

1986

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

BOUNTY (SHIP REPAIR) BILL 1986

EXPLANATORY MEMORANDUM

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

BOUNTY (SHIP REPAIR) BILL 1986

OUTLINE

This Bill proposes the introduction of new assistance arrangements for certain repair work carried out in Australia on international trading vessels, whether Australian or foreign owned. The Bill is part of a new ship repair assistance package announced by the Government on 10 October 1986, the major elements of which are a bounty payable to registered ship repairers for 3 years, and the clarification of the Government's ship safety inspection powers via amendments to the Navigation Act 1912.

The new assistance arrangements proposed by the Bill provide for a cash-limited bounty of \$6 million over the 3 year period 10 October 1986 - 9 October 1989 (Clause 12),

- . to be payable to registered repairers in respect of eligible repairs on international trading vessels which are carried out pursuant to repair or service contracts, (Clause 10) and for which an amount of bounty has been reserved (sub-clause 12(2))
- . at a rate equal to 30% of the cost of the repairs between \$100,000 and \$400,000, and 20% for that part of the cost of repairs which exceeds \$400,000.

The Bill empowers the Minister to suspend payments of bounty under the Act where the Minister becomes satisfied that the trade union ship detention campaign is recommenced (Clause 11).

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

- . (Clauses 14 to 18) relate to the various administrative requirements for the lodgement of bountiable repair claims and the obligations imposed on claimants to verify and adjust claims in specified instances;
- . (Clause 19), relating to the registration of repairers, empowers the Minister to register repairers subject to conditions, and to refuse registration to repairers who were not engaged in the repair business prior to 9 October 1986 unless such registration will permit the orderly development in Australia of the ship repair industry. It is proposed that regulations under that section will prescribe registration criteria requiring observance of codes of business and industrial relations practices by all repairers after 1 January 1987.
- . (Clauses 22 to 31) 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 32 to 37) relate to various miscellaneous matters, including the power of delegation, review by the Administrative Appeals Tribunal, the appropriation of monies to finance the subsidy and the standard regulation-making power.

Financial Impact Statement

The cost of the bounty assistance to the ship repair industry is limited by Clause 12 to \$6 million over the next 3 years. The relevant appropriation for the financial year 1986/87 is \$1.5 million.

NOTES ON CLAUSESPART I - PRELIMINARYShort title

Clause 1 is a formal machinery clause

Commencement

Clause 2 provides for the Act to be deemed to have come into operation on 10 October 1986, the day of the Government's announcement of the introduction of the bounty scheme.

General administration of 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 ship" to be a ship, either Australian or foreign registered, the deadweight of which exceeds 6,000 tonnes, excluding;

- a ship of the Royal Australian Navy;
- a ship solely engaged in the Australian coastal trade; or
- an off-shore industry vessel, or an off-shore industry mobile unit, within the meaning of the Navigation Act 1912 (primarily vessels used solely or principally in serving off-shore oil and gas fields);

"bounty period" to be the period commencing on 10 October 1986 and ending on 9 October 1989;

an "eligible repair" in relation to a bountiable ship, to be;

- the repair of the structure of the ship;
- a repair of the ship specified in the definition of "repair" (discussed below); or
- a repair of the ship included in a class of repairs declared by the regulations to be a class of eligible repairs;

"relevant repair", in relation to a bountiable ship, to be a repair of a bountiable ship in respect of which bounty is or could be payable and includes repairs which an authorised officer believes on reasonable grounds to be such a repair;

"repair" in relation to a ship, to include

- the repair, modification or conversion of an engine of the ship;
- the repair, modification or conversion of an electronic system, an electrical system, a communications system or an hydraulic system or any other system of the ship;
- the painting of the ship;
- the refurbishing or upgrading the accommodation on the ship; and
- the dry docking of the ship;

"repair contract" to be a contract between a repairer and the owner or agent of a ship, not being an associate of the repairer, under which the repairer contracts to carry out a repair or repairs of the ship;

"service contract" to be a contract between a repairer and the owner of a ship, not being an associate of the repairer, under which the repairer contracts to carry out, during a particular period, repairs of the owner's ship or ships;

sub-clause (2) provides that work carried out or services provided by a person on behalf of a repairer shall be taken to have been carried out, or provided, by the repairer;

sub-clause (3) sets out the circumstances under which two persons are to be deemed associates of each other for the purposes of the Act.

Repairs on certain voyages taken to be carried out in Australia

Clause 5 provides that an eligible repair of a bountiable ship shall be taken to have been carried out in Australia if the repair is carried out during a direct voyage of the ship between places in Australia (eg. Perth to Adelaide), or from and back to a place in Australia (eg. service trials conducted on a ship out of Sydney and prior to its return to Sydney)

. this provision takes into account the industry practice of conducting repairs on ships whilst the ships are engaged on commercial voyages, or service trials.

Service periods

Clause 6 provides that a repairer who has entered into a service contract with a ship owner may give the Comptroller notice that the repairer wishes a specified period of 12 months to be a service period for the purposes of the contract and of this Act.

. the rate of bounty on repairs under a service contract (sub-clause 13(2)) is dependent upon the contract price of those repairs during the specified 12 month service period (sub-clause 7(1)), or where no such price is specified, the cost of the repairs as determined by the Comptroller (Clause 8).

Cost of Repair

Clause 7 specifies the method for determining the cost of an eligible repair, for the purposes of ascertaining the amount of bounty payable pursuant to Clause 13;

. sub-clause (1) provides that the cost of an eligible repair shall be taken to be the price paid for the repair under the contract pursuant to which the repair was carried out;

sub-clause (2) provides that where a repairer receives a grant from a Commonwealth or State Government or an authority of the Commonwealth or State in respect of an eligible repair to a bountiable ship or ships, the repairer shall:

- where the grant is given in relation to eligible repairs to a single ship, deduct the amount of the grant from the cost of repair (described in sub-clause (1)); or
- where the grant is given in relation to eligible repairs to a number of bountiable ships, the repairer shall deduct from the cost of repair (described in sub-clause (1)) of each ship that proportion of the grant which reflects the proportion of the cost of repair of the individual ship.

Determination of cost

Clause 8 provides that where the Comptroller is unable to verify the cost of an eligible repair of a bountiable ship (for example, where the contract is silent as to a repair price, or where there is no written contract) 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 fixed in order to obtain an increase in bounty;
- . is unduly high;
- . has been increased as a result of a relationship between the repairer and an associate of the repairer; or
- . is at a cost higher than the cost that the repairer would have charged to an associate,

the Comptroller may, in writing, determine the eligible cost of the repair, and that cost shall be the cost for the purposes of ascertaining the amount of bounty payable pursuant to Clause 13.

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 - BOUNTYSpecification of Bounty

Clause 10 provides that bounty is payable to the repairer of a bountiable ship, on the carrying out of eligible repairs in Australia (or on certain voyages as described in clause 5) on the ships provided;

sub-clause (3)

- . the repairer is a registered repairer (clause 19);
- . all steps in the repair are conducted during the bounty period and whilst the repairer is registered;
- . the repair is carried out pursuant to a repair contract or service contract (whether written or oral);
- . where the repair or service contract is in writing, an amount of bounty has been reserved;
- . where a repair is carried out under a repair contract - the cost of the repairs is not less than \$100,000; and
- . where a repair is carried out under a service contract, the repairs carried out during the relevant 12 month service period is not less than \$100,000.

sub-clause (4) deems all eligible repairs commenced pursuant to repair contracts during the first 3 months of this bounty (ie. 10 October 1986 to 31 December 1986) to have been completed on 31 December 1986, ensuring these repairs are eligible for bounty prior to the introduction of the new registration criteria on 1 January 1987 (see also sub-clause 19(13)). Any repairs commenced in this period pursuant to a service contract are to be completed by 31 December 1986 to be eligible for bounty.

Bounty not payable if ship detained

Clause 11 empowers the Minister to effectively stop all bounty payable under the Act where the Minister becomes satisfied that a ship is being detained (through its voyage being prevented) as a result of trade union activity;

the power to suspend the operation of the Act, by means of a written declaration (sub-clause (1)) is designed to ensure that the ship-repair and maritime unions uphold their agreement to not recommence their ship repair detention campaign, which was a pre-condition to the implementation of this assistance package;

while a written declaration is in force, no bounty is payable to any repairer, irrespective of the fact that a particular repairer might have no involvement in the particular detention (sub-clause (4));

Limit of Bounty

Clause 12 sub-clause (1) provides for a cash-limited bounty of \$6 million for all eligible repairs over the 3 year life of the bounty;

sub-clause (2) provides the statutory framework for a contract-based reservation of bounty system in respect of all eligible repairs;

the reservation system, which is designed as a form of guarantee to repairers that an amount will be available for payment of bounty in respect of their particular eligible repair (subject to Parliament appropriating money for the bounty (sub-clause (9))), is restricted to repair or service contracts that are in writing.

amounts for the payment of bounty in respect of eligible repairs carried out pursuant to repair or service contracts which are not evidenced in writing, rank behind repairs carried out pursuant to written contracts (see sub-clause (8));

sub-clause (3) provides a power for the regulations to prescribe a maximum amount which may be reserved in respect of any one given contract;

this will ensure that the reservation fund is not exhausted by one or two particularly large contract amounts.

sub-clause (4) permits the reservation of amounts for the payment of bounty notwithstanding that at the time the application for reservation is dealt with funds are not available for the payment of bounty (ie. the Parliamentary appropriation for the year is exhausted) or the sum of the amounts reserved already exceeds the total limit applicable for this bounty (i.e. \$6 million);

sub-clause (5) introduces a roll-over mechanism for the payment of claims prior to the final financial year of the bounty (ie - before 1 July 1989)

where the Comptroller is of the opinion that the amount available for the payment of bounty before 1 July 1989 will be or is insufficient to meet all valid claims in that year, the Comptroller may defer (ie. roll-over into the next financial year) those payments which the Comptroller considers appropriate, and pay claims in such order as the Comptroller considers appropriate;

sub-clause (6) provides that if, after 1 July 1989, the Comptroller-General is of the opinion that the balance of funds remaining will be or is insufficient to meet all remaining valid claims, the Comptroller shall, subject to the Regulations, determine the order of payment of the remaining claims, but once the total bounty ceiling is reached, no further amounts of bounty are payable. There is no facility for the pro-rating of available funds;

sub-clause (7) provides that original claims for payment of bounty (clause 14) rank ahead of any variation claims under clause 15 in terms of the order for payment of such claims;

sub-clause (8) provides that bounty in respect of service or repair contracts that are not in writing will only be paid from the difference between the \$6 million available for bounty and the total of the amounts reserved for bounty pursuant to written contracts (see sub-clause (2) above;)

while oral repair or service contracts are not precluded by the Act, the practical result of sub-clause (2) and this sub-clause makes the payment of bounty on such contracts most unlikely;

sub-clause (9) provides that a person does not automatically accrue a right to be paid bounty if Parliament does not appropriate money for the purposes of the bounty, notwithstanding any other provision of this Act.

Rate of Bounty

Clause 13 provides for the rates of bounty for this bounty scheme in relation to either a repair contract or a service contract to be:

where the cost of the repair does not exceed \$400,000 - the amount equal to 30% of the cost of repair;

where the cost of the repair exceeds \$400,000 - the sum of \$120,000 and an amount equal to 20% of the difference between that cost and \$400,000.

PART III - PAYMENT OF BOUNTY

Claims for payment of bounty

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

a claimant is required to (sub-clause (2)):

- lodge a claim on an approved form providing such information as is, and such 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 3 months after the repair was completed;

the Comptroller is then obliged to examine the claim and either (sub-clause (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 \$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 34(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 (4)).

Variation of inadequate claims

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(2) (sub-clause (2)));

. again, similar to the procedures that apply to original claims for bounty, (see sub-clause 14(3)) 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 34(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 \$5,000 for a body corporate;

. the procedure for the lodgement of an acknowledgement form is similar to that governing original claims (see sub-clause 14(2)) (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 34(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 34(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 (sub-clause (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 for the year in which the Comptroller so acted (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 - ADMINISTRATIONRegistration of Persons

Clause 19 sets out the requirements for the registration of repairers under the Act. A pre-requisite for the payment of bounty to a repairer is that the repairer is a registered repairer in respect of bountiable ships;

applications for the registration of persons as repairers are to be made to the Minister in accordance with the appropriate approved form (sub-clause (2));

- the Minister 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 Minister shall either (sub-clause (3)):

- register the applicant and cause a notice to that effect to be served on the applicant; or
- refuse to register the applicant and cause a notice to that effect to be served on the applicant;

a decision of the Minister refusing to register premises is reviewable by the Administrative Appeals Tribunal (paragraph 34(1)(g));

where persons are registered, the registration shall date from the day the Notice of Registration is signed by the Minister or such earlier day as is specified in the Notice, not being a day earlier than 10 October 1986 (sub-clause (4));

- the decision of the Minister concerning the effective date of registration is reviewable by the Administrative Appeals Tribunal (paragraph 34(1)(h));

a Notice of Registration is to specify whether registration is in respect of all bountiable ships, or restricted to a specified class of bountiable ships, 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 eligible repair of bountialbe ships (sub-clause (8));

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

where an applicant was not, on 9 October 1986, engaged in the business of carrying out the eligible repair of bountiable ships in Australia, the Minister shall not register that person if the Minster is of the opinion that the registration of that person will not permit the orderly development in Australia of the industry of the eligible repair of bountiable ships (sub-clause (11));

the Minister may cancel the registration of a person who is registered as a ship repairer under this section where he or she becomes satisfied that any one of the following applies (sub-clause (12));

- the person no longer carries out the eligible repair of bountiable ships in Australia;
- where the person is registered in relation to a class of bountiable ships,
 - .. eligible repairs of ships included in that class are no longer being carried out in Australia, or
- prescribed conditions have not been complied with,
 - .. a decision of the Minister cancelling the registration of premises is reviewable by the Administrative Appeals Tribunal (paragraph 34(1)(j))

where a ship repairer is engaged in an eligible repair of a bountiable ship in Australia during 10 October 1986, to 31 December 1986, that repairer shall be taken to be registered under this section during the period, and is thus eligible to make a claim for bounty (sub-clause (13));

this deeming provision is designed to allow sufficient time for the promulgation of registration regulations, which are intended to prescribe various industrial relations codes of conduct the observance of which will be a condition to registration as a registered repairer.

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, 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 34(1)(k)).

Appointment of authorised officers

Clause 22 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.

Inspection of production and accounts, etc

Clause 23 empowers an authorised officer to enter premises occupied by a registered repairer, other than residential premises, to inspect any bountiable

ship on which repairs have been or are going or intended to be carried out, or any step in the repair of a bountiable ship, or the accounts, books, documents or other records relating to the eligible repair of bountiable ships, and take copies and retain extracts of any such records (sub-clause (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 \$1,000 or, in the case of a body corporate, \$5,000 (sub-clause (2)).

Entry on premises

Clause 24 list the circumstances which permit authorised officers to enter premises:

- . where an authorised officer has reasonable grounds for believing that premises are premises where relevant repairs on bountiable ships are being carried out, have 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 relevant repair (including the cost of repair) of bountiable ships, 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 (described below) (sub-clause (2));

- the functions of an authorised officer are:

- .. to inspect any bountiable ship on which relevant repairs are being, have been, or will be carried out;
- .. to inspect any step in the relevant repairs; and
- .. to inspect accounts, books, documents and other records relating to the relevant repair of bountiable ships, 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 the 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)).

Boarding ships

Clause 25 empowers an authorised officer to board a ship which the officer has reasonable grounds for believing is a bountiable ship on which relevant repairs are being, have been, or will be carried out;

the authorised officer may inspect the ship, any step in the relevant repairs of the ship, and the accounts, books, documents and other records relating to the relevant repair of the ship and may make and retain copies of, or take and retain extracts from any such accounts, books or documents and other records (sub-clause (1));

the owner or master of a ship that may be boarded shall provide the authorised officer with all reasonable facilities and assistance for the effective exercise of the powers of the officer under this clause;

- penalty for breach \$1,000 (natural person) or \$5,000 (body corporate).

this power of officers is unique to this bounty, and has been added to the standard powers of officers provisions because this bounty could relate to ships at sea, or in harbour. Thus, in addition to giving officers access to premises, it is deemed appropriate to give officers specific power to board ships.

Power to require persons to answer questions and produce documents

Clause 26 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 relevant repairs of a bountiable

ship, and provide for the withholding of bounty payments until the requirements of this clause are met. The Collector or an authorised officer must believe on reasonable grounds that the particular person is capable of giving information relevant to the repair of a bountiable ship (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 - \$1,000, or 6 months imprisonment or both (natural person) or \$5,000 (body corporate)

sub-clause (5) prevents the use in criminal proceedings against a person, except under sub-clause (3) or paragraph 28(3)(a) of the Act, of self-incriminating answers given and documents produced by that person.

Power to examine on oath, etc

Clause 27 provides for a Collector or an authorised officer to examine, on oath or affirmation, persons attending before him or her.

Offences

Clause 28 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-\$1,000 or 6 months imprisonment or both (natural person) and \$5,000 (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-section (2) the penalties that the court may impose are \$2,000 or imprisonment for 12 months, or both (natural person) or \$10,000 (body corporate) (sub-clause (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 (sub-clause (3));

- penalty, \$1,000 or imprisonment for 6 months, or both (natural person), or \$5,000 (body corporate).

where, in proceedings for an offence against sub-sections (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 29 provides for proceedings for offences against this Act to commence within 3 years after the commission of the offence.

Recovery of bounty on conviction

Clause 30 empowers a court to order a person convicted of an offence under sub-clause 16(1) or 28(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 (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 31 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 16), or the Comptroller-General discovers an overpayment of bounty (clause 17) (sub-clause (13));
- . amounts owing to the Commonwealth by a person in 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 32 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 payment of bounty during that year.

Delegation

Clause 33 provides powers of delegation for the Minister. The Comptroller has a power delegation for the purposes of this Act contained in section 14 of the Customs Administration Act 1985.

Application for review

Clause 34 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 decision

Clause 35 requires persons whose interests are affected by an administrative decision of a kind referred to in clause 34 to be notified of the rights of review of those decisions by the Administrative Appeals Tribunal.

Appropriation

Clause 36 provides for payments of bounty to be paid out of money appropriated by Parliament for the purpose.

Regulations

Clause 37 is the standard power to make regulations.

