



Statutory Rules 1987 No. 117¹

Bounty (Ship Repair) (Reservation of Bounty) Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Bounty (Ship Repair) Act 1986*.

Dated 5 June 1987.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

JOHN N. BUTTON
Minister of State for Industry,
Technology and Commerce

Citation

1. These Regulations may be cited as the **Bounty (Ship Repair) (Reservation of Bounty) Regulations**.

Interpretation

2. In these Regulations, unless the contrary intention appears:

“available amount”, in relation to the bounty period, means the maximum amount available in relation to that period for payment of bounty on the production, that is to say, the carrying out of eligible repairs, in Australia of bountiable ships less the aggregate of:

- (a) all amounts of bounty paid in meeting valid claims for payment of bounty lodged in relation to the bounty period in respect of the carrying out of such repairs; and
- (b) all amounts of bounty that are the subject of a reservation made and in force under these Regulations in relation to that period;

“bounty allocation”, in relation to payment of bounty, means the maximum amount prescribed under regulation 3;

“maximum amount available”, in relation to payment of bounty, means the amount of \$6,000,000 specified in subsection 12 (1) of the Act;

“repairer” means a registered repairer within the meaning of section 19 of the Act or a person who has applied under subsection 19 (2) of the Act for registration as a registered repairer (other than a person whose application has been refused);

“the Act” means the *Bounty (Ship Repair) Act 1986*.

Limit of bounty

3. For the purposes of subsection 12 (3) of the Act, the following maximum amount is prescribed, namely, \$30,000.

Application for reservation of bounty

4. (1) A repairer who, in relation to a bountiable ship, has entered into a service contract in writing may, at any time before the time of lodgment of a valid claim for payment of bounty in respect of that contract, apply to the Comptroller for reservation of a bounty allocation to which the repairer will be entitled, on a valid claim for payment of bounty, on the completion of that service contract.

(2) An application under subregulation (1) shall:

- (a) be in accordance with the approved form;
- (b) specify the service period to which the service contract relates;
- (c) be signed and witnessed as required by the form; and
- (d) be lodged with the Comptroller in the Australian Capital Territory, together with a copy of the service contract.

Order in which applications to be dealt with

5. (1) Subject to this regulation, the Comptroller shall deal with applications made under regulation 4 in the order in which those applications are lodged with the Comptroller.

(2) Where 2 or more applications are lodged on the same day, any one of those applications that specifies a service period that commences earlier than the commencement of the service period specified in another of those applications shall, for the purpose of this regulation, be treated as having been lodged before that other application.

Acceptance or refusal of application

6. (1) Where, on an application made under regulation 4, the Comptroller, having examined the application and caused such inquiries to be made as the Comptroller considers necessary, is satisfied that the application complies with subregulation 4 (2) and the applicant is entitled to make the application, the Comptroller shall accept the application but shall, in any other case, refuse the application.

(2) Where, pursuant to subregulation (1), the Comptroller makes a decision accepting or refusing an application made under regulation 4, the Comptroller shall, as soon as practicable after the making of the decision, notify the applicant in writing of the decision.

(3) A notification under subregulation (2) in relation to a decision refusing an application shall set out the reasons for the decision.

Reservation of bounty

7. (1) Where, pursuant to regulation 6, the Comptroller accepts an application, the Comptroller shall, in writing:

- (a) if the total of amounts of bounty reserved at the time of that acceptance is equal to or exceeds the maximum amount available—file the application in accordance with subregulation (4); or
- (b) if that total is less than the maximum amount available:
 - (i) in a case where, if the bounty allocation were reserved, the maximum amount available would not be exceeded—reserve in the name of the applicant an amount of bounty equal to the bounty allocation; or
 - (ii) in a case where, if the bounty allocation were reserved, the maximum amount available would be exceeded—reserve in the name of the applicant an amount of bounty equal to the available amount.

(2) The Comptroller shall, as soon as practicable after making a reservation of an amount of bounty under subregulation (1), cause a notice in writing of the reservation to be served on the applicant.

(3) Where the Comptroller reserves in the name of an applicant an amount of bounty that is less than the bounty allocation, the notice referred to in subregulation (2) shall contain statements to the effect that, subject to regulation 4, if at any time the reservation of any amount of bounty in relation to the bounty period is cancelled or varied, the amount of bounty reserved in the name of the applicant will be increased in accordance with regulation 9.

(4) As soon as practicable after filing an application as referred to in paragraph (1) (a), the Comptroller shall cause a notice to be served on the applicant containing a statement to the effect that, subject to regulation 4, if at any time the reservation of any amount of bounty in relation to the bounty period is cancelled or varied, an amount of bounty will be reserved in the name of the applicant, being an amount not greater than the bounty allocation, in accordance with the available amount resulting from the cancellation or variation.

Cancellation of reservation

8. (1) Where, in relation to the reservation of an amount of bounty:

- (a) the approved repairer ceases to be a repairer, or has become the owner or an associate of the owner of the vessel to which the reservation relates;
- (b) the Minister has refused an application by the approved repairer to be registered as a registered repairer; or
- (c) the service contract to which the reservation relates has been terminated, or repairs under the contract have been abandoned;

the Comptroller shall cancel the reservation.

(2) In subregulation (1), “approved repairer” means the person in whose name an amount of bounty has been reserved under regulation 4.

Increase of reserved amount

9. (1) Where, in relation to the bounty period, the Comptroller:

- (a) reserves an amount of bounty that is less than the bounty allocation; and
- (b) subsequently cancels the reservation of another amount of bounty, or varies a reservation of another amount by reducing the amount of bounty so reserved;

the Comptroller shall, in writing, increase the reserved amount of bounty referred to in paragraph (a) by an amount equal to:

- (c) the amount that is, by virtue of that cancellation or variation, no longer the subject of a reservation; or
- (d) the difference between the reserved amount of bounty referred to in paragraph (a) and the bounty allocation;

whichever amount is the lesser.

(2) Where the Comptroller increases a reserved amount of bounty under subregulation (1), the Comptroller shall cause a notice in writing of the increase to be served on the person in whose name the reservation is made.

Order in which payments of bounty to be made

10. (1) Subject to this regulation, the Comptroller shall cause valid claims for the payment of bounty in respect of eligible repairs in Australia of bountiable ships to be paid in the order in which the claims are lodged in accordance with subsection 14 (2) of the Act.

(2) Where a claim for payment of bounty is lodged in relation to a contract in respect of which an amount of bounty has not been reserved and was not required to be reserved:

- (a) if the available amount is sufficient to meet the claim—the Comptroller shall cause the claim to be paid;
- (b) if the available amount is insufficient to meet the claim in full—the Comptroller shall cause the claim to be paid to the extent of the available amount and shall defer payment in respect of the remainder of the claim;

(c) if there is no available amount—the Comptroller shall cause payment of the claim to be deferred.

(3) Where the Comptroller causes payment of part or the whole of a claim for payment to be deferred in accordance with paragraph (2) (b) or (c), the Comptroller shall:

(a) enter in a register maintained for the purpose the date of the claim and the amount of the claim in respect of which payment is so deferred; and

(b) if, by reason of the cancellation or variation of a reservation of bounty, being a reservation made before or on that date, or for any other reason, an available amount subsequently becomes available (being an available amount ascertained without regard to any reservation of bounty made after that date)—to the extent which the available amount as so ascertained allows, pay the amount of the claim in respect of which payment is so deferred.

(4) Where the Comptroller causes part or the whole of a payment of bounty to be deferred in accordance with paragraph (2) (b) or (c) the Comptroller shall, as soon as practicable, notify the claimant in writing of that decision, giving reasons for the decision.

(5) A notice referred to in sub-regulation (4) shall contain a statement to the effect that, subject to these Regulations, if an available amount becomes available to meet claims for payment of bounty, that available amount (being the available amount ascertained as referred to in sub-regulation 3) will be applied, to the extent to which that available amount allows, to payment of the claim in respect of which payment of part or the whole of the amount claimed has been deferred.

Transitional

11. (1) Where, on or after 10 October 1986 and before the commencement of these Regulations, a repairer applies to the Comptroller for reservation of an amount of bounty in respect of the carrying out of eligible repairs in Australia of a bountiable ship, the application shall be taken to be an application made under regulation 4 on the date of commencement of these Regulations.

(2) Where, within the period commencing on 10 October 1986 and ending immediately before the commencement of these Regulations, a person lodges a claim for payment of an amount of bounty in respect of the carrying out of eligible repairs in Australia of a bountiable ship that have been completed during that period:

(a) those eligible repairs shall be taken to have been completed on the day of commencement of these Regulations; and

(b) the claim shall be taken to be a claim lodged under subsection 14 (1) of the Act as in force on that day.

(3) For the purpose of paragraph 10 (3) (d) of the Act, an application for reservation of an amount of bounty in respect of eligible repairs in

Australia of a bountiable ship that is lodged as referred to in subregulation (1) shall be taken to be so lodged before a claim for payment of an amount of bounty in respect those eligible repairs of that ship that is lodged as referred to in subregulation (2).

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 15 June 1987.