

Bounty (Refined Tin) Act 1980

No. 46 of 1980

An Act to provide for the payment of bounty on the production of certain refined tin

[Assented to 23 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 (Refined Tin) Act 1980*.

Commencement

2. This Act shall be deemed to have come into operation on 1 January 1980.

Interpretation

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

“Australian tin concentrate” means tin concentrate other than tin concentrate—

(a) imported into Australia; or

(b) prepared by dressing tin ore imported into Australia;

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

“base period” means the period of twelve months that commenced on 1 July 1978;

“bountiable refined tin” means ingots that contain not less than 99.7% by weight of tin;

“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;

“period to which this Act applies” means the period that commenced on 1 January 1980 and ends on 31 December 1982;

“prepared”, in relation to tin concentrate, means prepared by dressing tin ore;

“prescribed miner”, in relation to a smelter, means a person who prepared Australian tin concentrate supplied to that smelter during the base period;

“prescribed tin concentrate” has the meaning given by section 4;

“refining”, in relation to tin concentrate, includes smelting or otherwise processing the tin concentrate;

“registered premises” means premises registered under section 12;

“smelter” means a person who produces bountiable refined tin;

“tin concentrate” means material prepared by dressing tin ore.

(2) For the purposes of this Act, where slag or other waste resulting from the refining of tin concentrate by a smelter is used by him in the production of ingots, that use shall be taken to be a process in the refining of that tin concentrate.

(3) For the purposes of this Act, where tin concentrate supplied to a smelter during the period to which this Act applies was prepared by a business associate of a prescribed miner, that concentrate shall be taken to have been prepared by that prescribed miner.

(4) For the purposes of this Act, two 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.

(5) For the purposes of paragraph (4) (c), a person shall not be taken to have an interest in a business or property by reason only that he has a beneficial interest in shares or stock in the capital of a company or other body associated with that business or property if the total nominal value of those shares or that stock, as the case may be, does not exceed one-fifth of the total nominal value of the issued share capital or stock, as the case may be, of the company or other body.

Prescribed tin concentrate

4. (1) Where a smelter, who, during the year that commenced on 1 January 1980, has been supplied with a quantity of Australian tin concentrate prepared by a prescribed miner equal to three-quarters of the quantity of Australian tin concentrate prepared by that prescribed miner that was supplied to the smelter during the base period, is supplied, in that year, with an additional quantity of Australian tin concentrate prepared by that prescribed miner, that additional concentrate is, subject to sub-section (3), prescribed tin concentrate.

(2) Where a smelter, who, during the year commencing on 1 January 1981, has been supplied with a quantity of Australian tin concentrate prepared

by a prescribed miner equal to one-half of the quantity of Australian tin concentrate prepared by that prescribed miner that was supplied to the smelter during the base period, is supplied, in that year, with an additional quantity of Australian tin concentrate prepared by that prescribed miner, that additional concentrate is, subject to sub-section (3), prescribed tin concentrate.

(3) Where—

- (a) a quantity of Australian tin concentrate prepared by a prescribed miner and supplied to a smelter in a year is, by virtue of sub-section (1) or (2), prescribed tin concentrate; and
- (b) before producing bountiable refined tin by refining that quantity of concentrate, the smelter wishes to produce such tin by refining an equal quantity of other Australian tin concentrate prepared by that prescribed miner supplied to him earlier in that year,

the Comptroller-General may, if requested by the smelter to do so, approve the substitution for the concentrate referred to in paragraph (a) as prescribed tin concentrate of the other concentrate referred to in paragraph (b).

(4) For the purposes of this section, Australian tin concentrate shall not be taken to be supplied to a smelter unless it is supplied to him for the purpose of his refining it so as to produce bountiable refined tin.

Uniformity

5. 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

6. (1) Bounty is payable in accordance with this Act on the production in Australia of bountiable refined tin.

(2) Bounty in respect of bountiable refined tin is payable to the smelter of the refined tin.

(3) A smelter is not entitled to receive a payment of bounty in respect of bountiable refined tin unless—

- (a) the production of the bountiable refined tin has been carried out by the smelter at registered premises and has been completed during the period to which this Act applies; and
- (b) the bountiable refined tin has been produced by the refining of—
 - (i) Australian tin concentrate supplied to the smelter during the period to which this Act applies, other than tin concentrate prepared by a prescribed miner;
 - (ii) prescribed tin concentrate supplied to the smelter during the year that commenced on 1 January 1980 or the year commencing on 1 January 1981; or

- (iii) Australian tin concentrate prepared by a prescribed miner and supplied to the smelter during the year commencing on 1 January 1982.

Refined tin obtained from various concentrates

7. (1) For the purposes of this Act, where a quantity of bountiable refined tin has been produced by—

- (a) the refining of tin concentrate referred to in paragraph 6 (3) (b); and
- (b) the refining of other tin concentrate or another process (including a process involving the use of scrap tin or similar material, not being waste to which sub-section 3 (2) applies) or two or more processes,

the Comptroller-General shall determine, in accordance with sound metallurgical principals, the amount, by weight, of that refined tin that was produced by the refining of the tin concentrate so referred to.

(2) Where the Comptroller-General is unable to determine an amount of refined tin for the purpose 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, to be an appropriate amount of that refined tin 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 an amount of refined tin if the Comptroller-General, after taking all reasonable steps to ascertain and verify information necessary for the determination of the amount (including information relating to tin concentrate used in producing the refined tin), has been unable to ascertain or verify that information by reason of the failure of a smelter to supply information or to permit the Comptroller-General or an authorized officer to inspect documents or other records relating to information or otherwise.

Rate of bounty

8. The rate at which bounty is payable in respect of bountiable refined tin is \$50 per tonne of the weight of the refined tin.

Advances on account of bounty

9. (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, at the expiration of a financial year in which bounty is payable, a person has received during that year, 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 year, 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.

Good quality essential

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

Approval of payment of bounty

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

- (a) if he is satisfied that bounty is payable in respect of that refined tin—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 production at registered premises of bountiable refined tin.

(2) Where a person carries on, or proposes to carry on, the production at any premises of bountiable refined tin, 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, at any time during the base period, engaged in the production of bountiable refined tin 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 refined tin industry.

(6) Subject to sub-sections (3), (4) and (5), if, in the opinion of the Minister, bountiable refined tin is, or is proposed to be, produced 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 such date, being a date not earlier than 1 January 1980, as is specified by the Minister.

- (8)** Where the Minister is satisfied, in respect of any registered premises—
 - (a) that bountiable refined tin is not being produced at the premises;
 - (b) that the production of bountiable refined tin 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 refined tin that is being produced at registered premises is being produced 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 production of bountiable refined tin and such other information in relation to that refined tin as the Minister requires.

Securities

14. The Minister may require a smelter 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 smelter 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 production 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 refined tin 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 refined tin;
- (d) inspect any process in the production of any bountiable refined tin; and
- (e) inspect the accounts, books, documents and other records relating to the production or storage of bountiable refined tin.

(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 production or storage, of bountiable refined tin 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 production or storage of bountiable refined tin 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 smelter, or a person employed by a smelter, 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 smelter, unless the Minister otherwise directs, until the smelter 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 subsection (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 financial year 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 year;
- (b) the amount of bounty paid to each person in that year and the amount of bountiable refined tin 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 laid before each House of the Parliament within fifteen 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) an approval of the Comptroller-General given under sub-section 4 (3) or a refusal of the Comptroller-General to give an approval under that sub-section;
- (b) a determination or estimate made by the Comptroller-General for the purpose of section 7;
- (c) a decision of the Comptroller-General made for the purposes of section 10;
- (d) an approval of the Minister given under section 11 or a refusal of the Minister to give an approval under that section;
- (e) a refusal of the Minister to register premises under section 12, not being a refusal by virtue of sub-section 12 (5);
- (f) 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;
- (g) a decision of the Minister made for the purposes of sub-section 12 (8); or
- (h) 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 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.