

1988

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

BOUNTY AND SUBSIDY LEGISLATION AMENDMENT BILL 1988

EXPLANATORY MEMORANDUM

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

This memorandum takes account of the amendment made by
the House of Representatives to the Bill as introduced.

Bounty and Subsidy Legislation Amendment Bill 1988

Outline

This Bill is an omnibus measure, which proposes to amend a series of Bounty and Subsidy Acts to give effect to various Government decisions, and to clarify some eligibility criteria and repeal certain expired bounty and subsidy Acts.

The major changes contained in the Bill are -

- (i) the implementation of the Government's decision announced in the 1987-88 Budget to terminate the Bounty (Agricultural Tractors and Equipment) Act 1985 as from 15 September 1987 (the night of the Budget); and
- (ii) the amendments to the Bounty (Books) Act 1986, to effect changes to the book bounty scheme as a result of the Government's consideration of the Industries Assistance Commission's Report No. 401 of 25 February 1987 on the pulp, paper, paper products and printing industries. In particular the amendments proposed include:
 - . the extension of the bounty scheme from 30 June 1989 to 31 December 1993,
 - . the reduction of the bounty rate for books to 13.5 per cent, phased in over 4 years, from the current 20 per cent for books produced before 1 January 1989, to 13.5 per cent for books produced on or after 1 January 1992, and
 - . the changing of certain administrative features of the bounty to facilitate a more efficient administration of the scheme, including:
 - the increase in the minimum claim provision from \$200 to \$500;
 - the alteration to the minimum production run requirement of 1,000 copies or more of the same book, to permit more than one type of eligible binding for that book;
 - the deletion of the principal requirement that a bountiable children's book contain pictures; and
 - a new facility to permit self financing Government publishing enterprises producing and marketing books in substantial competition with the private sector to receive bounty.

In addition to the above, the Bill contains a number of technical drafting amendments, to clarify certain eligibility criteria and other administrative features in several existing bounty and subsidy schemes, as well as proposing the repeal of a number of expired bounty schemes.

Financial Impact Statement

- . Bounty payments to the book industry under the Bounty (Books) Act 1986 will be \$18.6 million during the 1987-88 financial year, and are expected to be \$21.4 million during financial year 1988-89 and \$19.3 million in financial year 1989-90.
- . The termination of the Bounty (Agricultural Tractors and Equipment) Act 1985 is expected to save \$900,000 in the 1987-88 financial year.
- . The other proposed amendments in this Bill have no direct financial implications.

NOTES ON CLAUSES

Short Title

Clause 1 provides for the citation of this Act as the Bounty and Subsidy Legislation Amendment Act 1988.

Commencement

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

- . the amendment to the Agricultural Tractors and Equipment Act, (relating to the termination of the bounty scheme), which shall be deemed to have come into operation on 15 September 1987, the date of the Budget Night announcement (subclause (2));
- . the amendments to the Bounty (Books) Act 1986, (relating to the proposed changes to the provisions regarding "production run", to enable books of the same title which are produced in the same production run, but having different bindings, to be eligible for bounty), which shall be deemed to have come into operation on 1 January 1987, the date of commencement of the Bounty (Books) Act 1986 (subclause (3));
- . the amendment to the Bounty (Metal Working (Machines and Robots) Act 1985, (relating to the clarification of the definition of "variable definition" in subsection 4(1), to put beyond doubt that a modification of equipment comes within that definition) which shall be deemed to have come into operation on 1 July 1985, the date of commencement of the Bounty (Metal Working Machines and Robots) Act 1985 (subclause (4));
- . the amendment to the Bounty (Ships) Act 1980; (relating to the repeal of section 12A, which imposed a monthly return obligation on shipbuilders) which shall be deemed to have come into operation on 6 June 1985, the date the provision was inserted into the Act by the Bounty (Ships) Amendment Act 1985; (No. 76 of 1985) (subclause (5));

- . the amendment to the Bounty (Textile Yarns) Act 1981 (relating to the clarification of the method for calculating "export" overheads for bounty eligibility), which shall be deemed to have come into operation on 5 June 1987, the date the relevant section 3AA was inserted into the Act by the Bounty and Subsidy Legislation Amendment Act 1987 (No. 54 of 1987) (subclause (6)); and,
- . the amendment to the Fertilisers Subsidy Act 1986, (relating to the standard administrative provision to enable the deferment of subsidy claims in a given year where insufficient funds have been appropriated for that year), which shall be deemed to have come into operation on 20 August 1986, the date of commencement of the Fertilisers Subsidy Act 1986 (subclause (7)).

Application

- Clause 3 is a standard transitional provision which provides that the amendments to the Bounty (Books) Act 1986 in Schedule 1 (relating to the amendments to the definition of "children's picture book" and "production process", the clarification of the meaning of "periodical" and the amendments to the provisions relating to books which are produced by or on behalf of Government instrumentalities or authorities (except books which are produced by declared institutions pursuant to new subsection 5(8A))), shall only apply to those books the production processes of which are completed after the commencement of the amendments, i.e., which shall be the date of Royal Assent of this Act.

Amendment to various bounty and subsidy Acts

- Clause 4 provides that the various bounty and subsidy Acts proposed to be amended by this Bill are to be amended as set out in Schedule 1.

Repeal

- Clause 5 provides that the Acts listed in Schedule 2 are repealed. These relate to expired Bounty schemes, for which claims are now either statute barred or which have all been finally settled.

SCHEDULE 1

The amendments contained in this Schedule give effect to changes to various bounty and subsidy schemes as follows:

Bounty (Agricultural Tractors and Equipment) Act 1985

Subsection 4(1) (definition of "terminating day")

- . This amendment has the effect of terminating the agricultural tractors and equipment bounty scheme on 15 September 1987, the date of the Government's 1987-88 Budget announcement.
- Agricultural tractors and equipment produced in Australia after 15 September 1987 will no longer be eligible to receive bounty, although tractors and parts produced prior to 15 September 1987 will be eligible to receive bounty if the goods satisfy the end use pre-conditions of the Act (ie. subsections 11(4), (5) or (6); essentially sale for use in Australia) prior to the termination date of the Scheme, and the relevant applications for bounty are received within twelve months after the day on which that end-use condition is satisfied (subsection 16(3)).

Bounty (Books) Act 1986

Subsection 4(1) (definition of "bounty period")

- . The amendment to the definition of "bounty period" extends the period of time for this bounty scheme. Books produced in Australia between 30 June 1989 (the original termination date of the bounty) and 31 December 1993 will now be eligible to receive bounty.

Subsection 4(1) (definition of "children's picture book")

- . This amendment re-names this definition as a "children's book", and removes the existing bounty eligibility requirement that, for the purposes of the Act, such a book contains pictures as its principal interest.
- Now, so long as the book is intended for children, and the text (if any) is 3 millimetres in height, or higher, the book can be considered a "children's book" for the purposes of the Act. This change is expected to increase the range of books in the children's category now eligible to receive bounty.

Subsection 4(1) (definition of "production process")

- . This amendment removes the current prohibition on the payment of bounty on any step in a production process of manufacturing a bountiable book that is associated with the advertising or promotion of the book.
- In particular, this amendment will permit the payment of bounty for packaging produced for the purposes of transporting the books, but which is also used by a retailer as part of the "point of sale" advertising for the book.

Subsection 4(1) (definition of "production run")

- . This amendment will permit books of the same title that are printed in the same production run but with different protective covers or fastened differently, to be considered as part of the same production run.
- This amends the current requirement that the books of the same title must be printed with the same protective covers, and be fastened in the same manner, before the books can be considered as being produced in the same production run and thus eligible for bounty. The policy reason behind this change is discussed in the clause note to the amendment to paragraph 5(1)(p).

Paragraph 5(1)(a)

- . This amendment alters the existing paragraph 5(1)(a) to make clear that non-casebound magazines or other periodicals that are published at six-monthly intervals (or more frequently) are ineligible to receive bounty.
- The frequency with which periodicals must appear to still be able to claim bounty is currently unstated. This amendment will assist in determining which periodicals will be ineligible for the purposes of the Act, by prescribing a period to govern the frequency with which such publications may or may not appear.

Paragraph 5(1)(k)

- . This amendment removes the word "picture" from the phrase "children's picture book" contained in this paragraph, and is consequential to the amendment to the definition discussed in subsection 4(1) "(definition of children's picture book)".

Paragraph 5(1)(m)

- . This amendment removes the word "picture" from the phrase "children's picture book" contained in this paragraph, and is consequential to the amendment to the definition discussed in subsection 4(1) "(definition of children's picture book)".

Paragraph 5(1)(p)

- . This amendment removes the requirement that 1000 copies of a book must be produced in the same production run with identical bindings before the book is eligible for bounty.
 - It is now the policy intention that a bountiable book can be published in, for instance, hardback and paperback in the same production run and still be eligible for bounty, so long as 1000 or more copies of the book are produced in that production run.
 - This amendment to the Act is deemed to have commenced as from 1 January 1987, the date of commencement of the principal date of Bounty (Books) Act 1986.

Paragraph 5(1)(t)

- . This amendment provides that an authority or instrumentality of the Commonwealth, or of a State (which is defined in subsection 4(1) to include a Territory) shall not be eligible to receive bounty for any book published for or on its behalf unless the instrumentality or authority is a "declared" instrumentality or authority, pursuant to the new subsection 5(8A) of the Act, and the book was published after the Minister's declaration. (discussed under the new subsections 5(8A) & 5(8B)).
 - This amendment extends the existing provision contained in the existing paragraph 5(1)(t), which now only precludes books published for or on behalf of the official printer for the Commonwealth, State or Territory from receiving bounty.

Section 5

- . This amendment adds new subsections 5(1A) and 5(1B) to the Act:
 - The new subsection 5(1A) provides that books that have some production processes performed by an authority or instrumentality of the Commonwealth, State or Territory may still be eligible to receive bounty. However, the production processes performed by the government instrumentality or authority will not form part of the

production costs of the book for the purposes of calculating the amount of bounty due for the production of the book.

- . On one reading of the existing legislation, any production process performed on an otherwise bountiable book by a government instrumentality or authority would render the book ineligible for bounty. This amendment will permit a printer or publisher registered under the Act to sub-contract one part of the production process, for instance, binding, to a government instrumentality or authority and still be able to claim bounty for the costs of the other production processes. However, the government organisation performing the production process will not be able to gain the benefit of the subsidy offered by the payment of bounty.
- The new subsection 5(1B) makes clear however that even though one government organisation or instrumentality may perform one or more of the production processes of a book, the book might still be ineligible for bounty purposes if indeed the book is being produced for a government instrumentality or authority, and that latter instrumentation or authority is not a "declared" instrumentality etc. pursuant to the new subsection 5(8A) (discussed below).

Paragraph 5(2)

- . This amendment removes the word "picture" from the phrase "children's picture book" contained in this paragraph, and is consequential to the amendment to the definition of that phrase discussed in subsection 4(1) "(definition of children's picture book)".

Paragraph 5(3)

- . This amendment removes the word "picture" from the phrase "children's picture book", and is consequential to the amendment to the definition of that phrase discussed in subsection 4(1) "(definition of "children's picture book")".

Section 5

- . This amendment adds a new subsection 5(8A) and subsection 5(8B) to the Act.
- The new subsection 5(8A) provides that if the Minister is satisfied that all or most of the books that are, or are likely to be, produced or published by a Government instrumentality or authority are available for sale to the general public for at least cost price, the Minister may declare the instrumentality or authority to be a

"declared" instrumentality for the purposes of this subsection, thus permitting the authority or instrumentality to receive bounty on all bountiable books published or produced for or on behalf of the organisation on or after a particular day specified in the Minister's declaration.

- As a matter of Commonwealth policy, bounty is not payable for book production by authorities or instrumentalities of the Commonwealth, or of the States or Territories, (paragraph 5(1)(t)) as it is the practice of such organisations to have the vast bulk of their printing performed in Australia. Accordingly, there is no need to provide an incentive for such bodies to have their printing performed in Australia. However, an increasing number of government organisations and instrumentalities are publishing books for sale to the general public for profit, in direct competition with private publishers, many of whom receive bounty on books produced in Australia for or on their behalf. So as not to place these government organisations at a commercial disadvantage, it is proposed to exempt them from the general prohibition on the payment of bounty on books produced or published for or on behalf of a government instrumentality or authority.
- the new subsection 5(8B) prevents the Minister from backdating a declaration made pursuant to subsection 5(8A) more than 12 months before the date of the declaration. This is consistent with the claim for payment facility in subsection 14(3), which imposes a 12 month time limit on bounty claims.
- the new subsection 5(8C):
 - excludes the official printer for a state or territory from being a declared authority or instrumentality for the purposes of subsection 5(8A) (paragraph 5(8B)(a)); and
 - excludes government instrumentalities or authorities who have, or are likely to have, most of their books produced or published by the official printer of a State or Territory from being a declared instrumentality or authority for the purposes of subsection 8(5A) (paragraph 5(8B)(b)).

Section 11

- This amendment amends the rate of bounty payable on bountiable books produced in Australia.

- The Government has accepted the Industries Assistance Commission (IAC) recommendation to reduce the book bounty rate. However, the Government has decided to phase in the reductions over four years rather than the two years recommended by the IAC.
- Books produced before 1 January 1989 will be eligible to be paid bounty at an amount equal to 20% of the publisher's production cost of the book (the existing bounty rate) (paragraph 11(1)(a)).

After 1 January 1989, bounty payable on bountiable books is to be reduced on a sliding scale. Bounty is payable:

- at a rate of 18% on books produced between 1 January 1989 and 31 December 1989 (paragraph 11(1)(b));
- at a rate of 16% on books produced between 1 January 1990 and 31 December 1990 (paragraph 11(1)(c));
- at a rate of 14% on books produced between 1 January 1991 and 31 December 1991 (paragraph 11(1)(d)); and
- at a rate of 13.5% on books produced between 1 January 1992 and 31 December 1993, the date the bounty scheme is due to terminate (paragraph 11(1)(e)).

The new subsection 11(2) reduces pro rata the additional bounty paid to publishers who supply paper or binding materials to the manufacturer of the book free of charge. In this case, bounty payable will be increased by an amount of:

- 16.7% (the existing rate) for books produced before 1 January 1989 (paragraph 11(2)(a));
- 15.3% for books produced between 1 January 1989 and 31 December 1989 (paragraph 11(2)(b));
- 13.8% for books produced between 1 January 1990 and 31 December 1990 (paragraph 11(2)(c));
- 12.3% for books produced between 1 January 1991 and 31 December 1991 (paragraph 11(2)(d)); and
- 11.9% for books produced between 1 January 1992 and 31 December 1993, the date the bounty scheme is to terminate (paragraph 11(2)(e)).

Subsection 14(2)

- . This amendment increases the minimum claim for bounty from \$200 to \$500, and additionally requires any amendment to this figure in future to be done by regulation, rather than only by a decision of the Comptroller-General of Customs.
- It has been an accepted administrative provision of bounty and subsidy schemes that there be a facility to amend the minimum claim for bounty, without having to amend the principal Act. However, the Senate Standing Committee for the Scrutiny of Bills in its 8th Report for 1987 was critical that the Comptroller-General of Customs could amend the minimum amount of bounty as specified in an Act of Parliament without the Parliament itself having the capacity to review the decision. In accordance with an undertaking given by the Minister for Industry, Technology and Commerce at the time of the Committee's report, it is now proposed that any amendment to the minimum claim for bounty will only be made by regulation, consistent with the policy adopted since that undertaking for all bounty and subsidy schemes.

Subsection 14(3)

- . This amendment is a minor, technical amendment, which makes clear that a bounty claimant may only make one claim for bounty in respect of the books produced in a particular production run.

Subsection 32(1)

- . This amendment will permit the Minister to delegate the Minister's powers under the Act to officers of the Australian Customs Service, as well as of officers to the Department of Industry, Technology and Commerce which is the relevant policy Department for the administration of this Bounty.

Bounty (Metal Working Machines and Robots) Act 1985Subsection 4(1)(paragraph (a) of the definition of "manufacturer")Subsection 4(1)(paragraph (a) of the definition of "modifier")

- . The amendment to both of these definitions deletes paragraphs (i) to (iv) and inserts a general provision to exclude all production services from the definitions.
- It was intended by the definition of producer (ie. the definitions respectively of "manufacturer" or "modifier"), to exclude persons whose only contribution to the manufacture or modification of the equipment was the provision of a "production service". However, the services listed for exclusion under "modifier" and "manufacturer" (paragraphs a(i) to (iv)) do not

completely align with the definition of "production service". Indeed, one production service, "heat treatment", appears not to be expressly excluded from the "manufacturer" and "modifier" definitions, such that if that service could be regarded as a substantial process for the purposes of those definitions, the producer could claim bounty in respect of that service.

- . to remove this possibility, and clarify that a person whose only contribution to production is the provision of a "production service" should not be able to qualify as a "manufacturer" or "modifier", the definitions have been altered.

After subsection 4(1)

- . The proposed new subsection 4(1A) is intended to place beyond doubt that the definition of "modification" in subsection 4(1) of the Act can be regarded as a "variable definition" for the purposes of that definition in subsection 4(1) of the Act, (ie. it is a kind of process) in order therefore to take advantage of the mechanism provided for in subsection 6(7) of the Act (ie. a facility to alter definitions to keep pace with changing technology, and thus keep the bounty scheme relevant to the industry it is intended to assist).

Subsection 28(9)

- . This amendment removes the orderly development provision from the Act.
- the orderly development discretion has been a standard administrative provision of all bounty schemes, and was intended to provide a facility to control the right of entry to schemes as a means of encouraging desirable rationalisation of the industries concerned. For this scheme however, it has not been desirable to restrict the potential bounty claimants on orderly development grounds, with the result that the continued presence of the provision unnecessarily adds to the cost of administering the bounty, and delay payment of bounty to new entrants to the industry. The removal of the provision is intended to address this.

Paragraph 40(1)(m)

- . This amendment is a technical drafting change, which is consequential on the proposed repeal of the orderly development discretion (proposed subsection 28(9)).

Bounty (Ships) Act 1980

Section 12A

- . This amendment repeals section 12A of the Act, requiring shipbuilders to provide information on bountiable vessels

that have been, or are proposed to be, constructed or modified. As this information is readily available on the standard bounty claim form, the Australian Customs Service has no need for this on a monthly return.

- This amendment is deemed to be effective from 6 June 1985, the date on which the provision was originally inserted into the legislation.

Bounty (Ship Repair) Act 1986

Subsection 4(1) (paragraph (b) of the definition of "bountiable ship")

- . This amendment makes clear that a ship that has been solely engaged in the Australian coastal trade for a period of twelve months prior to the date of the repair contract is ineligible to receive bounty.
- The existing definition merely provides that "ships solely engaged in the Australian coastal trade" are ineligible to receive bounty amendment. As the policy intent of the Act was to restrict the repair bounty to "international trading vessels", it is felt this will clarify that vessel which over a period of time have not undertaken an international voyage to be ineligible.

Bounty (Textile Yarns) Act 1981

Section 3AA:

- . The amendment to section 3AA of the Bounty (Textile Yarns) Act 1981 repeals the existing section and substitutes a redrafted provision to express more simply the policy initiative of extending the eligible production costs upon which bounty is payable to include a proportion of a producer's production costs associated with export production.
- Claims for bounty received since the commencement of the new regime (ie. 1 July 1987) have highlighted the inordinate complexity with the application of the formula which is currently employed in the section. The redraft will give effect to the desired policy of allowing for a greater amount of bounty to be paid on bountiable yarn which is sold or used domestically, by adding to the factory costs incurred in the production of a particular kind of such yarn sold or used on or after 1 July 1987 (paragraph (a)), 30% of the factory costs incurred by that producer in producing that same yarn for export sale or disposition (paragraph b).
- . The export sale must be in the same relevant accounting period as the domestic sale, and that accounting period must be a "qualifying accounting period", ie. one in which more of the producer's

bountiable yarn is sold or used domestically than is sold or otherwise disposed of for export.

Fertilisers Subsidy Act 1986

Amendments to subsection 9(3) of the Act

- . The Schedule makes four amendments to subsection 9(3) of the Act, to make clear that only a subsidised nitrogenous substance or subsidised phosphatic substance that is either used by the producer of the substance for the purposes of producing fertiliser mixture in Australia, or sold to a person who uses the substance in Australia to produce fertiliser mixture, is eligible to receive bounty.

Availability of Subsidy

- . This amendment adds a new section 14A to the Act to allow the Comptroller-General of Customs to defer the payment of bounty to a claimant until the next financial year when the amount of money available in the financial year the claim was made is insufficient to meet all valid claims for subsidy payable in that year.
- This provision is the standard corollary to an annual appropriation provision, which is now common to most bounty and subsidy schemes. It anticipates that sufficient funds for the scheme might not be appropriated by Parliament in a given year, and provides a mechanism for dealing with that eventuality.

Subsidy (Cultivation Machines and Equipment) Act 1986

Paragraph 17(4)(a)

- . This amendment is a technical drafting change, and corrects and incorrect subsection reference in this paragraph.

Subsection 23(8) and Paragraph 35(1)(k)

- . These amendments are similar to those proposed for the Bounty (Metal Working Machines and Robots) Act 1985, relating to the repeal of the orderly development discretion, for the same reasons as those applicable to that bounty scheme.

Subsidy (Grain Harvesters and Equipment) Act 1985

Subsection 23(9) and Paragraph 35(1)(k)

- . These amendments are similar to those proposed for the Bounty (Metal Working Machines and Robots Act 1985, relating to the repeal of the orderly development discretion, for the same reasons as those applicable to that bounty scheme.