amount in respect of that component for the purposes of that sub-section.

(3) Without limiting the generality of sub-section (2), the Comptroller-General shall, for the purposes of that sub-section, be taken to be unable to determine the amount of a price or cost relating to a prescribed component if—

- (a) the Comptroller-General, after taking all reasonable steps to ascertain and verify information necessary for the determination of the amount, has been unable to ascertain or verify that information, by reason of the failure of the manufacturer of the prescribed component to supply information or to permit the Comptroller-General or an authorized officer to inspect accounts, books, documents or other records relating to information, or otherwise;
- (b) in the case of the amount of a lowest ex-works selling price—there were no relevant prices; or
- (c) in the case of the amount of the cost of raw materials or of an imported vehicle component—the Comptroller-General is satisfied that the amount of the cost has been influenced, or that there is no cost, by reason of a commercial, financial or other relationship between the manufacturer of the prescribed component or a business associate of the manufacturer and the supplier of the raw materials or vehicle component, as the case may be, or a business associate of the supplier, not being the relationship created by the supply itself.

(4) A reference in this section to raw materials used in the manufacture of a vehicle component shall be read as a reference to materials that were required to be treated or cut by the manufacturer of the component before being able to be so used.

(5) In this section—

“manufacture”, in relation to a vehicle component, includes assemble;

“manufacturer”, in relation to a vehicle component, means the person who produced the component by carrying out the last step in the manufacture of the component;

“financial year” means the 12 months ending on 30 June.

6. A power conferred on the Governor-General, the Minister or the Comptroller-General 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. Uniformity

7. (1) Bounty is payable in accordance with this Act on the production in Australia of bountiable vehicles. Specification of bounty

(2) Bounty in respect of a bountiable vehicle is payable to the assembler of the vehicle.

(3) An assembler is not entitled to receive a payment of bounty in respect of a bountiable vehicle unless—

- (a) the assembly of the vehicle was completed during the period to which this Act applies;
- (b) all steps in the assembly of the vehicle (including steps in the assembly of vehicle components used in that assembly) carried out by the assembler were carried out at registered premises; and
- (c) all vehicle components used in the assembly of the vehicle were components that had not been used previously as components of, or as parts in, another vehicle.

8. (1) The bounty in respect of a bountiable vehicle is 20% of an amount equal to the sum of the into-store values of the prescribed components used in the assembly of the vehicle, other than prescribed components to which this section does not apply. Rate of bounty

(2) This section does not apply to a prescribed component used in the assembly of a vehicle if—

- (a) any business associate of the assembler of the vehicle was an owner of the component before the assembler; or
- (b) the Australian percentage of the component is less than 65%.

(3) For the purposes of this section, the into-store value of a prescribed component used in the assembly of a bountiable vehicle is such amount as is determined by the Comptroller-General, in accordance with sound accounting principles, to be—

- (a) except where paragraph (b) applies—the cost to the assembler of the vehicle of the component delivered into his store; or
- (b) where the Comptroller-General is satisfied that the amount of the cost referred to in paragraph (a) was influenced by reason of a commercial, financial or other relationship between the

assembler of the bountiable vehicle or a business associate of the assembler and the person from whom the assembler purchased the component or a business associate of that person, not being the relationship created by the sale itself—the amount that would have been the cost to the assembler of the component delivered into his store if that relationship had not existed.

Good quality  
essential

**9.** Bounty is not payable in respect of a bountiable vehicle 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 a bountiable vehicle is lodged in accordance with the regulations, the Minister shall—

- (a) if he is satisfied that bounty is payable in respect of that vehicle—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.

Advance on  
account of  
bounty

**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.

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

Registration  
of premises

**12.** (1) The regulations may prescribe conditions to be complied with, for the purposes of this Act, in connection with the assembly of bountiable vehicles at registered premises.

(2) Where a person carries on, or proposes to carry on, the assembly of bountiable vehicles 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 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 to him as the Minister considers necessary for the purposes of this Act, and may refuse to register the premises until the information is furnished to his satisfaction.

(5) Subject to sub-sections (3) and (4), if, in the opinion of the Minister, the assembly of bountiable vehicles is, or is proposed to be, carried

out at the premises in respect of which the application is made, he shall register those premises for the purposes of this Act.

(6) If the Minister so determines, the registration shall be deemed to have taken effect on and from such date, being a date not earlier than 17 August 1978, as is specified by the Minister.

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

- (a) that the assembly of bountiable vehicles is not being carried out at the premises;
- (b) that the assembly of bountiable vehicles is not being carried out at the premises by the person who applied for the registration of the premises; or
- (c) if any conditions have been prescribed under sub-section (1), the assembly of bountiable vehicles is being carried out at the premises otherwise than in accordance with those conditions,

the Minister may, by a 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.

(8) 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 (7) 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.

**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 assembly of bountiable vehicles and such other information in relation to bountiable vehicles or prescribed components as the Minister requires. Accounts

**14.** The Minister may require an assembler of bountiable vehicles 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 assembler is not entitled to bounty unless he gives security accordingly. Securities

**15.** The Minister may, by writing signed by him, appoint persons to be authorized persons for the purposes of this Act. Appointment of authorized persons

**16. (1)** For the purposes of this Act, an authorized person may, at all reasonable times, enter— Stock-taking and inspection of assembly and accounts, &c.

- (a) registered premises; or

(b) premises where there are stored vehicles 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 such vehicles;
- (d) inspect the processes of the assembly of any such vehicles; and
- (e) inspect the accounts, books, documents and other records relating to the assembly of such vehicles.

(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: \$200.

Power to  
require  
person to  
answer  
questions  
and produce  
documents

17. (1) The Comptroller-General, a Collector or an authorized person may, by notice in writing, require a person whom he believes to be capable of giving information relevant to the operation of this Act in relation to the assembly of vehicles 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 assembly of vehicles as are referred to in the notice.

(2) The Comptroller-General, a Collector or an authorized person may make and retain copies of, or extracts from, any accounts, books, 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 an assembler of bountiable vehicles, or a person employed by an assembler of bountiable vehicles, has failed to attend or to answer a question, or to produce any account, book, document or other record when required to do so under this section, bounty is not payable to the assembler, unless the Minister otherwise directs, until the assembler or that person has attended, answered the question or produced the account, book, document or other record, as the case may be.

Power to  
examine on  
oath, &c.

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.



(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.

**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 so required in pursuance of this Act.

Penalty: \$1,000.

(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 which 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 17, a statement that is false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 6 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 signed by the appropriate officer of the court specifying the amount ordered to be refunded and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of that court.

**20.** (1) The Comptroller-General shall, as soon as practicable after the end of each financial year in which bounty is payable, submit to the Minister a return setting forth—

Return for  
Parliament

- (a) the name and address of each person to whom bounty was paid in that year;
- (b) the amount of bounty paid to each person in that year and the number of the bountiable vehicles 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.

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

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

- (a) a decision of the Comptroller-General made for the purposes of sub-section 4 (4);
- (b) a determination or estimate by the Comptroller-General made for the purposes of section 5;
- (c) a determination by the Comptroller-General made for the purposes of sub-section 8 (3);
- (d) a decision of the Comptroller-General made for the purposes of section 9;
- (e) an approval of the Minister given under section 10 or a refusal of the Minister to give approval under that section;
- (f) a refusal of the Minister to register premises under section 12;
- (g) a determination by the Minister made for the purposes of sub-section 12 (6) or a refusal of the Minister to make a determination for the purposes of that sub-section;
- (h) a decision of the Minister made for the purposes of sub-section 12 (7); or
- (j) a determination by the Minister of an amount of security made for the purposes of section 14.

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

**Regulations**      **24.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular prescribing—

- (a) the manner in which, and the time within which, applications for bounty shall be made;

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- (b) the information to be supplied by applicants in connection with applications for bounty; and
  - (c) penalties not exceeding \$200 for offences against the regulations.
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**NOTE**

1. Act No. 208, 1978; assented to 6 December 1978.