

Bounty (Dental Alloys) Act 1979

No. 71 of 1979

An Act to provide for the payment of bounty on the production of certain dental alloys.

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 (Dental Alloys) Act 1979*.¹ Short title
2. This Act shall be deemed to have come into operation on 22 December 1978. Commencement
3. In this Act, unless the contrary intention appears— Interpretation
 - “authorized person” means a person who is an authorized person for the purposes of this Act by virtue of an appointment under section 13;
 - “bounty” means bounty under this Act;
 - “Collector” means a Collector of Customs for a State or Territory;
 - “Comptroller-General” means the Comptroller-General of Customs;
 - “dental alloy” means an alloy, whether in the form of a powder or otherwise, that has silver as its principle constituent and, when mixed with mercury, is suitable for use as a dental amalgam;
 - “period to which this Act applies” means the period that commenced on 22 December 1978 and ends on 21 December 1979 or on such later date as is fixed by Proclamation, being a Proclamation published in the *Gazette* before 21 December 1979, as the date after which bounty is not to become payable under this Act;
 - “registered premises” means premises registered by the Minister under section 10.
4. 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
5. (1) Bounty is payable in accordance with this Act on the production of dental alloy. Specification of bounty
 - (2) Bounty in respect of dental alloy is payable to the manufacturer of the alloy.

(3) A manufacturer of dental alloy is not entitled to receive a payment of bounty in respect of the alloy unless—

- (a) the manufacture of the alloy was completed during the period to which this Act applies;
- (b) the alloy was manufactured at registered premises or, if the manufacture of the alloy had been commenced but had not been completed before 22 December 1978, the manufacture of the alloy was completed at registered premises; and
- (c) the alloy was sold by the manufacturer, during the period to which this Act applies, for use in Australia in the preparation of dental amalgam.

(4) Where—

- (a) by virtue of sub-section 10 (7), the Minister determines that the registration of premises shall be deemed to have taken effect on and from 22 December 1978; and
- (b) the person who applied for the registration of the premises was, on 22 December 1978, the owner of dental alloy that was manufactured by him at those premises before 22 December 1978,

that dental alloy shall, for the purposes of this Act, be deemed to be dental alloy manufactured by that person at the registered premises on 22 December 1978.

Rate of bounty

6. The rate at which bounty is payable in respect of dental alloy is \$15 per kilogram of the weight of the alloy.

Limit of available bounty

7. (1) The amount available for payment of bounty in respect of dental alloy in respect of which bounty becomes payable in the year that commenced on 22 December 1978, or in any succeeding year, is \$45,000.

(2) Where the amount available for the payment of bounty in respect of dental alloy in respect of which bounty becomes payable in a year referred to in sub-section (1) is insufficient for the payment in full of all valid claims in respect of that alloy, the bounty otherwise payable in respect of each of those claims shall be reduced to an amount that bears the same proportion to the amount of the claim as the amount so available bears to the total amount of all those claims.

(3) If the Minister is of the opinion that the amount available for the payment of bounty in respect of dental alloy in respect of which bounty becomes payable in a year referred to in sub-section (1) will be insufficient for the payment in full of all valid claims in respect of that alloy, he may withhold payment of the whole or any part of the bounty otherwise payable upon such a claim until he has ascertained a total amount of all those claims.

(4) Where bounty becomes payable in respect of dental alloy and the alloy is the subject of a sale referred to in paragraph 5 (3) (c) that took place in a year referred to in sub-section (1) of this section, the bounty shall, for the purposes of this Act, be deemed to have become payable in respect of the alloy during that year.

8. Bounty is not payable in respect of dental alloy unless, in the opinion of the Comptroller-General, it is of good and merchantable quality. Good quality essential

9. Where an application for bounty in respect of dental alloy is lodged in accordance with the regulations, the Minister shall— Approval of payment of bounty

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

10. (1) The regulations may prescribe conditions to be complied with, for the purposes of this Act, in connection with the manufacture of dental alloy at registered premises. Registration of premises

(2) Where a person carries on, or proposes to carry on, the manufacture of dental alloy 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 22 December 1978, engaged in manufacturing dental alloy 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 dental alloy in Australia.

(6) Subject to sub-sections (3), (4) and (5), if, in the opinion of the Minister, dental alloy 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 22 December 1978.

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

- (a) that dental alloy is not being manufactured at the premises;
- (b) that dental alloy 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 dental alloy 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

11. 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 dental alloy and such other information in relation to the alloy as the Minister requires.

Securities

12. The Minister may require a manufacturer of dental alloy 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

13. 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.

14. (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 dental alloy 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 dental alloy;
- (d) inspect the processes of manufacture of any dental alloy; and
- (e) inspect the accounts, books, documents and other records relating to the manufacture, storage or sale of dental alloy.

(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.

15. (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 dental alloy 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 dental alloy 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 17 (1) (c) or 17 (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.

16. (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 15 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.

17. (1) A person shall not, without reasonable excuse, refuse or fail—

Offences

- (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 16, 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 respects as a final judgment of that court.

Return for
Parliament

18. (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 dental alloy 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

19. (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.

(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.

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

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

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

22. 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 connection with applications for bounty; and
- (c) penalties not exceeding \$100 for offences against the regulations.

NOTE

1. Act No. 71, 1979; assented to 15 June 1979.