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PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

BOUNTY (BERRY FRUITS) BILL 1982

EXPLANATORY MEMORANDUM

(Circulated by the Authority of the Minister Assisting
the Minister for Industry and Commerce,
the Honourable Michael Hodgman, MP)

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PURPOSE OF THE BILL

The purpose of this Bill is to provide assistance by way of a bounty scheme on the production in Australia of certain berry fruits.

The scheme provides for payment of an amount of \$100 per tonne of bountiable fruit provided and used for processing over the five year period of the Act. Provision is made for the Minister, by notice published in the Gazette, to extend the scheme beyond 30 June 1987. The bounty, which will provide a level of assistance estimated to be equivalent to a tariff of about 10 per cent, is intended to assist the industry to achieve improved efficiency at a time of increasing import competition.

The Bill reflects acceptance by the Government of the recommendation by the Industries Assistance Commission (contained in its report entitled "Fruit and Fruit Products" No. 276 of 24 August 1981) that assistance to berry fruit production should be accorded by way of a bounty scheme.

Bounty will be payable to eligible producers of the fruit providing that at least one production process is carried out by processors of the fruit at registered premises in Australia during the bounty period.

In addition to the provisions peculiar to the bounty on eligible fruit, the Bill contains provisions standard to Bounty Acts providing control and inspection powers for the protection of the revenue and a right to apply to the Administrative Appeals Tribunal for review of certain administrative decisions under the Act.

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Clause 1 Short title.

Clause 2 Commencement date to be 1 July 1982.

Clause 3 Defines a number of words and expressions for the purposes of the legislation and in particular defines:

- "bountiable fruit" to mean fresh fruit of various specified kinds other than Chinese gooseberries. Provision is made for the Minister, by notice published in the Gazette, to declare other kinds of fruit to be fruit to which this Act is to apply. This provision has been included to allow for new species of cultivated berry fruit to be eligible for bounty if and when appropriate.
- "Bounty period" to mean the period commencing on 1 July 1982 and ending on 30 June 1987 or on such later date as is fixed by the Minister, by notice published in the Gazette before 30 June 1987, as the date after which bounty is not to become payable under the Act.
- "fresh fruit" to include fruit that has been chilled but does not include fruit that has been frozen;
- "processing", in relation to fruit, to mean processing that-
 - (a) consists of, or includes-
 - (i) freezing, cooking, pulping or juicing fruit; or
 - (ii) doing any other act or thing (as declared by the Minister in the Gazette) to fruit (other than destalking fruit) the doing of which so changes the nature of fruit that it cannot be re-constituted or used as fresh fruit; and
 - (b) involves the use of a significant amount of commercial equipment;
- "processor", in relation to bountiable fruit, to mean a person who in the course of carrying on the business in Australia of processing bountiable fruit, completes the carrying out of the first or only process to which the bountiable fruit is subject;

- "producer", in relation to fruit, to mean the person who owns the fruit immediately before it is picked or harvested and, for the purposes of this definition, a person who has rights in the nature of an equity of redemption in respect of fruit the subject of a mortgage or other security shall be deemed to be the owner of the fruit.

Sub-clause (2) provides that where a person is both the producer and the processor of bountiable fruit he shall be deemed, for the purposes of this Act to have provided the fruit to himself for processing.

Sub-clause (3) provides that a reference in a provision of this Act to an approved form is a reference to a form approved, by instrument in writing, by the Comptroller-General for the purposes of the provision.

Clause 4 Prohibits the exercise of any power under the Act in a manner which would result in bounty not being uniform through the Commonwealth.

Clause 5 Provides for bounty to be payable to the producer of bountiable fruit if the Comptroller-General is satisfied that-

- (a) the fruit was produced in the course of carrying on the business in Australia of cultivating bountiable fruit;
- (b) the fruit was harvested or picked during the bounty period; and
- (c) a processor completed the carrying out of the first or only process to which the fruit is subject at registered premises during the bounty period.

Clause 6 Specifies the amount of bounty payable to a producer of bountiable fruit to be \$100 per tonne of bountiable fruit according to the weight of the fruit at the time it was received by the processor of the bountiable fruit.

Clause 7 Provides that bounty is not payable on any bountiable fruit produced by the Commonwealth, a State or an authority of the Commonwealth or a State (including an educational or research institution established by the Commonwealth or a State). This is for the reason that the bounty is designed to assist non-government enterprises to compete more effectively against import competition.

Clause 8 Provides that bounty is not payable unless the bountiable fruit is of good and merchantable quality.

Clause 9 Requires a processor to furnish monthly returns in connexion with bountiable fruit processed by him in each month. These returns are necessary to establish a producer's entitlement to bounty.

Sub-clause (2) provides that a processor shall not refuse or fail to comply with sub-clause (1) to the extent that he is capable of complying with it, or in purported compliance with sub-clause (1), furnish information that is, or calculations that are, to his knowledge, false or misleading in a material particular. Sub-clause (2) also creates an offence for contravention of this sub-section.

Sub-clause (3) provides that where a processor has duly furnished information and calculations in accordance with sub-clause (1), the Comptroller-General shall, if he is satisfied that bounty is payable, approve the payment of the bounty and, if he is not so satisfied, refuse to approve payment.

Clause 10 Requires a processor of bountiable fruit to keep such accounts, books, documents and other records as correctly record and explain such particulars relating to the provision and processing of bountiable fruit.

Sub-clause (2) requires that a processor of the bountiable fruit shall retain his accounts, books, documents and other records kept in accordance with sub-clause (1) for at least 2 years after the processing of the bountiable fruit concerned.

Sub-clause (3) specifies that the records referred to sub-clause (1) shall be kept in writing in the English language or in a form that is readily accessible and convertible into that language.

Sub-clause (3) also creates an offence for contravention of this section.

Clause 11 Provides that a producer may authorize a specified processor of bountiable fruit to act as his agent for the purpose of receiving bounty on his behalf.

Clause 12 Provides that a producer of bountiable fruit, who claims to be entitled to be paid an amount of bounty in respect of bountiable fruit, may lodge a claim for payment of bounty if he has not received payment within 4 months after the date on which the fruit was alleged to have been picked or harvested.

Sub-clause (4) specifies that as soon as is practicable after receipt of such a claim, the Comptroller-General shall, if he is satisfied that the claimant is entitled to a payment of bounty in respect of that fruit under this Act, approve the payment of the bounty; or if he is not so satisfied, refuse to approve payment.

- Clause 13 Contains provisions which are generally standard to Bounty Acts for registration of premises subject to conditions or requirements to be observed or complied with before and after registration and further provides for the Minister to be able to cancel registration on any of the grounds in sub-clause (7). The registration provisions in this Bill relate to the registration of premises where a person carries out, or proposes to carry out, any processing of bountiable fruit. Premises of producers (growers) will not be registered unless they are also a processor.
- Clause 14 Provides that eligibility for bounty is conditional upon maintenance of certain records by the producer. Such records are to be retained for at least 2 years after the picking or harvesting of the fruit concerned.
- Clause 15 Confers upon the Minister a power to require a person to whom bounty could become payable to give security for compliance with the Act and regulations. Payment of bounty may be withheld until the required security is given.
- Clause 16 Empowers the Minister to appoint authorized officers, upon whom certain administrative functions are to be conferred.
- Clause 17 Empowers an authorized officer to enter premises, inspect, or take stock of, bountiable fruit (including fruit that has been processed), inspect any processing of bountiable fruit and inspect and take copies of accounts, books, documents and other records involving such fruit. Sub-clause (2) creates an offence for failure to provide reasonable facilities and assistance for the effective exercise of an authorized officer's powers.
- Clause 18 Empowers a Collector, or an authorized officer, to require certain persons to attend before him to answer questions and produce documents in relation to bountiable fruit and provides for withholding of bounty payments until the requirements of this clause are met. Limits the use to which self-incriminating answers given, or documents produced, may be put.

Clause 19 Provides the power for a Collector, or an authorized officer, to examine, on oath or affirmation, persons attending before him.

Clause 20 Creates offences for -

- (i) refusing or failing to attend, to be sworn or make an affirmation, to answer questions or produce records when so required under the Act; and
- (ii) obtaining, or attempting to obtain, bounty that is not payable; the making of false or misleading statements.

Sub-clause (4) and (5) relate to Court Orders in respect of the refunding of bounty wrongfully obtained.

Clause 21 Provides for the furnishing to the Minister, and tabling in Parliament by the Minister, of returns in relation to the bounty.

Clause 22 Delegation powers.

Clause 23 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.

Clause 24 Requires persons whose interests are affected by an administrative decision of a kind referred to in Clause 23, to be notified of the rights of review of those decisions by the Administrative Appeals Tribunal.

Clause 25 Standard appropriation provision.

Clause 26 Provides that the first return, required to be submitted by processors under section 9(1), shall be submitted in the month after the month in which the Act receives the Royal Assent. The first such return, however, is to be in respect of the period commencing on 1 July 1982 to that last day in that month.

Clause 27 Regulation making power.