

1986

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

BOUNTY (BOOKS) BILL 1986

EXPLANATORY MEMORANDUM

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

This memorandum takes account of amendments made by the Senate
to the Bill as introduced.

BOUNTY (BOOKS) BILL 1986

OUTLINE

This Bill proposes the introduction of new assistance arrangements for the book printing industry in Australia, for the period 1 January 1987 to 30 June 1989, to give effect to the Government's decision to continue bounty assistance to that industry.

The assistance arrangements for the new bounty period follow the Government's consideration of the Industries Assistance Commission's recommendations contained in Report No 377 of 20 December 1985 on book production.

The major proposed changes to the scheme operating under the existing Bounty (Books) Act 1969, which terminates on 31 December 1986, are:

- . the extension of bounty to Australian guides and directories (other than telephone, trade, business, professional and other accommodation directories and timetables);
- . the exclusion from eligibility for bounty of books published by the Australian Government Publishing Service; books published by State and Territory Government Printers; and books which, if imported, would be classifiable to tariff items on which Customs duty is payable;
- . the limitation of applications for bounty to one claim per production run, with a minimum claim of \$200 per title; and
- . the provision that imported typesetting in any pre-printed plate form will not disqualify an otherwise eligible publication.

The new assistance arrangements proposed by the Bill provide for a bounty to be payable to registered publishers or printers of certain books, at a rate of (Clause 11);

- (i) 20% of the publisher's production cost of the book (ie. the total cost of all production processes carried out in Australia in relation to the book), plus
- (ii) in cases where a publisher supplies paper free of charge to a manufacturer for use in the production of a book, 16.7% of the publisher's paper cost in relation to the book, with the proviso that either the publisher or the printer may claim bounty, but not both.

The Bill also includes a range of standard administrative provisions which are common to all recent Bounty and Subsidy Acts to govern the implementation of the new assistance regime. In particular:

- (Clauses 13 to 18) relate to the various administrative requirements for advances of bounty, the lodgement of bounty claims, and the obligations imposed on bounty claimants to verify and adjust claims in specified instances;
- (Clause 19) regarding the registration of persons, empowers the Comptroller-General of Customs to register persons under the Act where such persons were not engaged in the printing or publishing of bountiable books on 1 January 1987 unless the Minister has informed the Comptroller that such registration will not permit the orderly development of the Australian book manufacturing and publishing industry;
- (Clauses 22 to 30) relate to the various powers to investigate matters relevant to the Bill, and the penalties applicable for offences against the provisions of the Bill; and
- (Clauses 31 to 36) relate to various miscellaneous matters, including the power of delegation, review by the Administrative Appeals Tribunal, the appropriation of monies to finance the bounty and the standard regulation-making power.

Financial Impact Statement

Bounty payments to the book printing industry totalled \$18.8 million in 1985/86. Bounty payments for the 6 months to June 1987 are expected to be \$6.3 million and in 1987/88 \$12.7 million.

NOTES ON CLAUSES

PART I - PRELIMINARY

Short Title

Clause 1 is a formal machinery clause

Commencement

Clause 2 provides for this Act to come into operation on 1 January 1987. The Bounty (Books) Act 1969 expires on 31 December 1986.

General Administration of the Act

Clause 3 provides for the Comptroller-General of Customs (the Comptroller) to have the general administration of the Act. This has particular relevance to paragraph (b) of the definition of a "law of Customs or excise" in Section 3 of the Customs Administration Act 1985, and the delegation power conferred on the Comptroller in Section 14 of that Act.

Interpretation

Clause 4 sub-clause (1) defines a number of words and expressions for the purposes of the legislation, and in particular defines -

- "bountiable book" to mean a book that, if imported, would either be free of Customs duty, or fall within items 49.01, 49.03 or 49.05 in Schedule 3 to the Customs Tariff Act 1982, which includes

- . printed books;
- . brochures;
- . leaflets and similar printed matter;
- . Australian guides and certain directories;
- . children's picture books and painting books; and
- . maps and hydrographic and similar charts of all kinds.

This definition of "bountiable books", however, is subject to the list of books ineligible to receive bounty contained in Clause 5;

- "bounty period", to mean the period commencing on 1 January 1987 and ending on 30 June 1989;
- "children's picture book" to mean a book intended for children, in which pictures, either complete, or to be coloured in, or to be joined by dots, provide the principle interest;
- a "manufacturer" (which could include the printer of the book) to mean any person who carries out production processes in relation to a bountiable book;
- "publisher's manufacturing cost" to mean the total cost of all the production processes performed by the publisher of the book in Australia in relation to that book;
- "publisher's manufacturing price" to mean the total of all prices paid by the publisher to manufacturers for production processes carried out in Australia in relation to a book (see sub-clause (5) on what is to be excluded from the price paid or payable);
- "production process" to mean a step taken in the manufacturing of a book, including the typesetting, film preparation, colour separation, platemaking, printing, folding or binding of the book, the manufacture of packaging to be sold with the book and the packaging of the book for the purposes of transport, but does not include any step taken that relates to the advertising or promotion of the book;
- "publisher" to include a manufacturer of the book who also publishes the book;
- "publisher's paper cost" to mean the price of paper and binding materials paid or payable by the publisher and supplied to the manufacturer free of charge for use in the production of the book;
- "publisher's production cost" to mean the sum of the "publisher's manufacturing cost" (if any) plus the "publisher's manufacturing price" of the book (if any):
 - . it is on this sum that bounty is paid (see clause (11))

- "textbook" to mean a book that is intended to be used solely or principally in connection with education provided by a recognised educational institution but excludes books that are, or substantially are, a collection of, or copies of examination papers, used in past examinations;

sub-clause (2) specifies the methods by which a publication may be fastened together to be regarded as being in book form;

- in particular, paragraph (f) permits the Comptroller-General to approve other means of fastening books, except for the use of flexible adhesive affixed to one edge of the publication;

sub-clause (3) defines the term "casebound book";

sub-clause (4) provides that "costs" incurred in an accounting period are amounts that become payable during that period, irrespective of whether the amounts are actually paid in that period;

sub-clause (5) provides that the price paid or payable for the production of a book, or any production process in relation to a book, or for paper or binding materials is to be the gross price that a person is charged, less 16.7%, (ie the percentage of bounty, to ensure that bounty is not paid on any profit element in the price paid or payable for the production of a book) and the amount of rebate or discount allowable in respect of the price (except for rebates or discounts for cash payments or prompt payment);

sub-clause (6) provides that the production of a bountiable book is completed and the book produced when the book's binding is completed;

sub-clause (7) deems the Customs Tariff Act 1982 to be amended on the same day specified in a Customs Tariff alteration proposed in the Parliament to amend Schedule 3 of that Act;

sub-clause (8) sets out the circumstances under which two persons are deemed associates of each other for the purposes of the Act.

Ineligible Books

Clause 5 sub-clause (1) lists the 18 classes of books that are ineligible to receive bounty under this Act.

sub-clause (2) provides that where the Comptroller is of the opinion that a children's picture book or textbook which is 16 or more pages in length could have been published in a book of fewer than 16 pages without altering the character of the book, the Comptroller may, by determination in writing treat the book as having fewer than 16 pages. Such a book is then ineligible for bounty pursuant to paragraph (1)(k);

- where the Comptroller makes a determination under this provision, he or she is required to give each publisher and printer of the book a copy of the determination (sub-clause (9))

the determination of the Comptroller is reviewable by the Administrative Appeals Tribunal under its general power to review decisions of the Comptroller relating to a refusal to approve a claim for the payment of bounty (paragraph 33(1)(b));

sub-clause (3) provides that where the Comptroller is of the opinion that a book (not being a book discussed in sub-clause 2 above) is 49 pages or more in length and could have been published in a book of fewer than 49 pages without altering the character of the book, the Comptroller may, by determination in writing, treat the book as having fewer than 49 pages. Such a book is then ineligible for bounty pursuant to paragraph (1)(m);

- where the Comptroller makes a determination under this provision, he or she is required to give each publisher and printer of the book a copy of the determination (sub-clause (9))

the determination of the Comptroller is reviewable by the Administrative Appeals Tribunal under its general power to review decisions of the Comptroller relating to a refusal to approve a claim for the payment of bounty (paragraph 33(1)(b));

sub-clause (4) provides that for the purposes of paragraph (1)(p) (which requires a bountiable book to be produced in the same production run of 1000 or more copies) two books will not be regarded as having been in the same production run if, when the production of the first book has been completed, the second book has either not commenced production, or has not been completed, and the manufacturer does not intend to commence or complete the second book in any circumstance, or only in certain circumstances;

sub-clauses (5) and (6) elaborate upon the circumstances of exclusion in paragraph (1)(q) (which provides that books produced for, or by, one organisation or its associates, for the singular use of the organisation are not bountiable). In particular:

- sub-clause (6) provides that books are to be ineligible for bounty if they are produced by a manufacturer who is either directly or indirectly related to the organisation (disregarding the relationship created by agreeing to manufacture the books) and does not substantially carry out printing or binding for anyone other than the organisation;

sub-clause (7) defines when a book is a prohibited import for the purposes of paragraph (1)(s) (which renders ineligible for bounty any book which if imported into Australia would be a prohibited import);

sub-clause (8) provides an opportunity for the Comptroller, pursuant to the Regulations, to obtain a report from any organisation established by the Commonwealth to assist in determining whether bounty should or should not be paid for the production of a book owing to a possible application of paragraph (1)(s) (i.e. to assist in determining whether the book would be a prohibited import) if it were imported into Australia.

Effect of Amendments of Tariff Act

Clause 6 protects printers or publishers who have commenced the production of "bountiable" books from losing their eligibility for bounty through an amendment to the Customs Tariff Act, which results in the particular books ceasing to be classified within the tariff item nominated in the definition of "bountiable books", and thus becoming ineligible for bounty.

Determination of cost, etc

Clause 7 provides a facility for the Comptroller to determine certain costs or prices;

- where the Comptroller forms the opinion, having regard to sound accounting principles, that a cost which forms part of the publisher's manufacturing cost of the book or the publisher's paper costs in relation to the book:

- . is incorrect or over-estimated;
- . is more than would have been the case had bounty not been available;
- . has been fixed in order to obtain an increase in bounty;
- . is unduly high;
- . has been increased as a result of an undue relationship between a publisher and an associate; or
- . is at a cost higher than the cost that a manufacturer or publisher would have charged to an associate,

the Comptroller may, in writing, determine the relevant cost, and that cost shall apply for the purposes of ascertaining the amount of bounty payable pursuant to Clause 11 (sub-clause (1)); or

- where the Comptroller forms the opinion, having regard to sound accounting principles that a price which forms part of the publisher's manufacturing price of the book:

- . is incorrect or over-estimated;
- . is more than would have been the case, had bounty had not been available;
- . has been fixed to obtain an increase in bounty;
- . is unduly high;
- . has been increased as a result of an undue relationship between the publisher and the manufacturer;

- is at a cost higher than the cost that a manufacturer or publisher would have changed to an associate; or
- is higher than would have otherwise been the case because the manufacturer has included in his or her price costs for elements of the production process outside Australia;
- the Comptroller may, in writing, determine the publisher's manufacturing price and that price shall apply for the purposes of ascertaining the amount of bounty payable pursuant to Clause 11 (sub-clause (2));
- where the Comptroller makes such a determination under sub-clauses (1) or (2) he or she is obliged to give the publisher and printer of the book a copy of the determination (sub-clause (3)).

Accounting Period

Clause 8 provides that an accounting period of a printer or publisher shall be, where the person concerned uses a 12 month period other than a financial year, that period of time; or in all other cases, the financial year will be used as the accounting period for the purposes of this Act.

Uniformity

Clause 9 prohibits the exercise of any power under the Act in a manner which would result in bounty not being uniform throughout the Commonwealth.

PART II - BOUNTY

Specification of Bounty

Clause 10 provides for bounty to be payable on the production in Australia of bountiable books, to the publisher or any printer of the book, provided that:

- either the publisher or printer is a registered person; and
- where both the publisher and printer become eligible for bounty in respect of the same book, one must waive his or her entitlement to bounty in respect of the book by notice in writing delivered to the Comptroller (sub-clauses (2) and (3)).

sub-clause 4 provides that the production of a book must be completed during the bounty period. Under the provisions of this clause, bounty will be paid pursuant to this Act on books commenced under the old bounty scheme and completed during the new bounty scheme in place after 1 January 1987.

sub-clause 5 provides that a book is not precluded from eligibility for bounty when the production processes of typesetting and/or colour separation have been carried out outside Australia.

Rates of Bounty

Clause 11 specifies the rate of bounty payable to either a printer, or publisher for the production of a bountiable book to be 20% of the publisher's production cost of the book, as defined in clause 4 (sub-clause 1);

- sub-clause 2 provides that where the publisher supplies paper or binding materials free of charge to the manufacturer of the book for use in the production of the book, then the bounty payable in respect of the book is increased by 16.7% of the publisher's paper cost in relation to the book.

Availability of Bounty

Clause 12 confers, subject to the regulations, a discretion on the Comptroller to defer bounty payments, or make payments in such order as he or she considers appropriate, where he or she is of the opinion that the amount claimed for bounty in a financial year will exceed the amount appropriated for that financial year (sub-clause 1);

- sub-clause (2) provides that, if money is not appropriated by the Parliament in a financial year for the purpose of the payment of bounty, then a person is not entitled to be paid bounty in that year;

PART III - PAYMENT OF BOUNTY

Advances on account of bounty

Clause 13 authorises the payment of advances on account of bounty, on such terms and conditions as are approved by the Comptroller in writing (sub-clause 1):

- where the amount of bounty received by way of advances exceeds the amount of bounty that subsequently becomes payable on the books, or where bounty does not become payable in respect of the books, the amount of the excess, or the entire amount, as the case may be, is repayable to the Commonwealth (sub-clauses (2) to (4)).

Claims for payment of bounty

Clause 14 sets out the procedures to be followed in claiming bounty:

- a claimant is required to (sub-clause (4)):

- . lodge a claim on an approved form providing such information and estimates as are required by the form;

- . sign and witness the form as required by clause 18 and

- . lodge the form with a Collector for a State, or with the Comptroller, within 12 months after the the day on which the last condition for the payment of bounty in respect of those books became satisfied;

- . . . a claim may not be made for bounty that is less than \$200, or, if another amount is prescribed, that other amount (sub-clause (2));

- the Comptroller is then obliged to examine the claim and either (sub-clause (5)):

- . 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 \$50, 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 33(1)(a) and (b));

- the Comptroller is obliged to provide to the claimant a notice setting out the decision where there is a delay in the processing of the claim, or the claim is unsuccessful (sub-clause (6)).
- only one claim for bounty is permitted for each production run (sub-clause (3)).

Variation of inadequate claim

Clause 15 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 (sub-clause (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 sub-clause 14(4)) (sub-clause (2));
- again, similar to the procedures that apply to original claims for bounty, (see sub-clause 14(5)), the Comptroller is obliged to examine the further claim for bounty and either approve or refuse the further payment of bounty (sub-clause (4));
 - . the decisions of the Comptroller are reviewable by the Administrative Appeals Tribunal (paragraphs 33(1)(c) and (d));
- the Comptroller is obliged to furnish the claimant with a notice in writing setting out the decision where there is a delay in the processing of the claim or the claim is unsuccessful (sub-clause (5)).

Variation of excessive claim

Clause 16 imposes an obligation on a recipient of bounty to lodge an acknowledgement of error, within 28 days, where the recipient becomes aware that the original claim for bounty exceeds by more than \$100 the claimant's entitlement (sub-clause (1)):

- the penalty for contravening sub-clause (1) is \$1,000, for a natural person, or \$5000 for a body corporate;
- the procedure for the lodgement of an acknowledgement form is similar to that governing original claims (see sub-clause 14(4)) (sub-clause (2));
- upon examination of the acknowledgement, where the Comptroller is satisfied there has been an overpayment by more than \$100, he or she shall cause to be served on the claimant a demand for the repayment of the amount of the overpayment (sub-clause (4)):
 - . the decision of the Comptroller for the above purposes is reviewable by the Administrative Appeals Tribunal (paragraph 33(1)(e)).

Other adjustments of claims

- Clause 17 provides that the Comptroller shall serve a demand for the repayment of an overpayment of a claim for bounty in excess of \$100, where the Comptroller discovers such an overpayment in a situation other than through an acknowledgement under clause 16 (sub-clause (1)):
- the above decision of the Comptroller is reviewable by the Administrative Appeals Tribunal (paragraph 33(1)(f));
 - where the amount of an overpayment referred to in sub-clause (1) is not more 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 (sub-clause (2));

where the Comptroller elects not to proceed for a repayment, particulars of the relevant amount shall be included in the annual return for Parliament under clause 31 (sub-clause (3)).

Forms

Clause 18 prescribes the conditions for the signing and witnessing of the various forms which are required to be lodged pursuant to the Act. Authorised persons will be permitted to submit claims or lodge returns on behalf of the legal claimant (be that claimant a natural person or a body corporate), which should assist claimants, and expedite the processing of claims by the Australian Customs Service.

PART IV - ADMINISTRATION

Registration of Persons

Clause 19 sets out the requirements for the registration of persons under the Act. A pre-requisite for the payment of bounty under the Act is that the books have been produced by registered persons;

- applications for the registration of persons are to be made to the Comptroller in accordance with the appropriate approved form (sub-clause (2)):
 - . only printers and publishers who carry out, or propose to carry out the production of bountiable books are entitled to be registered as registered persons.
 - . the Comptroller may require an applicant for registration to furnish such further information as he or she considers necessary and may refuse registration until such further information is provided (sub-clause (10))
- on receipt of an application for registration, the Comptroller shall either (sub-clause (3)):
 - . register the person and cause a notice to that effect to be served on the applicant; or
 - . refuse to register the person and cause a notice to that effect to be served on the applicant;

where persons are registered, the registration shall date from the date the Notice of Registration is signed by the Comptroller or such earlier date as is specified in the Notice, not being a date earlier than the first day of the earliest period to which the scheme applies (sub-clause (4));

the decision of the Minister concerning the effective date of registration is reviewable by the Administrative Appeals Tribunal (paragraph 33(1)(ga));

- a Notice of Registration is to specify whether registration is in respect of all bountiable books or restricted to a specified class of bountiable books and may specify the period of registration (sub-clause (5));

- regulations may prescribe conditions to be met by applicants for registration (sub-clause (6)), or may prescribe conditions to be complied with in connection with the production of bountiable books (sub-clause (8)):

if the conditions prescribed are not or will not be complied with the Comptroller shall not register the person (sub-clause (7) and (9));

- where an applicant was not, on 1 January 1987 (the day of commencement of this Act) engaged in the printing or publication of bountiable books in Australia, the Comptroller shall not register that person if the Minister informs the Comptroller that the registration of that person will not permit the orderly development in Australia of the book-printing or publishing industry (sub-clause (11));

- the Comptroller may cancel the registration of a person for the purposes of the Act where he or she becomes satisfied that any one of the following applies (sub-clause (12)):

the person is no longer engaged in the printing or publishing of bountiable books in Australia;

where the person is registered in relation to a class of bountiable books,

.. bountiable books included in that class are no longer being printed or published on behalf of that person at premises in Australia; or

prescribed conditions have not been complied with;

- decisions made by the Comptroller refusing to register a person or cancelling the registration of a person are reviewable by the Administrative Appeals Tribunal (paragraphs 33(1)(g) and (h)).

Accounts

Clause 20 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 (sub-clause (2)); and
- retained for at least 3 years after the date of lodgement of a claim for bounty pursuant to clause 14 (sub-clause (1)).

Securities

Clause 21 confers upon the Comptroller the power to require a person to whom bounty could become payable to give security for compliance with the Act or 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 security is reviewable by the Administrative Appeals Tribunal (paragraph 33(1)(j)).

Appointment of authorised officers

Clause 22 empowers the Comptroller to appoint officers of the Australian Customs Service to be authorised officers, upon whom administrative functions may be conferred, for the purposes of the Act.

Stocktaking and inspection of production and accounts, etc

Clause 23 empowers an authorised officer to enter premises occupied by a registered person, other than residential premises, to inspect or take stock of any bountiable books, any process in the production of any bountiable books, and the accounts, books, documents or other records relating to the production or storage of bountiable books, and take copies of any such records (sub-clause (1)):

- if the occupier or person in charge of such premises fails to provide the authorised officer with all reasonable facilities and assistance, he or she is liable to a penalty of \$1000 or, in the case of a body corporate, \$5000 (sub-clause (2)).

Entry on premises

Clause 24 lists the circumstances which permit authorised officers to enter other premises for the purposes of the scheme;

- the authorised officer may enter those premises with the consent of the occupier (sub-clause (1));
- where an authorised officer has reasonable grounds for believing that premises are premises where bountiable books are stored, or are premises in which the manufacture of any bountiable books is taking or will take place, or are premises in which there are kept any accounts, books, documents or other records relating to the manufacture (including the cost of manufacture) or storage of bountiable books, the authorised officer may make an application to a Justice of the Peace for a warrant authorising the authorised officer to enter the premises and exercise the functions of an authorised officer; (sub-clause (2))

the functions of an authorised officer are

- .. to inspect, or take stock of, any bountiable books;
- .. to inspect any process in the manufacture of any bountiable books; and

.. to inspect accounts, books, documents and other records relating to the manufacture (including the cost of manufacture) or storage of bountiable books, and including the making of copies of, or taking and retaining extracts from, such records; (sub-clause (4)).

- if the Justice of the Peace is satisfied there are reasonable grounds for believing the premises to be premises referred to above, and the occupiers of the premises have not given consent for the authorised officer to enter premises to exercise the functions 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 functions of an authorised officer (sub-clause (3)).

Power to require persons to answer questions and produce documents

Clause 25 empowers a Collector or an authorised officer to require certain persons to attend before him or her to answer questions and produce documents in relation to the production of bountiable books, and provides for the withholding of bounty payments until those requirements are met. The Collector or an authorised officer must believe on reasonable grounds that the person is capable of giving information relevant to the operation of the Act (sub-clause 1):

- sub-clause (3) creates an offence for not disclosing that records prepared by one person and produced by another person in pursuance of a notice under sub-clause (1) are false or misleading, where the latter person knows them to be false or misleading:

penalty for breach - \$1000, or 6 months imprisonment or both (natural person) or \$5000 (body corporate);

- sub-clause (5) prevents the use in criminal proceedings against a person, except under sub-clause (3) or paragraph 27(3)(a) of the Act, of self-incriminating answers given and documents produced by that person.

Power to examine on oath, etc

Clause 26 provides for a Collector or an authorised officer to examine, on oath or affirmation, persons attending before him or her.

Offences

Clause 27 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 (sub-clause (1)):
 - . Penalty \$1000, or 6 months imprisonment or both (natural person) or \$5000 (body corporate);
- obtaining or attempting to obtain bounty that is not payable (sub-clause (2)):
 - . Penalty - fine not exceeding \$10,000 or imprisonment for five years, or both (natural person) or a fine not exceeding \$50,000 (body corporate);
 - . 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 (sub-clauses (9) and (10)):
 - .. where a Court of summary jurisdiction convicts a person of an offence under sub-clause (2) the penalties that the court may impose are \$2000 or imprisonment for 12 months, or both (natural person) or \$10,000 (body corporate) (sub-clause (11));
- knowingly or recklessly making statements, orally or in writing, that are false, or misleading in a material particular, or knowingly or recklessly presenting an account, book or document that is false or misleading in a material particular (sub-clause (3)):
 - . Penalty \$1000 or imprisonment for 6 months, or both (natural person) and \$5000 (body corporate);

- where, in proceedings for an offence against sub-clauses (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 (sub-clause (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 (sub-clause (5)).

Time for prosecutions

Clause 28 provides that proceedings for offences against this Act are to commence within 3 years after the commission of the offence.

Recovery of bounty on conviction

Clause 29 empowers a court to order a person convicted of an offence under sub-clauses 16(1) or 27(2) or (3) to refund to the Commonwealth the amount of bounty wrongfully obtained, in addition to imposing the penalty prescribed in those sub-clauses against that person (sub-clause (1)).

Sub-clauses (2) to (6) provide a procedure to ensure that amounts of bounty to be refunded under sub-clause (1) do not fail to be recovered due to jurisdiction difficulties.

Recovery of repayments

Clause 30 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 claims bounty by way of an advance which is not or does not become payable to him (clause 13) a person has overclaimed for bounty (clause 16) or the Comptroller discovers an overpayment of bounty (clause 17) (sub-clause (1));
- amounts owing to the Commonwealth by a person in any of the situations described in sub-clause (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 (sub-clause (2)).

PART V - MISCELLANEOUSReturn for Parliament

Clause 31 provides for the furnishing by the Comptroller to the Minister (sub-clause (1)), and the tabling in Parliament by the Minister (sub-clause (2)), of annual returns in relation to the amounts of bounty paid during the year pursuant to the Act.

Delegation

Clause 32 provides powers of delegation for the Minister. The Comptroller has a power of delegation for the purposes of this Act by virtue of the Customs Administration Act 1985 (section 14).

Application for review

Clause 33 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 34 requires persons whose interests are affected by administrative decisions of a kind referred to in clause 33 to be notified of the right to have those decisions reviewed by the Administrative Appeals Tribunal.

Appropriation

Clause 35 provides for payments of bounty and advances on account of bounty to be made out of money appropriated by the Parliament.

Regulations

Clause 36 provides the standard power to make regulations for the purposes of the Act.

