



# **Industry, Tourism and Resources Legislation Amendment Act 2003**

**No. 21, 2003**

**An Act to amend and repeal legislation relating to  
industry, tourism and resources, and for related  
purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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**No. 21, 2003**

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# An Act to amend and repeal legislation relating to industry, tourism and resources, and for related purposes

[Assented to 11 April 2003]

The Parliament of Australia enacts:

## 1 Short title

This Act may be cited as the *Industry, Tourism and Resources Legislation Amendment Act 2003*.

## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	11 April 2003
2. Schedule 1, items 1 to 10	A single day to be fixed by Proclamation, subject to subsection (3)	
3. Schedule 1, item 11	The day after this Act receives the Royal Assent	12 April 2003
4. Schedule 1, item 12	1 July 1999	1 July 1999
4A. Schedule 1, items 12A to 12F	The day after this Act receives the Royal Assent	12 April 2003
5. Schedule 1, item 13	The day after this Act receives the Royal Assent	12 April 2003

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
6. Schedule 1, item 14	Immediately after the time specified in the <i>Petroleum (Submerged Lands) Legislation Amendment Act 2001</i> for the commencement of item 17 of Schedule 1 to that Act	26 May 2001
7. Schedule 1, items 15 to 29	The day after this Act receives the Royal Assent	12 April 2003

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.
- (3) If a provision covered by item 2 of the table does not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## Schedule 1—Miscellaneous amendments and repeals

### *ACIS Administration Act 1999*

#### **1 Subsection 4(1)**

Omit “used to offset customs duty payable on”, substitute “applied against customs duty payable, or paid, on”.

#### **2 Subsection 4(1)**

After “Tariff”, insert “and section 75A of this Act”.

#### **3 After paragraph 4(10)(b)**

Insert:

- (ba) applied against an earlier payment of duty on such eligible imports (Part 7); or

#### **4 Subsection 6(1) (definition of eligible imports)**

Repeal the definition, substitute:

*eligible imports* means:

- (a) goods described in column 2 of item 41E of Schedule 4 to the Tariff; or
- (b) goods that would have been goods so described if their importation had been by a person who owned and applied duty credits as mentioned in that column of that item.

#### **5 After paragraph 66(a)**

Insert:

- (aa) when the person applies duty credit in accordance with section 75A against an earlier payment of duty on the importation of eligible imports;

#### **6 Section 74**

Repeal the section, substitute:



## **74 Overview of Part**

This Part provides that duty credit:

- (a) is transferable (Division 2); and
- (b) may be applied against previously paid duty (Division 2A); and
- (c) may be subject to limited use restrictions (Division 3).

## **7 After Division 2 of Part 7**

Insert:

### **Division 2A—Application of duty credit against previously paid duty**

#### **75A When can a person apply duty credit against duty that has already been paid?**

- (1) A person can apply duty credit the person owns against duty that the person has already paid if that duty was paid in respect of the importation, on or after 1 January 2001, of eligible imports.

Note: The purpose of applying duty credit in this way is to get a refund (equal to the amount of duty credit applied) of duty that has already been paid. For provisions about refunds, see the regulations made for the purposes of section 163 of the *Customs Act 1901*.

- (2) An application of duty credit under subsection (1) can only be made by notifying the Secretary. The notification must:
  - (a) be in writing; and
  - (b) be in the approved form; and
  - (c) contain such information as the form requires; and
  - (d) be signed in the manner indicated in the form; and
  - (e) comply with any other applicable requirements specified in regulations made for the purposes of this paragraph.

## **8 After paragraph 76(1)(c)**

Insert:

- (ca) by applying it in accordance with section 75A against an earlier payment of duty on the importation of eligible imports; or

**9 After paragraph 77(1)(c)**

Insert:

- (ca) by applying it in accordance with section 75A against an earlier payment of duty on the importation of eligible imports; or

**10 At the end of subsection 115(2)**

Add “or paragraph 66(aa) (when duty credit is applied against previously paid duty)”.

***Aluminium Industry Act 1960***

**11 The whole of the Act**

Repeal the Act.

***Bounty (Computers) Act 1984***

**12 Subsection 3(1) (definition of operating software)**

Omit “the Standards Association of Australia”, substitute “Standards Australia International Limited”.

***Bounty (Ships) Act 1989***

**12A Subsection 12(1)**

After “eligible costs bounty”, insert “, or eligible research and development expenditure bounty,”.

**12B Subsection 12(2)**

After “eligible costs bounty” (first occurring), insert “, or eligible research and development expenditure bounty,”.

**12C Subsection 12(2)**

Omit “eligible costs bounty” (second occurring), substitute “that bounty that is”.

**12D Subsection 12(3)**

After “eligible costs bounty” (first occurring), insert “, or eligible research and development expenditure bounty,”.

**12E Subsection 12(3)**

Omit “the eligible costs bounty”, substitute “that bounty”.

**12F Treatment of past payments purporting to be advances on account of eligible research and development expenditure bounty**

- (1) A payment that:
  - (a) purported to be an advance under subsection 12(1) of the *Bounty (Ships) Act 1989* (the ***Bounty Act***) on account of eligible research and development expenditure bounty; and
  - (b) was made during the period that started on 9 April 1999 and ended on the commencement of this item;may, to the extent that it has not already been repaid to the Commonwealth by that commencement, be recovered by the Commonwealth from the person as a debt due to the Commonwealth.
- (2) A person to whom a payment referred to in subitem (1) was made is entitled, on the commencement of this item, to be paid, by the Commonwealth, an amount equal to the amount of the debt due to it by the person under subitem (1).
- (3) The Consolidated Revenue Fund is appropriated for the purpose of payments under subitem (2).
- (4) The Commonwealth may set-off the amount of a debt due to it by a person under subitem (1) against an amount that is payable to that person under subitem (2).
- (5) Despite subitems (1) and (2), in applying subsection 12(2) or (3) of the *Bounty Act* after the commencement of this item to the construction or modification of a vessel, any payment made before that commencement in respect of the construction or modification that purported to be an advance on account of eligible research and development expenditure bounty is to be counted as though it had been validly made under subsection 12(1) of that Act.

Note: A person will therefore be liable to repay to the Commonwealth the amount of any excess of the purported advances over the amount of eligible research and development bounty payable to the person.

- (6) This item does not, by implication, affect the recovery or set-off of other overpayments purporting to be made under the Bounty Act.

### ***Management and Investment Companies Act 1983***

#### **13 The whole of the Act**

Repeal the Act.

### ***Petroleum (Submerged Lands) Legislation Amendment Act 2001***

#### **14 Item 17 of Schedule 1**

Omit “him or make”, substitute “him or to make”.

### ***Pooled Development Funds Act 1992***

#### **15 Paragraph 4A(1)(a)**

Repeal the paragraph, substitute:

- (a) it has 5 or more members; and

#### **16 Certain shareholdings in PDFs do not contravene section 31**

- (1) Section 31 of the *Pooled Development Funds Act 1992* is taken to have applied in relation to a PDF during the period:
- (a) starting on 8 October 1999; and
  - (b) ending on the commencement of this item;
- as if paragraph 4A(1)(a) of that Act were required to be ignored in determining whether a fund was a ***widely-held complying superannuation fund***.

Note: Paragraph 4A(1)(a) would have required that the fund not be an excluded superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*).

- (2) If:
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- (a) because of the effect of subitem (1), a person's holding of shares in a PDF immediately before the commencement of this item did not contravene section 31 of the *Pooled Development Funds Act 1992* as then in force; but
- (b) that holding of those shares would, but for this subitem, result in a contravention of section 31 of that Act as it applies after the commencement of this item;

then the following provisions have effect:

- (c) subject to paragraph (e), the person's continued holding of those shares in the PDF after that commencement is to be disregarded when applying section 31 of that Act as then in force to the person and the person's associates;
- (d) if, after that commencement, any bonus shares in the PDF are issued to the person because the person is the holder of the shares referred to in paragraph (c), then, subject to paragraph (e), the person's holding of those bonus shares is to be disregarded when applying section 31 of that Act as then in force to the person and the person's associates;
- (e) however, if, after that commencement, the person, or any of the person's associates, acquires additional shares in the PDF (otherwise than as mentioned in paragraph (d)), the shares to which paragraphs (c) and (d) apply are to be taken into account in determining whether the acquisition of those additional shares complies with section 31 of that Act as then in force.

### ***States Grants (Petroleum Products) Act 1965***

#### **17 Section 1A**

Omit "Chief Executive Officer of Customs", substitute "Secretary of the Department".

#### **18 Subsection 5(2)**

Omit "Chief Executive Officer of Customs" (wherever occurring), substitute "Secretary of the Department".

#### **19 Paragraph 5(3)(a)**

Omit "Chief Executive Officer of Customs" (wherever occurring), substitute "Secretary of the Department".

**20 Paragraph 5(3A)(a)**

Omit “Chief Executive Officer of Customs”, substitute “Secretary of the Department”.

**21 Paragraph 5(3A)(b)**

Omit “Chief Executive Officer of Customs” (wherever occurring), substitute “Secretary of the Department”.

**22 Section 7**

Omit “Chief Executive Officer of Customs”, substitute “Secretary of the Department”.

**23 References in scheme to Chief Executive Officer of Customs**

A reference in a scheme formulated under section 4 of the *States Grants (Petroleum Products) Act 1965* to the Chief Executive Officer of Customs is taken, after the commencement of this item, to be a reference to the Secretary of the Department.

**24 Transitional provision—things previously done by the Chief Executive Officer of Customs**

Anything that:

- (a) was done under the *States Grants (Petroleum Products) Act 1965* (including under a scheme in relation to a State) by, or in relation to, the Chief Executive Officer of Customs before the commencement of this item; and
- (b) was still in force, or having an effect, immediately before the commencement of this item;

is taken, after that commencement, to have been done by, or in relation to, the Secretary of the Department as if the amendments made by items 17 to 23 of this Schedule had been in force when the thing was done.

***Trade Practices Act 1974***

**25 Section 65AA**

Omit all the words from and including “paragraph 53(eb)”, substitute “paragraph 53(a) or (eb) or paragraph 75AZC(1)(a) or (i) (which all deal with false or misleading representations)”.

**26 Sections 65AB and 65AC**

Omit “paragraph 53(eb) or paragraph 75AZC(1)(i)”, substitute “paragraph 53(a) or (eb) or paragraph 75AZC(1)(a) or (i)”.

**27 Subsection 65AD(1)**

Omit “paragraph 53(eb) or paragraph 75AZC(1)(i)”, substitute “paragraph 53(a) or (eb) or paragraph 75AZC(1)(a) or (i)”.

**28 Paragraph 65AN(1)(a)**

Omit “paragraph 53(eb) or paragraph 75AZC(1)(i)”, substitute “paragraph 53(a) or (eb) or paragraph 75AZC(1)(a) or (i)”.

Note: The heading to section 65AN is replaced by the heading “**Proceedings relating to false, misleading or deceptive conduct or representations**”.

**29 Application of amendments**

The amendments made by items 25 to 28 apply in respect of conduct engaged in, or representations made, after those items commence.

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*[Minister’s second reading speech made in—  
House of Representatives on 27 June 2002  
Senate on 26 March 2003]*