

1985

SENATE

BOUNTY (METAL WORKING MACHINES AND ROBOTS) BILL 1985

EXPLANATORY MEMORANDUM

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

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OUTLINE

This Bill replaces the Bounty (Metal-working Machine Tools) Act 1978 and proposes the introduction of new bounty assistance arrangements for the metal working machine tools industry from 1 July 1985 until 30 June 1991, as a consequence of the Government's decision announced on 30 May 1985 to accept the Industries Assistance Commission's major recommendations on long-term assistance measures to the Australian metal working machine tools and robotics industries.

In addition, the Bill gives effect to the Government's decision to extend bounty assistance to:

- . the manufacture of advanced technology machinery, such as computer controlled flame or laser cutting machines and their parts, flexible manufacturing cells and systems, and programmable control panels used solely or principally with these goods,
- . exports of advanced technology machinery, and
- . machine modification and retrofitting (the conversion of power operated standard or numeric controlled metal working machine tools to power fed computer controlled machine tools) activities,

and to introduce different rates of bounty assistance for producers of high and low technology machines.

The new assistance arrangements proposed by this Bill provide for -

- (i) bounty to be paid on the production of advanced technology power operated metal working machine tools, robots, laser and flame cutting machines and their parts, flexible manufacturing cells and systems, and programmable control panels at the following rates (Clause 17):
 - (a) for the period 1 July 1985 to 30 June 1986 - 40% of the value added by the manufacturer,
 - (b) for the period on or after 1 July 1986 - 35% of the value added by the manufacturer,
- (ii) bounty to be paid on the production of low technology metal working machine tools (ie machine tools with standard controls), parts and accessories for such machine tools, machine modification and retrofitting activities, where such bountiable tools are used, sold or disposed of for use in Australia or sold to the Commonwealth, at the following rates (Clause 17):
 - (a) for the period 1 July 1985 to 30 June 1986 - 30% of the value added by the manufacturer,

- (b) for the period on or after 1 July 1986 - 25% of the value added by the manufacturer,
- (iii) bounty to be payable only if the value added by the manufacturer is not less than 20% of the total factory cost incurred by the manufacturer to make, modify or retrofit the goods, and, in the case of machine modification and retrofitting, the factory cost incurred per machine is not less than \$20,000 (Clause 16).

The Bill also empowers;

- (i) the Comptroller-General of Customs to register premises under the Act where such premises were not engaged in the production of bountiable equipment on 30 May 1985 (the day of the Government's announcement of the new bounty arrangements) unless the Minister has informed the Comptroller-General that such registration will not permit the orderly development of the Australian industry (Clause 28),
- (ii) the Minister to vary by Gazette notice, the assistance arrangements under the Bounty scheme, including the product coverage of the Bounty and the rates of assistance, without reference to the Industries Assistance Commission (Clauses 6, 7, 8 and 9).

Financial Impact Statement

The Government proposes to limit expenditure under the Bounty Scheme to \$16 million in the first year of operation from 1 July 1985 to 30 June 1986 and \$14 million in each of years 2 and 3. A proportion of the \$16 million allocation in year 1 will be expended to meet payments outstanding from the previous Bounty Scheme.

NOTES ON CLAUSES

PART I - PRELIMINARY

Short Title

Clause 1 Is a formal machinery clause.

Commencement

Clause 2 Provides for the Act to be deemed to come into operation on 1 July 1985, the day following the expiry of the Bounty (Metal Working Machine Tools) Act 1978.

General Administration of the Act

Clause 3 Provides for the Comptroller-General of Customs to have the general administration of the Act.

Interpretation

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

- the range of equipment that is to be "bountiable equipment", eligible for assistance for the purposes of the Act. The term includes:

"Bountiable equipment AA", which is defined to mean,

- . computer controlled machines, robots, computer controllers, flexible manufacturing systems, numerically controlled metal working machines, and certain related parts and accessories (for bountiable goods AA and AB). These goods are subject to high technology rates of bounty on completion of manufacture, whether or not subsequently used in Australia or exported (sub-clause 17(1) and 17(5), which prescribes the rates of assistance as 40% or 35% of value added)

- . paragraphs (h) and (j) of the definition provide, subject to disallowance, for the Minister to Gazette new equipment that may emerge as a result of changes in technology (sub-clauses 6(1), 6(2) and 6(12)),

"bountiable equipment AB", which is defined to mean,

a standard metal working machine tool (defined as an "independent machine") and original equipment parts. These goods are subject to the low technology rates of bounty on the manufacture and sale or disposal for use in the Australia or for sale to the Commonwealth (sub-clauses 16(5), 16(6) and 17(3) and 17(5), which prescribes the rates of assistance as 30% or 25% of value added,

"bountiable equipment B", which is defined to include,

various types of machines that have been used in Australia in the commercial production of goods. These goods are subject to the low-technology rates of bounty when either modified to increase the machines capacity and capability, or adapted as part of a flexible manufacturing system and used in Australia or sold to the Commonwealth (sub-clauses 16(8) and 17(4)),

- "bounty period" as the period commencing on 1 July 1985 and ending on the terminating day,
- "flexible manufacturing system" which, in conjunction with the definitions of "system equipment" and "system machine", limits such systems to re-programmable computer controlled systems predominately for the working and assembly of metal goods,
- "manufacturer", which in relation to bountiable equipment (bountiable equipment AA and AB) means
 - (a) a person who at premises registered in his or her name under the Act carries out a substantial process or substantial processes in the manufacture of the equipment. Persons in Australia who only produce software, carry out design, research or development, develop or test prototypes or carry on systems engineering are not regarded as manufacturers. However, the cost of these activities are allowable as overhead costs by manufacturers of the equipment if carried out on their behalf,

or

- (b) a person who arranges with another manufacturer of the equipment for the carrying out at registered premises of a substantial process or substantial processes in the manufacture of the equipment.
- "modifier" which in relation to bountiable equipment (bountiable equipment B), is defined in similar form to manufacturer,
 - "retrofit manufacture" to mean the version (upgrading) of a standard metal working machine tool (independent machine) or a numerically controlled machine tool to a computer controlled machine. Such activities are subject to the low technology rates of bounty assistance (sub-clause 17(2)),
 - "robotic machine", which specifies the minimum characteristics of a hi-technology robot. Paragraph (h) provides for the Minister, subject to disallowance, to Gazette new equipment that may emerge as a result of changes in technology (sub-clauses 6(4) and 6(12),
 - "terminating date" to mean 30 June 1991 or such later day, not being a day later than 30 June 1992, as is fixed by the Minister by notice published in the Gazette before 30 June 1991.

This is a mechanism to enable the Minister to extend, for up to 12 months, the bounty assistance under the Act, to accommodate potential unforeseen delays which might arise in the process of Industries Assistance Commission reporting and Government consideration of the appropriate assistance arrangements, if any, to apply following termination of the Act.

- "variable definition" and "variable provision", which are consequential to Clauses 6 and 7, relating to the Minister's power to vary assistance arrangements under the scheme.

Sub-clause (2) "defines" production to mean a reference to the manufacture of bountiable equipment AA or AB, or the modification of bountiable equipment B.

Sub-clauses (3) and (4) are consequential on Clauses 6 and 7, relating to the Minister's power to vary assistance arrangements.

Sub-clause (5) deems the Act to be amended on the same day on which a Customs Tariff alteration proposal in the Parliament to amend Schedule 3 is deemed to take effect.

Sub-clause (6) expands the definition of "flexible manufacturing system" for the purposes of the Act.

Sub-clauses (7) and (8) clarifies the completion date of the manufacture of equipment or the modification of equipment in certain special situations.

Sub-clause (9) excludes from bountiable modification activities, in respect of "bountiable equipment B", the reconditioning or repair of used parts or materials, and the supply of tooling.

Sub-clause (10) sets out the circumstances under which two persons are to be deemed associates of each other for the purposes of the Act.

Amendments to Tariff Act

Clause 5 Protects manufacturers who have commenced manufacturing or modifying "bountiable" equipment from losing their eligibility for bounty through an amendment to the Tariff Act, which results in the particular goods ceasing to be classified within the tariff item nominated in the definition for "bountiable equipment", and thus falling outside the Act;

- where the manufacture or modification of such equipment is commenced before the day of the Tariff Act amendment, and completed after that day, the equipment will be deemed to have been completed before the relevant day, and thus eligible for bounty, as long as the manufacture or modification was commenced in pursuance of a firm order placed before the amendment day (sub-clauses (1), (2), (4) and (5)).
- for the purposes of the section, the manufacture or modification of goods will only be taken to have commenced where a process in the manufacture or modification of the goods has been commenced at registered premises (Sub-clauses (3) and (6)).

Declarations relating to definitions

Clause 6 Sub-clauses (1) to (6) empower the Minister to vary the products covered by the bounty scheme by declaring additional classes of machines, or parts or components for such machines, or retrofitting activities on such machines, as eligible for bounty assistance. The declarations shall be by notice in the Gazette, and shall be subject to tabling and disallowance in Parliament (Sub-clause (12)). The provisions are similar in form to Section 5 of the

Bounty Computers Act 1984, and are designed to allow the bounty scheme to cater for rapid technological changes in the metal working machine tools and robotics industries.

Sub-clause 7 empowers the Minister to redefine the definitions (referred to as "variable definitions") for classes of equipment, classes of goods, processes or persons, effectively altering the coverage of the Act to such items or persons. Again, such a change is subject to notification in the Gazette, and to tabling and disallowance by Parliament and is designed to cater for rapid change in the industry.

Sub-clauses (9), (10) and (11) protect the rights and entitlements of existing bounty claimants following such Ministerial changes by deeming the manufacture or modification of goods commenced prior to the date of such changes to have been completed prior to that date, thus preserving the application of the Act to those goods if those goods are no longer eligible for bounty as a consequence of the Ministerial change.

Declarations relating to specification, value or costs

Clause 7 empowers the Minister to reconstitute various provisions in the Act (referred to as "variable provisions"), relating to the value-added and factory cost formulas and the eligibility criteria for the payment of bounty.

Similar to Clause 6, such changes shall be by notice in the Gazette, and shall be subject to tabling and disallowance in Parliament (Sub-clause 7). This variation ability is again designed to keep the assistance package up to date with the rapidity of technological change in this area.

Sub-clauses (5) and (6) preserve the application of the Act to particular bountiable equipment in the course of manufacture or modification on the day of the Ministerial variation.

Declarations of percentages

Clause 8 Sub-clauses (1) to (4) empower the Minister to vary the rates of assistance applicable to the production of the various high and low technology machines described in the interpretation clause (clause 4) similar in form to Sub-section 9(7) of the Bounty (Steel Mill Products) Act 1983. Such variations shall be by notice published in the Gazette, and shall be subject to tabling and disallowance in Parliament (Sub-clause 8). The variations are necessary to cater for immediate changes in the economic circumstances affecting the industry.

Sub-clause (7) preserves the rates of bounty applicable prior to the commencement date of the variation, for those bountiable goods in the course of manufacture or modification on that date.

Industries Assistance Commission Act

Clause 9 Is a provision to place beyond doubt that the Minister can take action under the Act to vary the assistance arrangements under this Bounty scheme without first having received a report from the Industries Assistance Commission. Due to the rapidity of technological change in these industries, the facility to review and vary assistance arrangements without the need for an IAC inquiry on each occasion is considered essential for the viability of the scheme.

Value added - manufacture

Clause 10 Sub-clause (1) deems the value added to "bountiable equipment" AA or AB by a manufacturer of the equipment, for the purposes of calculating the amount of bounty payable on that equipment, to be the amount ascertained in accordance with the formula $A - (B + C + D + E)$ where:

- A is the factory cost incurred by the manufacturer, either in connection with the manufacture of bountiable equipment or in the course of arranging for another to manufacture bountiable equipment
- B, C, D, and E are the various costs included in that factory cost, which are deemed not to be part of the in-house value added by the manufacturer to the equipment in Australia; specifically excluded is
 - . the cost of parts and materials supplied to the manufacturer for use in the manufacture of the equipment
 - . the cost of any manufacturing process carried out by the manufacturer at non-registered premises and the cost of any production services carried out by the manufacturer or by a person, on behalf of the manufacturer, outside Australia, sub-clause 4(1) definition of "production service" and
 - . the interest on money provided for the purpose of financing research or development outside Australia.

Sub-clauses (2) and (3) further exclude from the value added and factory cost determinations any value added to or factory cost incurred on goods in respect of which bounty under this Act or another Act has or will become payable. This is designed to prevent any "double dipping" in respect of payments of bounty.

Value added - modification

Clause 11 Deems the value added to "bountiable equipment" B by a modifier of the equipment, to be the amount ascertained in accordance with the formula $F - (G + H + I + J)$, where the components of the formula are in exactly the same form as the value added formula in Clause 10.

Factory Cost

Clause 12 Identifies the various costs that are to be included or excluded from the factory cost incurred by a producer in the manufacture or modification of "bountiable equipment", for the purposes of component A or F in the respective value added formulas in Clauses 10 and 11;

- factory cost can include;

- . overhead charges, salaries, wages and other remunerations, the costs of parts and materials delivered into the producers' store and the cost of any process carried out or production service provided by the producer or another person (sub-clause 1),
- . expenditure on research and development, or design, system engineering, software or testing costs, where such costs are incurred by the manufacturer or modifier in respect of bountiable equipment of a kind that is, or is likely to be, manufactured or modified in Australia by that person (sub-clauses (2) and (3)),

- factory cost is to specifically exclude;

- . the amounts of any Government grants received by the manufacturer or modifier in respect of the manufacture, modification, research or development of "bountiable equipment" (sub-clauses (4) and (5)),

twenty-four other classes of costs, charges or receipts in connection with the manufacture or modification of bountiable equipment (sub-clause (6)).

Determination of factory cost, etc

Clause 13 Provides that where the Comptroller-General cannot verify the value added or factory costs in respect of "bountiable equipment", or where he or she forms the opinion that those costs are incorrect, over-estimated or under-estimated, he or she may determine the relevant cost (sub-clauses (1) and (2)). Such determinations are reviewable by the Administrative Appeals Tribunal (clause 40).

Accounting period

Clause 14 Provides that the accounting period of a manufacturer of bountiable equipment, for the purposes of the Act, is to be the 12 month accounting period of the manufacturer. If the manufacturer has no such accounting period, the accounting period for the purposes of the Act is to be the financial year.

Uniformity

Clause 15 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 16 Provides the eligibility criteria for the payment of bounty to the manufacturers (including retrofitters) or modifiers of "bountiable equipment":

- Sub-clauses (1), (2) and (3) provide that bounty is payable to manufacturers or modifiers on the production in Australia of bountiable equipment

for manufacturers, bounty is payable, if,

- (a) all processes in the manufacture of the equipment carried out in Australia by the manufacturer are carried out at registered premises;
- (b) the last substantial process in the manufacture of the equipment was carried out at registered premises;

- (c) the manufacture of the equipment was completed during the bounty period; and
- (d) the amount of value added to the equipment by the manufacturer is not less than 20% of the total factory cost incurred by the manufacturer in respect of the bountiable equipment; (sub-clause 4)

- Sub-Clauses (5) and (6) provide that bounty is not payable on low-technology metal working machine tools (ie. machine tools with standard controls, described as independent machines), or retrofitting activities, unless the equipment is used, sold or disposed of for use in Australia or sold to the Commonwealth.

Sub-clause (7) provides that bounty is not payable in respect of retrofitting activities on bountiable equipment unless the factory cost incurred by the manufacturer on the machine involved is not less than \$20,000 per machine.

Sub-clause (8) provides that bounty is not payable in respect of the modification of bountiable equipment unless the criteria similar to sub-clause (4) are met, and in addition, the factory cost incurred by the modifier of the machine involved is not less than \$20,000 per machine.

Sub-clauses (9) precludes the payment of bounty to Government or to claimants in respect of equipment on which bounty has been paid or will become payable under the previous Act or the Bounty Computers Act 1984.

Sub-clause (10) precludes the payment of bounty on any hand-held equipment.

Sub-clauses (12) and (13) are transitional type provisions.

Amount of Bounty

Clause 17 Provides for the amount of bounty payable to be:

- sub-clause (1) - in respect of the production of advanced technology power operated metal working machine tools, robots, laser and flame cutting machines and their parts, flexible manufacturing cells and systems, and programmable control panels, at the following rates:

- (a) for the period 1 July 1985 to 30 June 1986 - 40% of the value added by the manufacturer,
 - (b) for the period on or after 1 July 1986 - 35% of the value added by the manufacturer.
- sub-clause (2) - in respect of retrofitting activities, at the following rates;
- (a) for the period 1 July 1985 to 30 June 1986 - 30% of the value added by the manufacturer
 - (b) for the period on or after 1 July 1986 - 25% of the value added by the manufacturer
- sub-clauses (3) and (4), in respect of the production of low technology metal working machine tools (ie machine tools with standard controls), parts and accessories for such machine tools, and machine modification activities, at the following rates;
- (a) for the period 1 July 1985 to 30 June 1986 - 30% of the value added by the manufacturer
 - (b) for the period on or after 1 July 1986 - 25% of the value added by the manufacturer.

Availability of bounty

Clause 18 Provides the method of payment of bounty where the Comptroller-General is of the opinion that the amount available for payment of bounty in a given year will be insufficient to meet all valid claims in that year. Sub-clause (2) provides that if funds have not been appropriated by the Parliament for the purposes of the bounty in a financial year then bounty is not payable to a person in that year.

Good quality of bountiable equipment

Clause 19 Provides that equipment is to be of good and merchantable quality to be eligible for the payment of bounty:

- where the Comptroller-General declares in writing that, in his or her opinion, the equipment is not of such quality, bounty is not payable in respect of that equipment. That declaration is reviewable by the Administrative Appeals Tribunal (sub-clause 40(1)(a)).

PART III - PAYMENT OF BOUNTY

Advances on account of bounty

Clause 20 Authorises the payment of advances on account of bounty, on such terms and conditions as are approved by the Comptroller-General 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 bountiable equipment, or where bounty does not become payable in respect of the equipment, 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 21 Sets out the procedures to be followed in claiming bounty:

- a claimant is required to (sub-clause (2)):
 - (a) lodge a claim for bounty on an approved form, providing such information as is and such estimates as are, required by the form,
 - (b) sign and witness the form as required, and
 - (c) lodge the form with a Collector for a State or Territory or the Comptroller-General within 12 months after the sale, disposal or use of the bountiable equipment, as per sub-clauses 16(5), (6), or (8);
- the Comptroller-General is then obliged to examine the claim and either (sub-clause (3)):
 - (a) approve the payment of bounty in respect of the equipment to which the claim relates, or,
 - (b) refuse to approve such payment;
 - (c) The above decisions of the Comptroller-General are reviewable by the Administrative Appeals Tribunal (clause 40(1)b and (c));

- the Comptroller-General is obliged to furnish the claimant with a notice in writing setting out the decision where there is a delay in processing the claim or the claim is unsuccessful (sub-clause (4)).

Variation of inadequate claims

Clause 22 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 21(2) (sub-clause (2)));
- again, similar to the procedures that apply to original claims for bounty, (see sub-clause 21(3)), the Comptroller-General is obliged to examine the further claim for bounty and either approve or refuse the further payment of bounty (sub-clause (3)):

. The above decisions of the Comptroller-General are reviewable by the Administrative Appeals Tribunal (clause 40(1)(d) and (e)),

- the Comptroller-General 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 claims

Clause 23 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,
- the procedure for the lodgement of an acknowledgement form is similar to that governing original claims (see sub-clause 21(2)) (sub-clause (2)).

- upon examination of the acknowledgement, where the Comptroller-General is satisfied there has been an overpayment by more than \$100, he 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-General for the above purposes is reviewable by the Administrative Appeals Tribunal (clause 40(1)(f)).

Producers to furnish returns of costs

Clause 24 Imposes an obligation on producers of bountiable equipment to furnish returns, within six months of their accounting periods, setting out particulars of the factory costs incurred by them in relation to bountiable equipment manufactured or modified in that period (sub-clause (1)):

- the procedure for the lodgement of a return of costs is similar to that governing original claims (see sub-clause 21(2)) (sub-clause (2)):

- the Comptroller-General may require a producer who furnishes a return to provide a certificate, signed by a qualified accountant approved by the Comptroller-General, to the effect that the particulars set out in the return are correct (sub-clause (3)):

- . when considering whether a producer of bountiable equipment should be requested to furnish a certificate, the Comptroller-General shall have regard to (sub-clause (4)):

- (a) the extent of the claims for bounty made by the manufacturer during the relevant period,
 - (b) the expense of obtaining such a certificate, and
 - (c) the relation that expense bears to the claims;

- . the Comptroller-General shall not refuse to approve a qualified accountant, unless it is considered inappropriate to do so because of an association between the accountant and the producer (sub-clause (5)):

where a producer:

refuses or fails to furnish a return of costs in accordance with the appropriate approved form, he or she shall be liable to a penalty of \$1,000 (sub-clause (6));

furnishes information or estimates which, to the knowledge of the producer, are false or misleading in a material particular, he or she shall be liable to a penalty of \$1,000, or six months imprisonment, or both (sub-clause (7)).

Adjustment of claims following returns

Clause 25 Provides a procedure for the adjustment of claims for bounty resulting from any differences in factory costs which appear in a producer's claim for bounty (clause 21), and that producer's subsequent return of costs (clause 24):

- in the event of such a difference, the producer is required to lodge with his return of costs a statement in respect of the difference. Failure to do so renders the claimant liable to a penalty of \$1,000 (sub-clause (1));
- the procedure for the lodgement of an adjusting statement is similar to that governing original claims (see sub-clause 21(2)) (sub-clause (2));
- after examining the statement the Comptroller-General may either (sub-clause (3)):
 - (a) approve the payment of any additional amount owing to the producer as a result of balancing the claim and return; or
 - (b) serve on the producer a demand for the repayment of the overpayment was in excess of \$100; or
 - (c) decline to adjust the payments of bounty made in respect of claims lodged by the producer;
 - (d) decisions of the Comptroller-General for the above purposes are reviewable by the Administrative Appeals Tribunal (clause 40(1)(g),(h), and (j));

- the Comptroller-General is required to give notice in writing to the producer setting out the decision under sub-clause (3) (sub-clause (4)).

Other adjustments of claims

Clause 26 Provides that the Comptroller-General shall serve a demand for repayment of an overpayment of the total amount of a claim for bounty in excess of \$100, where the Comptroller-General discovers such an overpayment in a situation other than through an acknowledgement under clause 23 or a statement under clause 25:

- the decision of the Comptroller-General is reviewable by the Administrative Appeals Tribunal (clause 40(1)(k)).

Recovery of repayments

Clause 27 Allows the Commonwealth to recover amounts owing to it (by an action in a court for a debt due) in situations where:

- a person claims bounty by way of an advance which is not or does not become payable to him (clause 20), a person has overclaimed for bounty (clause 23), an overpayment is discovered following adjustment to claims made after returns have been lodged (clause 25), or the Comptroller-General discovers an overpayment of bounty (clause 26) (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 IV - ADMINISTRATION

Registration of premises

Clause 28 Sets out the requirements for the registration of premises under the Act. A pre-requisite for the payment of bounty under the Act is that the bountiable equipment is manufactured or modified at registered premises (see clause (16)):

- registrable premises are restricted to premises that are used solely or principally for industrial or commercial purposes (sub-clause (1));

- applications for the registration of premises are to be made to the Comptroller-General in writing (sub-clause (2));
 - . the Comptroller-General 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 (8));
- on receipt of an application for registration, the Comptroller-General shall either (sub-clause (3)):
 - . register the premises and cause a notice to that effect to be served on the applicant; or
 - . refuse to register the premises and cause a notice to that effect to be served on the applicant;
- where premises are registered, the registration shall date from the date the Notice of Registration is signed by the Comptroller-General or such earlier date as is specified in the Notice not being a date earlier than 1 July 1985 (sub-clause (4));
- a Notice of Registration is to specify whether registration is in respect of all bountiable equipment or restricted to a specified class of bountiable equipment and may specify the period of registration (sub-clause (5));
- regulations may prescribe conditions to be complied with in connection with the production of bountiable equipment at registered premises (sub-clause (6));
 - . if the conditions prescribed are not or will not be complied with the Comptroller-General shall not register the premises (sub-clause (7));
- the registration of premises which were not engaged in the production of bountiable equipment prior to 30 May 1985 (the day of the Government's announcement of the new bounty arrangements) will be permitted unless the Minister informs the Comptroller-General that the registration of the premises will not permit the orderly development in Australia of the industry manufacturing bountiable equipment (sub-clause (9));

- regulations may prescribe conditions to be met by an applicant for the registration of premises (sub-clause 10);
 - . if the conditions prescribed are not or will not be complied with, the Comptroller-General shall not register the premises (sub-clause(11));
- registrations may be transferred on the submission of a joint application to the Comptroller-General and shall take effect not earlier than 6 months before the day on which the application for the transfer was made (sub-clauses (12) and (14));
- the Comptroller-General may cancel the registration of premises where he or she becomes satisfied that any one of the following applies (sub-clause (15)):
 - (a) bountiable equipment is not being produced at the premises;
 - (b) bountiable equipment of the class for which the premises are registered is not being produced at the premises;
 - (c) the production of bountiable equipment is being carried on by someone other than the person in whose name the premises are registered;
 - (d) the production is not being carried out in accordance with prescribed conditions; or
 - (e) the premises are not being used solely or principally for industrial or commercial purposes;
- decisions of the Comptroller-General refusing the registration of premises (sub-clause (3)), cancelling the registration of premises (sub-clause (15)) or transferring the registration (sub-clauses (12), (13) and (14)) are reviewable by the Administrative Appeals Tribunal (clause 40(1)(m), (n) and (p)).

Accounts

- Clause 29 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 21 (sub-clause (1)).

Securities

- Clause 30 Confers upon the Comptroller-General the 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:
- a decision of the Comptroller-General requiring a person to give a security is reviewable by the Administrative Appeals Tribunal (clause 40(1)(g)).

Appointment of authorised officers

- Clause 31 Empowers the Comptroller-General to appoint officers of the Australian Customs Service as authorized officers upon whom administrative functions may be conferred for the purposes of the Act.

Stocktaking and inspection of production and accounts, etc

- Clause 32 Empowers an authorized officer to enter premises, inspect or take stock of any bountiable equipment, inspect any process in the manufacture or modification of any bountiable equipment, inspect and take copies of accounts, books, documents and other records involving such bountiable equipment (sub-clause (1)):
- if the occupier or person in charge of registered premises fails to provide the authorised officer with all reasonable facilities and assistance he or she is liable to a penalty of \$1,000 (sub-clause (2)).

Power to require persons to answer questions and produce documents

- Clause 33 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 bountiable equipment, and provides for the withholding of bounty payments until the requirements of this clause are met. The Collector or an authorized officer must believe on reasonable grounds that the person is capable of giving information relevant to the operation of the Act.

Persons who are capable of giving such information may be persons who purchased the equipment from the manufacturer. However, the purchase of equipment from a manufacturer in itself would not be sufficient ground to require a purchaser to provide information.

Sub-clause (3) creates an offence for not disclosing false or misleading records prepared by another person and produced in pursuance of a notice under sub-clause (1) where the person producing such records knows them to be false or misleading.

Sub-clause (5) prevents the use, in criminal proceedings against the person, except under sub-clause (3) or paragraph 35(3)(a) of the Act, of self-incriminating answers given and documents produced by that person.

Power to examine on oath, etc

Clause 34 Provides for a Collector or an authorized officer to examine, on oath or affirmation, persons attending before him or her.

Offences

Clause 35 Creates offences for:

- refusing or failing to attend before a Collector or an authorized officer, to take an oath or make an affirmation, to answer questions or produce documents when so required under the Act (sub-clause (1) - penalty \$1,000);
- obtaining or attempting to obtain bounty that is not payable (sub-clause (2) - penalty \$2,000 or imprisonment for 12 months, or both); and
- presenting certain records or making certain statements that are known to be false or misleading in a material particular (sub-clause (3) - penalty \$1,000 or imprisonment for 6 months, or both).

Sub-clause (4) prevents a person being convicted twice for offences in respect of the same claim for bounty where those offences are against both sub-clause (2) and sub-clause 23(1) or against both sub-clause (2) and sub-clause (3).

Sub-clause (5) provides that where a Court is satisfied a charge against a person is proven but does not proceed to a conviction, the order of the Court under section 19B of the Crimes Act 1914 is considered to be a conviction for the purposes of sub-clause (4).

Time for prosecutions

Clause 36 Limits the commencement of prosecutions for offences against the Act to within 3 years after the commission of an offence.

Recovery of bounty on conviction

Clause 37 Empowers a court to order a person convicted of an offence under sub-clauses 23(1) or 35(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-section (1));

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

PART V - MISCELLANEOUS

Return for Parliament

Clause 38 Provides for the furnishing by the Comptroller-General to the Minister (sub-clause (1)), and the tabling in Parliament by the Minister (sub-clause (2)), of returns in relation to the payment of bounty.

Delegation

Clause 39 Provides powers of delegation for the Minister. The Comptroller-General has a power of delegation for the purposes of this Act pursuant to the Customs Administration Act 1985 (Section 14).

Application for review

Clause 40 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 41 Requires persons whose interests are affected by an administrative decision of a kind referred to in clause 40 to be notified of the rights of review of those decisions by the Administrative Appeals Tribunal.

Money to be appropriated

Clause 42 Provides for payments of bounty and advances on account of bounty to be made out of money appropriated by the Parliament.

Transitional

Clause 43 Provides that the penal provisions of the Act do not operate prior to the day on which this Bill receives the Royal Assent.

Regulations

Clause 44 Provides the power to make regulations for the purposes of the Act.

PART VI - AMENDMENT OF BOUNTY
(METAL WORKING MACHINE TOOLS) ACT 1978

Principal Act

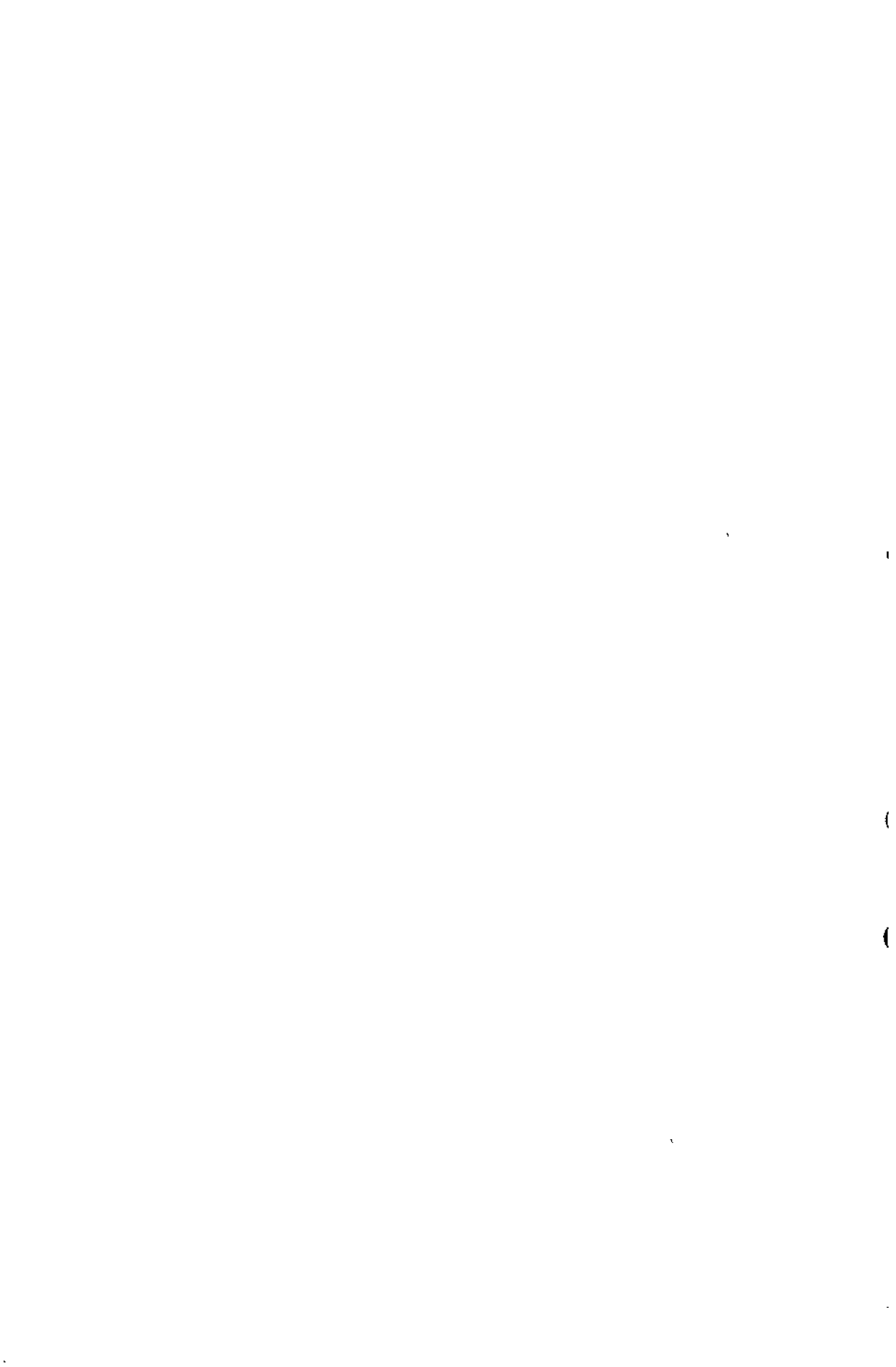
Clause 45 Is a technical drafting clause, which formally defines the Bounty (Metal-working Machine Tools) Act 1978 as the Principal Act for the purposes of this part of the Bill.

Specification of bounty

Clause 46 Amends section 6 of the Principal Act to provide that where the manufacture of a bountiable machine tool which comes within the definition of "bountiable equipment" AA or AB of this Bill

- (a) was commenced before the commencement of this Bill and
- (b) was completed after that commencement date (1 July 1985), and
- (c) the manufacture was not undertaken in pursuance of a firm order placed before 1 July 1985,

the manufacturer is not entitled to bounty under the new bounty assistance arrangements contained in this Bill



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