

Bounty (Drilling Bits) Act 1980

No. 33 of 1980

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Bounty (Drilling Bits) Act 1980

No. 33 of 1980

An Act to provide for the payment of bounty on the production of certain drilling bits

[Assented to 8 May 1980]

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

Short title

1. This Act may be cited as the *Bounty (Drilling Bits) Act 1980*.

Commencement

2. This Act shall be deemed to have come into operation on 1 October 1979.

Interpretation

3. (1) In this Act, unless the contrary intention appears—
 - “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 drilling bit” means a rock-drilling bit of the kind known as a button bit; being a bit—
 - (a) that is designed to be used with a drill of the kind known as a down-hole percussion rock-drill;
 - (b) the cutting edges of which are formed wholly or partly of cemented carbides; and
 - (c) the diameter of which exceeds 105 millimeters;
 - “bounty” means bounty under this Act;
 - “bounty period” means a bounty period referred to in section 4;
 - “Collector” means a Collector of Customs for a State or Territory;
 - “Comptroller-General” means the Comptroller-General of Customs;
 - “diameter”, in relation to a rock-drilling bit, means the diameter of the bit measured over its cutting edges;
 - “registered premises” means premises registered by the Minister under section 13.
- (2) Where the sale referred to in paragraph 7 (3) (b) of a bountiable drilling bit in respect of which bounty becomes payable took place during a bounty

period that is later than the bounty period during which the manufacture of the drilling bit was completed, the bounty shall, for the purposes of this Act, be deemed to have become payable in respect of that drilling bit during that later bounty period.

Bounty periods

4. (1) Subject to sub-section (3), the period of 12 months commencing on 1 October 1979 and ending on 30 September 1980 and each subsequent period of 12 months are bounty periods.

(2) The Minister may, by notice published in the *Gazette*, fix a date, not being a date earlier than the publication of the notice, as the date after which bounty is not to become payable under this Act.

(3) Where a date is fixed under sub-section (2)—

- (a) no period referred to in sub-section (1) commencing after that date is a bounty period; and
- (b) if the date so fixed is not 30 September in any year—any period referred to in sub-section (1) in which the date so fixed occurs is not a bounty period but the period commencing on the date of commencement of that period and ending on the date so fixed is a bounty period.

Factory cost and Australian factory cost

5. (1) For the purposes of this Act—

- (a) the factory cost of a bountiable drilling bit is such amount as is determined by the Comptroller-General to be the factory cost of the drilling bit; and
- (b) the Australian factory cost of a bountiable drilling bit is the factory cost of the drilling bit less such amount as is determined by the Comptroller-General to be the value known as the into-store value of imported parts and materials supplied to the manufacturer and used by him in the manufacture of the drilling bit.

(2) In determining the factory cost of a bountiable drilling bit, the Comptroller-General shall make allowance for factory overhead charges (including factory administration costs and research and development expenditure) but shall not make any allowance for general administration, selling costs, service charges or taxation.

Uniformity

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.

Specification of bounty

7. (1) Bounty is payable in accordance with this Act on the production in Australia of bountiable drilling bits.

(2) Bounty in respect of a bountiable drilling bit is payable to the manufacturer of the drilling bit.

(3) A manufacturer is not entitled to receive a payment of bounty in respect of a bountiable drilling bit unless—

- (a) the manufacture of the bountiable drilling bit has been carried out by the manufacturer at registered premises and has been completed during a bounty period;
- (b) during that bounty period or a later bounty period, the drilling bit has been sold by the manufacturer for use in Australia without having previously been used by the manufacturer, or by another person, otherwise than for the purpose of testing, or demonstrating the operation of, the drilling bit; and
- (c) the Australian factory cost of the drilling bit exceeds 50% of the factory cost of the drilling bit.

(4) Where—

- (a) by virtue of sub-section 12 (7), the Minister determines that the registration of premises shall be deemed to have taken effect on and from 1 October 1979; and
- (b) the person who applied for the registration of the premises was, on 1 October 1979, the owner of a bountiable drilling bit that was manufactured by him at those premises before 1 October 1979,

that drilling bit shall, for the purposes of this Act, be deemed to be a bountiable drilling bit manufactured by the first-mentioned person at the registered premises on 1 October 1979.

Rate of bounty

8. The amount of bounty payable in respect of a bountiable drilling bit is—

- (a) where the diameter of the bit is less than 127 millimetres—\$40;
- (b) where the diameter of the bit is not less than 127 millimetres but is less than 152 millimetres—\$75;
- (c) where the diameter of the bit is not less than 152 millimetres but is less than 177 millimetres—\$90;
- (d) where the diameter of the bit is not less than 177 millimetres but is less than 203 millimetres—\$125; and
- (e) where the diameter of the bit is not less than 203 millimetres—\$160.

Limit of available bounty

9. (1) The amount available for payment of bounty in respect of bountiable drilling bits in respect of which bounty becomes payable during a bounty period is—

- (a) where the bounty period is a period of 12 months—\$150,000; and
- (b) where the bounty period is a lesser period—an amount that bears to \$150,000 the same proportion as the number of days in the bounty period bears to 365.

(2) Where the amount available for the payment of bounty in respect of bountiable drilling bits in respect of which bounty becomes payable during a bounty period is insufficient for the payment in full of all valid claims in respect of those bountiable drilling bits, 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 bountiable drilling bits in respect of which bounty becomes payable during a bounty period will be insufficient for the payment in full of all valid claims in respect of those bountiable drilling bits he may withhold payment of the whole or any part of the bounty otherwise payable upon such a claim until he has ascertained the total amount of all those claims.

Good quality essential

10. Bounty is not payable in respect of a bountiable drilling bit unless the Comptroller-General is satisfied that the bountiable drilling bit is of good and merchantable quality.

Approval of payment of bounty

11. Where an application for bounty in respect of a bountiable drilling bit is lodged in accordance with the regulations, the Minister shall—

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

Registration of premises

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

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

(3) If 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 the applicant 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 30 September 1979, engaged in the manufacture of bountiable drilling bits 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 in Australia of the industry manufacturing bountiable drilling bits.

(6) Subject to sub-sections (3), (4) and (5), if, in the opinion of the Minister, bountiable drilling bits are, or are 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 1 October 1979.

- (8) Where the Minister is satisfied, in respect of any registered premises—
- (a) that bountiable drilling bits are not being manufactured at the premises;
 - (b) that the manufacture of bountiable drilling bits at the premises is not being carried on by the person who applied for the registration of the premises; or
 - (c) if any conditions have been prescribed under sub-section (1), that bountiable drilling bits that are being manufactured at registered premises are being manufactured 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 purpose 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, such 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 relating to the manufacture (including the cost of manufacture) and sale of bountiable drilling bits and such other information in relation to those drilling bits as the Minister requires.

Securities

14. The Minister may require a manufacturer of bountiable drilling bits 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 are stored bountiable drilling bits 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 bountiable drilling bits;
- (d) inspect any process in the manufacture of any bountiable drilling bits; and
- (e) inspect the accounts, books, documents and other records relating to the manufacture, storage, sale or use of bountiable drilling bits.

(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: \$500.

Power to require persons to answer questions and produce documents

17. (1) The Comptroller-General, a Collector or an authorized person may, by notice signed by him, require a person whom he believes to be capable of giving information relevant to the operation of this Act in relation to the manufacture (including the cost of manufacture), storage, sale or use of bountiable drilling bits 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 (including the cost of manufacture), storage, sale or use of bountiable drilling bits 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 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.

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.

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

Penalty: \$2,000 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.

Return for Parliament

20. (1) The Comptroller-General shall, as soon as practicable after the end of each bounty period in which bounty is payable, 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 number of the bountiable drilling bits 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 otherwise as provided in 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.

Applications for review

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

- (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 10;
- (c) an approval of the Minister given under section 11 or a refusal of the Minister to give an approval under that 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 requirement by the Minister under 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

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prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, prescribing—

- (a) the manner in which, and the time within which, applications for bounty shall be made;
- (b) the information to be furnished by applicants in connection with applications for bounty; and
- (c) penalties not exceeding \$200 for offences against the regulations.