



Bounty (Computers) Act 1984

No. 113 of 1984

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Bounty (Computers) Act 1984

No. 113 of 1984

An Act to provide for the payment of bounty on the production of certain computers and related equipment

[Assented to 17 October 1984]

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

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Bounty (Computers) Act 1984*.

Commencement

2. This Act shall be deemed to have come into operation on 6 July 1984.

Interpretation

3. (1) In this Act, unless the contrary intention appears—
“accounting period”, in relation to a manufacturer of bountiable equipment, has the meaning given by section 7;
“approved form” means a form approved by the Comptroller-General in writing;
“authorized officer” means a person who is an authorized officer for the purposes of this Act by virtue of an appointment under section 23;

“bountiable equipment” means—

- (a) a completely assembled machine that, if it were imported into Australia, would be a machine to which item 84.53 in Schedule 3 to the Tariff Act would apply;
- (b) a completely assembled unit of a machine referred to in paragraph (a), being a unit that, if it were imported into Australia, would be a unit to which item 84.53 in Schedule 3 to the Tariff Act would apply;
- (c) a completely assembled computer based machine that, if it were imported into Australia, would be a machine to which item 84.51, 84.52 or 84.54 in Schedule 3 to the Tariff Act would apply;
- (d) goods designed for use as a part, or an accessory, of a machine referred to in paragraph (a) or (c) or of a unit referred to in paragraph (b), being goods that, if they were imported into Australia, would be goods to which item 84.55 in Schedule 3 to the Tariff Act would apply;
- (e) computer equipment that, if it were imported into Australia and were goods to which section 19, but not sub-section 21 (4) or (6), of the Tariff Act applied, would be goods the duty of Customs in respect of which ascertained in accordance with Part II of the Tariff Act would be so ascertained by reference to a rate of duty that does not exceed 2%, being computer equipment included in a class of computer equipment in respect of which a declaration under sub-section 5 (1) is in force; or
- (f) an electronic microcircuit that, if it were imported into Australia, would be goods to which item 85.21 in Schedule 3 to the Tariff Act would apply;

“bounty” means bounty under this Act;

“bounty period” means the period commencing on 6 July 1984 and ending on 5 July 1990;

“Collector” has the same meaning as in the *Customs Act 1901*;

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

“computer based machine” means a machine that—

- (a) incorporates at least one electronic microcircuit that, if it were imported into Australia, would be goods to which item 85.21 in Schedule 3 to the Tariff Act would apply, being a microcircuit that is part of the microcircuitry of the machine that enables the machine to have the capacity to store and process, or manipulate, data; and
- (b) is included in a class of machines in respect of which a declaration under sub-section 5 (2) is in force;

“computer equipment” means a unit, assembly or sub-assembly that—

- (a) incorporates at least one electronic microcircuit that, if it were imported into Australia, would be goods to which item 85.21 in Schedule 3 to the Tariff Act would apply; and
- (b) is—
 - (i) designed to have, whether by itself or when incorporated in, or connected to, other equipment, the capacity to store and process, or manipulate, data; or
 - (ii) designed to be able to control, or partly control, the operation of other equipment in which it is incorporated or to which it is connected;

“manufacturer”, in relation to bountiable equipment, means—

- (a) a person who, at premises registered under section 20 in the name of the person, carried out a process or processes in the manufacture of the equipment (whether as intended supplier of the equipment, a contractor, a sub-contractor or otherwise), not being a person whose only contribution to the manufacture of the equipment was—
 - (i) the carrying out of research or development;
 - (ii) engaging in systems engineering or systems design;
 - (iii) the provision of software; or
 - (iv) the development or testing of a prototype of the equipment; or
- (b) a person who arranged with another manufacturer of the equipment for the carrying out at registered premises by the other manufacturer of a process or processes in the manufacture of the equipment;

“operating software” has the same meaning as operating system software in Australian Standard 1189 of the Standards Association of Australia as in force from time to time;

“registered premises” means premises registered by the Minister under section 20;

“Tariff Act” means the *Customs Tariff Act 1982*.

(2) Where the Tariff Act is proposed to be altered by a Customs Tariff alteration proposed in the Parliament in such a way that Schedule 3 to that Act would be amended, or would be deemed to have been amended, on a particular day, that Act shall, for the purposes of this Act, be deemed to have been so amended on that day.

(3) For the purposes of this Act, the manufacture of bountiable equipment shall not be taken to have been completed at registered premises unless the last substantial process in the manufacture of the equipment was carried out at registered premises.

(4) For the purposes of this Act, 2 persons shall be deemed to be associates of each other if, and only if—

- (a) both being natural persons—
 - (i) they are connected by a blood relationship or by marriage or by adoption; or
 - (ii) one of them is an officer or director of a body corporate controlled, directly or indirectly, by the other;
- (b) both being bodies corporate—
 - (i) both of them are controlled, directly or indirectly, by a third person (whether or not a body corporate);
 - (ii) both of them together control, directly or indirectly, a third body corporate; or
 - (iii) the same person (whether or not a body corporate) is in a position to cast, or control the casting of, 5% or more of the maximum number of votes that might be cast at a general meeting of each of them;
- (c) one of them, being a body corporate, is, directly or indirectly, controlled by the other (whether or not a body corporate);
- (d) one of them, being a natural person, is an employee, officer or director of the other (whether or not a body corporate);
- (e) they are members of the same partnership; or
- (f) they are trustees or beneficiaries, or one of them is a trustee and the other is a beneficiary, of the same trust.

Amendments of Tariff Act

4. (1) Where—

- (a) the Tariff Act is amended on a day; and
- (b) the amendment results in goods of a particular kind ceasing to be bountiable equipment,

the manufacture of goods of that kind the manufacture of which was commenced before and completed after that day shall, for the purposes of this Act, be deemed to have been completed on the day immediately preceding that day.

(2) Where—

- (a) the Tariff Act is amended on a day (in this sub-section referred to as the “operative day”);
- (b) the amendment results in goods of a particular kind ceasing to be bountiable equipment; and
- (c) the operative day is earlier than—
 - (i) the day (if any) on which notice of intention to propose a Customs Tariff alteration by way of that amendment was published in the *Gazette* in accordance with section 273EA of the *Customs Act 1901*;

- (ii) the day (if any) on which a Customs Tariff alteration by way of that amendment was proposed in the Parliament; or
- (iii) the day on which the Bill for the Act making that amendment was introduced into the Parliament,

whichever occurred first,

the manufacture of goods of that kind the manufacture of which was—

- (d) completed after the operative day and before the day referred to in sub-paragraph (c) (i), (ii) or (iii) that occurred first; or

- (e) commenced before and completed after the last-mentioned day,

shall, for the purposes of this Act, be deemed to have been completed on the day immediately preceding the operative day.

(3) For the purposes of this section, the manufacture of goods shall not be taken to have commenced unless and until the assembly of the goods, or of part of the goods, has commenced.

Declarations of classes of equipment

5. (1) The Minister may, by notice in writing published in the *Gazette*, declare a class of computer equipment to be a class of computer equipment to which paragraph (e) of the definition of “bountiable equipment” in sub-section 3 (1) applies.

(2) The Minister may, by notice in writing published in the *Gazette*, declare a class of machines to be a class of machines to which paragraph (b) of the definition of “computer-based machine” in sub-section 3 (1) applies.

(3) The Minister may, by notice in writing published in the *Gazette*, revoke or amend a declaration in force under sub-section (1) or (2).

(4) A declaration under sub-section (1) or (2) or the revocation or amendment of such a declaration has effect from and including such date (which, except in the case of a revocation or amendment that has the result that equipment of a kind ceases to be bountiable equipment, may be a date earlier than the publication in the *Gazette* of the notice containing the declaration, revocation or amendment) as is specified in the notice.

(5) Where, by virtue of the revocation or amendment of a declaration under sub-section (1) or (2), goods of a kind cease to be bountiable equipment on a day, the manufacture of goods of that kind the manufacture of which was commenced before and completed after that day shall, for the purposes of this Act, be deemed to have been completed on the day immediately preceding that day.

(6) The provisions of sections 48 (other than paragraphs (1) (a) and (b) and sub-section (2)), 49, 49A and 50 of the *Acts Interpretation Act 1901* apply in relation to notices under this section as if in those provisions references to regulations were references to notices, references to a regulation were references to a notice and references to a repeal were a reference to a revocation.

(7) For the purposes of this section, the manufacture of goods shall not be taken to have commenced unless and until the assembly of the goods, or of part of the goods, has commenced.

Value added

6. (1) For the purposes of this Act, the value added to bountiable equipment by a manufacturer of the equipment shall be deemed to be the amount that is the factory cost incurred by the manufacturer—

- (a) in connection with the process or processes in the manufacture of the equipment that was or were carried out by the manufacturer at premises registered under section 20 in the name of the manufacturer; or
- (b) in preparing for, or arranging, the carrying out at registered premises by another manufacturer of the equipment of a process or processes in the manufacture of the equipment.

(2) For the purposes of this Act, where, in an accounting period of a manufacturer of bountiable equipment, the manufacturer—

- (a) meets expenditure on research and development in Australia; or
- (b) incurs system design and system engineering costs in Australia,

in respect of bountiable equipment of a kind that is, or is likely to be, manufactured in Australia by the manufacturer, the factory cost incurred by the manufacturer in that period in connection with the process or processes in the manufacture of bountiable equipment carried out at registered premises shall include that expenditure or those costs, as the case may be, but no other factory cost shall include that expenditure or those costs, as the case may be.

(3) For the purposes of this Act, where in an accounting period of a manufacturer of bountiable equipment, the manufacturer receives from the Commonwealth, from a State or from an authority of the Commonwealth or of a State a grant in respect of the manufacture of, research relating to, or the development of, bountiable equipment of a particular kind, the factory cost incurred by the manufacturer in that period in connection with the process or processes in the manufacture of bountiable equipment of that kind carried out at registered premises shall be reduced by the amount of that grant.

(4) For the purposes of this Act, the factory cost in connection with processes in the manufacture of bountiable equipment includes factory overhead charges (including rent, hire or leasing costs in relation to factory buildings, plant or equipment) apportioned on the basis of a full accounting period of the manufacturer of the equipment.

(5) For the purposes of this Act, the factory cost incurred by a manufacturer in connection with processes in the manufacture of bountiable equipment does not include—

- (a) the cost (including the cost of wastage) of parts or materials delivered into the store of the manufacturer, being parts or materials supplied to the manufacturer for incorporation in the equipment or in the packaging of the equipment;

- (b) the cost of any parts or materials (whether manufactured or produced by the manufacturer or otherwise and whether or not imported into Australia) that, if they were imported into Australia otherwise than while incorporated in bountiable equipment and were goods to which section 19, but not sub-section 21 (4), of the Tariff Act applied, would be goods in respect of which duty of Customs would be payable at a rate of duty that exceeds 2%;
- (c) the cost of any process in the manufacture carried out by a person other than the manufacturer or a person employed by the manufacturer at premises registered under section 20 in the name of the manufacturer, not being a process by way of design, research or development carried out in Australia on behalf of the manufacturer;
- (d) costs of general administration (other than factory administration), including, where the manufacturer is a body corporate, corporate expenses;
- (e) selling and service charges;
- (f) sales tax in respect of completed equipment;
- (g) tax on income, other than tax on income deducted in respect of the wages, salaries or other remuneration of employees;
- (h) costs (including costs of development and production) of software, other than operating software or software for testing hardware in Australia;
- (j) costs incurred after the completion of the manufacture of the equipment, other than costs of, or relating to, the testing or packing (excluding the cost of packaging) of the equipment at registered premises;
- (k) without limiting paragraph (j), the commissioning and installation of completed equipment for the intended user of the equipment, whether or not the user is the manufacturer;
- (m) the value of perquisites provided to employees of the manufacturer (including, where the manufacturer is a body corporate, staff of that body corporate) that does not form part of their taxable income;
- (n) profit;
- (p) bonuses paid out of profits;
- (q) costs charged or levied on the manufacturer by an associate of the manufacturer that are not costs actually incurred by the associate;
- (r) interest, other than interest on money borrowed from another person for the purpose of financing—
 - (i) bought-in material and stock;
 - (ii) work in progress;
 - (iii) research and development, other than research and development in Australia relating to software that is not operating software or software for testing hardware; or
 - (iv) the purchase of production plant, production equipment, or factory buildings, owned by the manufacturer;

- (s) depreciation of buildings, other than depreciation at a rate of 4% per annum, or, if another rate is prescribed, that other rate, on the historic cost of factory buildings owned by the manufacturer;
- (t) depreciation of machinery, plant or equipment, other than depreciation of machinery, plant or equipment owned by the manufacturer that is depreciation allowed by the Commissioner of Taxation for the purposes of a law of the Commonwealth relating to taxation;
- (u) losses incurred on the sale or other disposal of buildings, machinery, plant or equipment;
- (w) long service leave, other than provision for such leave;
- (x) severance pay, other than severance pay in relation to service during a period that is within the bounty period and during which the manufacturer was a manufacturer of bountiable equipment; and
- (y) freight, and costs relating to vehicles, incurred in respect of the delivery of completed equipment.

(6) Where, in relation to a claim for bounty or to a return in accordance with section 16 or otherwise for the purposes of this Act, the Comptroller-General—

- (a) is unable to verify the value added to bountiable equipment by a manufacturer; or
- (b) forms the opinion that, having regard to sound accounting principles, costs included in factory cost by reference to which the value added to bountiable equipment by a manufacturer is ascertained—
 - (i) are incorrect or overestimated;
 - (ii) are higher than would have been the case if the manufacturer had not marginally costed or similarly disproportionately costed the manufacture of goods in respect of which bounty is not payable;
 - (iii) have been fixed in order to obtain an increase in bounty;
 - (iv) are unduly higher than similar costs incurred by other manufacturers of similar equipment;
 - (v) have been increased as the result of the influence of a relationship between the manufacturer and an associate of the manufacturer; or
 - (vi) are higher than would have been the case if the manufacturer had provided services that were provided, and charged for, by an associate of the manufacturer,

the Comptroller-General may, by instrument signed by him or her, determine the value added to that bountiable equipment by that manufacturer, being the value that, having regard to all relevant circumstances, the Comptroller-General considers to be appropriate, and the value added to that bountiable equipment by that manufacturer shall, for the purposes of this Act, be the value so determined.

(7) For the purposes of this Act, where a manufacturer of bountiable equipment manufactures bountiable equipment from other equipment in respect of which—

- (a) bounty under this Act; or
- (b) bounty within the meaning of the *Automatic Data Processing Equipment Bounty Act 1977*,

has become payable (whether or not it has been paid), the value added to that first-mentioned bountiable equipment by the manufacturer does not include any value added to the other equipment by the manufacturer.

Accounting period

7. (1) Unless and until a manufacturer of bountiable equipment gives a notice under sub-section (2), an accounting period of that manufacturer shall, for the purposes of this Act, be a financial year.

(2) A manufacturer of bountiable equipment may, within 3 months after this Act receives the Royal Assent or the manufacturer begins to manufacture bountiable equipment, whichever occurs last, give the Comptroller-General notice in writing that the manufacturer wishes each period of 12 months commencing on a specified day in a specified month to be an accounting period of the manufacturer for the purposes of this Act and, where the manufacturer does so, subject to sub-section (3), those periods shall, for the purposes of this Act, be accounting periods of the manufacturer.

(3) Where—

- (a) a manufacturer of bountiable equipment has accounting periods of 12 months by virtue of sub-section (2) or of this sub-section; and
- (b) it becomes necessary or convenient that other periods (in this sub-section referred to as “new periods”) of 12 months, being periods in respect of which annual accounting reports of the manufacturer are required to be prepared for the purposes of another law of the Commonwealth or of a law of a State or Territory, should, in future, be the accounting periods of the manufacturer for the purposes of this Act,

the manufacturer may give the Comptroller-General notice in writing that the manufacturer wishes the new periods to be the accounting periods of the manufacturer for the purposes of this Act (being a notice describing the new periods by specifying the day and month of their commencement and setting out the reasons for the change of accounting periods) and, where the manufacturer does so—

- (c) the accounting period of the manufacturer in which commences the earliest new period that commences after the giving of the notice shall cease to be such a period and the period commencing on the first day of that former accounting period and ending on the day immediately preceding that earliest new period shall, for the purposes of this Act, be an accounting period of the manufacturer; and

- (d) after the end of the period prescribed by paragraph (c), the new periods shall, for the purposes of this Act, be the accounting periods of the manufacturer.

Uniformity

8. 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 51 (iii) of the Constitution.

PART II—BOUNTY

Specification of bounty

9. (1) Bounty is payable in accordance with this Act on the production in Australia of bountiable equipment.

(2) Bounty in respect of bountiable equipment is payable to the manufacturer, or the manufacturers, of the equipment.

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

- (a) all the processes in the manufacture of the equipment carried out in Australia by the manufacturer (if any) were carried out at registered premises;
- (b) the manufacture of the equipment was completed at registered premises; and
- (c) the manufacture of the equipment was completed during the bounty period.

(4) For the purposes of this Act, when bounty is payable in respect of bountiable equipment, it shall be deemed to have become payable upon the completion of the last step in the manufacture of the equipment, whether or not the equipment is to be used in the manufacture of other bountiable equipment or of other equipment by the manufacturer or by another person.

(5) Where—

- (a) bountiable equipment is manufactured pursuant to a contract to which the Department of Defence is a party; and
- (b) that contract—
 - (i) for reasons of defence strategy, requires that equipment to be manufactured in Australia; and
 - (ii) provides, by way of cost premium or otherwise, for the compensation of a manufacturer of the equipment for compliance with the requirement that that equipment is to be manufactured in Australia,

bounty is not payable in respect of that equipment.

(6) Bounty is not payable in respect of any bountiable equipment manufactured by the Commonwealth, by a State or by an authority of the Commonwealth or of a State (including an educational institution established by the Commonwealth or a State).

(7) In this section, "State" includes the Northern Territory.

Amount of bounty

10. The bounty payable to a manufacturer of bountiable equipment in respect of the equipment is an amount equal to 25% of the value added to the equipment by the manufacturer.

Good quality of bountiable equipment

11. Bounty is not payable in respect of bountiable equipment if the Comptroller-General declares in writing that, in his or her opinion, the equipment is not of good and merchantable quality.

PART III—PAYMENT OF BOUNTY

Advances on account of bounty

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

(2) If, at the expiration of an accounting period of a manufacturer of bountiable equipment, the manufacturer has received, by way of advances on account of bounty that may become payable to the manufacturer during that period, an amount greater than the amount of bounty that became payable to the manufacturer during that period, the manufacturer is liable to repay to the Commonwealth the amount of the excess.

(3) If a person receives, by way of advances on account of bounty in respect of particular bountiable equipment, an amount greater than the amount of bounty payable to the person in respect of that bountiable equipment, the person is liable to repay to the Commonwealth the amount of the excess.

(4) If a person receives an amount by way of advances on account of bounty that may become payable to the person and the bounty does not become payable to the person, the person is liable to repay to the Commonwealth the amount so received.

Claims for payment of bounty

13. (1) A person who claims to be entitled to be paid an amount of bounty in respect of bountiable equipment may lodge a claim for payment to the person of the amount.

(2) A claim under sub-section (1) in respect of bountiable equipment shall—

(a) be in accordance with the appropriate approved form;

- (b) include such information as is, and such estimates as are, required by the form;
- (c) be signed and witnessed as required by the form; and
- (d) be lodged with the Collector for the State or Territory in which the manufacture of the bountiable equipment was completed, or, if there is no such Collector, the Comptroller-General, within 12 months after the manufacture of the bountiable equipment was completed.

(3) As soon as practicable after the lodgment of the claim, the Comptroller-General shall, after examining the claim and causing such inquiries as the Comptroller-General considers necessary to be made (including inquiries under sections 24 and 25)—

- (a) if the Comptroller-General is satisfied that the claim complies with sub-section (2) and that the claimant is, or, if certain estimates are correct, is, otherwise entitled to be paid an amount of bounty in respect of bountiable equipment to which the claim relates—approve, in writing, payment of the amount; or
- (b) if the Comptroller-General is not so satisfied—refuse, in writing, to approve payment of bounty in respect of the equipment to which the claim relates.

(4) Where the Comptroller-General makes a decision under sub-section (3) in relation to a claim approving, or refusing to approve, payment of bounty, not being a decision made within 30 days after the lodging of the claim and approving payment of the amount of bounty claimed, the Comptroller-General shall cause to be served on the person who lodged the claim, a notice in writing setting out the decision.

Variation of inadequate claims

14. (1) Where a person who has lodged a claim under section 13 (whether or not the claim has been dealt with under sub-section 13 (3)) considers that the claim was, by reason of an inadvertent error, a claim for an amount of bounty in respect of bountiable equipment that was less than the amount of bounty that the person was entitled to claim in respect of that equipment, the person may lodge a claim for payment to the person of the difference between the 2 amounts.

(2) A claim under sub-section (1) in respect of bountiable equipment shall—

- (a) be in accordance with the appropriate approved form;
- (b) include such information as is, and such estimates as are, required by the form;
- (c) be signed and witnessed as required by the form; and
- (d) be lodged with the Collector for the State or Territory in which the manufacture of the bountiable equipment was completed, or, if there is no such Collector, the Comptroller-General, within 12 months after the manufacture of the bountiable equipment was completed.

(3) Where a claim under sub-section (1) relates to a claim under section 13 that has not been dealt with under sub-section 13 (3), the 2 claims shall be dealt with under sub-section 13 (3) as if they were one claim under section 13.

(4) As soon as practicable after the lodgment of a claim under sub-section (1) to which sub-section (3) does not apply, the Comptroller-General shall, after examining the claim and causing such inquiries as the Comptroller-General considers necessary to be made (including inquiries under sections 24 and 25)—

- (a) if the Comptroller-General is satisfied that the claim complies with sub-section (2) and that the claimant is, or, if certain estimates are correct, is, otherwise entitled to be paid an additional amount of bounty in respect of bountiable equipment to which the claim relates—approve, in writing, payment of the additional amount; or
- (b) if the Comptroller-General is not so satisfied—refuse, in writing, to approve payment of an additional amount of bounty in respect of the equipment to which the claim relates.

(5) Where the Comptroller-General makes a decision under sub-section (4) in relation to a claim approving, or refusing to approve, payment of an additional amount of bounty, not being a decision made within 30 days after the lodging of the claim and approving payment of the additional amount claimed, the Comptroller-General shall cause to be served on the person who lodged the claim, a notice in writing setting out the decision.

Variation of excessive claims

15. (1) Where a person who has lodged a claim under section 13 (whether or not the claim has been dealt with under sub-section 13 (3)) becomes aware that the claim is, by reason of an inadvertent error, a claim for an amount of bounty in respect of bountiable equipment that exceeds the amount of bounty that the person was entitled to claim in respect of that equipment by more than \$100, the person shall, within 28 days after discovering the error, lodge an acknowledgement of the error, being an acknowledgement that complies with sub-section (2).

Penalty for contravention of this sub-section: \$1,000.

(2) An acknowledgement under sub-section (1) in respect of bountiable equipment shall—

- (a) be in accordance with the appropriate approved form;
- (b) include such information as is, and such estimates as are, required by the form;
- (c) be signed and witnessed as required by the form; and
- (d) be lodged with the Collector for the State or Territory in which the manufacture of the bountiable equipment was completed, or, if there is no such Collector, the Comptroller-General.

(3) Where an acknowledgement relates to a claim under section 13 that has not been dealt with under sub-section 13 (3), the claim shall be dealt with

under that sub-section as if it had been amended in accordance with the acknowledgement.

(4) Where the Comptroller-General, after examining an acknowledgement under sub-section (1) to which sub-section (3) does not apply and causing such inquiries as the Comptroller-General considers necessary to be made (including inquiries under sections 24 and 25), is satisfied that there has been an overpayment of a claim by more than \$100, the Comptroller-General shall cause to be served on the person who lodged the claim a demand for the repayment of the amount of the overpayment, and that person is liable to repay that amount to the Commonwealth.

Manufacturers to furnish returns of costs

16. (1) A manufacturer of bountiable equipment shall, within 6 months after the end of each accounting period of the manufacturer that falls, or part of which falls, within the bounty period, furnish a return setting out particulars of the factory cost incurred by the manufacturer in relation to bountiable equipment manufactured in that accounting period by the manufacturer.

(2) A return under sub-section (1) in respect of bountiable equipment shall—

- (a) be in accordance with the appropriate approved form;
- (b) include such information as is, and such estimates as are, required by the form;
- (c) be signed and witnessed as required by the form; and
- (d) be lodged with the Collector for the State or Territory in which the manufacture of the bountiable equipment was completed or for a State or Territory in which the manufacture of some of the bountiable equipment was completed, as the case requires, or, if there is no such Collector, the Comptroller-General.

(3) The Comptroller-General may, by notice signed by the Comptroller-General, require a manufacturer of bountiable equipment who has furnished a return under sub-section (1) to provide, within a period specified in the notice (not being a period of less than one month), a certificate, signed by a qualified accountant approved by the Comptroller-General for the purpose, to the effect that the particulars set out in the return are correct.

(4) Without limiting the generality of sub-section (3), the Comptroller-General, in considering whether a manufacturer of bountiable equipment should be required to furnish a certificate under that sub-section, shall have regard to—

- (a) the extent of the claims for bounty made by the manufacturer in the relevant accounting period of the manufacturer;
- (b) the expense involved in obtaining the certificate; and
- (c) the relativity of those claims with that expense.

(5) The Comptroller-General shall not refuse to approve a qualified accountant for the purposes of sub-section (3) in relation to a manufacturer of

bountiable equipment unless the Comptroller-General is satisfied that it is not appropriate to approve the accountant because of an association between the accountant and the manufacturer.

(6) A manufacturer of bountiable equipment shall not refuse or fail to comply with sub-section (1) or (2) to the extent that the manufacturer is capable of complying with it.

Penalty for contravention of this sub-section: \$1,000.

(7) A manufacturer of bountiable equipment shall not, in purported compliance with sub-section (1) or (2), furnish information that is, or estimates that are, to the knowledge of the manufacturer, false or misleading in a material particular.

Penalty for contravention of this sub-section: \$1,000 or imprisonment for 6 months, or both.

Adjustment of claims following returns

17. (1) Where the particulars of factory cost set out in a return under section 16 in relation to an accounting period of a manufacturer of bountiable equipment show a difference between that cost and the factory cost, or an estimate of factory cost, on which claims for bounty lodged during that period by the manufacturer were based, not being a cost determined under sub-section 6 (6), the manufacturer shall lodge with the return a statement in respect of the difference.

Penalty for contravention of this sub-section: \$1,000.

(2) The statement shall—

- (a) be in accordance with the appropriate approved form;
- (b) include such information as is required by the form; and
- (c) be signed and witnessed as required by the form.

(3) Where a statement is lodged by a manufacturer of bountiable equipment in relation to an accounting period of the manufacturer, the Comptroller-General shall, after examining the statement and causing such inquiries as the Comptroller-General considers necessary to be made (including inquiries under sections 24 and 25)—

- (a) if the Comptroller-General is satisfied that the statement complies with sub-section (2) and that the manufacturer is entitled to be paid an additional amount of bounty in respect of the bountiable equipment for which claims for bounty were lodged during that period—approve, in writing, payment of the additional amount;
- (b) if the Comptroller-General is satisfied that there has been an overpayment of bounty by more than \$100 in respect of the bountiable equipment for which claims for bounty were lodged during that period—cause to be served on the manufacturer a demand for the repayment of the amount of the overpayment, and the manufacturer is liable to repay that amount to the Commonwealth; or

- (c) if paragraph (a) or (b) do not apply—decline, in writing, to adjust payments of bounty made in respect of claims lodged by the manufacturer during that period.

(4) Where the Comptroller-General makes a decision under sub-section (3) in relation to a statement under sub-section (1), the Comptroller-General shall cause to be served on the manufacturer of bountiable equipment who lodged the statement a notice in writing setting out the decision.

Other adjustments of claims

18. If the Comptroller-General becomes satisfied, otherwise than after examining—

- (a) an acknowledgement under sub-section 15 (1); or
- (b) a statement under sub-section 17 (1),

that there has been an overpayment of a claim for bounty by more than \$100, the Comptroller-General shall cause to be served on the person who lodged the claim a demand for repayment of the amount of the overpayment, and that person is liable to repay that amount to the Commonwealth.

Recovery of repayments

19. (1) Where a person is liable to repay an amount to the Commonwealth under section 12, 15, 17 or 18, the Commonwealth may recover that amount as a debt due to the Commonwealth by action in a court of competent jurisdiction.

(2) Where a person is liable to repay an amount to the Commonwealth under section 12, 15, 17 or 18, that amount may be deducted from any other amount that is payable to the person under this Act and, where the first-mentioned amount is so deducted, the other amount shall, notwithstanding the deduction, be deemed to have been paid in full to the person.

PART IV—ADMINISTRATION

Registration of premises

20. (1) Subject to this section, premises that are used solely or principally for industrial or commercial purposes may be registered under this section for the purposes of this Act.

(2) An application for the registration of premises under this section may be made to the Minister, in writing, by a person who carries on, or proposes to carry on, the manufacture of bountiable equipment at those premises.

(3) Subject to sub-sections (6), (7) and (8), where an application for the registration of premises is made under sub-section (2) by a person who, in the opinion of the Minister, carries on, or proposes to carry on, the manufacture of bountiable equipment at those premises, the Minister shall—

- (a) register those premises in the name of the applicant by signing a notice, in writing, specifying the date on which it was signed and stating that

the premises have been so registered and causing that notice to be served, either personally or by post, on the applicant; or

- (b) refuse to register those premises and cause a notice, in writing, stating that the Minister has refused to register those premises to be served, either personally or by post, on the applicant.

(4) The registration of premises under this section has effect from the date on which the notice under paragraph (3) (a), in relation to the premises, is signed, or such earlier date, not being a date earlier than 6 July 1984, as is determined by the Minister and specified in that notice.

(5) The regulations may prescribe conditions to be complied with in connection with the manufacture of bountiable equipment at registered premises.

(6) If conditions have been prescribed under sub-section (5), the Minister shall not register premises under this section unless the Minister is satisfied that the conditions have been, or will be, complied with in respect of those premises.

(7) The Minister may require an applicant for the registration of premises 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 the satisfaction of the Minister.

(8) Where an applicant for the registration of premises under this section was not, on 6 July 1984, engaged in the manufacture of bountiable equipment at those premises, the Minister shall refuse to register those premises unless, in the opinion of the Minister, the registration of those premises will permit the orderly development in Australia of the industry manufacturing bountiable equipment.

(9) Premises that, on 5 July 1984, were registered under the *Automatic Data Processing Equipment Bounty Act 1977* shall be deemed to have been registered under this section with effect from 6 July 1984.

(10) Where—

- (a) premises are registered under this section; and
- (b) the person in whose name the premises are so registered and a person who carries on, or proposes to carry on, the manufacture of bountiable equipment at those premises (in this sub-section referred to as the “transferee”) make a joint application in writing to the Minister for the transfer of the registration of the premises to the name of the transferee,

the Minister shall transfer the registration of those premises to the name of the transferee by causing a notice, in writing, stating that the registration has been so transferred to be served, either personally or by post, on the transferee.

(11) A transfer under sub-section (10) has effect from such date as is specified in the notice under that sub-section in relation to the transfer, being a date after the commencement of the bounty period and not earlier than 6 months before the date on which the application for the transfer was made.

(12) Where the Minister becomes satisfied, in respect of premises registered under this section—

- (a) that bountiable equipment is not being manufactured at those premises;
- (b) that the manufacture of bountiable equipment at those premises is being carried on by a person other than—
 - (i) the person in whose name the premises are registered; or
 - (ii) a person who has made an application under paragraph (10) (b) in relation to the premises;
- (c) if any conditions have been prescribed under sub-section (5), that bountiable equipment is being manufactured at those premises otherwise than in accordance with those conditions; or
- (d) those premises are not being used solely or principally for industrial or commercial purposes,

the Minister may cancel the registration of those premises by causing a notice, in writing, stating that the registration of those premises has been cancelled to be served, either personally or by post, on—

- (e) the occupier of those premises; and
- (f) if the occupier is not the person in whose name those premises are registered, on the person in whose name the premises are registered.

(13) For the purposes of the application of section 29 of the *Acts Interpretation Act 1901* to the service on a person by post of a notice under this section in relation to premises, such a notice posted as a letter addressed to that person at the premises shall be deemed to be properly addressed.

Accounts

21. (1) A person is not entitled to bounty unless—

- (a) the person keeps, in writing in the English language, such accounts, books, documents and other records as correctly record and explain—
 - (i) such particulars relating to the manufacture (including the cost of manufacture) of bountiable equipment in respect of which bounty is, or may become, payable as are specified by the Minister in a notice published in the *Gazette*; and
 - (ii) such other particulars (if any) in relation to that equipment as are specified by the Minister by notice in writing served on the person; and
- (b) the person retains those accounts, books, documents and other records for at least 3 years after the completion of the manufacture of the equipment concerned.

(2) For the purposes of this section, accounts, books, documents or other records shall be taken to be kept in writing in the English language if they are kept in a form in which they are readily accessible and readily convertible into writing in the English language.

Securities

22. The Minister may, by notice in writing served on a person to whom bounty could become payable, require the person 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 the person with the provisions of this Act and the regulations, or for the purpose of an undertaking given by the person for the purposes of this Act or the regulations, and, where a person is so required to give security, the person is not entitled to bounty, or an advance on account of bounty, unless the person gives security in accordance with the requirement.

Appointment of authorized officers

23. (1) The Minister may, by writing signed by the Minister, appoint—

- (a) a specified officer;
- (b) the officer for the time being holding, or performing the duties of, a specified office; or
- (c) officers included in a specified class of officers,

to be an authorized officer, or authorized officers, for the purposes of this Act.

(2) In sub-section (1), “officer” means an officer of the Department.

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

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

- (a) registered premises;
- (b) premises where there is stored bountiable equipment in respect of which bounty has been claimed, or, in the opinion of the authorized officer, is likely to be claimed; or
- (c) premises where there are kept any accounts, books, documents or other records relating to the manufacture (including the cost of manufacture) or storage of bountiable equipment,

and may—

- (d) inspect, or take stock of, any bountiable equipment;
- (e) inspect any process in the manufacture of any bountiable equipment; and
- (f) inspect the accounts, books, documents and other records relating to the manufacture (including the cost of manufacture) of bountiable equipment,

and may make and retain copies of, or take and retain extracts from, any such accounts, books, documents and other records.

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

Penalty: \$1,000.

Power to require persons to answer questions and produce documents

25. (1) A Collector or an authorized officer may, by notice signed by him or her, require a person whom he or she believes on reasonable grounds to be capable of giving information relevant to the operation of this Act, in relation to the manufacture (including the cost of manufacture) of bountiable equipment, to attend before him or her at the time and place specified in the notice and there to answer questions and to produce to him or her such accounts, books, documents and other records in relation to the manufacture (including the cost of manufacture) of bountiable equipment as are referred to in the notice.

(2) A notice under sub-section (1) requiring a person to produce an account, book, document or record shall set out the effect of sub-section (3).

(3) A person who, in pursuance of a notice under sub-section (1), produces an account, book, document or record kept, made or prepared by another person that, to the knowledge of the first-mentioned person, is false or misleading in a material particular shall, upon so producing the account, book, document or record, give to the person to whom the first-mentioned person is required to produce the account, book, document or record, a statement in writing signed by the first-mentioned person or, in the case of a body corporate, by a competent officer of the body corporate—

- (a) stating that the account, book, document or record is, to the knowledge of the first-mentioned person, false or misleading in a material particular; and
- (b) setting out, or referring to, the material particular in respect of which the account, book, document or record is, to the knowledge of the first-mentioned person, false or misleading.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(4) A Collector or an authorized officer may make and retain copies of, or take and retain extracts from, any accounts, books, documents or other records produced in pursuance of this section.

(5) 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 the person or make the person liable to a penalty, but the answer of the person to any such question, or the production by the person of any such account, book, document or other record, is not admissible in evidence against the person in criminal proceedings other than proceedings under, or arising out of or by virtue of, sub-section (3) or paragraph 27 (3) (a).

(6) Where a manufacturer of bountiable equipment, or a person employed by a manufacturer of bountiable equipment, 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 in writing, until the manufacturer or that

person, as the case may be, 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.

26. (1) A Collector or an authorized officer may examine, on oath or affirmation, a person attending before him or her in pursuance of section 25 and, for that purpose, may administer an oath or affirmation to the 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 or she will give to questions asked of him or her will be true.

Offences

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

- (a)** to attend before a Collector or an authorized officer;
- (b)** to take an oath 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 knowingly obtain or attempt to obtain bounty that is not payable.

Penalty: \$2,000 or imprisonment for 12 months, or both.

(3) A person shall not—

- (a)** make to an authorized officer or other person exercising a power or performing a function or duty in relation to this Act a statement, either orally or in writing, that is to the knowledge of the person false or misleading in a material particular; or
- (b)** present (otherwise than in pursuance of sub-section 25 (1)) to an authorized officer or other person exercising a power or performing a function or duty in relation to this Act an account, book, document or other record that is to the knowledge of the person false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(4) A person shall not be prosecuted for an offence against sub-section (2) and an offence against sub-section 15 (1) in respect of the same claim for bounty.

(5) In this section, “bounty” includes an advance on account of bounty under section 12.

Time for prosecutions

28. A prosecution for an offence against this Act may be commenced at any time within 3 years after the commission of the offence.

Recovery of bounty on conviction

29. (1) Where a person is convicted of an offence against sub-section 15 (1) or 27 (2) or (3), the court may, in addition to imposing a penalty under the sub-section, order the person to refund to the Commonwealth the amount of any bounty wrongfully obtained by the person.

(2) Where a court has made an order under sub-section (1), 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 refundable may be filed in a court having civil jurisdiction to the extent of the amount and is thereupon enforceable in all respects as a final judgment of that court.

(3) In this section, “bounty” includes an advance on account of bounty under section 12.

PART V—MISCELLANEOUS

Return for Parliament

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

- (a)** the name and address of each person to whom bounty was paid in that financial year;
- (b)** the amount of bounty paid to each person in that financial year; 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 15 sitting days of that House after the return is received by the Minister.

(3) In this section, “bounty” includes an advance on account of bounty under section 12.

Delegation

31. (1) The Minister or the Comptroller-General may, either generally or otherwise as provided in the instrument of delegation, by writing signed by him or her, delegate to a person all or any of his or her 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.

Application for review

32. (1) Applications may be made to the Administrative Appeals Tribunal for review of—

- (a) a declaration by the Comptroller-General for the purposes of section 11;
- (b) a decision of the Comptroller-General under paragraph 13 (3) (a) approving payment of bounty;
- (c) a decision of the Comptroller-General under paragraph 13 (3) (b) refusing to approve payment of bounty;
- (d) a decision of the Comptroller-General under paragraph 14 (4) (a) approving a payment;
- (e) a decision of the Comptroller-General under paragraph 14 (4) (b) refusing to approve a payment;
- (f) a decision of the Comptroller-General for the purposes of sub-section 15 (4);
- (g) a decision of the Comptroller-General under paragraph 17 (3) (a) approving a payment;
- (h) a decision of the Comptroller-General for the purposes of paragraph 17 (3) (b);
- (j) a decision of the Comptroller-General under paragraph 17 (3) (c) to refuse to adjust payments of bounty;
- (k) a decision of the Comptroller-General for the purposes of section 18;
- (m) a decision of the Minister under paragraph 20 (3) (b) refusing to register premises, including a decision to refuse by virtue of sub-section 20 (7) but not including a refusal under sub-section 20 (8);
- (n) a decision of the Minister under sub-section 20 (12) cancelling the registration of premises; or
- (p) a requirement by the Minister under section 22.

(2) Without limiting section 43 of the *Administrative Appeals Tribunal Act 1975*, where the Administrative Appeals Tribunal is reviewing a decision referred to in paragraph (1) (b), (c), (d), (e), (f), (g), (h), (j) or (k) in respect of bountiable equipment, the Tribunal, if it considers it appropriate to do so, may—

- (a) if a determination under sub-section 6 (6) has been made in respect of that equipment or of equipment that includes that equipment, either—
 - (i) set aside that determination; or
 - (ii) set aside that determination and make a further determination under that sub-section in respect of the equipment to which the determination so set aside applied; or
- (b) if a determination under that sub-section has not been made in respect of the equipment to which the decision applies or of equipment that

includes that equipment, make a determination under that sub-section in respect of the equipment to which the decision applies.

(3) In sub-section (1), “decision” has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

Statement to accompany notice of decisions

33. (1) Where the Minister, or the Comptroller-General makes a determination, decision or requirement of a kind referred to in sub-section 32 (1) and gives to the person or persons whose interests are affected by the determination, decision or requirement notice in writing of the making of the determination, decision or requirement, that notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the determination, decision or requirement to which the notice relates by or on behalf of the person or persons whose interests are affected by the determination, decision or requirement.

(2) Any failure to comply with the requirements of sub-section (1) in relation to a determination, decision or requirement does not affect the validity of the determination, decision or requirement.

Appropriation

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

Transitional

35. Sections 24, 25 and 27 do not operate so as to render unlawful anything done, or omitted to be done, before the day on which this Act receives the Royal Assent.

Regulations

36. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters—

- (a) permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.