



# **Bounty (Ships) Act 1989**

**Act No. 69 of 1989 as amended**

**[Note: This Act was repealed by Act No. 8 of 2007 on 15 March 2007]**

This compilation was prepared on 5 May 2003  
taking into account amendments up to Act No. 21 of 2003

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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# An Act to provide for the payment of bounty on the production of certain ships and other vessels

## Part 1—Preliminary

### 1 Short title [see Note 1]

This Act may be cited as the *Bounty (Ships) Act 1989*.

### 2 Commencement

This Act commences, or shall be taken to have commenced, as the case requires, on 1 July 1989.

### 3 General administration of Act

The Secretary has the general administration of this Act.

### 4 Interpretation

(1) In this Act, unless the contrary intention appears:

***approved form*** means a form approved by the Secretary in writing.

***approved hydrographic test facility*** is a facility that is:

- (a) located outside Australia; and
- (b) used for hydrographic design and testing; and
- (c) approved by the Secretary for the purposes of subsection 10(3).

***authorised officer*** means a person appointed to be an authorised officer under section 20.

***bountiable vessel*** means a vessel:

- (a) that is of more than 150 but not more than 20,000 gross construction tons;
- (b) that is designed for use in navigation (other than air navigation); and
- (c) that has, as its means of propulsion, an inbuilt propulsion system, or sails, or a combination of an inbuilt propulsion

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system and sails, that will enable it to propel itself at navigable speed without reliance on a connection to the land or to another vessel;

and includes an air cushion vehicle other than a prescribed air cushion vehicle.

**bounty** means an eligible costs bounty or an eligible research and development expenditure bounty.

**Commonwealth authority** means an authority or body established for a purpose of the Commonwealth by or under a law of the Commonwealth (including an Ordinance of the Australian Capital Territory).

**eligible costs** has the meaning given in section 5.

**eligible costs bounty** means the bounty referred to in subsection 8(2).

**eligible research and development expenditure** has the meaning given in section 5A.

**eligible research and development expenditure bounty** means the bounty referred to in subsection 8(3A).

**forecast eligible costs**, in relation to the construction or modification of a vessel, means the amounts constituting the estimate lodged with the Minister under subsection 8(3E) in relation to the construction or modification.

**modification**, in relation to a vessel, means changing the structure or specification of the vessel to alter its capacity or capability, but does not include any changing of that structure or specification before the construction of the vessel has been completed.

**officer** means an officer of the Department.

**other Commonwealth assistance** has the meaning given in section 5C.

**period to which this Act applies** means the period from and including 1 July 1989 to and including 30 June 2004.

**prescribed air-cushion vehicle** means an air-cushion vehicle, or other similar craft that:

- (a) is designed to be used wholly or principally on or over land or wetlands;
- (b) not being a fishing vessel of the kind that, because of section 13 of the *Fishing Registration Act 1981*, is not required to be registered under section 12 of that Act; or
- (c) if it were imported into Australia, would not be a vessel to which heading 8901, 8902, 8903 or 8906 in Schedule 3 of the Tariff Act would apply.

**registered shipbuilder** means a person registered as a shipbuilder by the Minister under section 17 of this Act or section 4 of the *Bounty (Ships) Amendment Act 1999*.

**relevant activity**, in relation to a bountiable vessel, means an activity relating to the construction or modification of the vessel, being the construction or a modification in respect of which bounty is, or could become, payable and, in relation to the exercise of the powers of an authorised officer, includes an activity that the officer believes on reasonable grounds is such an activity.

**Secretary** means the Secretary to the Department.

**Tariff Act** means the *Customs Tariff Act 1995*.

- (2) The construction or modification of a bountiable vessel is taken, for the purposes of this Act, to have been completed on the date the Secretary determines to be the date on which that construction or modification was completed.
- (3) The number of tons in the gross construction tonnage of a vessel shall be ascertained, for the purposes of this Act, in accordance with the formula:

$$\frac{Z}{2.83}$$

where **Z** is a number equal to the number of cubic metres in the total volume, measured in relation to their moulded lines, of the enclosed spaces in the vessel, including between-deck spaces, water ballast spaces, voids, cofferdams, machinery spaces, erections, superstructures, houses, casings, funnel spaces, mast spaces and, in the case of an air-cushion vehicle, the area enclosed by the inflatable skirt under normal inflation.

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- (4) The modification of a vessel that, before the modification, was not, but, after and by reason of the modification, is, or, if the modification were completed, would be, a bountiable vessel shall be taken, for the purposes of this Act, to be the modification of a bountiable vessel.
- (5) For the purposes of this Act, 2 persons are 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 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.
- (6) 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.
- (7) A reference in this Act to costs incurred by a shipbuilder undertaking the construction or modification of a bountiable vessel in a particular period is a reference to an amount that has become payable by the shipbuilder in the period, whether or not it is paid in the period.



**5 Costs of construction or modification**

- (1) For the purposes of this Act, the eligible costs of the construction or modification of a bountiable vessel shall be taken to be:
- (a) the design costs incurred by the shipbuilder in respect of the production of the vessel, not being costs referred to in paragraph (b) or (d);
  - (b) so much of the direct labour costs incurred in Australia by the shipbuilder in relation to employees who are actually engaged in the production of the vessel as are directly referable to the production of the vessel;
  - (c) the direct material costs incurred by the shipbuilder in respect of goods that are:
    - (i) actually incorporated in the vessel or in the modification of the vessel, as the case requires; or
    - (ii) consumed in the construction or modification of the vessel, as the case requires;
  - (d) subcontracting costs incurred by the shipbuilder in respect of work carried out by a person other than a registered shipbuilder, being work that is directly connected with the production of the vessel in Australia;
  - (e) where, in the contract for the production of the vessel, provision is made for the fitting out of the vessel:
    - (i) so much of the labour costs incurred in Australia by the shipbuilder in relation to employees who are actually engaged on the fitting out of the vessel as is directly referable to that fitting out;
    - (ii) the materials costs incurred by the shipbuilder in respect of goods that are actually incorporated or consumed in the fitting out of the vessel; and
    - (iii) subcontracting costs incurred by the shipbuilder in respect of work carried out by a person other than a registered shipbuilder, being work that is directly connected with the fitting out of the vessel;
  - (f) where, in the contract for the production of the vessel, provision is made for the trialling of the vessel either in Australia or elsewhere—the costs incurred by the shipbuilder that are referable to the trialling of the vessel, other than the costs of any modification of the vessel arising from the

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trialling that is not carried out by the shipbuilder in Australia;  
and

- (g) the costs of the transportation of the vessel upon completion of its construction or modification to a place specified in the contract for the production of the vessel for the purpose of delivery.
- (2) For the purposes of subsection (1), labour costs incurred by a shipbuilder in relation to employees actually engaged on the production or fitting out of a bountiable vessel that are directly referable to that production or fitting out do not include:
- (a) amounts paid by the shipbuilder by way of contribution to a superannuation scheme for the benefit of those employees;
  - (b) the value of any long service leave to which any of those employees becomes entitled;
  - (c) workers' compensation payments; or
  - (d) amounts paid by the shipbuilder by way of payroll tax.
- (3) For the purposes of subsection (1), material costs incurred by a shipbuilder in respect of goods that are:
- (a) actually incorporated in the bountiable vessel, in the modification of the bountiable vessel, or in the fitting out of the bountiable vessel; or
  - (b) consumed in the construction of the bountiable vessel, in the modification of the bountiable vessel, or in the fitting out of the bountiable vessel;
- means the full into-store cost to the shipbuilder of goods so used and, without limiting the generality of the foregoing, includes costs incurred by the shipbuilder in respect of materials used in, or component parts of, the bountiable vessel, that are imported from a foreign country, including any freight or insurance costs associated with that importation that are paid by the shipbuilder.
- (4) For the purpose of subsection (1), costs incurred by a shipbuilder in transporting a bountiable vessel to or from a place for the purpose of trialling the vessel or for the purpose of carrying out any modification arising from that trialling shall be taken to be costs referable to the trialling of the vessel.

**5A Eligible research and development expenditure**

- (1) For the purposes of this Act, *eligible research and development expenditure* is expenditure incurred by a shipbuilder in respect of eligible research and development activities (see section 5B).
- (2) The expenditure must be incurred during the period commencing on 1 July 1999 and ending on 30 June 2004.
- (3) If a shipbuilder incurs expenditure in respect of eligible research and development activities that are carried on by the shipbuilder on behalf of another person, the expenditure is not eligible research and development expenditure of the shipbuilder carrying on the activities.

**5B Eligible research and development activities**

- (1) For the purposes of section 5A, *eligible research and development activities* are research and development activities:
  - (a) carried on by or on behalf of a shipbuilder during the period commencing on 1 July 1999 and ending on 30 June 2004; and
  - (b) relating to the construction or modification of bountiable vessels; and
  - (c) to which one of the following applies:
    - (i) some or all of the activities are carried on in Australia;
    - (ii) the activities are design and testing activities carried on at an approved hydrographic test facility.
- (2) The activities must be:
  - (a) systematic, investigative or experimental in nature and carried on for the purposes of improving the shipbuilder's business through:
    - (i) acquiring knowledge (whether or not that knowledge will have a specific practical application to that business); or
    - (ii) creating new or improved materials, products, devices, processes or services for that business; or
  - (b) carried on for a purpose directly related to the carrying on of activities of a kind referred to in paragraph (a).

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- (3) The Minister may determine, in writing, that a class of activity is not an eligible research and development activity for the purposes of this section.
- (4) A determination under subsection (3) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

**5C Other Commonwealth assistance**

- (1) For the purposes of this Act, a shipbuilder has received ***other Commonwealth assistance*** if the shipbuilder has received, and is entitled to, financial assistance (other than bounty) provided by the Commonwealth for eligible research and development activities.
- (2) The Minister may determine, in writing, that a specified form of assistance provided by the Commonwealth:
  - (a) is not financial assistance for the purposes of this section; or
  - (b) is financial assistance for the purposes of this section.
- (3) If the determination specifies that a form of assistance is financial assistance, the determination may also specify the method by which the amount of the assistance received is to be worked out.
- (4) A determination under subsection (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Note: The amount of other Commonwealth assistance received by a shipbuilder is relevant to working out the amount of eligible research and development expenditure bounty to which the shipbuilder is entitled (see subsection 10(3)).

**6 Determination of costs of construction or modification**

- (1) Where the Secretary:
  - (a) is unable to verify the eligible costs of the construction or modification of a bountiable vessel; or
  - (b) having regard to sound accounting principles, forms the opinion that costs included in the eligible costs of the construction or modification of a bountiable vessel:
    - (i) are incorrect or overestimated;
    - (ii) should not have been characterised as eligible costs;
    - (iii) are higher than would have been the case if the shipbuilder had not marginally costed or similarly

disproportionately costed the construction of a vessel in respect of which bounty is not payable;

- (iv) have been fixed in order to obtain an increase in bounty;
- (v) are unduly higher than costs incurred by other shipbuilders in respect of similar vessels;
- (vi) have been increased as the result of the influence of a relationship between the shipbuilder and an associate of the shipbuilder; or
- (vii) are higher than would have been the case if the shipbuilder had provided the services that were provided, and charged for, by an associate of the shipbuilder;

the Secretary may, in writing, determine the costs that are, for the purposes of this Act, to be taken to be the eligible costs of the construction or modification of the vessel.

(1A) Where the Secretary:

- (a) is unable to verify the eligible research and development expenditure incurred by a shipbuilder in relation to the construction or modification of bountiable vessels; or
- (b) having regard to sound accounting principles, forms the opinion that the expenditure included in the eligible research and development expenditure:
  - (i) is incorrect or overestimated; or
  - (ii) should not have been characterised as eligible research and development expenditure; or
  - (iii) is unduly higher than expenditure incurred by other shipbuilders in respect of similar eligible research and development activities; or
  - (iv) has been fixed in order to obtain an increase in eligible research and development expenditure bounty; or
  - (v) has been increased as the result of the influence of a relationship between the shipbuilder and an associate of the shipbuilder; or
  - (vi) is higher than would have been the case if the shipbuilder had provided the services that were provided, and charged for, by an associate of the shipbuilder;

the Secretary may, in writing, determine the expenditure that is, for the purposes of this Act, to be taken to be the eligible

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research and development expenditure incurred by a shipbuilder in relation to the construction or modification of bountiable vessels.

- (2) Where the Secretary is unable to verify the time at which eligible costs were, or eligible research and development expenditure was, incurred during the construction or modification of the bountiable vessel, the Secretary may, in writing, determine the time that is, for the purposes of this Act, to be taken to be the time at which those eligible costs were, or eligible research and development expenditure was, incurred.
- (3) In making a determination under subsection (1) or (1A) in relation to a bountiable vessel the Secretary may disregard any costs charged to, or imposed on, the shipbuilder by an associate of the shipbuilder, being costs that are not actually incurred by the associate, unless the associate charges other persons of whom he or she is not the associate the same amount as the associate charges the shipbuilder of whom he or she is the associate.

**7 Uniformity**

A power conferred on the Governor-General, the Minister, the Secretary or any other person by this Act shall not be exercised in such a manner that bounty would not be uniform throughout the Commonwealth within the meaning of paragraph 51(iii) of the Constitution.

**7A Application of the *Criminal Code***

Chapter 2 of the *Criminal Code* applies to all offences created by this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

## Part 2—Bounty

### 8 Specification of bounty

- (1) Bounty is payable in accordance with this Act on the production, that is to say, the construction or modification, in Australia, of bountiable vessels.

*Eligible costs bounty*

- (2) Bounty in respect of the construction or modification of a bountiable vessel is payable to the shipbuilder, or each shipbuilder, who incurs an eligible cost in undertaking, or undertaking a part of, the construction or modification.
- (3) However, bounty is not payable under subsection (2) in respect of a construction or modification completed after 31 December 2003.

*Eligible research and development expenditure bounty*

- (3A) Bounty in respect of the construction or modification of a bountiable vessel is payable to the shipbuilder, or each shipbuilder who:
- (a) undertakes, or undertakes a part of, the construction or modification; and
  - (b) incurs eligible research and development expenditure before the completion of the construction or modification.
- (3B) However, bounty is not payable under subsection (3A) in respect of a construction or modification completed after 30 June 2004.

*Entitlement to eligible costs bounty for vessels completed on or before 31 December 2000*

- (3C) If a shipbuilder completes the construction or modification of a bountiable vessel on or before 31 December 2000, the shipbuilder is not entitled to a payment of eligible costs bounty in respect of the construction or modification unless the shipbuilder is a registered shipbuilder at all times during the construction or modification.

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*Entitlement to eligible costs bounty for vessels completed after  
31 December 2000 and on or before 31 December 2003*

- (3D) If a shipbuilder completes the construction or modification of a bountiable vessel after 31 December 2000 and on or before 31 December 2003, the shipbuilder is not entitled to a payment of eligible costs bounty in respect of the construction unless:
- (a) the shipbuilder is a registered shipbuilder at all times during the construction or modification; and
  - (b) the vessel is delivered on or before 31 December 2003 into the possession of the vessel's owner or the owner's agent; and
  - (c) the construction or modification is carried out as a result of a contract entered into before 1 January 2001; and
  - (d) the following documents are lodged with the Minister before 14 January 2001:
    - (i) a copy of the contract or other evidence that satisfies the Minister of the existence of the contract;
    - (ii) the approved form.
- (3E) The approved form referred to in paragraph (3D)(d) must contain the following details:
- (a) the amount to be paid to the shipbuilder under the contract;
  - (b) an estimate of each of the eligible costs of the construction or modification;
  - (c) the specifications of the vessel, including the gross construction tonnage worked out according to the formula in subsection 4(3);
  - (d) the timetable for carrying out the construction or modification, including commencement and completion date;
  - (e) the place where the construction or modification is being or will be carried out;
  - (f) the name of the person intending to purchase the vessel, or for whom the vessel is being modified;
  - (g) the date and place of delivery of the vessel upon completion.

*Entitlement to eligible research and development expenditure  
bounty for vessels completed on or before 30 June 2004*

- (3F) A shipbuilder who incurs eligible research and development expenditure before the construction or modification of a bountiable
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vessel undertaken by the shipbuilder is completed is not entitled to a payment of eligible research and development expenditure bounty in respect of the construction or modification unless the shipbuilder is a registered shipbuilder at all times during the construction or modification.

- (4) Where bounty is payable on the construction, or a modification, of a vessel, being a construction or modification commenced before 1 July 1989, this Act shall have effect as if the costs incurred by a shipbuilder before 1 July 1989 in respect of the undertaking of that construction or modification had been incurred by that shipbuilder on 1 July 1989.
- (5) A registered shipbuilder is not entitled to receive bounty in respect of the modification of a vessel unless the eligible costs incurred in performing the modification by that shipbuilder, or by that shipbuilder and all other registered shipbuilders undertaking parts of the modification, are, or would, if the modification were completed, be, not less than \$1,000,000.

## **9 Certain circumstances in which bounty is not payable**

- (1) Bounty is not payable in respect of the construction or modification of a bountiable vessel that the Secretary is satisfied was, or will be, upon completion of that construction or modification, and after 1 July 1990, exported, either directly or indirectly through another country or other countries, to New Zealand.
- (2) Subject to subsection (3), bounty is not payable in respect of a bountiable vessel that is constructed or modified by or for the Commonwealth or a Commonwealth authority.
- (3) Subsection (2) shall not be taken to apply in any circumstances where the Commonwealth or a Commonwealth authority is the legal owner of a vessel as constructed or modified by reason of the Commonwealth or that authority having entered into an arrangement to provide funds for the construction or modification to a person, other than a Commonwealth authority, who has a beneficial interest in the vessel.
- (4) Bounty is not payable on the construction of a vessel if bounty has been paid in respect of that construction under the *Ship Construction Bounty Act 1975* or the *Bounty (Ships) Act 1980*.

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- (5) Bounty is not payable on the modification of a vessel if bounty has been paid in respect of that modification under the *Ship Construction Bounty Act 1975*, the *Bounty (Ships) Act 1980* or the *Bounty (Ship Repair) Act 1986*.

## 10 Rate of bounty

### *Eligible costs bounty*

- (1) Eligible costs bounty in respect of the construction or modification of a bountiable vessel that is completed before 31 December 2003 is an amount equal to such amounts set out below as is, or to the sum of such amounts set out below as are, appropriate:
- (a) in respect of any eligible costs incurred, or taken, by virtue of subsection 8(4), to have been incurred, between 1 July 1989 and 30 June 1991, inclusive—the product of  $1.2 \times 15\% \times$  the amount of the costs so incurred or taken to have been so incurred;
  - (b) in respect of any eligible costs incurred between 1 July 1991 and 30 June 1993, inclusive—the product of  $1.2 \times 10\% \times$  the amount of the costs so incurred;
  - (c) in respect of any eligible costs incurred between 1 July 1993 and 30 June 1994, inclusive—the product of  $1.2 \times 9\% \times$  the amount of the costs so incurred;
  - (d) in respect of any eligible costs incurred between 1 July 1994 and 30 June 1995, inclusive—the product of  $1.2 \times 8\% \times$  the amount of the costs so incurred;
  - (e) in respect of any eligible costs incurred between 1 July 1995 and 30 June 1996, inclusive—the product of  $1.2 \times 7\% \times$  the amount of the costs so incurred;
  - (f) in respect of any eligible costs incurred between 1 July 1996 and 30 June 1999, inclusive—the product of  $1.2 \times 5\% \times$  the amount of the costs so incurred;
  - (g) in respect of any eligible costs incurred between 1 July 1999 and 31 December 2000, inclusive—the product of:  
  
$$1.2 \times 3\% \times \text{Amount of costs so incurred}$$
  - (h) in respect of any eligible costs incurred between 1 January 2001 and 31 December 2003, inclusive—the lesser of the following amounts:

(i) the product of:

$$1.2 \times 3\% \times \text{Amount of costs so incurred}$$

(ii) the product of:

$$1.2 \times 3\% \times \text{Forecast eligible costs}$$

Note: For *forecast eligible costs* see subsection 4(1).

*Eligible research and development expenditure bounty*

(2) Eligible research and development expenditure bounty in respect of the construction or modification of a vessel that is completed before 1 July 2004 is an amount equal to the lesser of the following amounts:

- (a) the shipbuilder's adjusted eligible research and development expenditure;
- (b) the product of:

$$1.2 \times 3\% \times \text{Amount of eligible costs incurred in respect of the construction or modification}$$

(3) A shipbuilder's adjusted eligible research and development expenditure is worked out using the following formula:

$$\frac{\text{Eligible R and D expenditure incurred}}{2} - \left( \text{Bounty already paid} + \text{Other assistance} \right)$$

where:

***bounty already paid*** is the amount of eligible research and development expenditure bounty that has been paid to the shipbuilder.

***eligible research and development expenditure incurred*** is an amount equal to such amount set out below as is, or to the sum of such amounts set out below as are, appropriate:

- (a) in respect of eligible research and development activities that are design and testing activities carried on at an approved hydrographic testing facility—the amount of the eligible research and development expenditure incurred by the

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shipbuilder in relation to those activities by the time of the completion of the construction or modification of the vessel;

- (b) in respect of other eligible research and development activities—the lesser of the following amounts:
  - (i) the eligible research and development expenditure incurred by the shipbuilder by the time of the completion of the construction or modification of the vessel;
  - (ii) the eligible research and development expenditure incurred by the shipbuilder by the time of completion of the construction or modification of the vessel, in relation to eligible research and development activities carried on in Australia, multiplied by a factor of 1.2.

***other assistance***, in relation to the construction or modification of a vessel, is the amount of other Commonwealth assistance received by the shipbuilder for the eligible research and development activities carried on by or on behalf of the shipbuilder by the time of completion of the construction or modification.

Note 1: For ***eligible research and development activities*** see section 5B.

Note 2: For ***other Commonwealth assistance received*** see section 5C.

## **Part 3—Payment of Bounty**

### **11 Claims for payment of bounty**

- (1) A person who claims to be entitled to be paid an amount of bounty may lodge a claim for payment of the amount.
- (2) A claim under subsection (1) in respect of the construction or modification of a bountiable vessel 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 section 16; and
  - (d) be lodged with an authorised officer, or with the Secretary, within 12 months after the construction or modification was completed.
- (3) As soon as practicable after the lodgment of the claim, the Secretary shall, after examining the claim and causing such inquiries as the Secretary considers necessary to be made (including inquiries involving the exercise of powers under sections 21 and 23):
  - (a) if the Secretary is satisfied that the claim complies with subsection (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 the construction or modification to which the claim relates:
    - (i) except where subparagraph (ii) applies—approve, in writing, payment of the amount; or
    - (ii) where:
      - (A) the amount is different from the amount for which the claim was made;
      - (B) the difference between those amounts is less than \$200; and

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- (C) the Secretary is satisfied that the difference is not attributable to the person who made the claim deliberately overclaiming or underclaiming the amount of bounty;
- approve, in writing, payment of the amount claimed; or
- (b) in any other case—refuse, in writing, to approve payment of bounty in respect of the goods to which the claim relates.
- (4) Where the Secretary makes a decision under subsection (3) in relation to a claim approving, or refusing to approve, payment of bounty, not being a decision approving payment of the amount of bounty claimed that is made within 30 days after the lodging of the claim, the Secretary shall cause to be served on the person who lodged the claim a notice in writing setting out the decision.

**12 Advances on account of bounty**

- (1) An advance on account of eligible costs bounty, or eligible research and development expenditure bounty, may be made to a person on such terms and conditions, including terms and conditions relating to the insurance of the vessel, as are approved by the Secretary in writing.
- (2) If a person receives by way of advances on account of eligible costs bounty, or eligible research and development expenditure bounty, in respect of the construction or modification of a vessel an amount greater than the amount of that bounty that is payable to the person in respect of that construction or modification, the person is liable to repay to the Commonwealth the amount of the excess.
- (3) If a person receives an amount by way of advances on account of eligible costs bounty, or eligible research and development expenditure bounty, and that bounty does not become payable, the person is liable to repay to the Commonwealth the amount so received.

**13 Variation of inadequate claim**

- (1) Where a person who has lodged a claim under section 11 (whether or not the claim has been dealt with under subsection 11(3)) considers that the claim is or was, because of an inadvertent error, a claim for an amount of bounty in respect of the construction or

modification of a bountiable vessel that is or was less than the amount of bounty that the person is or was entitled to claim in respect of that construction or modification, the person may lodge a claim for payment to the person of the difference between the 2 amounts.

- (2) A claim under subsection (1) in respect of the construction or modification of a bountiable vessel 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 section 16; and
  - (d) be lodged with an authorised officer, or with the Secretary, within 12 months after the construction or modification was completed.
- (3) Where a claim under subsection (1) relates to a claim under section 11 that has not been dealt with under subsection 11(3), the 2 claims shall be dealt with under subsection 11(3) as if they were one claim under section 11.
- (4) As soon as practicable after the lodgment of a claim under subsection (1) to which subsection (3) does not apply, the Secretary shall, after examining the claim and causing such inquiries as the Secretary considers necessary to be made (including inquiries involving the exercise of powers under sections 21 and 23):
  - (a) if the Secretary is satisfied that the claim complies with subsection (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 the construction or modification to which the claim relates—approve, in writing, payment of the additional amount; or
  - (b) if the Secretary is not so satisfied—refuse, in writing, to approve payment of an additional amount of bounty in respect of the construction or modification to which the claim relates.
- (5) Where the Secretary makes a decision under subsection (4) in relation to a claim approving, or refusing to approve, payment of an additional amount of bounty, not being a decision approving payment of the additional amount claimed that is made within 30

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days after the lodging of the claim, the Secretary shall cause to be served on the person who lodged the claim a notice in writing setting out the decision.

**14 Variation of excessive claim**

- (1) Where a person who has lodged a claim under section 11 (whether or not the claim has been dealt with under subsection 11(3)) subsequently knows that the claim is or was for an amount of bounty in respect of the construction or modification of a bountiable vessel that exceeds the amount of bounty that the person is or was entitled to claim in respect of that construction or modification by more than \$200, the person shall, within 28 days after discovering the excess, lodge an acknowledgment of the excess, being an acknowledgment that complies with subsection (2).

Penalty: \$3,000.

- (2) An acknowledgment under subsection (1) 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 section 16; and
  - (d) be lodged with an authorised officer, or with the Secretary.
- (3) Where an acknowledgment under subsection (1) relates to a claim under section 11 that has not been dealt with under subsection 11(3), the claim shall be dealt with under that subsection as if it had been amended in accordance with the acknowledgment.
- (4) Where the Secretary, after examining an acknowledgment under subsection (1) that has been dealt with under subsection 11(3) and causing such inquiries as the Secretary considers necessary to be made (including inquiries involving the exercise of powers under sections 21 and 23), is satisfied that there has been an overpayment of a claim by more than \$200, the Secretary 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.



**15 Other adjustments of claims**

- (1) Subject to subsection (2), if the Secretary becomes satisfied, otherwise than after examining an acknowledgment under subsection 14(1), that there has been an overpayment of a claim for bounty by more than \$200, the Secretary 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.
- (2) Where:
  - (a) the amount of an overpayment of a claim for bounty, being an overpayment referred to in subsection (1), is not higher than \$25,000; and
  - (b) the Secretary is satisfied:
    - (i) that:
      - (A) the overpayment was due to an error that did not involve any failure on the part of the person who lodged the claim to comply with this Act or the regulations; and
      - (B) the repayment of the amount of the overpayment would be unreasonable or would cause undue hardship to that person; or
    - (ii) that:
      - (A) the cost of endeavouring to recover the overpayment is so high; and
      - (B) the amount likely to be recovered as a result of endeavouring to recover the overpayment is so low;that taking action to recover the overpayment would not be justified;the Secretary may refrain from causing a demand for repayment of the amount of the overpayment to be served in accordance with that subsection.
- (3) Where, in accordance with subsection (2), the Secretary refrains from causing a demand for repayment of the amount of an overpayment to be served in accordance with subsection (1), particulars of the amount shall be included in the return under section 29 for the year in which the Secretary so refrained.

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**16 Forms**

- (1) Where, under this Act, a claim or acknowledgment lodged by a person in accordance with an approved form is required to be signed and witnessed as required by this section, the form shall:
  - (a) where the person is a natural person, be signed personally in the presence of a witness by:
    - (i) the person; or
    - (ii) another natural person authorised by the first-mentioned person to sign forms under this Act on behalf of the first-mentioned person;
  - (b) where the person is a body corporate, be:
    - (i) under the seal of the body corporate; or
    - (ii) signed personally in the presence of a witness by a natural person authorised by the body corporate to sign forms under this Act on behalf of the body corporate; and
  - (c) where the form is required to be signed by a natural person in the presence of a witness, state the name and address of the witness and contain a declaration signed by the witness stating that the form was signed in the presence of the witness.
- (2) For the purposes of this section, a person shall be taken to have authorised another person to sign forms under this Act on behalf of the first-mentioned person if, and only if, the first-mentioned person has so authorised the other person in writing delivered to the CEO, being writing:
  - (a) where the first-mentioned person is a natural person, that:
    - (i) is signed personally in the presence of a witness by the first-mentioned person; and
    - (ii) states the name and address of the witness and contains a declaration signed by the witness stating that the writing was signed in the presence of the witness; or
  - (b) where the first-mentioned person is a body corporate—under the seal of the body corporate.

## **Part 4—Administration**

### **17 Registration of persons**

- (1) Subject to this section, a person may be registered under this section as a registered shipbuilder for the purposes of this Act.
- (2) An application for registration under this section as a registered shipbuilder may be made to the Minister, in accordance with the appropriate approved form, by a person who carries out or proposes to carry out the construction or modification of bountiable vessels in Australia.
- (3) Subject to subsections (6) and (8), where an application for registration is made under subsection (2) by a person who, in the opinion of the Minister, carries out or proposes to carry out the construction or modification of bountiable vessels in Australia, the Minister shall:
  - (a) register the applicant as a registered shipbuilder by:
    - (i) signing a notice, in writing, stating that the applicant is registered as a registered shipbuilder for a period of one year commencing on such day, occurring after 30 June 1989, as is specified in the notice, whether that day occurs before, on, or after, the day of issue of the notice; and
    - (ii) causing the notice to be served on the applicant; or
  - (b) refuse to register the applicant as a registered shipbuilder and causing a notice in writing stating that the Minister has refused to register the applicant as a registered shipbuilder to be served on the applicant.
- (4) A further application may be made under subsection (2) notwithstanding that, at the time of the further application, the applicant is, or has been, registered under this section as a registered shipbuilder but the Minister shall not, in dealing with that further application, specify, in a notice under paragraph (3)(a), a day for the commencement of a registration period that occurs earlier than the day following the end of the most recent period of registration of the person.

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- (5) The registration of a person in respect of whom the Minister has issued a notice under paragraph (3)(a) shall have effect in accordance with the terms of that notice.
- (6) The Minister shall not register an applicant for registration unless:
  - (a) the applicant is a body corporate incorporated under a law of the Commonwealth or of a State or Territory;
  - (b) the applicant lodges, with the application, the documents set out in subsection (7);
  - (c) the applicant demonstrates, to the satisfaction of the Minister, that the applicant has technical and financial management skills necessary to ensure the successful completion of the construction or modification of bountiable vessels;
  - (d) the applicant demonstrates, to the satisfaction of the Minister, that during the period to which the application relates:
    - (i) the applicant will have access to such facilities, including a waterfront site, as are necessary for undertaking the construction or modification of bountiable vessels;
    - (ii) at least 75% of the applicant's activities will be devoted to the construction or modification of vessels of more than 150 but not more than 20,000 gross construction tons; and
    - (iii) the applicant will at all times have in its employment at least 40 persons involved in the business of constructing or modifying vessels referred to in subparagraph (ii) and at least one apprentice for every 8 tradespersons included within the 40 persons who are so involved; and
  - (e) the applicant complies with any other condition of registration that is specified in the regulations for the purpose of this paragraph.
- (7) For the purposes of subsection (6), an applicant for registration shall lodge with the application:
  - (a) an independent auditor's report verifying the applicant's capacity:
    - (i) to fund the construction or modification of bountiable vessels; and
    - (ii) to meet all financial liabilities likely to be incurred by the applicant in connection with the construction or

modification of bountiable vessels or with performance guarantees given in relation to bountiable vessels;

- (b) a business plan that outlines:
    - (i) the applicant's current position in the world market for the construction or modification for bountiable vessels including a statement of the applicant's position in that market with respect to products and technology;
    - (ii) the applicant's business objectives over a period (in this subsection called the *planning period*) commencing at the start of the period to which the application relates and ending on the expiration of 5 years or of the period to which the Act applies, whichever first occurs, and the applicant's strategies for achieving those objectives;
    - (iii) the applicant's anticipated employment, investment and production levels during the planning period;
    - (iv) the applicant's plans for using bounty funds that are paid to the applicant; and
    - (v) the applicant's perception of how the phase-down in the rate of bounty will affect the applicant's business; and
  - (c) a statement estimating the amount of bounty to which the applicant believes the applicant will become entitled during the financial year in which the application is made and of the amounts of bounty to which the applicant is likely to become entitled during each subsequent financial year within the period to which the Act applies.
- (8) The Minister may require an applicant for registration under this section to give such information as the Minister considers necessary for the purposes of this Act and may refuse to register the person unless the information is given to the satisfaction of the Minister.
- (9) Where, at any time during a period of registration of a person as a registered shipbuilder, the Minister becomes satisfied that the person:
- (a) no longer carries out the construction or modification of bountiable vessels in Australia;
  - (b) has ceased to be a body corporate referred to in paragraph (6)(a);
  - (c) no longer has the skills referred to in paragraph (6)(c);
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- (d) no longer meets a requirement referred to in subparagraph (6)(d)(i), (ii) or (iii); or
- (e) has ceased to comply with any other condition of registration or of renewal of registration specified in accordance with paragraph (6)(e);

the Minister may cancel the registration of the person as a registered shipbuilder by causing a notice, in writing, stating that the registration of the person as a shipbuilder is cancelled with effect from a day specified in the notice, not being a day earlier than the day of issue of the notice, to be served on the person.

## 18 Accounts

- (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 construction or modification of bountiable vessels in respect of which eligible costs bounty is, or may become, payable as are specified by the Secretary in a notice published in the *Gazette*; and
    - (ia) such particulars relating to the incurring of eligible research and development expenditure in respect of which eligible research and development expenditure bounty is, or may become, payable as are specified by the Secretary in a notice published in the *Gazette*; and
    - (ii) such other particulars (if any) in relation to the construction or modification of bountiable vessels as are specified by the Secretary 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 day on which a claim under subsection 11(1) for bounty was made in respect of the construction or modification of the bountiable vessel 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.

## **19 Securities**

The Secretary 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 Secretary, 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 unless the person gives security in accordance with the requirement.

## **20 Appointment of authorised officers**

The Secretary may, by writing signed by him or her, appoint:

- (a) a specified officer; or
- (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 authorised officer, or authorised officers, for the purposes of a provision, or provisions, of this Act.

## **21 Entry on premises occupied by registered shipbuilder**

- (1) For the purpose of this Act, an authorised officer may, at all reasonable times, enter premises occupied by a registered shipbuilder, other than residential premises, and may, upon so entering:
  - (a) inspect any bountiable vessel in respect of which a relevant activity or an eligible research and development activity has been, is being, or is intended to be, carried out; and
  - (b) inspect any step in the carrying out of a relevant activity in respect of a bountiable vessel; and
  - (ba) inspect any step in the carrying out of an eligible research and development activity; and
  - (c) inspect the accounts, books, documents and other records relating to a relevant activity in respect of a bountiable

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

- (d) inspect the accounts, books, documents and other records relating to an eligible research and development activity, and may make and take copies of, or take extracts from, any such accounts, books, documents or other records.
- (2) The occupier or person in charge of premises that may be entered under subsection (1) shall provide the authorised officer with all reasonable facilities and assistance for the effective exercise of the powers of the officer under this section.

Penalty: \$3,000.

## 22 Entry on other premises

- (1) An authorised officer may, with the consent of the occupier of any premises, enter the premises and exercise the powers of an authorised officer under this section in relation to those premises.
- (2) Where an authorised officer has reasonable grounds for believing that premises are:
  - (a) premises where there is a bountiable vessel in respect of which a relevant activity or an eligible research and development activity has been, is being, or is intended to be, carried out; or
  - (b) premises on which any step in the carrying out of a relevant activity in respect of a bountiable vessel is taking, or is intended to take, place; or
  - (ba) premises on which any step in the carrying out of an eligible research and development activity is taking, or is intended to take, place; or
  - (c) premises where there are kept any accounts, books, documents or other records relating to a relevant activity in respect of a bountiable vessel; or
  - (d) premises where there are kept any accounts, books, documents or other records relating to an eligible research and development activity;

the authorised officer may make an application to a Magistrate for a warrant authorising the authorised officer to enter the premises



and to exercise the powers of an authorised officer under this section in relation to those premises.

- (3) If, on an application under subsection (2), the Magistrate is satisfied, by information on oath or affirmation, that:
- (a) there is reasonable ground for believing that the premises to which the application relates are premises referred to in paragraph (2)(a), (b) or (c);
  - (b) those premises are not premises that may be entered under subsection 21(1); and
  - (c) the occupier of the premises has not given consent for the authorised officer to enter the premises and exercise the powers of an authorised officer under this section in relation to those premises;

the Magistrate shall grant a warrant authorising the authorised officer, with such assistance as the authorised officer thinks necessary, to enter the premises, during such hours of the day or night as the warrant specifies, or, if the warrant so specifies, at any time, and if necessary by force, and to exercise the powers of an authorised officer under this section in relation to those premises.

- (4) The powers of an authorised officer under this section in relation to premises are:
- (a) to inspect any bountiable vessel in respect of which a relevant activity or an eligible research and development activity has been, is being, or is intended to be, carried out; and
  - (b) to inspect any step in the carrying out of a relevant activity in respect of a bountiable vessel; and
  - (ba) to inspect any step in the carrying out of an eligible research and development activity; and
  - (c) to inspect accounts, books, documents and other records relating to a relevant activity in respect of a bountiable vessel; and
  - (d) to inspect accounts, books, documents and other records relating to an eligible research and development activity;
- and extend to making and retaining copies of, or taking and retaining extracts from, any such accounts, books, documents and other records.

**23 Power to require persons to answer questions and produce documents**

- (1) An authorised 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 a relevant activity in respect of a bountiable vessel, or in relation to an eligible research and development activity, to attend at a reasonable time and place specified in the notice and there to answer questions and to produce such accounts, books, documents and other records in relation to the activity as are referred to in the notice.
- (2) A notice under subsection (1) requiring a person to produce an account, book, document or record shall set out the effect of section 137.2 of the *Criminal Code*.
- (4) An authorised officer may make and retain copies of, or take and retain extracts from, any accounts, books, documents or other records produced under 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, the production by the person of any such account, book, document or other record, or any information or thing (including any account, book, document or other record) obtained as a direct or indirect consequence of the answer or the production, is not admissible in evidence against the person in criminal proceedings other than a prosecution for an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act.
- (6) Where a director, servant or agent of a registered shipbuilder 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 shipbuilder, unless the Secretary otherwise directs in writing, until that person has attended, answered the question or produced the account, book, document or other record, as the case may be.

**24 Power to examine on oath etc.**

- (1) An authorised officer may examine, on oath or affirmation, a person attending in accordance with a requirement under section 23 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 subsection (1) is an oath or affirmation that the answers he or she will give to questions asked of him or her will be true.

**25 Offences**

- (1) A person must not refuse:
  - (a) to attend before an authorised 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 under this Act.

Penalty: \$3,000 or imprisonment for 6 months, or both.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2), see subsection 13.3(3) of the *Criminal Code*.

- (3) A person must not fail:
  - (a) to attend before an authorised officer; or
  - (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 under this Act.

Penalty: \$3,000 or imprisonment for 6 months, or both.

- (4) Subsection (3) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4), see subsection 13.3(3) of the *Criminal Code*.

- (5) An offence against subsection (3) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

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- (7) A person must not be convicted of:
- (a) both an offence against section 135.2 of the *Criminal Code* and an offence against or arising out of subsection 14(1) of this Act; or
  - (b) both an offence against section 135.2 of the *Criminal Code* and an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;
- in respect of the same claim for bounty.
- (8) A reference in subsection (7) to a person being convicted of an offence includes a reference to an order being made under section 19B of the *Crimes Act 1914* in relation to the person in respect of an offence.

## 26 Time for prosecutions

Notwithstanding anything in any other law, proceedings for an offence against this Act may be instituted within the period of 3 years after the commission of the offence.

## 27 Recovery of bounty on conviction

- (1) Where a person is convicted of an offence against subsection 14(1) of this Act or an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act, the court may, in addition to imposing a penalty, order the person to refund to the Commonwealth the amount of any bounty wrongfully obtained by the person because of the commission of the offence.
- (2) Where:
- (a) a court makes an order under subsection (1) ordering a person to refund to the Commonwealth the amount of any bounty; and
  - (b) the court has civil jurisdiction to the extent of the amount; the order is enforceable in all respects as a final judgment of the court in favour of the Commonwealth.
- (3) Where:
- (a) a court makes an order under subsection (1) ordering a person to refund to the Commonwealth the amount of any bounty; and
  - (b) the court:

- (i) does not have civil jurisdiction; or
- (ii) has civil jurisdiction otherwise than to the extent of the amount;

the proper officer of the court shall issue to the Secretary a certificate in the prescribed form containing the prescribed particulars.

- (4) The certificate may, in the prescribed manner and subject to the prescribed conditions (if any), be registered in a court having civil jurisdiction to the extent of the amount ordered to be refunded to the Commonwealth.
- (5) Upon registration under subsection (4), the certificate is enforceable in all respects as a final judgment of the court in favour of the Commonwealth.
- (6) The costs of registration of the certificate and other proceedings under this section shall, subject to the prescribed conditions (if any), be deemed to be payable under the certificate.

## **28 Recovery of repayments**

- (1) Where a person is liable to repay an amount to the Commonwealth under subsection 12(2), 12(3), 14(4) or 15(1), 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 subsection 12(2), 12(3), 14(4) or 15(1), 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 5—Miscellaneous

### 29 Return for Parliament

- (1) The Secretary shall, as soon as practicable after the end of the financial year commencing on 1 July 1989 and of each subsequent financial year, give 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.

### 30 Delegation

- (1) The Minister may, either generally or otherwise as provided in the instrument of delegation, by writing signed by him or her, delegate to an officer all or any of his or her powers under this Act or the regulations, 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.
- (3) A delegation under this section does not prevent the exercise of a power by the Minister.

### 31 Application for review

- (1) Applications may be made to the Administrative Appeals Tribunal for review of:
  - (a) a decision of the Secretary under paragraph 11(3)(a) approving payment of bounty;
  - (b) a decision of the Secretary under paragraph 11(3)(b) refusing to approve payment of bounty;

- (c) a decision of the Secretary under paragraph 13(4)(a) approving a payment;
  - (d) a decision of the Secretary under paragraph 13(4)(b) refusing to approve a payment;
  - (e) a decision of the Secretary for the purposes of subsection 14(4);
  - (f) a decision of the Secretary for the purposes of subsection 15(1);
  - (g) a decision of the Minister under subsection 17(3) or subsection 4(3) of the *Bounty (Ships) Amendment Act 1999*;
  - (h) a decision of the Minister under subsection 17(9) to cancel the registration of a person as a registered shipbuilder; or
  - (j) a requirement by the Secretary under section 19.
- (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), (d), (e) or (f), in respect of a construction or modification, the Tribunal, if it considers it appropriate to do so, may:
- (a) if a determination under section 6 in respect of the amount of eligible costs, the amount of eligible research and development expenditure, or the time that those eligible costs were, or the eligible research and development expenditure was, incurred has been made in respect of that construction or modification, either:
    - (i) set aside that determination; or
    - (ii) set aside that determination and make a further determination under that section in respect of the construction or modification to which the determination so set aside applied; or
  - (b) if a determination under that section has not been made in respect of the construction or modification to which the decision applies, make a determination under that section in respect of the construction or modification to which the decision applies.
- (3) In this section:

**decision** has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

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**32 Statement to accompany notice of decisions**

- (1) Where the Minister or Secretary makes a determination, decision or requirement of a kind referred to in subsection 31(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 subsection (1) in relation to a determination, decision or requirement does not affect the validity of the determination, decision or requirement.

**33 Appropriation**

Payments of bounty shall be made out of money appropriated by the Parliament for the purpose.

**34 Regulations**

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.



**Table of Acts****Notes to the *Bounty (Ships) Act 1989*****Note 1**

The *Bounty (Ships) Act 1989* as shown in this compilation comprises Act No. 69, 1989 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 9 April 1999 is not included in this compilation. For subsequent information *see* Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Bounty (Ships) Act 1989</i>	69, 1989	21 June 1989	1 July 1989	
<i>Industry, Technology and Commerce Legislation Amendment Act (No. 2) 1989</i>	10, 1990	17 Jan 1990	Part 3 (ss. 12, 13): 1 July 1989 (a)	—
<i>Bounty Legislation Amendment Act 1990</i>	42, 1990	16 June 1990	16 June 1990	S. 2(2) and (3)
<i>Bounty (Ships) Amendment Act 1993</i>	7, 1994	18 Jan 1994	S. 5: 1 July 1989 Remainder: Royal Assent	—
<i>Customs, Excise and Bounty Legislation Amendment Act 1995</i>	85, 1995	1 July 1995	Schedule 9 (items 40–43): Royal Assent (b)	S. 18
<i>Customs Tariff (Miscellaneous Amendments) Act 1996</i>	15, 1996	24 June 1996	1 July 1996 (c)	—
<i>Bounty Legislation Amendment Act 1997</i>	105, 1997	30 June 1997	30 June 1997	—
<i>Bounty (Ships) Amendment Act 1999</i>	14, 1999	9 Apr 1999	9 Apr 1999	Ss. 4–7 [see Table A]
<i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000</i>	137, 2000	24 Nov 2000	Ss. 1–3 and Schedule 1 (items 1, 4, 6, 7, 9–11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419) [see Table A]
<i>Industry, Science and Resources Legislation Amendment (Application of Criminal Code) Act 2001</i>	140, 2001	1 Oct 2001	2 Oct 2001	S. 4 [see Table A]

### Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Industry, Tourism and Resources Legislation Amendment Act 2003</i>	21, 2003	11 Apr 2003	Schedule 1 (items 12A–12F): 12 Apr 2003	Sch. 1 (item 12F) [see Table A]

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**Act Notes**

- (a) The *Bounty (Ships) Act 1989* was amended by Part 3 (sections 12 and 13) only of the *Industry, Technology and Commerce Legislation Amendment Act (No. 2) 1989*, subsection 2(2) of which provides as follows:
  - (2) Sections 3, 4, 5, 6, 7, 8, 9 and 10, and Part 3, are to be taken to have commenced on 1 July 1989.
- (b) The *Bounty (Ships) Act 1989* was amended by Schedule 9 (items 40–43) only of the *Customs, Excise and Bounty Legislation Amendment Act 1995*, subsection 2(1) of which provides as follows:
  - (1) Subject to subsections (2), (3), (4), (5) and (6), this Act commences on the day on which it receives the Royal Assent.
- (c) The *Bounty (Ships) Act 1989* was amended by Schedule 1 (item 7) only of the *Customs Tariff (Miscellaneous Amendments) Act 1996*, section 2 of which provides as follows:
  - 2 This Act commences on 1 July 1996 immediately after the commencement of the *Customs Tariff Act 1995*.



**Table of Amendments****Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
S. 3.....	am. No. 85, 1995; No. 14, 1999
S. 4.....	am. No. 10, 1990; No. 7, 1994; No. 85, 1995; No. 15, 1996; No. 105, 1997; No. 14, 1999
S. 5.....	am. No. 42, 1990; No. 105, 1997; No. 14, 1999
Ss. 5A–5C.....	ad. No. 14, 1999
Ss. 6, 7.....	am. No. 85, 1995; No. 14, 1999
S. 7A.....	ad. No. 140, 2001
S. 8.....	am. No. 105, 1997; No. 14, 1999
S. 9.....	am. No. 85, 1995; No. 14, 1999
S. 10.....	am. No. 7, 1994; No. 105, 1997; No. 14, 1999
S. 11.....	am. No. 85, 1995; No. 105, 1997; No. 14, 1999
S. 12.....	am. No. 85, 1995; No. 14, 1999; No. 21, 2003
S. 13.....	am. No. 85, 1995; No. 105, 1997; No. 14, 1999
S. 14.....	am. No. 85, 1995; No. 14, 1999; No. 140, 2001
S. 15.....	am. No. 85, 1995; No. 14, 1999
S. 16.....	am. No. 85, 1995
S. 17.....	am. No. 7, 1994; No. 105, 1997; No. 14, 1999
Ss. 18, 19.....	am. No. 85, 1995; No. 14, 1999
S. 20.....	am. No. 85, 1999 rs. No. 14, 1999
Ss. 21, 22.....	am. No. 14, 1999
S. 23.....	am. No. 85, 1995; No. 14, 1999; No. 137, 2000
S. 25.....	am. No. 137, 2000; No. 140, 2001
S. 27.....	am. No. 85, 1995; No. 14, 1999; No. 137, 2000
S. 28.....	am. No. 105, 1997
S. 29.....	am. No. 85, 1995; No. 14, 1999
S. 30.....	am. No. 14, 1999
S. 31.....	am. No. 85, 1995; No. 105, 1997; No. 14, 1999
S. 32.....	am. No. 85, 1995; No. 14, 1999

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**Table A**

**Table A**

**Application, saving or transitional provisions**

*Bounty (Ships) Amendment Act 1999* (No. 14, 1999)

**4 Transitional—registration**

- (1) If:
  - (a) a person commenced the construction or modification of a bountiable vessel in Australia after 31 December 1997 and before the commencing day; and
  - (b) the person was not a registered shipbuilder during a part or all of the period of construction or modification that occurred before the commencing day; and
  - (c) the person is a body corporate incorporated under a law of the Commonwealth or of a State or Territory;the person may apply for registration as a registered shipbuilder under this section within 30 days after the commencing day.
- (2) The application must be in accordance with the appropriate approved form.
- (3) If a person makes an application under this section, the Minister must:
  - (a) register the applicant as a registered shipbuilder; or
  - (b) refuse to register the applicant as a registered shipbuilder, and cause a notice in writing to be served on the applicant stating that the Minister has refused to register the applicant.
- (4) The Minister registers the applicant as a registered shipbuilder by:
  - (a) signing a notice stating that the applicant is registered as a registered shipbuilder for the period:
    - (i) commencing on the first day on which the person was not a registered shipbuilder in the period referred to in paragraph (1)(b); and
    - (ii) ending on the day of issue of the notice; and
  - (b) causing the notice to be served on the applicant.
- (5) The Minister may require an applicant to give such information as the Minister considers necessary for the purposes of this Act and

**Table A**

may refuse to register the applicant unless the information is given to the satisfaction of the Minister.

- (6) The registration of a person in respect of whom the Minister has issued a notice under paragraph (4)(a) has effect according to the terms of the notice.

**5 Transitional—claims**

If:

- (a) a person claims to be entitled to be paid an amount of bounty in respect of the construction or modification of a vessel; and
- (b) the construction or modification was completed:
  - (i) after 31 December 1997; and
  - (ii) more than 12 months before the commencing day;

a claim in respect of the construction or modification may, in spite of paragraph 11(2)(d) of the *Bounty (Ships) Act 1989*, be lodged under section 11 of that Act within 30 days after the commencing day.

**6 Application—firm commitment requirement**

Paragraph 8(3)(a) of the *Bounty (Ships) Act 1989* as in force immediately before the commencing day is to be taken not to apply to any construction or modification completed after 31 December 1997.

**7 Definition**

In this Act:

***commencing day*** means the day on which this Act receives the Royal Assent.

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**Table A**

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*Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000 (No. 137, 2000)*

**Schedule 2**

**418 Transitional—pre-commencement offences**

- (1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:
- (a) an offence committed before the commencement of this item; or
  - (b) proceedings for an offence alleged to have been committed before the commencement of this item; or
  - (c) any matter connected with, or arising out of, such proceedings;
- as if the amendment or repeal had not been made.
- (2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

**419 Transitional—pre-commencement notices**

If:

- (a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and
  - (b) any or all of those other provisions are repealed by this Schedule; and
  - (c) the first-mentioned provision is amended by this Schedule;
- the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.

*Industry, Science and Resources Legislation Amendment (Application of Criminal Code) Act 2001 (No. 140, 2001)*

**4 Application of amendments**

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.



**Table A**

- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

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*Industry, Tourism and Resources Legislation Amendment Act 2003*  
(No. 21, 2003)

## **Schedule 1**

### **12F Treatment of past payments purporting to be advances on account of eligible research and development expenditure bounty**

- (1) A payment that:
- (a) purported to be an advance under subsection 12(1) of the *Bounty (Ships) Act 1989* (the ***Bounty Act***) on account of eligible research and development expenditure bounty; and
  - (b) was made during the period that started on 9 April 1999 and ended on the commencement of this item;
- may, to the extent that it has not already been repaid to the Commonwealth by that commencement, be recovered by the Commonwealth from the person as a debt due to the Commonwealth.
- (2) A person to whom a payment referred to in subitem (1) was made is entitled, on the commencement of this item, to be paid, by the Commonwealth, an amount equal to the amount of the debt due to it by the person under subitem (1).
- (3) The Consolidated Revenue Fund is appropriated for the purpose of payments under subitem (2).
- (4) The Commonwealth may set-off the amount of a debt due to it by a person under subitem (1) against an amount that is payable to that person under subitem (2).
- (5) Despite subitems (1) and (2), in applying subsection 12(2) or (3) of the *Bounty Act* after the commencement of this item to the construction or modification of a vessel, any payment made before that commencement in respect of the construction or modification that purported to be an

**Table A**

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advance on account of eligible research and development expenditure bounty is to be counted as though it had been validly made under subsection 12(1) of that Act.

Note: A person will therefore be liable to repay to the Commonwealth the amount of any excess of the purported advances over the amount of eligible research and development bounty payable to the person.

- (6) This item does not, by implication, affect the recovery or set-off of other overpayments purporting to be made under the Bounty Act.