

HOUSE OF REPRESENTATIVES

(As read a first time)

**BOUNTY (COMMERCIAL MOTOR VEHICLES) AMENDMENT
BILL (No. 2) 1985**

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MINOR AMENDMENTS

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Presented and read a first time, 18 September 1985

(Minister assisting the Minister for Industry, Technology and Commerce)

A BILL

FOR

An Act to amend the *Bounty (Commercial Motor Vehicles) Act 1978*, and for related purposes

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

5 1. (1) This Act may be cited as the *Bounty (Commercial Motor Vehicles) Amendment Act (No. 2) 1985*.

 (2) The *Bounty (Commercial Motor Vehicles) Act 1978*¹ is in this Act referred to as the Principal Act.

Commencement

10 2. This Act shall come into operation on the day on which it receives the Royal Assent.

Heading to Part I

 3. Before section 1 of the Principal Act the following heading is inserted:

MR

“PART I—PRELIMINARY”.**Interpretation**

4. Section 3 of the Principal Act is amended—

- (a) by inserting before the definition of “assembler” in sub-section (1) the following definition: 5

“‘approved form’ means a form approved by the Comptroller-General in writing;”;

- (b) by omitting from sub-section (1) the definition of “authorized person” and substituting the following definitions:

“‘Australian content percentage’ has the meaning given by section 5A; 10

‘authorised officer’ means a person who is an authorised officer for the purposes of this Act by virtue of an appointment under section 15;”;

- (c) by omitting from sub-section (1) the definition of “period to which this Act applies” and substituting the following definition: 15

“‘period to which this Act applies’ means the period that commenced on 17 August 1978 and ends on 31 December 1988;”;

- (d) by inserting after the definition of “prescribed component” in sub-section (1) the following definition: 20

“‘prescribed premises’ means premises registered by the Comptroller-General under section 14N;”;

- (e) by adding at the end the following sub-section:

“(4) For the purposes of this Act, 2 persons shall be deemed to be associates of each other if, and only if— 25

- (a) both being natural persons—

(i) they are connected by a blood relationship or by marriage or by adoption; or

(ii) one of them is an officer or director of a body corporate controlled, directly or indirectly, by the other; 30

- (b) both being bodies corporate—

(i) both of them are controlled, directly or indirectly, by a third person (whether or not a body corporate); 35

(ii) both of them together control, directly or indirectly, a third body corporate; or

(iii) the same person (whether or not a body corporate) is in a position to cast, or control the casting of, 5% or more of the maximum number of votes that might be cast at a general meeting of each of them; 40

- (c) one of them, being a body corporate, is, directly or indirectly, controlled by the other (whether or not a body corporate);
- (d) one of them, being a natural person, is an employee, officer or director of the other (whether or not a body corporate);
- (e) they are members of the same partnership; or
- (f) they are trustees or beneficiaries, or one of them is a trustee and the other is a beneficiary, of the same trust.”.

5. After section 5 of the Principal Act the following section is inserted:

Australian content percentage

“5A. (1) A reference in this Act to the Australian content percentage of a prescribed component used in the assembly of a bountiable vehicle is a reference to the percentage that represents **D-E-F** expressed as a percentage of **D-E**, where—

D is the lowest ex-works selling price paid or payable to the manufacturer of the prescribed component for a vehicle component of the same kind as the prescribed component sold by the manufacturer, during the calendar year immediately preceding the calendar year in which the prescribed component was delivered to the assembler of the vehicle, to any person (whether or not the assembler) who is not an associate of the manufacturer of the prescribed component and is otherwise at arm’s length with the manufacturer of the prescribed component for use as a vehicle component in a commercial motor vehicle;

E is the cost to the manufacturer of the prescribed component of the raw materials (if any) used by the manufacturer in manufacturing vehicle components used by the manufacturer in the manufacture of the prescribed component; and

F is the duty paid cost to the manufacturer of the prescribed component of vehicle components imported into Australia and used by the manufacturer in the manufacture of the prescribed component (if any) delivered into the store of the manufacturer.

“(2) A reference in this section to raw materials used in the manufacture of a vehicle component shall be read as a reference to materials that were required to be treated or cut by the manufacturer of the component before being able to be so used.

“(3) In this section, ‘manufacture’ and ‘manufacturer’, in relation to a vehicle component, have the same respective meanings as they have in section 5.”.

Specification of bounty

6. Section 7 of the Principal Act is amended—

(a) by omitting paragraph (3) (b) and substituting the following paragraphs:

“(b) where the assembly of the vehicle was completed before 1 January 1986—all steps in the assembly of the vehicle carried out by the assembler were carried out at registered premises; 5

“(ba) where the assembly of the vehicle was completed on or after that day— 10

(i) all steps (if any) in the assembly of the vehicle carried out by the assembler before that day were carried out at registered premises; and

(ii) all steps in the assembly of the vehicle carried out by the assembler on or after that day were carried out at prescribed premises; and”; and 15

(b) by adding at the end the following sub-section:

“(4) A reference in sub-section (3) to steps in the assembly of a vehicle shall be read as including a reference to steps in the assembly of vehicle components used in that assembly.”. 20

7 After section 7 of the Principal Act the following heading and section are inserted:

“PART II—BOUNTY ON CERTAIN MOTOR VEHICLES ASSEMBLED BEFORE 1 JANUARY 1986

Application of Part II 25

“7A. This Part does not apply to, or in relation to—

(a) bountiable vehicles the assembly of which is completed on or after 1 January 1986; or

(b) bounty on bountiable vehicles specified in paragraph (a).”.

8. (1) Section 15 of the Principal Act is repealed and the following Part, heading and sections are substituted: 30

“PART III—BOUNTY ON CERTAIN MOTOR VEHICLES ASSEMBLED ON OR AFTER 1 JANUARY 1986

“Division 1—Preliminary

Application of Part III 35

“14A. This Part does not apply to, or in relation to—

(a) bountiable vehicles the assembly of which was completed before 1 January 1986; or

(b) bounty on bountiable vehicles specified in paragraph (a).

Years to which this Part applies

“14B. For the purposes of this Act, each of the following years is a year to which this Part applies:

- (a) the year 1986;
- (b) the year 1987;
- (c) the year 1988.

Determination of certain costs, &c.

“14C. (1) Where, in relation to a claim for bounty or otherwise for the purposes of this Act, the Comptroller-General—

- (a) is unable to verify a lowest ex-works selling price referred to in sub-section 5A (1) in relation to a vehicle component; or
- (b) forms the opinion that, having regard to sound accounting principles, such a price—
 - (i) is incorrect or overestimated;
 - (ii) is higher than would have been the case if the manufacturer of the component had not marginally costed or similarly disproportionately costed the production of goods the cost of which does not affect the amount of bounty;
 - (iii) has been fixed in order to obtain an increase in bounty;
 - (iv) is unduly higher than similar prices paid by other persons;
 - (v) has been increased as the result of the influence of a relationship between the manufacturer and an associate of the manufacturer; or
 - (vi) is higher than would have been the case if the manufacturer had provided services that were provided, and charged for, by an associate of the manufacturer,

the Comptroller-General may, by writing signed by him or her, determine, for the purposes of this Act, that price, being the price that, having regard to all relevant circumstances, the Comptroller-General considers to be appropriate, and that determination shall have effect accordingly.

“(2) Where, in relation to a claim for bounty or otherwise for the purposes of this Act, the Comptroller-General—

- (a) is unable to verify a cost referred to in sub-section 14D (3) in relation to a prescribed component; or
- (b) forms the opinion that, having regard to sound accounting principles, such a cost—
 - (i) is incorrect or overestimated;
 - (ii) is higher than would have been the case if the manufacturer of the component had not marginally costed or similarly disproportionately costed the production of goods the cost of which does not affect the amount of bounty;
 - (iii) has been fixed in order to obtain an increase in bounty;

- (iv) is unduly higher than similar costs incurred by other persons;
- (v) has been increased as the result of the influence of a relationship between the manufacturer and an associate of the manufacturer; or
- (vi) is higher than would have been the case if the manufacturer had provided services that were provided, and charged for, by an associate of the manufacturer, 5

the Comptroller-General may, by writing signed by him or her, determine, for the purposes of this Act, that cost, being the cost that, having regard to all relevant circumstances, the Comptroller-General considers to be appropriate, and that determination shall have effect accordingly. 10

“(3) Where, in relation to a claim for bounty or otherwise for the purposes of this Act, the Comptroller-General—

- (a) is unable to verify a cost to a manufacturer of a prescribed component, being a cost referred to in sub-section 5A (1); or 15
- (b) forms the opinion that, having regard to sound accounting principles, such a cost—
 - (i) is incorrect or underestimated;
 - (ii) is lower than would have been the case if the manufacturer had not marginally costed or similarly disproportionately costed the production of goods the cost of which does not affect the amount of bounty; 20
 - (iii) has been fixed in order to obtain an increase in bounty;
 - (iv) is unduly lower than a similar cost incurred by other persons;
 - (v) has been reduced as the result of the influence of a relationship between the manufacturer and an associate of the manufacturer; or 25
 - (vi) is lower than would have been the case if the manufacturer had provided services that were provided, and charged for, by an associate of the manufacturer, 30

the Comptroller-General may, by writing signed by him or her, determine that cost for the purposes of this Act, being the cost that, having regard to all relevant circumstances, the Comptroller-General considers to be appropriate, and that determination shall have effect accordingly.

“(4) When making a determination under sub-section (1) in relation to a vehicle component or a determination under sub-section (2) or (3) in relation to a prescribed component, the Comptroller-General may, if he or she considers it appropriate, disregard any costs charged to, or levied on, the manufacturer of the component by an associate of the manufacturer, other than costs actually incurred by the associate. 35 40

“(5) In this section, ‘manufacturer’, in relation to a vehicle component, has the same meaning as it has in section 5.

“Division 2—Bounty

Rate of bounty

“14D. (1) The bounty in respect of a bountiable vehicle is—

(a) where the assembly of the vehicle was completed during the year 1986—16%;

5 (b) where the assembly of the vehicle was completed during the year 1987—12%; or

(c) where the assembly of the vehicle was completed during the year 1988—8%,

10 of an amount equal to the sum of the into-store values of the prescribed components used in the assembly of the vehicle, other than prescribed components to which this section does not apply.

“(2) This section does not apply to a prescribed component used in the assembly of the vehicle if—

15 (a) any associate of the assembler of the vehicle was an owner of the component before the assembler; or

(b) the Australian content percentage of the component is less than 65%.

20 “(3) For the purposes of this section, the into-store value of a prescribed component used in the assembly of a bountiable vehicle is the cost to the assembler of the vehicle of the component delivered into the store of the assembler.

Availability of bounty

25 “14E. (1) Notwithstanding any other provision of this Act, if the Comptroller-General is of the opinion that the amount available in a year to which this Part applies for payment of bounty will be insufficient to meet all valid claims for bounty payable in that year, the Comptroller-General may, subject to the regulations—

(a) defer the making of such payments of bounty as the Comptroller-General considers appropriate; and

30 (b) make payments of bounty in such order as the Comptroller-General considers appropriate.

“(2) Notwithstanding any other provision of this Act, if money is not appropriated by the Parliament for the purpose of the payment of bounty in a financial year, a person is not entitled to be paid bounty in that year.

35 **Good quality of bountiable vehicles**

“14F. Bounty is not payable in respect of a bountiable vehicle if the Comptroller-General declares in writing that, in his or her opinion, the vehicle is not of good and merchantable quality.

“Division 3—Payment of Bounty

Advances on account of bounty

“14G. (1) An advance on account of bounty may be made to a person on such terms and conditions as are approved by the Comptroller-General in writing.

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“(2) If a person receives, by way of advances on account of bounty in respect of a particular bountiable vehicle, an amount that exceeds the amount of bounty payable to the person in respect of that vehicle, the person is liable to repay to the Commonwealth the amount of the excess.

“(3) If a person receives an amount by way of advances on account of bounty that may become payable to the person and the bounty does not become payable to the person, the person is liable to repay to the Commonwealth the amount so received.

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“(4) If, at the expiration of a year to which this Part applies, an assembler of bountiable vehicles has received, by way of advances on account of bounty that may become payable to the assembler during that year in respect of bountiable vehicles, an amount that exceeds the sum of—

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(a) the amount of bounty that became payable to the assembler during that year in respect of bountiable vehicles; and

(b) the amount or amounts (if any) paid to the assembler during that year in respect of bountiable vehicles that the assembler is liable to repay to the Commonwealth by virtue of sub-section (2) or (3),

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the assembler is liable to repay to the Commonwealth the amount of the excess.

Claims for payment of bounty

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“14H. (1) A person who claims to be entitled to be paid an amount of bounty in respect of a bountiable vehicle may lodge a claim for payment to the person of the amount.

“(2) A claim under sub-section (1) in respect of a bountiable vehicle shall—

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(a) be in accordance with the appropriate approved form;

(b) set out particulars of the costs necessary to ascertain, in accordance with section 14D(3), the into-store value of each prescribed component used in the assembly of the vehicle;

(c) set out particulars of the Australian content percentage of each prescribed component used in the assembly of the vehicle;

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(d) set out the name and place of business of the manufacturer of each prescribed component used in the assembly of the vehicle;

(e) include such information as is, and such estimates as are, required by the form;

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(f) be signed and witnessed as required by the form; and

- (g) be lodged with a Collector for a State or Territory, or with the Comptroller-General, within 12 months after the day on which the assembly of the vehicle was completed.

5 “(3) As soon as practicable after the lodgment of the claim, the Comptroller-General shall, after examining the claim and causing such inquiries as the Comptroller-General considers necessary to be made (including inquiries under sections 16 and 17)—

- (a) if the Comptroller-General is satisfied that the claim complies with sub-section (2) and that—

10 (i) the claimant is; or

(ii) if certain estimates are correct, the claimant is, otherwise entitled to be paid an amount of bounty in respect of the bountiable vehicle to which the claim relates—approve, in writing, payment of the amount; or

- 15 (b) if the Comptroller-General is not so satisfied—refuse, in writing, to approve payment of bounty in respect of the vehicle to which the claim relates.

20 “(4) Where the Comptroller-General makes a decision under sub-section (3) in relation to a claim approving, or refusing to approve, payment of bounty, not being a decision approving payment of the amount of bounty claimed that is made within 30 days after the lodging of the claim, the Comptroller-General shall cause to be served on the person who lodged the claim, a notice in writing setting out the decision.

Variation of inadequate claims

25 “14J. (1) Where a person who has lodged a claim under section 14H (whether or not the claim has been dealt with under sub-section 14H (3)) considers that the claim was, by reason of an inadvertent error, a claim for an amount of bounty in respect of a bountiable vehicle that was less than the amount of bounty that the person was entitled to claim in respect of that vehicle, the person may lodge a claim for payment to the person of the difference between the 2 amounts.

“ (2) A claim under sub-section (1) in respect of a bountiable vehicle shall—

- 35 (a) be in accordance with the appropriate approved form;

- (b) include such information as is, and such estimates as are, required by the form;

- (c) be signed and witnessed as required by the form; and

- 40 (d) be lodged with a Collector for a State or Territory, or with the Comptroller-General, within 12 months after the day on which the assembly of the vehicle was completed.

“ (3) Where a claim under sub-section (1) relates to a claim under section 14H that has not been dealt with under sub-section 14H (3), the 2

claims shall be dealt with under sub-section 14H (3) as if they were one claim under section 14H.

“(4) As soon as practicable after the lodgment of a claim under sub-section (1) to which sub-section (3) does not apply, the Comptroller-General shall, after examining the claim and causing such inquiries as the Comptroller-General considers necessary to be made (including inquiries under sections 16 and 17)— 5

(a) if the Comptroller-General is satisfied that the claim complies with sub-section (2) and that—

(i) the claimant is; or 10

(ii) if certain estimates are correct, the claimant is, otherwise entitled to be paid an additional amount of bounty in respect of the bountiable vehicle to which the claim relates—approve, in writing, payment of the additional amount; or

(b) if the Comptroller-General is not so satisfied—refuse, in writing, to approve payment of an additional amount of bounty in respect of the vehicle to which the claim relates. 15

“(5) Where the Comptroller-General makes a decision under sub-section (4) in relation to a claim approving, or refusing to approve, payment of an additional amount of bounty, not being a decision approving payment of the additional amount claimed that is made within 30 days after the lodging of the claim, the Comptroller-General shall cause to be served on the person who lodged the claim, a notice in writing setting out the decision. 20

Variation of excessive claims

“14K. (1) Where a person who has lodged a claim under section 14H (whether or not the claim has been dealt with under sub-section 14H (3)) becomes aware that the claim is, by reason of an inadvertent error, a claim for an amount of bounty in respect of bountiable vehicles that exceeds the amount of bounty that the person was entitled to claim in respect of those vehicles by more than \$100, the person shall, within 28 days after discovering the error, lodge an acknowledgement of the error, being an acknowledgement that complies with sub-section (2). 25 30

Penalty: \$1,000.

“(2) An acknowledgement under sub-section (1) in respect of bountiable vehicles shall— 35

(a) be in accordance with the appropriate approved form;

(b) include such information as is, and such estimates as are, required by the form;

(c) be signed and witnessed as required by the form; and

(d) be lodged with a Collector for a State or Territory or with the Comptroller-General. 40

“(3) Where an acknowledgement relates to a claim under section 14H that has not been dealt with under sub-section 14H (3), the claim shall be dealt with under that sub-section as if it had been amended in accordance with the acknowledgement.

5 “(4) Where the Comptroller-General, after examining an
acknowledgement under sub-section (1) to which sub-section (3) does not
apply and causing such inquiries as the Comptroller-General considers
necessary to be made (including inquiries under sections 16 and 17), is
10 satisfied that there has been an overpayment of a claim by more than \$100,
the Comptroller-General shall cause to be served on the person who lodged
the claim a demand for the repayment of the amount of the overpayment,
and that person is liable to repay that amount to the Commonwealth.

Other adjustments of claims

15 “14L. If the Comptroller-General becomes satisfied, otherwise than after
examining an acknowledgement under sub-section 14K (1) that there has
been an overpayment of a claim for bounty by more than \$100, the
Comptroller-General shall cause to be served on the person who lodged the
claim a demand for repayment of the amount of the overpayment, and that
person is liable to repay that amount to the Commonwealth.

Recovery of repayments

20 “14M. (1) Where a person is liable to repay an amount to the
Commonwealth under section 14G, 14K or 14L, the Commonwealth may
recover that amount as a debt due to the Commonwealth by action in a
court of competent jurisdiction.

25 “(2) Where a person is liable to repay an amount to the Commonwealth
under section 14G, 14K or 14L, that amount may be deducted from any
other amount that is payable to the person under this Act and, where the
first-mentioned amount is so deducted, the other amount shall,
30 notwithstanding the deduction, be deemed to have been paid in full to the
person.

“Division 4—Miscellaneous

Registration of premises

35 “14N. (1) Subject to this section, premises that are used solely or
principally for industrial or commercial purposes may be registered under
this section for the purposes of this Act.

 “(2) An application for the registration of premises under this section
may be made to the Comptroller-General, in writing, by a person who
carries on, or proposes to carry on, the production of bountiable vehicles at
those premises.

40 “(3) Subject to sub-sections (6), (7) and (8), where an application for
the registration of premises is made under sub-section (2) by a person who,

in the opinion of the Comptroller-General, carries on, or proposes to carry on, the assembly of bountiable vehicles at those premises, the Comptroller-General shall—

- (a) register those premises in the name of the applicant by signing a notice, in writing, specifying the day on which it was signed and stating that the premises have been so registered and causing that notice to be served, either personally or by post, on the applicant; or 5
- (b) refuse to register those premises and cause a notice, in writing, stating that the Comptroller-General has refused to register those premises to be served, either personally or by post, on the applicant. 10

“(4) The registration of premises under this section has effect on and from the day on which the notice under paragraph (3) (a), in relation to the premises, is signed, or such earlier day, not being a day earlier than 1 January 1986, as is determined by the Comptroller-General and specified in that notice. 15

“(5) The regulations may prescribe conditions to be complied with in connection with the production of bountiable vehicles at registered premises.

“(6) If conditions have been prescribed under sub-section (5), the Comptroller-General shall not register premises under this section unless the Comptroller-General is satisfied that the conditions have been, or will be, complied with in respect of those premises. 20

“(7) The Comptroller-General may require an applicant for the registration of premises under this section to furnish such information as the Comptroller-General considers necessary for the purposes of this Act and may refuse to register the premises until the information is furnished to the satisfaction of the Comptroller-General. 25

“(8) Where an applicant for the registration of premises under this section was not, on 31 December 1985, engaged in the assembly of bountiable vehicles at those premises, the Comptroller-General shall not register those premises if the Minister has informed the Comptroller-General that the registration of those premises will not permit the orderly development in Australia of the industry that is concerned with the assembly of bountiable vehicles. 30

“(9) The regulations may prescribe conditions to be met by an applicant for the registration of premises under this section, including, without limiting the generality of the foregoing, the condition requiring the applicant to be a person included in a specified class of persons. 35

“(10) If conditions have been prescribed for the purposes of sub-section (9), the Comptroller-General shall not register premises under this section unless— 40

- (a) the Comptroller-General is satisfied that the conditions are, or will be, met by the applicant for the registration of the premises; or
- (b) registration of the premises is otherwise permitted under the regulations.

5 “(11) Premises that, on 31 December 1985, are registered premises shall be deemed to be registered under this section with effect from 1 January 1986.

 “(12) Where—

- (a) premises are registered under this section; and
- 10 (b) the person in whose name the premises are so registered and a person who carries on, or proposes to carry on, the assembly of bountiable vehicles at those premises (in this sub-section referred to as the ‘transferee’) make a joint application in writing to the Comptroller-General for the transfer of the registration of the
- 15 premises to the name of the transferee,

the Comptroller-General shall transfer the registration of those premises to the name of the transferee by causing a notice, in writing, stating that the registration has been so transferred to be served, either personally or by post, on the transferee.

20 “(13) A transfer under sub-section (12) has effect from such day as is specified in the notice under that sub-section in relation to the transfer, being a day on or after 1 January 1986 and not earlier than 6 months before the day on which the application for the transfer was made.

25 “(14) Where the Comptroller-General becomes satisfied, in respect of premises registered under this section—

- (a) that the assembly of bountiable vehicles is not being carried on at those premises;
- (b) that the assembly of bountiable vehicles at those premises is being carried on by a person other than—
- 30 (i) the person in whose name the premises are registered; or
- (ii) a person who has made an application under paragraph (12) (b) in relation to the premises;
- (c) if any conditions have been prescribed under sub-section (5) or (9), that the assembly of bountiable vehicles is being carried on at those
- 35 premises otherwise than in accordance with those conditions; or
- (d) those premises are not being used solely or principally for industrial or commercial purposes,

the Comptroller-General may cancel the registration of those premises by causing a notice, in writing, stating that the registration of those premises has been cancelled to be served, either personally or by post, on—

- 40 (e) the occupier of those premises; and

- (f) if the occupier is not the person in whose name those premises are registered, on the person in whose name the premises are registered.

“(15) For the purposes of the application of section 29 of the *Acts Interpretation Act 1901* to the service on a person by post of a notice under this section in relation to premises, such a notice posted as a letter addressed to that person at the premises shall be deemed to be properly addressed.

Accounts relating to bountiable vehicles

“14P. (1) A person is not entitled to bounty unless—

- (a) the person keeps, in writing in the English language, such accounts, books, documents and other records as correctly record and explain—
 - (i) such particulars relating to the assembly (including the cost of assembly) of bountiable vehicles in respect of which bounty is, or may become, payable as are specified by the Comptroller-General in a notice published in the *Gazette*; and
 - (ii) such other particulars (if any) in relation to those vehicles as are specified by the Comptroller-General by notice in writing served on the person; and
- (b) the person retains those accounts, books, documents and other records for at least 3 years after the completion of the assembly of the vehicles concerned.

“(2) For the purposes of this section, accounts, books, documents or other records shall be taken to be kept in writing in the English language if they are kept in a form in which they are readily accessible and readily convertible into writing in the English language.

Securities relating to bountiable vehicles

“14Q. The Comptroller-General may, by notice in writing served on a person to whom bounty could become payable, require the person to give security, in an amount determined by the Comptroller-General, by bond, guarantee or cash deposit, or by all or any of those methods, for compliance by the person with the provisions of this Act and the regulations, or for the purpose of an undertaking given by the person for the purposes of this Act or the regulations, and, where a person is so required to give security, the person is not entitled to bounty, or an advance on account of bounty, unless the person gives security in accordance with the requirement.

“PART IV—ADMINISTRATION

Appointment of authorised officers

“15. (1) The Comptroller-General may, by writing signed by the Comptroller-General, appoint—

- (a) a specified officer;

(b) the officer for the time being holding, or performing the duties of, a specified office; or

(c) officers included in a specified class of officers,
to be an authorised officer, or authorised officers, for the purposes of this Act.

“(2) In sub-section (1), ‘officer’ means an officer of the Australian Customs Service.”.

(2) A person who was, immediately before the day on which this section came into operation, an authorized person for the purposes of the Principal Act as in force immediately before that day, shall, for the purposes of the Principal Act as in force after the commencement of this section, be deemed to have been appointed on that day as an authorised officer under section 15 of the Principal Act as so amended.

Offences

9. Section 19 of the Principal Act is amended by omitting sub-sections (2), (3) and (4) and substituting the following sub-sections:

“(2) A person shall not knowingly obtain or attempt to obtain bounty that is not payable.

Penalty: \$2,000 or imprisonment for 12 months, or both.

“(3) A person shall not—

(a) make to an authorised officer or other person exercising a power or performing a function or duty in relation to this Act a statement, either orally or in writing, that is to the knowledge of the person false or misleading in a material particular; or

(b) present (otherwise than in pursuance of sub-section 17 (1)) to an authorised officer or other person exercising a power or performing a function or duty in relation to this Act an account, book, document or other record that is to the knowledge of the person false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 6 months, or both.

“(4) A person shall not be convicted of an offence against or arising out of sub-section (2) and an offence against or arising out of sub-section 14K (1), or an offence against or arising out of sub-section (2) and an offence against or arising out of sub-section (3), in respect of the same claim for bounty.

“(5) A reference in sub-section (4) to a person being convicted of an offence includes a reference to an order being made under section 19B of the *Crimes Act 1914* in relation to a person in respect of an offence.

“(6) In this section, ‘bounty’ includes an advance on account of bounty under section 11 or 14G.”.

10. (1) After section 19 of the Principal Act the following sections and heading are inserted:

Time for prosecutions

“19A. Notwithstanding anything in any other law, proceedings for an offence against this Act may be instituted within the period of 3 years after the commission of the offence. 5

Recovery of bounty on conviction

“19B. (1) Where a person is convicted of an offence against sub-section 14K (1) or 19 (2) or (3), the court may, in addition to imposing a penalty under the sub-section, order the person to refund to the Commonwealth the amount of any bounty wrongfully obtained by the person. 10

“(2) Where—

(a) a court makes an order under sub-section (1) ordering a person to refund to the Commonwealth the amount of any bounty; and

(b) the court has civil jurisdiction to the extent of the amount, 15
the order is enforceable in all respects as a final judgment of the court in favour of the Commonwealth.

“(3) Where—

(a) a court makes an order under sub-section (1) ordering a person to refund to the Commonwealth the amount of any bounty; and 20

(b) the court—

(i) does not have civil jurisdiction; or

(ii) has civil jurisdiction, but does not have civil jurisdiction to the extent of the amount,

the proper officer of the court shall issue to the Comptroller-General a certificate in the prescribed form containing the prescribed particulars. 25

“(4) The certificate may, in the prescribed manner and subject to the prescribed conditions (if any), be registered in a court having civil jurisdiction to the extent of the amount ordered to be refunded to the Commonwealth.

“(5) Upon registration under sub-section (4), the certificate is enforceable in all respects as a final judgment of the court in favour of the Commonwealth. 30

“(6) The costs of registration of the certificate and other proceedings under this section shall, subject to the prescribed conditions (if any), be deemed to be payable under the certificate. 35

“(7) In this section, ‘bounty’ includes an advance on account of bounty under section 11 or 14G.

“PART V—MISCELLANEOUS”.

(2) Section 19A of the Principal Act as amended by sub-section (1) does not apply in relation to an offence committed before the commencement of this Act.

5 Return for Parliament

11. Section 20 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (b) “and the number of the bountiable vehicles in respect of which the bounty was paid”; and
- (b) by adding at the end the following sub-section:

10 “(3) In this section, ‘bounty’ includes an advance on account of bounty under section 11 or 14G.”.

Application for review

12. Section 22 of the Principal Act is amended—

- (a) by omitting from paragraph (h) “or”; and

- 15 (b) by adding at the end the following paragraphs and sub-sections:

“(k) a declaration by the Comptroller-General for the purposes of section 14F;

(m) a decision of the Comptroller-General under paragraph 14H (3) (a) approving payment of bounty;

20 (n) a decision of the Comptroller-General under paragraph 14H (3) (b) refusing to approve payment of bounty;

(p) a decision of the Comptroller-General under paragraph 14J (4) (a) approving a payment;

25 (q) a decision of the Comptroller-General under paragraph 14J (4) (b) refusing to approve a payment;

(r) a decision of the Comptroller-General for the purposes of sub-section 14K (4);

(s) a decision of the Comptroller-General for the purposes of section 14L;

30 (t) a decision of the Comptroller-General refusing to register premises (other than a decision made under sub-section 14N (8));

(u) a decision of the Comptroller-General under sub-section 14N (14) cancelling the registration of premises; or

35 (v) a requirement by the Comptroller-General under section 14Q.

“(2) Without limiting section 43 of the *Administrative Appeals Tribunal Act 1975*, where the Administrative Appeals Tribunal is reviewing a decision referred to in paragraph (1) (m), (n), (p), (q), (r) or (s) in respect of a bountiable vehicle, the Tribunal, if it considers it appropriate to do so, may—

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- (a) if a determination under sub-section 14C (1), (2) or (3) has been made in relation to the vehicle or of vehicles that include that vehicle, either—
 - (i) set aside that determination; or
 - (ii) set aside that determination and make a further determination under sub-section 14C (1), (2) or (3), as the case may be, in relation to the vehicle or vehicles to which the determination so set aside applied; or
- (b) if a determination under sub-section 14C (1), (2) or (3) has not been made in relation to the vehicle to which the decision applies or to vehicles that include that vehicle, make a determination under sub-section 14C (1), (2) or (3), as the case may be, in respect of the vehicle or vehicles to which the decision applies.

“(3) In sub-section (1), ‘decision’ has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.”

13. After section 22 of the Principal Act the following section is inserted:

Statement to accompany notice of decisions

“22A. (1) Where the Comptroller-General makes a determination, decision or requirement of a kind referred to in sub-section 22 (1) and gives to the person or persons whose interests are affected by the determination, decision or requirement notice in writing of the making of the determination, decision or requirement, that notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the determination, decision or requirement to which the notice relates by or on behalf of the person or persons whose interests are affected by the determination, decision or requirement.

“(2) Any failure to comply with the requirements of sub-section (1) in relation to a determination, decision or requirement does not affect the validity of the determination, decision or requirement.”

14. (1) Sections 23 and 24 of the Principal Act are repealed and the following sections are substituted:

Appropriation

“23. (1) Bounty in respect of bountiable vehicles the assembly of which is completed before 1 January 1986, and advances on account of bounty under section 11, are payable out of the Consolidated Revenue Fund which is appropriated accordingly.

“(2) Payments of bounty in respect of bountiable vehicles the assembly of which is completed on or after 1 January 1986, and of advances on account of bounty under section 14G, shall be made out of money appropriated by the Parliament for the purpose.

Regulations

“24. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters—

(a) permitted by this Act to be prescribed; or

5 (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.”.

10 (2) Money appropriated by the *Appropriation Act (No. 2) 1985-86* specified in item 8 of Division 912 in Schedule 3 to that Act shall be taken to have been appropriated for the purpose of payments referred to in sub-section 23 (2) of the Principal Act as amended by this Act.

(3) Notwithstanding the repeal of section 24 of the Principal Act by sub-section (1), regulations made under that section that were in force immediately before the commencement of this Act continue in force as if made under section 24 of the Principal Act as amended by this Act.

15 **Minor and consequential amendments**

15. The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 15

MINOR AND CONSEQUENTIAL AMENDMENTS

Sub-section 3 (1) (definition of “assembler”)—

Omit “he”, substitute “the person”.

Paragraphs 4 (1) (a) and (b)—

Omit “him” (wherever occurring), substitute “the assembler”.

Sub-section 5 (1)—

- (a) Omit “him” (wherever occurring), substitute “the manufacturer”.
- (b) Omit “his store”, substitute “the store of the manufacturer”.

Paragraphs 8 (3) (a) and (b)—

Omit “his store”, substitute “the store of the assembler”.

Paragraphs 10 (1) (a) and (b)—

After “he”, insert “or she”.

Sub-section 11 (2)—

- (a) Omit “him”, substitute “the person”.
- (b) Omit “he”, substitute “the person”.

Sub-sections 12 (2)—

Omit “he”, substitute “the person”.

Sub-section 12 (3)—

After “he”, insert “or she”.

Sub-section 12 (4)—

- (a) After “him”, insert “or her”.
- (b) After “his”, insert “or her”.

Sub-section 12 (5)—

After “he”, insert “or she”.

Section 13—

Omit “he”, substitute “the person”.

Section 14—

- (a) Omit “him” (twice occurring), substitute “the assembler”.
- (b) Omit “he”, substitute “the assembler”.

Sub-section 16 (1)—

Omit “authorized person” (twice occurring), substitute “authorised officer”.

Sub-section 16 (2)—

- (a) Omit “authorized person”, substitute “authorised officer”.
- (b) After “his”, insert “or her”.

Sub-section 17 (1)—

- (a) Omit “authorized person”, substitute “authorised officer”.
- (b) After “he”, insert “or she”.
- (c) After “him” (twice occurring), insert “or her”.

Sub-section 17 (2)—

Omit “authorized person”, substitute “authorised officer”.

Sub-section 17 (3)—

- (a) Omit “him” (first and second occurring), substitute “the person”.
- (b) Omit “his”, substitute “the person’s”.
- (c) Omit “him” (third occurring), substitute “the person”.
- (d) Omit “19 (2) (c)”, substitute “19 (3) (a)”.

Sub-section 17 (4)—

Omit “Minister”, substitute “Comptroller-General”.

Sub-section 18 (1)—

- (a) Omit “authorized person”, substitute “authorised officer”.
- (b) After “him”, insert “or her”.

Sub-section 18 (2)—

- (a) After “he”, insert “or she”.
- (b) After “him”, insert “or her”.

Paragraph 19 (1) (a)—

Omit “authorized person”, substitute “authorised officer”.

Sub-section 20 (2)—

After “him”, insert “or her”.

Sub-section 21 (1)—

- (a) After “him”, insert “or her”.
- (b) After “his”, insert “or her”.

NOTE

1. No. 208, 1978, as amended. For previous amendments, see No. 26, 1982; and Nos. 10 and 39, 1985.

