



Bounty (Non-adjustable Wrenches) Act 1981

No. 18 of 1981

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. Bounty periods
5. Factory cost and Australian factory cost
6. Uniformity
7. Specification of bounty
8. Rate of bounty
9. Limit of available bounty
10. Advances on account of bounty
11. Good quality essential
12. Approval of payment of bounty
13. Registration
14. Accounts
15. Securities
16. Appointment of authorized officers
17. Stock-taking and inspection of production and accounts, &c.
18. Power to require persons to answer questions and produce documents
19. Power to examine on oath, &c.
20. Offences
21. Return for Parliament
22. Delegation
23. Applications for review
24. Appropriation
25. Regulations



Bounty (Non-adjustable Wrenches) Act 1981

No. 18 of 1981

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

[Assented to 25 March 1981]

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

Short title

1. This Act may be cited as the *Bounty (Non-adjustable Wrenches) Act 1981*.

Commencement

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

Interpretation

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

“attachment” includes a socket, a handle, a tool-holder, an extension bar and a universal joint;

“authorized officer” means an officer who is an authorized officer for the purposes of this Act by virtue of an appointment under section 16;

“bountiable implement” means—

(a) a prescribed wrench; or

Bounty (Non-adjustable Wrenches) No. 18, 1981

- (b) a steel attachment designed to be connected to another steel attachment or to other steel attachments so that the attachments when connected would be a prescribed wrench;

“bounty” means bounty under this Act;

“bounty period” means a bounty period referred to in section 4;

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

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

“nut” includes a bolt and a screw;

“prescribed wrench” means a steel wrench designed to turn a nut, but does not include—

- (a) a wrench designed to be inserted into, or to have any part inserted into, a nut that is to be turned by the wrench;
- (b) a wrench that has adjustable jaws or is otherwise adjustable, or is self-adjusting, so as to be able to turn nuts of different sizes or shapes; or
- (c) a wrench that is power driven or is designed for power operation;

“registered premises” means premises registered by the Minister under section 13;

“wrench” includes a spanner.

(2) For the purposes of this Act, a wrench or an attachment shall be taken to be a steel wrench or a steel attachment, as the case may be, if, and only if, the wrench or attachment, as the case may be—

- (a) is—
 - (i) made of steel; or
 - (ii) made of steel, except for hand grips of another material;
- (b) was produced by processes that included forging, hardening and tempering; and
- (c) is of a standard (if any) prescribed by the Regulations.

Bounty periods

4. (1) The period of 12 months that commenced on 1 July 1980 and ends on 30 June 1981 is a bounty period.

(2) Before 30 June 1981, the Minister may, by notice published in the *Gazette*, declare that a period of not more than 12 months commencing on 1 July 1981 and ending on a specified date is a bounty period, and that declaration shall have effect accordingly.

Factory cost and Australian factory cost

5. (1) For the purposes of this Act—

- (a) the factory cost of a bountiable implement is such amount as is determined by the Comptroller-General to be the factory cost of the implement; and

- (b) the Australian factory cost of a bountiable implement is the factory cost of the implement less such amount as is determined by the Comptroller-General to be the value known as the into-store value of imported parts and imported materials supplied to the producer and used by him in the production of the implement.

(2) In determining the factory cost of a bountiable implement, the Comptroller-General shall make allowance for factory overhead charges (including factory administration costs and research and development expenditure) but shall not make any allowance for general administration, selling costs, service charges, taxation or any costs incurred after the completion of the production of the implement.

Uniformity

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

Specification of bounty

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

(2) Bounty in respect of a bountiable implement is payable to the producer of the implement.

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

- (a) the production of the bountiable implement has been carried out by the producer at registered premises and has been completed during a bounty period;
- (b) during that bounty period or a later bounty period, the implement has been sold by the producer for use in Australia; and
- (c) the Australian factory cost of the implement exceeds 50% of the factory cost of the implement.

(4) If—

- (a) by virtue of sub-section 13 (6), the Minister determines that the registration of premises shall be deemed to have taken effect on and from 1 July 1980; and
- (b) the person who applied for the registration of the premises was, on 1 July 1980, the owner of a bountiable implement that was produced by him at those premises before 1 July 1980,

that implement shall, for the purposes of this Act, be deemed to be a bountiable implement produced by the person at the registered premises on 1 July 1980.

Rate of bounty

8. The amount of bounty payable in respect of a bountiable implement is 11 cents.

Limit of available bounty

9. (1) The amount available for payment of bounty in respect of bountiable implements in respect of which bounty becomes payable during a bounty period is—

- (a) in the case of the bounty period that commenced on 1 July 1980—\$620,000; and
- (b) in the case of the bounty period (if any) commencing on 1 July 1981— an amount that bears to \$620,000 the same proportion as the number of days in the bounty period bears to 365.

(2) Where the amount available for the payment of bounty in respect of bountiable implements in respect of which bounty becomes payable during a bounty period is insufficient for the payment in full of all valid claims in respect of those implements, the bounty otherwise payable in respect of each of those claims shall be reduced to an amount that bears the same proportion to the amount of the claim as the amount so available bears to the total amount of all those claims.

(3) If the Minister is of the opinion that the amount available for the payment of bounty in respect of bountiable implements in respect of which bounty becomes payable during a bounty period will be insufficient for the payment in full of all valid claims in respect of those implements, he may withhold payment of the whole or any part of the bounty otherwise payable upon such a claim until he has ascertained the total amount of all those claims.

(4) For the purposes of this section, bounty payable in respect of a bountiable implement shall be deemed to have become payable during the bounty period in which the implement was sold as mentioned in paragraph 7 (3) (b).

Advances on account of bounty

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

(2) If, at the expiration of a bounty period, a person has received an amount, by way of advances on account of bounty that may become payable to him during that period, greater than the amount of bounty that became payable to him during that period, he is liable to pay to the Commonwealth the amount of the excess.

(3) If a person receives, by way of advances on account of bounty in respect of particular bountiable implements, an amount greater than the amount of bounty payable to him in respect of those implements, he is liable to pay to the Commonwealth the amount of the excess.

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

(5) Where a person is liable to pay an amount to the Commonwealth under this section, the Commonwealth may recover that amount as a debt to the Commonwealth by action in a court of competent jurisdiction.

(6) Where a person is liable to pay an amount to the Commonwealth under this section, the amount may be deducted from any other amount that is payable to the person under this Act and, where an amount is so deducted, the other amount shall, notwithstanding the deduction, be deemed to have been paid in full to the person.

Good quality essential

11. Bounty is not payable in respect of a bountiable implement unless the Comptroller-General is satisfied that the bountiable implement is of good and merchantable quality.

Approval of payment of bounty

12. Where an application for bounty in respect of a bountiable implement is lodged in accordance with the regulations, the Minister shall—

- (a) if he is satisfied that bounty is payable in respect of that implement—approve the payment of the bounty; or
- (b) if he is not so satisfied—refuse to approve payment of the bounty.

Registration of premises

13. (1) The regulations may prescribe conditions to be complied with, for the purposes of this Act, in connection with the production at registered premises of bountiable implements.

(2) Where a person carries on, or proposes to carry on, the production at any premises of bountiable implements, he may apply to the Minister for the registration of those premises for the purposes of this Act.

(3) If conditions have been prescribed under sub-section (1), the Minister shall not register the premises unless he is satisfied that those conditions have been, or will be, complied with.

(4) The Minister may require the applicant to furnish such information as the Minister considers necessary for the purposes of this Act, and may refuse to register the premises until the information is furnished to his satisfaction.

(5) Subject to sub-sections (3) and (4), if, in the opinion of the Minister, bountiable implements are, or are proposed to be, produced at the premises in respect of which the application is made, he shall register those premises for the purposes of this Act.

(6) If the Minister so determines, the registration shall be deemed to have taken effect on and from such date, being a date not earlier than 1 July 1980, as is specified by the Minister.

- (7) Where the Minister is satisfied, in respect of any registered premises—
 - (a) that bountiable implements are not being produced at the premises;

- (b) that the production of bountiable implements at the premises is not being carried on by the person who applied for the registration of the premises; or
- (c) if any conditions have been prescribed under sub-section (1), that bountiable implements that are being produced at the premises are being produced otherwise than in accordance with those conditions,

the Minister may, by notice in writing served either personally or by post on the occupier of the premises, and, if the occupier is not the person who applied for the registration of the premises, on that person, cancel the registration of the premises.

(8) For the purpose of the application of section 29 of the *Acts Interpretation Act 1901* to the service by post of a notice under sub-section (7) of this section, such a notice posted as a letter addressed to the occupier, or to the person who applied for the registration of the premises, at the registered premises shall be deemed to be properly addressed.

Accounts

14. A person is not entitled to bounty unless he keeps, to the satisfaction of the Minister, accounts, books, documents and other records showing, from time to time, particulars relating to the production (including the cost of production), storage and sale of bountiable implements and such other information in relation to those implements as the Minister requires.

Securities

15. The Minister may require a person to whom bounty could become payable to give security, in an amount determined by the Minister, by bond, guarantee or cash deposit, or by all or any of those methods, for compliance by him with the provisions of this Act and the regulations, or for the purpose of an undertaking given by him for the purposes of this Act or the regulations, and where a person is so required to give security, he is not entitled to bounty, or an advance on account of bounty, unless he gives security in accordance with the requirement.

Appointment of authorized officers

16. (1) The Minister may, by writing signed by him, appoint—

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

to be an authorized officer, or authorized officers, for the purposes of approved schemes.

(2) In this section, “officer” means an officer of the Department of Business and Consumer Affairs.

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

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

- (a) registered premises; or
- (b) premises where there are stored bountiable implements in respect of which bounty has been claimed, or, in the opinion of the authorized officer, is likely to be claimed,

and may—

- (c) inspect or take stock of any bountiable implements;
- (d) inspect any process in the production of any bountiable implements; and
- (e) inspect the accounts, books, documents and other records relating to the production (including the cost of production), storage or sale of bountiable implements.

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

Penalty: \$500.

Power to require persons to answer questions and produce documents

18. (1) The Comptroller-General, a Collector or an authorized officer may, by notice signed by him, require a person whom he believes to be capable of giving information relevant to the operation of this Act in relation to the production (including the cost of production), storage or sale, of bountiable implements to attend before him at the time and place specified in the notice and there to answer questions and to produce to him such accounts, books, documents and other records in relation to the production (including the cost of production), storage or sale of bountiable implements as are referred to in the notice.

(2) The Comptroller-General, a Collector or an authorized officer may make copies of, or take extracts from, any accounts, books, documents or other records produced in pursuance of this section.

(3) A person is not excused from answering a question or producing any accounts, books, documents or other records when required so to do under this section on the ground that the answer to the question, or the production of the accounts, books, documents or other records, might tend to incriminate him or make him liable to a penalty, but his answer to any such question or the production by him of any such accounts, books, documents or other records is not admissible in evidence against him in proceedings other than proceedings for an offence against paragraph 20 (1) (c) or 20 (3) or (4).

(4) Where a producer of bountiable implements, or a person employed by a producer, 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 producer, unless the Minister otherwise directs, until the producer or that person has attended, answered the question or produced the account, book, document or other record, as the case may be.

Power to examine on oath, &c.

19. (1) The Comptroller-General, a Collector or an authorized officer may examine, on oath or affirmation, a person attending before him in pursuance of section 18 and, for that purpose, may administer an oath or affirmation to that person.

(2) The oath or affirmation to be made by a person for the purposes of sub-section (1) is an oath or affirmation that the answers he will give to questions asked him will be true.

Offences

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

- (a) to attend before a Collector or an authorized officer;
- (b) to take an oath or make an affirmation; or
- (c) to answer a question or produce an account, book, document or other record,

when so required in pursuance of this Act.

Penalty: \$1,000.

(2) A person shall not knowingly obtain or attempt to obtain bounty that is not payable.

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

(3) A person shall not obtain or attempt to obtain payment of bounty by means of a statement that he knows to be false or misleading or by the means of a document that to his knowledge contains information that is false or misleading.

Penalty: \$2,000.

(4) A person shall not make to an authorized officer or other person exercising a power or performing a function or duty in relation to this Act or the regulations a statement that is false or misleading in a material particular.

Penalty: \$1,000.

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

(6) Where a court has made an order under sub-section (5), a certificate signed by the appropriate officer of the court specifying the amount ordered to be refunded and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of that court.

Return for Parliament

21. (1) The Comptroller-General shall, as soon as practicable after the end of each bounty period, furnish to the Minister a return setting forth—

- (a) the name and address of each person to whom bounty was paid in that period;
- (b) the amount of bounty paid to each person in that period and the number of the bountiable implements in respect of which the bounty was paid; and
- (c) such other particulars (if any) as are prescribed.

(2) The Minister shall cause a copy of the return to be laid before each House of the Parliament within 15 sitting days of that House after the return is received by him.

Delegation

22. (1) The Minister or the Comptroller-General, may, either generally or otherwise as provided in the instrument of delegation, by writing signed by him, delegate to a person any of his powers under this Act, other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister or the Comptroller-General, as the case may be.

(3) A delegation under this section does not prevent the exercise of a power by the Minister or the Comptroller-General, as the case may be.

Applications for review

23. Applications may be made to the Administrative Appeals Tribunal for review of—

- (a) a determination by the Comptroller-General made for the purpose of sub-section 5 (1);
- (b) a decision of the Comptroller-General made for the purposes of section 11;
- (c) an approval of the Minister given under section 12 or a refusal of the Minister to give an approval under that section;
- (d) a refusal of the Minister to register premises under section 13;
- (e) a determination by the Minister made for the purposes of sub-section 13 (6) or a refusal of the Minister to make a determination for the purposes of that sub-section;
- (f) a decision of the Minister made for the purposes of sub-section 13 (7);
or
- (g) a requirement by the Minister under section 15.

Appropriation

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

Regulations

25. (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, prescribing—

- (a) the manner in which, and the time within which, applications for bounty are to be made;
- (b) the information to be furnished by applicants in connection with applications for bounty; and
- (c) penalties not exceeding \$200 for offences against the regulations.

(2) Regulations made for the purposes of paragraph 3 (2) (c) before 1 July 1981 may be expressed to have had effect from and including 1 July 1980.