

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**HOUSE OF REPRESENTATIVES**

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*(As read a first time)*

**BOUNTY (ROOM AIR CONDITIONERS) BILL 1983**

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Presented and read a first time, 4 May 1983

*(Minister Assisting the Minister for Industry and Commerce)*

**A BILL**

FOR

**An Act to provide for the payment of bounty on the production  
of certain room air conditioners**

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

**Short title**

1. This Act may be cited as the *Bounty (Room Air Conditioners) Act 1983*.

5 **Commencement**

2. This Act shall be deemed to have come into operation on 27 October 1982.

**Interpretation**

3. In this Act, unless the contrary intention appears—

10 “authorized officer” means an officer who is an authorized officer for the purposes of this Act by virtue of an appointment under section 14;

“bountiable air conditioner” means an air conditioner—

(a) that is designed—

15 (i) to provide a room with conditioned air without ducting;  
and

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- (ii) to be mounted in a single opening in a window or wall of the room,  
whether or not it is also capable of increasing the temperature of, or of circulating or ventilating, air;
- (b) the components of which include— 5
- (i) a compressor;
  - (ii) a complete charge of refrigerant;
  - (iii) a heat exchanger that is used to exchange heat between refrigerant and air in the room;
  - (iv) a heat exchanger that is used to exchange heat between refrigerant and air outside the room; 10
  - (v) a fan or a blower, powered by an electric motor, that is used to circulate air through those heat exchangers; and
  - (vi) a refrigerant flow control device, being a capillary restrictor; 15
- (c) the prescribed components of which are encased within a common self-contained unit; and
- (d) the cooling capacity of which does not exceed 5.4 kilowatts, but does not include an air conditioner—
- (e) that incorporates a water-cooled condensor; or 20
  - (f) that is designed so that the shortest horizontal distance between any heat exchanger of the air conditioner and the vertical plane formed by the surface of the window or wall when the air conditioner is mounted in accordance with its design in an opening in that window or wall, being a surface that forms part of the internal boundary of the room, exceeds 40 millimetres; 25
- “bounty” means bounty under this Act;
- “bounty period” means the period commencing on 27 October 1982 and ending on 30 June 1983; 30
- “Collector” has the same meaning as in the *Customs Act 1901*;
- “Comptroller-General” means the Comptroller-General of Customs;
- “cooling capacity”, in relation to an air conditioner, means the total cooling effect of the air conditioner measured in accordance with the thermal capacity type test set out in Australian Standard 1861 of the Standards Association of Australia, as in force on 27 October 1982, conducted under operating condition A of that test; 35
- “compressor” means a machine that—
- (a) is used for compressing refrigerant vapour as part of a refrigerating process; and 40
  - (b) consists of a pump powered by an electric motor;
- “conditioned air” means air that has been subject to a refrigerating process;

“manufacturer”, in relation to a bountiable air conditioner, means the person who carried out—

(a) the steps in the manufacture of the air conditioner involving the assembly in a common self-contained unit of the prescribed components of the air conditioner; and

(b) the last step in the manufacture of the air conditioner, whether or not he carried out any of the other steps in the manufacture of the air conditioner;

“prescribed components”, in relation to an air conditioner, means the components specified in paragraph (b) of the definition of “bountiable air conditioner” in this section;

“refrigerating process” means a process of the reduction of the temperature and humidity of air;

“registered premises” means premises registered by the Minister under section 11;

“room” means a room in a building and includes an enclosed space in a building;

“window” includes window frame.

#### **Factory cost and Australian factory cost**

**4. (1)** For the purposes of this Act—

(a) the factory cost of a bountiable air conditioner is such amount as is determined by the Comptroller-General to be the factory cost of the bountiable air conditioner; and

(b) the Australian factory cost of a bountiable air conditioner is the factory cost of the room air conditioner less such amount as is determined by the Comptroller-General to be the value known as the into-store value of imported parts and materials supplied to the manufacturer and used by him in the manufacture of the bountiable air conditioner.

**(2)** In determining the factory cost of a bountiable air conditioner, the Comptroller-General shall make allowance for factory overhead charges (including factory administration costs and research and development expenditure) but shall not make any allowance for general administration, selling costs, service charges or taxation.

#### **Uniformity**

**5.** A power conferred on the Governor-General, the Minister or the Comptroller-General by this Act shall not be exercised in such a manner that bounty under this Act would not be uniform throughout the Commonwealth, within the meaning of paragraph 51 (iii) of the Constitution.

#### **Specification of bounty**

**6. (1)** Bounty is payable in accordance with this Act on the production in Australia of bountiable air conditioners.

(2) Bounty in respect of a bountiable air conditioner is payable to the manufacturer of the bountiable air conditioner.

(3) A manufacturer of a bountiable air conditioner is not entitled to receive a payment of bounty in respect of the air conditioner unless the Comptroller-General is satisfied that—

(a) the assembly in a common self-contained unit of the prescribed components of the air conditioner and the last step in the manufacture of the air conditioner was carried out—

(i) by the manufacturer at registered premises; and

(ii) before the expiration of the bounty period;

(b) the Australian factory cost of the air conditioner is not less than 75% of the factory cost of the air conditioner;

(c) the air conditioner was sold for use in Australia during the bounty period; and

(d) the air conditioner is of good and merchantable quality.

#### **Amount of bounty**

7. The bounty payable in respect of a bountiable air conditioner is—

(a) if the cooling capacity of the air conditioner does not exceed 3.528 kilowatts—\$60; or

(b) if the cooling capacity of the air conditioner exceeds 3.528 kilowatts—\$90.

#### **Limit of available bounty**

8. (1) The amount available for payment of bounty in respect of bountiable air conditioners is \$1,500,000.

(2) Where the amount available for payment of bounty in respect of bountiable air conditioners is insufficient for the payment in full of all valid claims in respect of those bountiable air conditioners, the bounty otherwise payable in respect of each of those claims shall be reduced to an amount that bears the same proportion to the amount of the claim as the amount so available bears to the total amount of all those claims.

(3) If the Comptroller-General is of the opinion that the amount available for the payment of bounty in respect of bountiable air conditioners will be insufficient for the payment in full of all valid claims in respect of those bountiable air conditioners, he may withhold payment of the whole or any part of the bounty otherwise payable upon such a claim until he has ascertained the total amount of all those claims.

#### **Advances on account of bounty**

9. (1) An advance on account of bounty may be made to a person on such terms and conditions as are approved by the Minister.

(2) If, at the expiration of a year, a person has received an amount, by way of advances on account of bounty that may become payable to him during that

year, greater than the amount of bounty that became payable to him during that year, he is liable to pay to the Commonwealth the amount of the excess.

5 (3) If a person receives, by way of advances on account of bounty in respect of a particular room air conditioner, an amount greater than the amount of bounty payable to him in respect of that room air conditioner, he is liable to pay to the Commonwealth the amount of the excess.

10 (4) If a person receives an amount by way of advances on account of bounty that may become payable to him and the bounty does not become payable to him, he is liable to pay to the Commonwealth the amount so received.

(5) Where a person is liable to pay an amount to the Commonwealth under this section, the Commonwealth may recover that amount as a debt due to the Commonwealth by action in a court of competent jurisdiction.

15 (6) Where a person is liable to pay an amount to the Commonwealth under this section, the amount may be deducted from any other amount that is payable to the person under this Act and, where an amount is so deducted, the other amount shall, notwithstanding the deduction, be deemed to have been paid in full to the person.

#### **Approval of payment of bounty**

20 10. (1) Where an application for bounty in respect of a bountiable air conditioner is lodged in accordance with the regulations, the Comptroller-General shall—

(a) if he is satisfied that bounty is payable in respect of that bountiable air conditioner—approve the payment of the bounty; or

25 (b) if he is not so satisfied—refuse to approve payment of the bounty.

30 (2) Where the Comptroller-General makes a decision under sub-section (1) approving, or refusing to approve, payment of bounty to a manufacturer of a bountiable air conditioner, he shall cause to be served on the manufacturer of the air conditioner, either personally or by post, a notice in writing setting out that decision.

#### **Registration of premises**

11. (1) The regulations may prescribe conditions to be complied with, for the purposes of this Act, in connection with the manufacture at registered premises of bountiable air conditioners.

35 (2) Where a person carries on, or proposes to carry on, the manufacture at any premises of bountiable air conditioners, he may apply to the Minister for the registration of those premises for the purposes of this Act.

40 (3) If conditions have been prescribed under sub-section (1), the Minister shall not register the premises unless he is satisfied that those conditions have been, or will be, complied with.

(4) The Minister may require the applicant to furnish such information as the Minister considers necessary for the purposes of this Act, and may refuse to register the premises until the information is furnished to his satisfaction.

(5) Where an applicant under this section was not, on 27 October 1982, engaged in the manufacture of bountiable air conditioners at the premises to which the application relates, the Minister shall refuse to register those premises unless, in the opinion of the Minister, the registration of those premises will promote the orderly development in Australia of the industry manufacturing bountiable air conditioners.

(6) Where the Minister makes a decision under this section refusing to register premises he shall cause to be served, either personally or by post, on the applicant for registration, a notice in writing setting out that decision.

(7) Subject to sub-sections (3), (4) and (5), if, in the opinion of the Minister, bountiable air conditioners are, or are proposed to be, manufactured at the premises in respect of which the application is made, he shall, by notice in writing served, either personally or by post, on the applicant, register those premises in the name of the applicant for the purposes of this Act.

(8) If the Minister so determines, the registration shall be deemed to have taken effect on and from a date specified by the Minister, being a date not earlier than 27 October 1980.

(9) Upon application in writing made to the Minister by—

(a) the person in whose name premises are registered under this section; and

(b) a person who carries on, or proposes to carry on, the manufacture at those premises of bountiable air conditioners,

the Minister shall, by notice in writing served, either personally or by post, on the second-mentioned person, transfer the registration of those premises to the name of the second-mentioned person, with effect from such date as the Minister specifies in the notice, being a date not earlier than 6 months before the day on which that application was made.

(10) Where the Minister is satisfied, in respect of any registered premises—

(a) that bountiable air conditioners are not being manufactured at the premises;

(b) that the manufacture of bountiable air conditioners at the premises is not being carried on by the person in whose name those premises are registered; or

(c) if any conditions have been prescribed under sub-section (1), that bountiable air conditioners that are being manufactured at registered premises are being manufactured otherwise than in accordance with those conditions,

the Minister may, by notice in writing served either personally or by post on the occupier of the premises, and, if the occupier is not the person in whose name



those premises are registered, on that person, cancel the registration of the premises.

(11) For the purpose of the application of section 29 of the *Acts Interpretation Act 1901* to the service by post of a notice under sub-section (10) of this section, such a notice posted as a letter addressed to the occupier, or to the person in whose name those premises are registered, at the registered premises shall be deemed to be properly addressed.

### Accounts

12. A person is not entitled to bounty unless he keeps, to the satisfaction of the Minister, accounts, books, documents and other records showing, from time to time, particulars relating to the manufacture (including the cost of manufacture) and sale of bountiable air conditioners and such other information in relation to those bountiable air conditioners as the Minister, by notice in writing served, either personally or by post, on the person, requires.

### Securities

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

### Appointment of authorized officers

14. (1) The Minister may, by writing signed by him, 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 authorized officer, or authorized officers, for the purposes of this Act.

(2) In this section, "officer" means an officer of the Department.

### Stock-taking and inspection of manufacture and accounts, &c.

15. (1) For the purposes of this Act, an authorized officer may, at all reasonable times, enter—

- (a) registered premises;
- (b) premises where there is stored a bountiable air conditioner in respect of which bounty has been claimed, or, in the opinion of the authorized officer, is likely to be claimed; or
- (c) premises where there are kept any accounts, books, documents or other records relating to the manufacture, storage, sale or use of a bountiable air conditioner,

and may—

- (d) inspect or take stock of any bountiable air conditioners;
- (e) inspect any process in the manufacture of any bountiable air conditioner; and
- (f) inspect the accounts, books, documents and other records relating to the manufacture (including the cost of manufacture), sale or other disposal, or use, of bountiable air conditioners,

and may make and retain copies of, or take and retain extracts from, any such accounts, books, documents and other records.

(2) The occupier or person in charge of registered premises, or of premises referred to in paragraph (1) (b) or (c), shall provide the authorized officer with all reasonable facilities and assistance for the effective exercise of his powers under this section.

Penalty: \$1,000.

### **Power to require persons to answer questions and produce documents**

16. (1) A Collector or an authorized officer may, by notice signed by him, require a person whom he believes to be capable of giving information relevant to the operation of this Act in relation to the manufacture (including the cost of manufacture), sale or other disposal, or use of bountiable air conditioners to attend before him at the time and place specified in the notice and there to answer questions and to produce to him such accounts, books, documents and other records in relation to the manufacture (including the cost of manufacture), sale or other disposal, or use of bountiable air conditioners as are referred to in the notice.

(2) A notice under sub-section (1) requiring a person to produce an account, book, document or record shall set out the effect of sub-section (3).

(3) A person who produces an account, book, document or record in pursuance of a notice under sub-section (1) that, to the knowledge of that person, is false or misleading in a material particular shall, upon so producing the account, book, document or record, give to the person to whom the first-mentioned person is required to produce the account, book, document or record, a statement in writing signed by the first-mentioned person or, in the case of a body corporate, by a competent officer of the body corporate—

- (a) stating that the account, book, document or record is, to the knowledge of the first-mentioned person, false or misleading in a material particular; and
- (b) setting out, or referring to, the material particular in respect of which the account, book, document or record is, to the knowledge of the first-mentioned person, false or misleading.

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

(4) A Collector or an authorized officer may make copies of, or take extracts from, any accounts, books, documents or other records produced in pursuance of this section.

(5) A person is not excused from answering a question or producing any accounts, books, documents or other records when required so to do under this section on the ground that the answer to the question, or the production of the accounts, books, documents or other records, might tend to incriminate him or make him liable to a penalty, but his answer to any such question or the production by him of any such account, book, document or other record is not admissible in evidence against him in criminal proceedings other than proceedings under, or arising out of, sub-section (3) of this section, sub-section 18 (1) by virtue of paragraph 18 (1) (c) or sub-section 18 (3) by virtue of paragraph 18 (3) (a), being that last-mentioned paragraph in its application to the making of a statement in pursuance of this section.

(6) Where a manufacturer of bountiable air conditioners, or a person employed by a manufacturer, has failed to attend or to answer a question, or to produce any account, book, document or other record, when required so to do under this section, bounty is not payable to the manufacturer, unless the Minister otherwise directs, until the manufacturer or that person has attended, answered the question or produced the account, book, document or other record, as the case may be.

#### **Power to examine on oath, &c.**

17. (1) A Collector or an authorized officer may examine, on oath or affirmation, a person attending before him in pursuance of section 16 and, for that purpose, may administer an oath or affirmation to that person.

(2) The oath or affirmation to be made by a person for the purposes of sub-section (1) is an oath or affirmation that the answers he will give to questions asked him will be true.

#### **Offences**

18. (1) A person shall not, without reasonable excuse, refuse or fail—

(a) to attend before a Collector or an authorized officer;

(b) to take an oath or make an affirmation; or

(c) to answer a question or produce an account, book, document or other record,

when so required in pursuance of this Act.

Penalty: \$1,000.

(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 authorized 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 his knowledge false or misleading in a material particular; or

- (b) present (otherwise than in pursuance of sub-section 16 (1)) to an authorized 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 his knowledge false or misleading in a material particular. 5

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

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

(5) Where a court has made an order under sub-section (4), a certificate signed by the appropriate officer of the court specifying the amount ordered to be refunded and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of that court. 15

(6) In this section, "bounty" includes an advance on account of bounty under section 9.

### **Return for Parliament**

19. (1) The Comptroller-General shall, as soon as practicable after the end of each financial year in which bounty is paid, furnish to the Minister a return setting forth— 20

- (a) the name and address of each person to whom bounty was paid in that financial year;
- (b) the amount of bounty paid to each person in that financial year; and
- (c) such other particulars (if any) as are prescribed. 25

(2) The Minister shall cause a copy of the return to be laid before each House of the Parliament within 15 sitting days of that House after the return is received by him.

(3) In this section, "bounty" includes an advance on account of bounty under section 9. 30

### **Delegation**

20. (1) The Minister or the Comptroller-General may, either generally or otherwise as provided in the instrument of delegation, by writing signed by him, delegate to a person all or any of his powers under this Act, other than this power of delegation. 35

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister or the Comptroller-General, as the case may be.

(3) A delegation under this section does not prevent the exercise of a power by the Minister or the Comptroller-General, as the case may be. 40

**Applications for review**

**21. (1)** Applications may be made to the Administrative Appeals Tribunal for review of—

- (a) a determination by the Comptroller-General made for the purposes of sub-section 4 (1);
- (b) a decision of the Comptroller-General under section 10 approving, or refusing to approve, payment of bounty;
- (c) a decision of the Minister under section 11 refusing to register premises, not being a refusal by virtue of sub-section 11 (5);
- (d) a decision of the Minister under sub-section 11 (7), (9) or (10); or
- (e) a requirement by the Minister under section 13.

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

**Statement to accompany notification of decisions**

**22. (1)** Where the Minister, a delegate of the Minister, the Comptroller-General or a delegate of the Comptroller-General makes a decision, determination or requirement of a kind referred to in section 21 and gives to the person or persons whose interests are affected by the decision, determination or requirement notification in writing of the making of the decision, determination 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 decision, determination or requirement to which the notice relates by or on behalf of the person or persons whose interests are affected by the decision, determination or requirement.

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

**Appropriation**

**23.** Bounty is payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

**Transitional**

**24.** Sections 15, 16 and 18 do not operate so as to render unlawful anything done, or omitted to be done, before the day on which this Act receives the Royal Assent.

**Regulations**

**25. (1)** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of sub-section (1), regulations may be made prescribing—

- (a) the manner in which, and the time within which, applications for bounty are to be made;
- (b) the information to be furnished by applicants in connection with applications for bounty; and
- (c) penalties not exceeding \$200 for offences against the regulations.

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