

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

BOUNTY (SHIPS) BILL 1989

EXPLANATORY MEMORANDUM

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

BOUNTY (SHIPS) BILL 1989

OUTLINE

This Bill proposes new legislation to provide bounty for the construction or modification of bountiable vessels in Australia which are completed between 1 July 1989 and 30 June 1995.

The Bill incorporates changes in policy announced by Government in November 1988 following the Government's consideration of the Industries Assistance Commission's report Ships, Boats and Other Vessels, dated 29 June 1988.

The level of bounty assistance given to the shipbuilding industry is proposed to be progressively phased down until 30 June 1995, when bounty assistance will cease.

It is proposed that shipbuilders who meet the registration criteria specified in Clause 17 of this Bill and who construct or modify "bountiable vessels" (a term defined by Clause 4) in Australia between 1 July 1989 and 30 July 1995 will be eligible to claim bounty on their "eligible costs" (costs identified in Clause 5), with the rate of bounty paid on the eligible cost varying depending on when the cost was incurred by the shipbuilder (see Clause 10).

Financial Impact Statement

It is anticipated that the cost of this bounty scheme will be \$145 million over the life of the Scheme, based on November 1988 dollar values.

The initial outlay for 1989/90 will be \$24 million, rising to \$33 million in 1990/91. Thereafter it will gradually decline.

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NOTES ON CLAUSES

PART 1 - PRELIMINARY

Short title

Clause 1 provides for the Act to be cited as the Bounty (Ships) Act 1989.

Commencement

Clause 2 provides for the Bill to commence (or be deemed to have commenced) on 1 July 1989. The current bounty assistance regime for the ship construction industry terminates on 30 June 1989, the date the current Bounty (Ships) Act 1980 expires.

General administration of Act

Clause 3 is a standard administrative provision of all bounties schemes, which provides for the Comptroller-General of Customs ("the Comptroller") to have the general administration (ie. responsibility) of the Act. One result of this provision is that the Comptroller is thus conferred with a power to delegate his powers or functions under this Act pursuant to Section 14 of the Customs Administration Act 1985.

Interpretation

Clause 4 Subclause(1) defines a number of words and expressions for the purposes of the legislation.

- . In particular, the subclause defines a "bountiable vessel" (ie. a vessel eligible to receive bounty) as being a vessel between 150-10,000 "gross construction tons" (a term defined in subclause 3), that is designed for navigation (other than air navigation), and that uses either an inbuilt propulsion system or sails (or a combination of them) as the only means of propulsion (to move from one place to another). The definition expressly excludes vessels that require connection to the land or another vessel to move but includes those air-cushion vehicles (eg. hovercraft) which are not "prescribed air cushion vehicles" (itself a term defined in subclause 4(1))

- This definition will exclude vessels such as dumb barges, vessels such as the John Brewer floating hotel and pieces of the Sydney Harbour Tunnel, that satisfy some parts of the definition, but not all.

The subclause also defines:

- . the "period to which this Act applies" (ie. the bountiable period, the period within which the construction or modification of vessels can be effected and receive bounty) as being the period between 1 July 1989 and 30 June 1995 inclusive; and
- . "modification" (one of the elements of production on which bounty is payable) as being specified changes to a bountiable vessel made after the ship has been completed;

Subclause (2) provides that the Comptroller will determine the time and date at which the construction or modification of the vessel will be taken to have been completed (and thus determine the time at which a shipbuilder becomes eligible to apply to receive bounty);

Subclause (3) prescribes the formula for determining the gross construction tonnage of a vessel, whilst Subclause (4) is a technical provision that provides that where, because of a modification made to a vessel, the vessel which is modified becomes a bountiable vessel, the modification will be taken to be a modification of a bountiable vessel;

Subclause (5) is a standard administrative provision which sets out the circumstances under which two persons are to be deemed to be associates of each other for the purposes of the Act;

Subclause (6) provides that where Customs Tariff items cited in this Act are changed owing to amendments to the Customs Tariff Act 1987, introduced by the mechanism of a Customs Tariff proposal, the Tariff items contained in this Act will be deemed to have been amended at the same time as the proposal takes effect;

Subclause (7) makes clear that where there is a reference to "costs incurred" in this Bill, (see, in particular Clauses 5 and 10) those costs are deemed to have been incurred when the costs become payable ie. it is irrelevant whether the shipbuilder paid the debt either before or after

the time the debt fell due, one should look at the terms of the relevant agreement to ascertain when the shipbuilder was obliged to pay the relevant debt - it is at that time that the cost was "incurred". The rate of bounty payable pursuant to Clause 10 can then be determined.

Costs of construction or modification

Clause 5 specifies which costs incurred by a shipbuilder in the construction or modification of bountiable vessels are eligible to receive bounty. Unlike other bounty schemes that pay bounty on the overall cost of producing the relevant goods at the rate in force when the production is either commenced or completed, this bounty scheme proposes to pay bounty on particular bountiable costs incurred in the production of bountiable vessels completed in the "bounty period", at the rate in force when those particular costs are incurred. These costs are:

- . Design Costs, that is, the cost of purchasing pre-prepared designs of eligible vessels, (paragraph 5(1)(a));
- . Direct labour costs, that is, the costs of the shipbuilder that are directly incurred in Australia as a result of engaging employees to physically conduct the construction or modification of bountiable vessels (with the exception of superannuation benefits, long service leave, workers' compensation and payroll tax payments (paragraph 5(1)(b) and subclause 5(2));
 - These costs are not to include the labour costs of employees not actually engaged in the construction or modification of the bountiable vessel (eg. administrative staff); the costs of these employees to a shipbuilder are acknowledged by increasing the eligible costs of a shipbuilder by 20% when calculating the amount of bounty payable to the shipbuilder: see Clause 10.
- . Direct material costs, that is, the cost of purchasing goods that are actually used in the construction or modification of a bountiable vessel, including imported materials, and including the cost of getting those goods into the store of the registered shipbuilder (eg. freight costs, insurance &c.) (paragraph 5(1)(c) and subclause 5(3);

- . Indirect material costs, such as the cost of producing, say, order forms for ordering parts, are not included; as discussed above, these costs are acknowledged by the 20% loading of eligible costs proposed in Clause 10.
- . subcontracting costs incurred by the registered shipbuilder as a result of work directly related to the construction or modification of the bountiable vessel in Australia (paragraph 5(1)(d));
- . fitting out costs specified in the contract to construct or modify the bountiable vessel (paragraph 5(1)(e))
- Australia is developing "niche markets" in the construction of small, specialist craft, such as executive cruisers, fishing vessels and ferries. This provision is designed to encourage the construction or modification of these classes of boats, by paying bounty on the fitting out of such vessels (ie. for instance, the installation of refrigeration units on executive vessels or fishing nets on fishing vessels where provision is made in the contract for the production of the vessel for such fitting out).
- . costs involved in the trialling of the bountiable vessel (other than costs of any modification of the vessel arising as a result of the trial which are not carried out by the shipbuilder in Australia) (paragraph (f)). Again, the trialling of the vessel must be provided for in the contract for the production of the vessel, but such trialling may occur either in Australia or elsewhere (ie. trialling frequently occurs on the high seas).
- . Transportation costs involved in delivering the completed vessel to a place specified in the contract for the production of the vessel (paragraph (g)).

Determination of costs of construction or modification

Clause 6 provides that where the Comptroller is unable to verify the cost of the construction or modification of a bountiable vessel, or forms the opinion, having regard to sound accounting principles and having regard to all the circumstances, that the cost of an eligible repair:

- . is incorrect;
- . is more than would have been the case had bounty not been available;
- . has been increased as a result of a relationship between the shipbuilder and an associate of the shipbuilder; or
- . is at a cost higher than the cost that the shipbuilder would have charged to an associate,

the Comptroller may, in writing, determine the eligible cost of the relevant construction or modification, and that cost shall be the cost for the purposes of ascertaining the amount of bounty payable pursuant to Clause 10 (subclause (1)).

subclause (2) permits the Comptroller to determine at what time an eligible cost was incurred by the shipbuilder when the Comptroller is unable to verify when particular costs have been incurred.

subclause (3) provides that a shipbuilder who purchases goods from an associate (as defined in Clause 4) may only claim the associate's cost price unless it can be shown that the associate charges the same price for the same good to other clients.

- . Determinations made by the Comptroller pursuant to this Clause are reviewable by the Administrative Appeals Tribunal: subclause 31(2).

Uniformity

- Clause 7 is a standard Constitutional requirement that prohibits the exercise of any power under the Act in a manner which would result in bounty not being uniform throughout the Commonwealth.

PART 2 - BOUNTY

Specification of Bounty

- Clause 8 Prescribes the eligibility conditions that govern whether bounty may be paid under this bounty scheme.

subclause(1) provides that bounty is payable on the construction or modification in Australia of bountiable vessels;

subclause (2) provides that bounty is payable to each registered shipbuilder who incurs eligible costs (that is, the costs listed in clause 5) in the construction or modification of a bountiable vessel; ie. each shipbuilder may claim bounty for those eligible costs incurred by the shipbuilder;

subclause (3) provides that a shipbuilder who constructs or modifies a bountiable vessel will not be eligible to claim bounty unless:

- . the construction or modification is completed between 1 July 1989 and 30 June 1995 (ie. the period to which the Act applies, as defined in subclause 4(1));
 - therefore, vessels completed prior to 1 July 1989, or not completed not by 30 June 1995, are not eligible to receive any bounty under this scheme (paragraph (a)).
- . the shipbuilder remains a registered shipbuilder throughout the period of the construction or modification of the vessel (paragraph (b))
 - therefore, should a shipbuilder who is registered under this Scheme lose that registration because the shipbuilder cannot continue to satisfy the registration criteria specified in Clause 15 during the period that person is constructing or modifying a bountiable vessel, that person will be ineligible to receive any bounty for work performed on that vessel
 - .. This provision is designed to ensure that shipbuilders continue to meet the standards necessary to promote a viable shipbuilding industry in Australia; and
- . Where a vessel was under construction prior to 1 July 1989, but completed after that date (and during the period to which this Act applies), the shipbuilder is required to gain registration under this Act on or before 1 September 1989 (paragraph (c)).

subclause (4) provides that where eligible costs are incurred by a shipbuilder prior to 1 July 1989, those costs will be deemed to have been incurred on 1 July 1989. This deeming provision

is necessary for the purposes of setting the rate of bounty which is applicable to such costs (see paragraph 10(a)).

subclause (5) provides that the eligible costs of a shipbuilder (or shipbuilders) incurred when modifying a vessel must be more than \$1 million before bounty is payable.

Certain Circumstances in which bounty is not payable

Clause 9 Prescribes certain circumstances where bounty is not payable.

subclause (1) prohibits the payment of bounty for bountiable vessels that are to be directly or indirectly exported to New Zealand after 1 July 1990.

- The Government has signed the ANCERTA trade agreement with the Government of New Zealand which, amongst other things, prohibits bounty assistance on goods produced in either country and exported to the other country. This provision gives effect to that treaty commitment;

subclauses (2) and (3) provide that bounty is not payable to the Commonwealth or a Commonwealth Authority (a term defined in Clause 4), except where the Commonwealth or a Commonwealth Authority (such as, for instance, the Commonwealth Banking Corporation) is legally the owner of the vessel as a result of an arrangement entered into by the Commonwealth or the Commonwealth Authority with another person to secure a loan or other financial arrangement with that person;

subclauses (4) and (5) provide that bounty under this Act will not be paid for the construction or modification of a bountiable vessel where the construction of the vessel, or the same modification, has already received bounty assistance under a previous ship bounty scheme.

Rate of bounty

Clause 10 specifies the rates of bounty payable to a registered shipbuilder for the construction or modification of a bountiable vessel, as follows:

- . for eligible costs, incurred (or deemed to have been incurred) between 1 July 1989 and 30 June 1991 inclusive, at the rate of the product of $1.2 \times 15\%$ x the eligible costs incurred (paragraph 10(a));

- . incurred between 1 July 1991 and 30 June 1993 inclusive - at the rate of the product of $1.2 \times 10\%$ x the eligible costs incurred (paragraph 10(b)); or
- . incurred between 1 July 1993 and 30 June 1995 inclusive - at the rate of the product of $1.2 \times 5\%$ x the eligible costs incurred (paragraph 10(c));
- It should be noted that the overall amount of bounty payable on any one vessel will depend on when the eligible cost is incurred (defined in Clause 4). Therefore, it may well be that a recurring eligible cost (eg. labour costs) will be paid bounty at varying rates depending on when the costs were incurred.
- .. An additional 20% is added to the eligible costs to cover general expenses (overheads) incurred as part of running any commercial undertaking. The flat rate proposed obviates the need to exhaustively specify which indirect costs are bountiable, which has been the norm in previous bounty schemes. This will result in significant administrative savings.

PART 3 - PAYMENT OF BOUNTY

Claims for payment of bounty

Clause 11 sets out the procedures to be followed in claiming bounty:

- . a claimant is required to (subclause (2)):
 - lodge a claim on an approved form (defined in subclause 4(1) as a form approved by the Comptroller in writing) providing such information as is, and such estimates as are, required by the form;
 - sign and witness the form as required, by Clause 16, and
 - lodge the form with a Collector for a State, or with the Comptroller, within 12 months after the construction or modification was completed;

- . the Comptroller is then obliged to examine the claim and either (subclause (3)):
 - approve in writing the payment of the amount; or
 - where the amount is different from the amount for which the claim was made, with the difference being less than \$200, and the Comptroller is satisfied the difference is not attributable to the person deliberately overclaiming or underclaiming the amount of bounty, the Comptroller shall approve, in writing, the payment of the amount claimed; or
 - refuse, in writing, to approve such payment;
 - the decisions of the Comptroller to approve or refuse the payment of bounty are reviewable by the Administrative Appeals Tribunal (paragraphs 31(1)(a) and (b)).
- . the Comptroller is obliged to provide to the claimant a notice setting out the decision where the claim is unsuccessful or where there is a delay of more than 30 days in the processing of a successful claim (subclause (4)).

Advances on account of bounty

Clause 12 permits a registered shipbuilder to seek advances on the amount of bounty that person will receive for the construction or modification of a bountiable vessel;

- . This provision allows a person to have access to capital during the costly process of ship construction. Subclauses (2) and (3) provide that if bounty is advanced that is not ultimately due to the shipbuilder, that money must be repaid to the Commonwealth.

Variation of inadequate claims

Clause 13 provides a mechanism for the variation of claims for the payment of bounty where the claimant considers that, by reason of inadvertent error, the original claim is less than the claimant's entitlement (subclause (1)):

- . the procedure for the lodgement of a subsequent claim for the balance of bounty

which is considered to be owing is identical to the procedures that apply to original claims for bounty (see subclause 11(2)) (subclause (2));

- . again, similar to the procedures that apply to original claims for bounty, (see sub-clause 11(3)) the Comptroller is obliged to examine the further claim for bounty and either approve or refuse the further payment of bounty (subclause (4));
- the decisions of the Comptroller are reviewable by the Administrative Appeals Tribunal (paragraphs 31(c) and (d));
- . the Comptroller is obliged to furnish the claimant with a notice in writing setting out the decision where the claim is unsuccessful or where there is a delay in processing a successful claim of more than 30 days (subclause (5)).

Variation of excessive claim

Clause 14 imposes an obligation on a recipient of bounty to lodge an acknowledgment of error, within 28 days, where the recipient becomes aware that the original claim for bounty exceeds by more than \$200 the claimant's entitlement (subclause (1)):

- . the penalty for contravening sub-clause (1) is \$3,000;
- it should be noted that pursuant to amendments to the Crimes Act 1914 effected by the Crimes Legislation Amendment Act 1987 (Act 120, 1987), penalties prescribed in legislation may be increased by up to five times where the offender is a body corporate rather than a natural person. This applies to all penalties in this Act.
- . the procedure for the lodgement of an acknowledgment form is similar to that governing original claims (see subclause 11(2)) (subclause (2));
- . upon examination of the acknowledgment, where the Comptroller is satisfied there has been an overpayment by more than \$200, he or she shall cause to be served on the claimant a demand for the repayment of the amount of the overpayment (subclause (4));

- the decision of the Comptroller for the above purposes is reviewable by the Administrative Appeals Tribunal (paragraph 31(1)(e)).

Other adjustments of claims

- Clause 15 provides that the Comptroller shall serve a demand for the repayment of an overpayment of a claim for bounty in excess of \$200, where the Comptroller discovers such an overpayment in a situation other than through an acknowledgment under Clause 14 (subclause (1));
- . the above decision of the Comptroller is reviewable by the Administrative Appeals Tribunal (paragraph 31(1)(f));
 - . where the amount of an overpayment referred to in sub-clause (1) is less than \$25,000 and the Comptroller is satisfied that:
 - 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 the Act or the regulations, and repayment of the overpayment would be unreasonable, or cause that person undue hardship; or,
 - the cost of endeavouring to recover the overpayment is so high and 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 Comptroller may refrain from causing a demand to be served (subclause (2));
- . where the Comptroller elects not to proceed for a repayment, particulars of the relevant amount shall be included in the annual report of the Australian Customs Service tabled in Parliament for the year in which the Comptroller so acted (subclause(3)).

Forms

- Clause 16 prescribes the conditions for the signing and witnessing of the various forms which are required to be lodged pursuant to the Act. Authorised persons are permitted to submit claims or lodge returns on behalf of the legal claimant (be that claimant a natural person or a body corporate), which is intended to assist claimants and expedite the processing of claims by the Australian Customs Service.

PART 4 - ADMINISTRATIONRegistration of Persons

Clause 17 prescribes the manner of applying for registration under the Scheme, as well as specifying the conditions that must be met by a person who wishes to be registered for the purposes of this Act. It is a precondition to bounty eligibility that the bounty claimant is a registered shipbuilder (see subclause 8(3)).

A person who wishes to apply for registration must apply on the appropriate approved form (subclause (2)). Should the person satisfy the registration criteria contained in subclause (6), the Minister shall either sign a notice of registration, and serve the same on the applicant, or decline to register the person (subclause (3)).

- . If the registration is accepted, the notice of registration shall specify the date of effect of the 1 year period of registration, which can be a date earlier or later than the date of issue of the notice of registration, provided it is not earlier than 1 July 1989 (the date of commencement of this scheme).
- . This decision is reviewable on its merits by the Administrative Appeals Tribunal: paragraph 31(1)(g)
- . The registration criteria (specified in subclause (6)) are designed to ensure that bounty is payable to those shipbuilders who have a commitment to the Australian shipbuilding industry and show the ability to be competitive in the international shipbuilding market.

Subclause (4) prescribes the regime to be followed by registered shipbuilders seeking re-registration under the Scheme.

- . Applicants seeking re-registration must satisfy the same criteria that must be satisfied by a new applicant before they can be re-registered; in effect, the registration is treated as a further application for registration under subclause (2).

- A decision by the Minister not to re-register a shipbuilder is reviewable on its merits by the Administrative Appeals Tribunal in the same way as the original registration decision is reviewable.

- . Where the Minister approves the re-registration of the applicant, the new registration period commences on the day specified in the notice, provided it is not a day earlier than the day the previous registration terminates.

subclause (9) provides that a registration may be cancelled by the Minister where the Minister becomes satisfied that the shipbuilder no longer is constructing or modifying bountiable vessels, or where the shipbuilder fails to meet any of the registration criteria specified in sub-clause (6);

- . the decision to cancel a registration is reviewable on its merits by the Administrative Appeals Tribunal (paragraph 31(1)(h)).

Accounts

Clause 18 makes eligibility for bounty conditional upon the maintenance of appropriate commercial records. Such records are required to be:

- . kept in writing in the English language (or be readily accessible and convertible into writing in the English language (subclause (2)); and
- . retained for at least 3 years after the date of lodgement of a claim for bounty pursuant to Clause 11 (subclause (1)).

Securities

Clause 19 confers upon the Comptroller the power to require a person to whom bounty could become payable to give security for compliance with the Act, and any regulations made under it. Payment of bounty may be withheld until the required security is given:

- . a decision of the Comptroller requiring a person to give a security is reviewable by the Administrative Appeals Tribunal (paragraph 31(1)(j)).

Appointment of authorised officers

Clause 20 empowers the Comptroller to appoint officers of the Australian Customs Service as authorised officers upon whom administrative functions may be conferred for the purposes of the Act.

Entry on premises occupied by registered shipbuilder

Clause 21 empowers an authorised officer to enter premises occupied by a registered shipbuilder (other than residential premises), at any reasonable time to inspect any bountiable vessel on which construction or modification has been or is going or intended to be carried out, or any step in the construction/modification process, or the accounts, books, documents or other records relating to the construction/modification of a bountiable vessel, and take copies and retain extracts of any such records (subclause (1));

- . if the occupier of such premises fails to provide the authorised officer with all reasonable facilities and assistance for the effective exercise of the above powers, he or she is liable to a penalty of \$3,000 (subclause (2)).

Entry on other premises

Clause 22 lists the circumstances which permit authorised officers to enter other types of premises (ie. not the business premises referred to in Clause 21).

- . where an authorised officer has reasonable grounds for believing that premises are premises where the construction or modification of bountiable vessels is being carried out, has been carried out, or will be carried out, or are premises in which there are kept any accounts, books, documents or other records relating to the construction/modification of bountiable vessels, the authorised officer may make an application to a magistrate for a warrant authorising the authorised officer to enter the premises and exercise the powers of an authorised officer (described below)(subclause (2));
- the powers of an authorised officer are:
 - . to inspect any bountiable ship on which construction/modification is being, has been, or will be carried out;

- . to inspect any step in the shipbuilding/modification process; and
- . to inspect accounts, books, documents and other records relating to the construction/modification of bountiable vessels, including the making of copies of, or taking and retaining extracts from such records, (subclause (4));
- . if the Magistrate is satisfied there are reasonable grounds for believing the premises to be premises referred to the above, and the occupiers of the premises have not given consent for the authorised officer to enter the premises to exercise the powers of an authorised officer, he or she may grant a warrant authorising the authorised officer to enter the premises during such hours as the warrant specifies, or at any time, and if necessary by force, and to exercise the powers of an authorised officer (subclause (3)).

Power to require persons to answer questions and produce documents

Clause 23 empowers an authorised officer to require certain persons to attend before him or her to answer questions and produce documents in relation to the construction/modification of a bountiable ship, and provides for the withholding of bounty payments until the requirements of this clause are met. The authorised officer must believe on reasonable grounds that the particular person is capable of giving information relevant to activities in respect of bountiable vessels (subclause (1));

- . subclause (3) creates an offence for not disclosing that records prepared by one person and produced by another person in pursuance of a notice under subclause (1) are false or misleading, where the latter person knows them to be false or misleading;
 - penalty for breach - \$3,000, or 6 months imprisonment, or both;
- . subclause (5) prevents the use in criminal proceedings against a person, except under subclause (3) or paragraph 25(3)(a) of the Act, of self-incriminating information given and documents produced by that person.

Power to examine on oath, etc.

Clause 24 provides for an authorised officer to examine on oath or affirmation persons attending before him or her.

Offences

Clause 25 creates offences for:

- . refusing or failing to attend before a Collector or an authorised officer, or to take an oath or make an affirmation, or to answer questions or produce documents when so required pursuant to this Act (subclause (1));
 - penalty - \$3,000 or 6 months imprisonment, or both;
- . obtaining or attempting to obtain bounty that is not payable (subclause (2));
 - penalty - fine not exceeding \$30,000 or imprisonment for five years, or both (subclause (11));
 - this offence is an indictable offence, which may be heard and determined in a court of summary jurisdiction if the court is satisfied it is proper to do so, and the defendant and prosecutor consent (subclauses (9) and (10));
 - . where a court of summary jurisdiction convicts a person of an offence under subsection (2) the penalties that the court may impose are \$6,000 or imprisonment for 12 months, or both (subclause (11));
- . knowingly making statements, orally or in writing, that are false or misleading in a material particular, or presenting an account, book or document that is to the knowledge of the person false or misleading in a material particular (subclause (3));
 - penalty, \$3,000 or imprisonment for 6 months, or both.
- . where, in proceedings for an offence against subsections (2) or (3),
 - it is necessary to establish a state of mind on the part of a corporation, it

is sufficient to show that a director, servant or agent acting within the scope of his or her actual or apparent authority had that state of mind (subclause (4));

- any conduct so engaged in by the director, servant or agent (or any other person at the direction of a director, servant or agent) is deemed to have also been engaged in by the corporation (subclause (5));

Time for prosecution

Clause 26 provides that proceedings for offences against this Act may commence within 3 years of the alleged commission of the offence.

Recovery of bounty on conviction

Clause 27 empowers a court to order a person convicted of an offence under subclauses 14(1) or 25(2) or (3) to refund to the Commonwealth the amount of bounty wrongfully obtained, in addition to imposing the penalty prescribed in those sub-sections against that person (subclause (1));

Subclauses (2) to (6) provide a procedure to ensure that amounts of bounty to be refunded under subclause (1) do not fail to be recovered due to jurisdiction difficulties.

Recovery of repayments

Clause 28 allows the Commonwealth to recover amounts owing to it (by an action in a court for a debt due) particularly in situations where:

- . a person has overclaimed for bounty (clause 14), or the Comptroller-General discovers an overpayment of bounty (clause 15) (subclause (1));
- . amounts owing to the Commonwealth by a person in the situations described in subclause (1) may be deducted from any amount that is payable to that person under the Act, and where such a deduction is made, the balance which is paid will be deemed to have been the full amount (subclause (2)).

PART 5 - MISCELLANEOUSReturn for Parliament

Clause 29 provides for the furnishing by the Comptroller to the Minister (subclause (1)) and the tabling in Parliament by the Minister (subclause (2)) of annual returns in relation to the payment of bounty under this Act during that particular year.

Delegation

Clause 30 provides powers of delegation for the Minister.

. The Comptroller has a power of delegation for the purposes of this Act pursuant to section 14 of the Customs Administration Act 1985.

Application for review

Clause 31 provides a right to apply to the Administrative Appeals Tribunal for review of specified administrative decisions affecting the rights or entitlements of persons under the Act.

Statement to accompany notice of decisions

Clause 32 obliges the Comptroller-General or Minister to advise persons whose rights are affected as a result of a decision by the Comptroller or Minister pursuant to one of the provisions listed in clause 31 that there is a right of review to the Administrative Appeals Tribunal, although subclause (2) provides that failure to issue this notice does not effect the validity of the Comptroller's or Minister's decision.

Appropriation

Clause 33 provides for payments of bounty to be paid out of money appropriated by Parliament for the purpose.

Regulations

Clause 34 permits the making of regulations where required by the Act, or where it is necessary or convenient to do so to give effect to the Act.

