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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

BOUNTY AND SUBSIDY LEGISLATION AMENDMENT BILL 1986

EXPLANATORY MEMORANDUM

(Circulated by Authority of the Minister for Industry,
Technology and Commerce, Senator the Honourable John N. Button)

BOUNTY AND SUBSIDY LEGISLATION AMENDMENT BILL 1986

OUTLINE

This Bill is an omnibus Bill, which proposes to amend six separate Bounty Acts and one Subsidy Act.

The principal amendments contained in the Bill propose changes to the various Acts listed hereunder, as follows:

(i) Bounty (Computers) Act 1984 -

clause 8 amends the definition of "bountiable equipment" to enable the payment of a 25% value added bounty from 1 July 1986 on modems and multiplexers generally used with computers (as recommended by the Industries Assistance Commission (IAC) in its report on Telecommunications and Related Equipment and Parts No. 352 of 5 October 1985),

clause 9 amends the provision in the Principal Act relating to declarations by Ministerial Gazette Notice of new classes of bountiable equipment, to make it clear that such declarations are not constrained by sub-section 23(3) of the Industries Assistance Commission Act 1973, which would require an IAC report prior to each declaration being made,

(ii) Bounty (High Alloy Steel Products) Act 1983 -

clause 13 amends from 1 July 1985 the definition of "bountiable product", to distinguish high alloy steel bar products and stainless steel flat products, and to provide separate schedules which prescribe different bounty rates for each category of product,

clause 14 specifies the annual sales limits for each category of product, above which bounty is not payable,

(iii) Bounty (Ships) Act 1980 -

clause 22 amends from 1 January 1986 the definition of "bountiable vessel", to enable the payment of bounty on certain air-cushioned vehicles, commonly referred to as hovercraft.

The other amendments contained in the Bill provide certain rights of review in respect of existing bounty Acts and make a number of formal or minor variations to existing bounty schemes.

Financial Impact Statement

The inclusion of modems and multiplexers as bountiable products under the Bounty (Computers) Act 1984 is expected to cost an additional \$3.5 million per annum in bounty payments under that Act in 1986/87.

It is anticipated that bounty payments under the new steel arrangements in the Bounty (High Alloy Steel Products) Act 1983 will be about \$4.3 million in 1985/86, compared with \$3.5 million under the existing arrangements.

With respect to the proposed amendments to the Bounty (Ships) Act 1980, the market potential for hovercraft has been assessed at 2 per annum involving bounty payments of approximately \$1.2 million. However, overall expenditure increase is expected to be minimal as the hovercraft would be essentially competing with other high speed bountiable vessels and any sales of hovercraft would largely be at the expense of those other craft.

The other proposed amendments in this Bill have no direct financial implications.

NOTES ON CLAUSES

PART I - PRELIMINARY

Short Title

Clause 1 is a formal machinery clause.

Commencement

Clause 2 provides for the Act to come into operation on the day on which it receives the Royal Assent (sub-clause 1), with the exception of:

section 8 (relating to the changed definition of bountiable equipment in the Bounty (Computers) Act 1984), which shall come into operation on 1 July 1986, (the day announced by the Government) (sub-clause 2);

section 9 (relating to the override of Section 23 of the Industries Assistance Commission Act 1973 for the purposes of Section 5 of the Bounty (Computers) Act 1984), which shall be deemed to have come into operation on 6 July 1984, (the date of commencement of the Bounty (Computers) Act 1984) (sub-clause 3);

sections 13, 14, 15 and 16 (relating to proposed changes to the Bounty (High Alloy Steel Products) Act 1983 to give effect to the Government's decision to revise the bounty assistance arrangements applying to high alloy steel bar products and stainless steel flat products), which shall be deemed to have come into operation on 1 July 1985, the date approved by the Government on the recommendation of the Steel Industry Authority in its report of 30 October 1985 (sub-clause 4);

section 19 - (relating to the proposed changes to the adjustment of claims provision in the Bounty (Metal Working Machines and Robots) Act 1985), which shall be deemed to have come into operation on 1 July 1985, the date of commencement of that Act;

sections 22 and 23 (relating to the proposed changes to the definition of "bountiable vessel" in the Bounty (Ships) Act 1980), which shall be deemed to have come into operation on 1 January 1986, the date approved by the Government;

section 25 - (relating to the proposed change to the variation of excessive claims provision in the Subsidy (Grain Harvesters and Equipment) Act 1985), which shall come into operation 28 days after the day on which this Act receives the Royal Assent. This will ensure that a person affected by the amended section has the same time period presently provided within which to comply with the requirements of the amended section.

PART II - AMENDMENT OF THE BOUNTY (AGRICULTURAL TRACTORS AND EQUIPMENT) ACT 1985

Principal Act

Clause 3 is a formal machinery clause which identifies the Bounty (Agricultural Tractors and Equipment) Act 1985 as the Principal Act for the purposes of this Part of the Bill.

Application for Review

Clause 4 amends Section 35 of the Principal Act to add a new matter for which an application for review by the Administrative Appeals Tribunal (AAT) can be made. The matter which will be able to be reviewed by the AAT is a determination by the Comptroller-General relating to the effective date of registration for particular premises, pursuant to sub-section 23(4) of the Principal Act. The proposed amendment is the result of an undertaking given to the Senate Standing Committee for the Scrutiny of Bills. It was conceded that as bounty is only payable in respect of manufacture carried out at registered premises, the particular day that is administratively determined to be the effective date of registration for particular premises has considerable significance to bounty applicants, and should thus be reviewable.

PART III - AMENDMENT OF THE BOUNTY (COMMERCIAL MOTOR VEHICLES) ACT 1978

Principal Act

Clause 5 is a formal machinery clause which identifies the Bounty (Commercial Motor Vehicles) Act 1978 as the Principal Act for the purposes of this Part of the Bill.

Application for Review

Clause 6 amends Section 22 of the Principal Act to add a new matter for which an application for review by the Administrative Appeals Tribunal (AAT) can be made. The proposed amendment is in exactly the same terms, and has arisen from the same circumstances, as indicated in Clause 4 above.

PART IV - AMENDMENTS OF THE BOUNTY (COMPUTERS)
ACT 1984

Principal Act

Clause 7 is a formal machinery clause which identifies the Bounty (Computers) Act 1984 as the Principal Act for the purposes of this Part of the Bill.

Interpretation

Clause 8 amends the definition of "bountiable equipment" in sub-section 3(1) of the Principal Act by adding a new category of bountiable goods, known as modems or multiplexers to which item 85.13 in the Customs Tariff Act 1982 would apply if the goods were imported. This is designed to give effect to the Government's decision to provide for the payment of a 25% value added bounty on such goods where they are generally used with computers, from 1 July 1986.

Declarations of Classes of Equipment

Clause 9 amends section 5 of the Principal Act by inserting a new sub-section (8), to place beyond doubt that the Minister can take action under section 5 (i.e. action to vary the types or classes of equipment eligible for bounty assistance) without first having received a report from the Industries Assistance Commission (IAC). This limited override of the requirements of Section 23 of the IAC Act is exactly the same as that contained in Sections 6 and 9 of the Bounty (Metal Working Machines and Robots) Act 1985, and will preserve the original intent of this section that there be a facility to vary the classes of equipment eligible for bounty assistance, without the need for an IAC inquiry on each occasion. This will ensure that the assistance package can keep pace with the rapidity of technological change in the industry.

Value Added

Clause 10 amends sub-section 6(5) of the Principal (Act) by providing a facility to prescribe, by Regulation, new costs which are to be excluded from the calculation for the factory cost incurred by a manufacturer of bountiable equipment. The factory cost calculation is relevant to the figure which is determined to be the value added to bountiable equipment by the manufacturer, for the purpose of ascertaining the amount of bounty payable on that equipment. The flexibility which the proposed new paragraph will provide is identical to similar paragraphs incorporated in the recently enacted Bounty (Metal Working Machines and Robots) Act 1985 and the Bounty (Agricultural Tractors and Equipment) Act 1985 (paragraphs 12(6)(zc) and 8(4)(zc) respectively).

Accounting period

Clause 11 is a technical amendment, which repeals Section 7 of the Principal Act and substitutes a new provision relating to accounting periods for the purposes of the Act. The new provision is essentially an updated version of the former section, reflecting the terminology recently adopted in the identical provisions of the Bounty (Metal Working Machines and Robots) Act 1985 and the Bounty (Agricultural Tractors and Equipment) Act 1985 (sections 14 and 9 respectively). The provision provides that the accounting period of a manufacturer or importer of subsidised equipment shall be the 12 month accounting period of the manufacturer or importer, and, if that person has no such accounting period, the accounting period shall be the financial year.

PART V - AMENDMENTS OF THE BOUNTY (HIGH ALLOY
STEEL PRODUCTS) ACT 1983

Principal Act

Clause 12 is a formal machinery clause which identifies the Bounty (High Alloy Steel Products) Act 1983 as the Principal Act for the purposes of this Part of the Bill.

Interpretation

Clause 13 amends the definition of "bountiable product" in sub-section 3(1), to define in separate categories high alloy steel bar products and stainless steel flat products. This will give effect to the Government's decision of 20 December 1985 to provide separate rates of bounty assistance to producers of these different steel products.

Amount of bounty

Clause 14 amends Section 8 of the Principal Act, relating to the amount of bounty payable under the Act, as follows:

sub-section (3) is amended by replacing the present single schedule of bounty rates based on product sales with separate schedules for the two categories of "bountiable products" (ie high alloy steel bar products and stainless steel flat products). The new schedules are constructed on a similar sliding scale to the present schedule, with the appropriate level of bounty assistance based on annual product sales;

- Schedule 1 relates to high alloy steel bar products and provides a maximum bounty rate of 20% where the annual rate of sales is 10,500 tonnes or less, cutting out completely where the annual rate of sales is in excess of 23,000 tonnes,
- Schedule 2 relates to stainless steel flat products and provides a maximum bounty rate of 20% where the annual rate of sales is 10,000 tonnes or less, cutting out completely where the annual rate of sales is in excess of 25,000 tonnes,

sub-sections (4) and (5) are repealed, and replaced with four new sub-sections which prescribe the basis for calculating product sales for each of the two new categories of bountiable steel products (similar to existing sub-section (4)), and the annual sales limits for each category (23,000 tonnes for high alloy steel bar products and 25,000 tonnes for stainless steel flat products), above which bounty is not payable;

- the sales limits represent what is regarded as an economic level of output. The previous level of 39,000 tonnes (annually) included both types of bountiable steel products,

sub-section (7) is repealed, and replaced with two new sub-sections, made necessary again by the two new schedules for bountiable steel products, and the different sales limits applying to each.

Limit of available bounty - bountiable bar products

Limit of available bounty - bountiable flat products

Clause 15 repeals Section 9 of the Principal Act and inserts two new sections which prescribe the annual bounty ceilings for each of the two new categories of bountiable steel products. The previous bounty ceiling of \$9 million per year, which applied to the combined sales of both categories of bountiable steel products, is proposed to be apportioned as follows;

- for bountiable bar products, the limit of available bounty, per annum, is to be \$3.28 million (new sub-section 9(1)),

- for bountiable flat products, the limit of available bounty, per annum, is to be \$5.72 million (new sub-section 9A(1)),

Similar to the provisions in the existing sections (sub-sections 9(2) - (4)), the proposed new sections;

- provide a facility to increase or decrease, by Regulation, the limit of available bounty for a particular period (proposed new sub-sections 9(2) and 9A(2)),

- provide for the pro-rating of bounty claims where the amount of bounty available for payment during a particular period is insufficient to meet all valid claims for that period (proposed new sub-sections 9(3) and 9A(3)), and

- provide in certain circumstances for the Comptroller-General of Customs to withhold payments for a particular period until the total amount of claims for that period is ascertained (new sub-sections 9(4) and 9A(4)).

Repeal and substitution of Schedule to Principal Act

Clause 16 is a technical provision which replaces the existing Schedule in the Principal Act with two new Schedules, relating to the two new categories of bountiable steel products.

PART VI - AMENDMENTS OF THE BOUNTY (METAL WORKING MACHINES AND ROBOTS) ACT 1985

Principal Act

Clause 17 is a formal machinery clause which identifies the Bounty (Metal Working Machines and Robots) Act 1985 as the Principal Act for the purposes of this Part of the Bill.

Claims for payment of bounty

Clause 18 amends Section 21 of the Principal Act to correct an inadvertent omission from paragraph 2(d) of the current legislation. The paragraph at present does not impose a time limit for the lodgement of claims in respect of one category of bountiable equipment i.e. bountiable equipment AA, the advanced or hi-technology equipment. The proposed amendment will correct that oversight, and impose the standard 12 month limit, from the day on which the manufacturing was completed (proposed new sub-paragraph 21(2)(d)(i)).

Adjustment of claims following returns

Clause 19 amends section 25 of the Principal Act by;

omitting from sub-sections (1) and (3) the word "during" and replacing it with the words "in respect of", to make it clear that claims for bounty can be lodged for a particular period, but need not be lodged during that particular period. This amendment will make this provision consistent with section 21, which allows claims for bounty to be lodged at any time within 12 months after the day on which the sale or disposal of the equipment is effected. This is similar to the amendment made to sub-sections 17(1) and (3) of the Bounty (Computers) Act 1984 in the Statute Law (Miscellaneous Provisions) Act (No.1), 1985, and

correcting a drafting error by deleting from sub-section (1) the reference to section 12, and substituting section 13.

Application for review

Clause 20 amends section 40 of the Principal Act to add two new matters for which an application for review by the Administrative Appeals Tribunal (AAT) can be made, as follows,

Paragraph (a) makes reviewable a decision by the Minister under sub-section 4(1) as to whether a particular modification process carried out on equipment will substantially increase the capacity and capability of that equipment. The proposed amendment is the result of an undertaking given to the Senate Standing Committee for the Scrutiny of Bills. It was conceded that such a decision might affect an applicant's eligibility for bounty, and should therefore be reviewable.

Paragraph (b) makes reviewable a determination by the Comptroller-General relating to the effective date of registration for particular premises, pursuant to sub-section 28(4) of the Principal Act. The proposed amendment is in exactly the same terms, and has arisen from exactly the same circumstances, as indicated in Clause 4 above.

PART VII - AMENDMENT OF THE BOUNTY (SHIPS) ACT 1980Principal Act

Clause 21 is a formal machinery clause which identifies the Bounty (Ships) Act 1980 as the Principal Act for the purposes of this Part of the Bill.

Interpretation

Clause 22 amends the definition of "bountiable vessel" in Section 3 of the Principal Act to specifically include "hovercraft", which are currently excluded from bounty eligibility. The amendment will give effect to the Government's decision to allow bounty to be paid on the production of air-cushioned vehicles, being hovercraft type vessels, of over 150 gross construction tons, if such vessels are registered as ships and used to convey passengers or goods solely or principally over water-ways.

Effect of amendments of Tariff Act

Clause 23 inserts a new Section 3A into the Principal Act relating to the effect of Customs Tariff Act alterations on this Act, as a consequence of the proposed definition of hovercraft in terms of the Customs Tariff (Clause 22). The new section will;

protect shipbuilders who have commenced the construction or modification of "bountiable" vessels from losing their eligibility for bounty through an amendment to the Tariff Act, which results in the particular goods ceasing to be classified within the tariff item nominated in the definition for "bountiable vessel", and thus falling outside the Act;

- where the construction or modification of such vessels is commenced before the day of the Tariff Act amendment, and completed after that day, the vessels will be deemed to have been completed before the relevant day, and thus eligible for bounty, as long as the construction or modification was commenced in pursuance of a firm order placed before the amendment day (new sub-sections (1) and (2)),

PART VIII AMENDMENTS OF THE SUBSIDY (GRAIN HARVESTERS AND EQUIPMENT) ACT 1985

Principal Act

Clause 24 is a formal machinery clause which identifies the Subsidy (Grain Harvesters and Equipment) Act 1985 as the Principal Act for the purposes of this Part of the Bill.

Variation of excessive claims

Clause 25 amends Section 20 of the Principal Act to remove the concept of "inadvertent error" from the section, imposing an obligation on subsidy claimants to lodge an acknowledgement of excess in all circumstances where the claimant becomes aware that the original claim exceeds by more than \$100 the claimant's entitlement. At present such a claim is only required where the excess has resulted from an inadvertent error. The amendment is intended to alleviate a problem which has come to attention since the introduction of the Act, whereby subsidy claims have been somewhat inflated due to an industry practice of discounting the sales price of machines to end users, but claiming the undiscounted price for bounty purposes.

