

EXPLANATORY STATEMENT

STATUTORY RULES 1987 NO 53

BOUNTY (SHIP REPAIR) (REGISTRATION) REGULATIONS

Issued by the Minister of State for Industry, Technology and Commerce

During 1986 the Government approved the implementation of a new assistance package for the ship repair industry, including legislation to provide for a bounty to be paid to eligible ship repairers for certain repair work carried out in Australia on international trading vessels. Eligibility for assistance was to be conditional on the cessation of the maritime unions ship repair detention campaign, and the compliance by repairers with a code of conduct governing acceptable industry behaviour.

The Bounty (Ship Repair) Act 1986 (Act 126, 1986) was passed during the 1986 Budget Sittings of Parliament to give effect to the assistance element of the above package. Sub sections 19(6) and (8) of that Act permit conditions to be prescribed that must be met by an applicant before that person can become registered under the Act, and thus become eligible to receive bounty. Following lengthy discussions between the Departments of Industry, Technology and Commerce, Employment and Industrial Relations, and Transport, various maritime unions and industry representatives, registration criteria for the purposes of the Act were settled.

The Bounty (Ship Repair) (Registration) Regulations give legislative effect to the registration criteria, and are explained in greater detail in the attached Schedule.

S.R 77/87

The Schedule:

Regulation 1 provides for the citation of the Regulations

Regulation 2 provides for "the Act" to mean the Bounty (Ship Repair) Act 1986, and defines the terms "industrial agreement" and "industrial award" as having the meanings provided by the Commonwealth's Conciliation and Arbitration Act 1904, or the meanings provided by any relevant State or Territory law that exercises powers of conciliation or arbitration with reference to industrial disputes within the limits of that State or Territory.

Regulation 3 prescribes the conditions which are to be met by an applicant for registration in relation to the repair of a ship or class of ships, pursuant to sub-section 19(6) of the Act. An applicant must:

- . possess such workshop facilities and technical and management skills required to carry out an eligible repair successfully and on time, (paragraph 3(a)),
- . possess sufficient financial means or credit worthiness to meet all financial liabilities likely to be incurred in carrying out that repair, (paragraph 3(b)),
- . specify in the application form all sub-contractors the applicant may employ in carrying out that repair, so as to ensure a measure of control over the persons or organisations which might become employed by registered repairers on bountiable repairs, (paragraph 3(c)),
- . become a party to any industrial agreement or award (as defined) applicable to the carrying out of the repair or any aspect of that repair (paragraph 3(d)), and
- . show, to the satisfaction of the Minister, an unambiguous intention to be principally engaged in the business of ship repair throughout the period of registration and to comply throughout the period of registration with any industrial awards, agreements, arbitration authority decisions or occupational health and safety requirements applicable to such repairs (paragraph 3(e)).

- Regulation 4 prescribes the conditions which are to be complied with by a repairer in connection with an eligible repair of a bountiable vessel pursuant to sub-section 19(8) of the Act. A repairer must:
- . comply with the Trade Practices Act 1974 (paragraph 4(a)).
 - . comply with at least the minimum requirements of Australian Standards 1821, 1822 and 1823 of the Standards Association of Australia, which prescribe building and repair standards in the heavy engineering industry (paragraph 4(b)),
 - . where the repairer uses a subcontractor not specified in the repairer's application form (as discussed in paragraph 3(c) above) forward the subcontractor's name to the Minister for approval, thereby permitting bona fide subcontractors who may have entered the industry since the date of the repairer's registration to be used by that registered repairer for bountiable repairs (paragraph 4(c)),
 - . not lodge a claim for bounty for repairs carried out by a subcontractor unless the subcontractor is either specified in the repairer's application for registration (discussed in paragraph 3(c) above) or has been approved by the Minister under paragraph 4(c) (discussed above) (paragraph 4(d)). This measure is the corollary to paragraph 3(c), and precludes claims for bounty by repairers on any eligible repair where "unapproved" subcontractors are used,
 - . neither make 'cash in hand' payments (including payments made in a manner that contravenes the Income Tax Assessment Act 1936) nor 'all in' payments (including payments made pursuant to agreements that are not sanctioned by either an industrial agreement or industrial award) to employees (paragraph 4(e)), and
 - . comply with any industrial agreement, industrial award, industrial arbitration authority decisions or occupational health and safety requirement applicable to the repair, provided for or in force under any Commonwealth, State, or Territory law (paragraph (f)).

The Minister is precluded from registering a person under the Act unless he is satisfied the conditions prescribed by proposed Regulations 3 and 4 have been or will be complied with by the applicant for registration (sub-section 19(9) of the Act). Additionally, should a registered repairer not meet the prescribed conditions, he is liable to have his registration cancelled, pursuant to sub-section 19(12) of the Act. The Minister's decision refusing to register a person is appealable to the Administrative Appeals Tribunal pursuant to paragraph 34(1)(g) of the Act.