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Clerk of the Senate

JOINT COMMITTEE OF PUBLIC ACCOUNTS

ONE HUNDRED AND SEVENTY-SIXTH REPORT

THE REPORT OF THE AUDITOR-GENERAL -  
FINANCIAL YEAR 1977-78

JOINT COMMITTEE OF PUBLIC ACCOUNTS

TWELFTH COMMITTEE

D.M. CONNOLLY, M.P. (Chairman)  
V.J. MARTIN, M.P. (Vice-Chairman)

Senator M.E. LAJOVIC	The Hon K.M. CAIRNS, M.P. <sup>1</sup>
Senator J.O.W. WATSON <sup>4</sup>	J.M. BRADFIELD, M.P.
Senator G. GEORGES <sup>5</sup>	A.G. CADMAN, M.P.
	B.O. JONES, M.P.
	F.L. O'KEEFE, A.M., M.P. <sup>2</sup>
	J.C. KERIN, M.P. <sup>3</sup>

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The *House of Representatives* appointed its members on 1 March 1978  
and the *Senate* appointed its members on 22 February 1978.

- (1) Appointed (ex-officio) 14.3.78
- (2) Appointed 28.9.78
- (3) Appointed 18.10.78
- (4) Appointed 17.8.78
- (5) Appointed 16.10.79

The following members were discharged from the Committee on the dates shown:

J.L. Armitage, M.P., 2.5.78  
J.J. Brown, M.P., 18.10.78  
S.A. Lusher, M.P., 28.9.78  
Senator M.A. Colston, 17.8.78  
Senator J.B. Keeffe, 16.10.79  
Senator A.J. Messner, 17.8.78

DUTIES OF THE COMMITTEE

Section 8 of the Public Accounts Committee Act 1951 reads as follows:

8. The duties of the Committee are -

- (a) to examine the accounts of the receipts and expenditure of the Commonwealth and each statement and report transmitted to the Houses of the Parliament by the Auditor-General in pursuance of subsection (1) of section fifty-three of the Audit Act 1901;
- (b) to report to both Houses of the Parliament, with such comment as it thinks fit, any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Parliament should be directed;
- (c) to report to both Houses of the Parliament any alteration which the Committee thinks desirable in the form of the public accounts or in the method of keeping them, or in the mode of receipt, control, issue or payment of public moneys; and
- (d) to inquire into any question in connexion with the public accounts which is referred to it by either House of the Parliament, and to report to that House upon that question,

and include such other duties as are assigned to the Committee by Joint Standing Orders approved by both Houses of the Parliament.

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## CHAPTER 1

### INTRODUCTION

1.1 In accordance with its duties stated in section 8 of the Public Accounts Committee Act 1951, the Committee has conducted a series of inquiries related specifically to matters raised by the Auditor-General in his Report for the year ended 30 June 1978, tabled in the Parliament on 12 September 1978, and a Supplementary Report for the year ended 30 June 1978, tabled on 23 November 1978.

1.2 The Twelfth Committee sought written submissions from 15 departments and 3 government authorities. The Committee also requested explanations from a total of 3 government departments and 13 statutory authorities, Government-owned companies and other activities regarding delays in submitting statements for audit examination. After a selection of submissions had been made, the Committee heard evidence from 7 departments and 2 government authorities.

1.3 The Committee was again concerned at the number of statutory authorities, Government-owned companies and other activities which failed to submit financial statements formally to the Auditor-General's Office for audit examination; some 36 Government activities are referred to by the Auditor-General in section 1 of his Supplementary Report and a further 18 were referred to as having submitted financial statements which were still under Audit examination.

1.4 The matter of late submission of financial statements has aroused the Committee's concern over several years. As a result the Committee has decided to table a separate report on this subject. The Committee has held discussions with the Auditor-General and officers of the Department of Finance following the receipt of submissions.

1.5 In his Report for 1978-79, the Auditor-General reported further, at paragraph 2.14.1, on Offshore Petroleum Royalties, and also, at paragraph 2.3.2, on Excise on Naturally Occurring Petroleum Liquids - Bass Strait Area. Although the Committee had held an inquiry into Offshore Petroleum Royalties arising from the Auditor-General's 1977-78 Report, it has decided to widen this inquiry in the light of the Auditor-General's recent Report and to table a separate report on these matters.

1.6 The Committee has also been inquiring into the affairs of the Canberra Commercial Development Authority on which the Auditor-General reported at paragraph 5.5 of his Supplementary Report for 1977-78. This will be reported on separately to Parliament.

1.7 The Committee held the following public hearings in Parliament House, Canberra into the matters reported here:

<u>Date</u>	<u>Inquiry</u>
6 March 1979	Department of Defence
6 March 1979	Department of Education
20 March 1979	Department of Primary Industry
3 April 1979	Department of Primary Industry (continuation of inquiry commenced on 20 March 1979)

1.8 The following witnesses were sworn or made an affirmation and were examined by the Committee during the inquiry:

Department of Administrative Services

Mr N.A. Richardson - Chief Property Officer  
(Perth)

Department of Defence

Mr G.P.L. Anderson - Director of Accommodation  
and Works - Navy

Mr K. Dillon - Acting Regional Secretary  
(Perth)

Mr J.E. Hutton - Director of Naval Supply  
Replenishment,  
Navy Division

Mr W.T.A. Murphy - Acting First Assistant  
Secretary,  
Financial Services and  
Internal Audit Division

Department of Education

Mr W.C. Bowron - Director,  
Operations and Finance,  
Tertiary Student Assistance  
Branch

Mr P.C. Maher - Acting Assistant Secretary,  
Departmental Services Branch

Mr J.J. Wilson - First Assistant Secretary,  
Student Assistance Division

Department of Primary Industry

Mr F.J. Barton - Inspector,  
Internal Consultancy

Mr D.P. Cleary - Assistant Secretary,  
Management Services Branch

Mr A.A. Cooley - Assistant Director of  
Finance

Mr L.C. Elliott - Acting Assistant Secretary,  
Management Services Branch

Mr J.D. Espie - Administrative Officer,  
Beef Industry Incentive  
Payments Scheme

Dr A.H. Hayman - Assistant Secretary,  
Marketing Services Branch

Mr R.L. Hind - Executive Officer,  
Legislative Projects Unit

Mr G. Mackey - First Assistant Secretary

1.9 During the inquiry the Committee was assisted by the following observers:

Mr B. Beasley	-	Auditor-General's Office
Mr D. Crombie	-	Auditor-General's Office
Mr R.G. Rose	-	Auditor-General's Office
Mr F. Ward	-	Auditor-General's Office
Mr A.M. Finch	-	Department of Finance
Mr G. Ford	-	Department of Finance
Mr P. Lidbetter	-	Department of Finance
Mr F.J. Gibbons	-	Department of the Treasury
Mr A.A. Chapple	-	Public Service Board
Mr R.W. Crowle	-	Public Service Board
Mr B.G. McCallum	-	Public Service Board

CHAPTER 2

DEPARTMENT OF DEFENCE

Lease Charges on RAN Pipelines at Fremantle

2.1 At paragraph 3.7.7 of his Report for 1977-78, the Auditor-General stated:

Audit reviews of departmental revenue disclosed charges for the use of the facilities had not been raised or paid regularly in recent years. Charges raised for the period 1965 to 1972 have not been paid in full by the company as the appropriate charges are in dispute. Rental charges for the use of one section of the system were last paid in 1972 and for the other section in 1974. It is understood the use of the facilities by the company has continued since these years without payments.

Available information indicates resolution of the matter has been prolonged due to the absence of a legally enforceable agreement covering the use of the facilities and providing for an agreed basis of charging. As a result a significant under-collection of revenue has occurred since 1965.

2.2 The Navy oil fuel installations at Fremantle were established during the Second World War and the arrangement for the rental of the RAN pipelines was made in 1941 originally between the Anglo-Iranian Oil Company and the Navy. The arrangement now involves BP Australia Ltd. The initial arrangement envisaged that terms and conditions would be agreed by an exchange of letters<sup>1</sup> and possible variations in the rental charges could be renegotiated with twelve months' notice being given by either party.<sup>2</sup> Changes, apparently successfully, were made in 1954 and 1965.

2.3 In September 1969, BP Australia Ltd wrote to the then Department of the Navy proposing retrospective adjustments to the rental paid since 1964 on one section of the pipelines and suggesting other rentals and charges to apply from the beginning of 1970. It has been the delay in concluding an agreement arising from these proposals which has led to the situation revealed by the Auditor-General in his Report.

2.4 The Committee inquired about the consideration given by the Departments of the Navy and Defence to the proposals. The Department of Defence's search of the available information "simply shows a movement of paper not reaching any finality".<sup>3</sup>

1. Minutes of Evidence, p 4.
2. Minutes of Evidence, p 11.
3. Minutes of Evidence, p 19.

2.5 As the matter is one which involves under-collection of \$23 002 of Commonwealth revenues since 1965, the Committee was interested in the action taken to resolve the matter. The Auditor-General's Western Australia Office first observed in 1972 that no rent had been received since 1964 from BP Australia Ltd in respect of one of the pipelines and that agreement had not been reached concerning the charges to be levied by BP Australia Ltd for the use of its fuelling facilities by the Navy in Fremantle harbour. In its reply to the Auditor-General in August 1978, the Department of Defence advised that an agreement was currently being negotiated with BP Australia Ltd and that outstanding moneys would be collected as soon as an agreement had been finalised. In the event, the matter had not been concluded at the date of the Committee's hearing, in March 1979.

2.6 The Department of Defence forwarded two submissions to the Committee. These, dated 7 November 1978 and 26 January 1979, are at Appendices 2A and 2B. As was conceded<sup>4</sup> at the inquiry, the information in the first submission, that agreements with BP Australia Ltd had been ratified and all outstanding charges collected, was premature. The submissions also overlooked a rental overpaid to BP Australia Ltd by the Department of Administrative Services and accruing to over \$25 000. At the inquiry, the Department did not avail itself of an opportunity to correct this situation although it had earlier received a letter from BP Australia Ltd specifically referring to this matter in detail. The Department's submissions also suggested that the Department was unable to determine for itself the balance of its accounts with the oil company.

2.7 At paragraph 2.5.10 of his 1978-79 Report (See Appendix 2C), the Auditor-General has again referred to this matter. The Committee has noted the Auditor-General's continued interest and his report on the further action taken by the Department.

Conclusions

2.8 The Committee was disturbed by several aspects of this matter. These include the absence of a legally enforceable agreement between the Commonwealth Government and BP Australia Ltd; the lack of information available to the Department of Defence, the Auditor-General and, consequently, to the Committee; the inordinate delay in reaching an agreement arising from the proposals made in 1969 by BP Australia Ltd; the lack of current asset value of a Commonwealth asset about which an agreement is being negotiated; and the submission of incorrect information by the Department of Defence to the Committee.

4. Minutes of Evidence, pp 26-27.
5. Minutes of Evidence, pp 23-24.
6. Minutes of Evidence, pp 1, 24.
7. Departmental Submission, 26 January 1979, para 12.

2.9 The delay which has occurred in the Department's consideration of and reaching agreement on the proposals put to it by BP Australia Ltd in September 1969 is of considerable concern to the Committee. The Department claimed that "the subject was being prosecuted reasonably well but petered out coinciding with the abolition of the Department of the Navy" and was not resumed by the Department of Defence. The Committee does not accept the Department's explanation<sup>8</sup> that the matter has not been concluded is related to various changes that have taken place in the Navy and the Department of Defence and the abolition of the Department of the Navy in 1973. The Committee concludes that adequate attention and resources were not devoted to the task so that an agreement could be reached expeditiously. The Committee believes that BP Australia Ltd's intention in writing in September 1969 was to put forward proposals in good time to allow an agreement to be reached prior to its taking effect from the beginning of 1970. The Committee is appalled that at the date of its inquiry almost ten years after BP Australia Ltd made its proposals, the matter had not been finalised.

2.10 A further disturbing aspect of this inquiry was the unavailability of vital information, including the original correspondence between the Anglo-Iranian Oil Company and the Department of the Navy and much of the subsequent correspondence. The Department stated<sup>9</sup> that it had not been able to locate a key file relating to this subject despite a most strenuous search. This difficulty had also been met<sup>10</sup> by the Auditor-General's Office which, in its inquiries, had been hampered by the same missing information. The Committee was astonished<sup>11</sup> that the Department, despite the obvious interest of the Auditor-General over a period of time and the Committee, had apparently made no attempt to obtain copies of correspondence or any of the other missing documents from the oil company.

2.11 Further, the Committee was surprised to learn<sup>12</sup> that the Department of Defence had no record of the use made by BP Australia Ltd of the pipelines. The Department's only control over the oil company's use was to lock the valves. As the oil company's argument for a reduction in rental is based on reduced usage, the Committee suggests that the Department maintain proper records of the use of the pipelines by BP Australia Ltd, as it should in all similar circumstances.

2.12 The Committee is concerned that the Department of Defence's two submissions were incorrect. Whilst the Committee is pleased that the Department sought to correct one error, another was perpetuated. The Department was still unable to determine the balance of its accounts with the oil company at the time of our

8. Minutes of Evidence, pp 13-14.
9. Minutes of Evidence, p 5.
10. Minutes of Evidence, p 27.
11. Minutes of Evidence, p 5.
12. Minutes of Evidence, pp 20-21.

inquiry. Such a chronicle of error and inadequate information reflects, in the Committee's view, very strongly on the management of the Department of Defence and the administration of its affairs.

2.13 The Committee was surprised to learn<sup>13</sup> that there is no clear policy in respect of the leasing of pipelines and other naval installations for use by non-defence and commercial organizations. The Committee recommends that, in matters involving national security, the policy should be clearly formulated and based on consideration of the relevant issues.

2.14 The Committee was astonished that the Department's submission made no direct reference to the Auditor-General's comment that the absence of a legally enforceable agreement was the cause of the delay in this matter. Whilst the Department submitted<sup>14</sup> that "the oral agreements reached for the rental of Navy pipelines will be formalised in writing", the Committee believes that this is not different from the previous arrangement which was conceded<sup>15</sup> by the Department to be not legally binding. Accordingly, the Committee wishes to be satisfied that the agreement covering the future use of the facilities and providing for an agreed basis of charging is one which is legally enforceable.

2.15 The Committee was told<sup>16</sup> that, in the most recent assessment, made in 1966 by the Taxation Office, the pipelines were valued at \$120 000. The Committee is therefore concerned that the Department has been attempting to negotiate a rental based on the pipelines' value in ignorance of its current value. The Committee recommends that the current value of an asset be used when agreements which involve a valuation of that asset are being entered into.

2.16 The Committee was told<sup>17</sup> that the long-term rental agreement did not make any provision to be adjusted for inflation. The Committee recommends that rental in this and similar circumstances should relate to the opportunity cost of alternative facilities which may vary from time to time. Although charges had been varied prior to 1969, the Committee notes that the Department has not sought to update the charge to reflect 1979 values.

2.17 The overpayment of rental, accruing to over \$25 000 for the lease of pipelines from BP Australia Ltd, was revealed during this inquiry. Although the origins of payments for this facility made by the Department of Administrative Services rather than

13. Minutes of Evidence, pp 8-9.
14. Departmental Submission, 26 January 1979, para 14.
15. Minutes of Evidence, pp 4-5.
16. Minutes of Evidence, pp 10, 15-16.
17. Minutes of Evidence, pp 9-10.

the Department of Defence were not made clear, an amount of \$2800 per annum has been paid to BP Australia Ltd since January 1970 despite the company's September 1969 proposal that it be waived.<sup>18</sup> Also while the Department of Administrative Services was continuing to pay this rental it was not aware of the negotiations taking place. The Committee regards this as a serious breakdown in administrative procedures to continue these payments for over nine years without apparently ever reviewing their necessity or consulting with the Department of Defence.

2.18 Whilst appreciating the administrative convenience of offsetting monies owed by BP Australia Ltd with those owed to the company, the Committee agrees with the view of the Department of Finance<sup>19</sup> that the practice of offsetting is not to be encouraged. Contrary to the Department of Defence view, rental monies paid out in error by the Department of Administrative Services should be reimbursed, in the Committee's opinion, to that Department rather than, under the offset arrangements, become Department of Defence revenue.

2.19 The Committee notes that this whole matter had been able to continue unresolved for nearly ten years before being reported by the Auditor-General. The Committee must be critical of departmental procedures which could not resolve this matter. The Committee observes also that neither the annual overpayment of rental by the Department of Administrative Services to BP Australia Ltd nor the under-collection of revenue by the Department of Defence had been detected. The Committee, on pages 26-30 of its 17th Report, had been critical of the thoroughness of the monitoring processes which can allow such situations to continue over many years. The Committee wishes therefore to be satisfied that consideration has been given to procedures which will avoid similar repetitions.

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18. Minutes of Evidence, pp 15, 17  
19. Minutes of Evidence, pp 28-29.

### CHAPTER 3

#### DEPARTMENT OF EDUCATION

3.1 In Chapter 3.8 of his Report for 1977-78 the Auditor-General commented upon two matters related to student assistance schemes:

- Eligibility checks for the Tertiary Education Assistance Scheme (TEAS); and
- Overpayments of student allowances to recipients of TEAS benefits and other student assistance.

His comments appear below:

Paragraph 3.8.1. Tertiary Education Assistance Scheme - Eligibility Checks.

During 1977 fraudulent applications for Tertiary Education Assistance Scheme benefits were lodged in 2 State offices. While the attempted fraud was detected by the Department prior to any benefits being paid, its occurrence did illustrate the vulnerability of the scheme.

Following reviews in all state offices by Audit to ensure that all reasonable means of verification were being employed to detect fraudulent applications and reduce the possibility of overpayments, a number of matters were referred to the Department for comment and advice.

In response, the Department advised:

- It attempts to verify the existence of applicants by the controlled distribution of forms to both first-year and continuing students. The students are also warned that examination results will be checked and certain other checks will be conducted during the year.
- A pilot study has been implemented in the South Australian Office to verify the existence of new applicants for benefits by checking against a list of successful matriculation students as prepared by the South Australian Tertiary Education Admission Centre. The results of the check to date tend to confirm that controlled distribution does offer some protection. The check has isolated approximately 5 per cent of new students who are not listed and merit special checks.
- It did not agree that confirmation of enrolment should be obtained prior to payment of the allowance and advised that previous attempts to obtain such evidence were



unsuccessful for a variety of reasons, the main ones being the general lack of co-operation by tertiary institutions and the time-frame in which enrolments are made 4-5 weeks prior to commencement of the academic year. Enrolment checks are carried out in April and September each year and now include those students who have ceased the course prior to date of the check. The enrolment check is arranged by the Central Office of the Department and is considered to be adequate; however, any defects located result in an overpayment.

- Due to the absence of attendance records in most tertiary institutions, it is found impossible to verify the continued attendance of a student beneficiary. In the event of cessation, reliance is placed on the requirement for the student to furnish advice to the Department.

Paragraph 3.8.4. Overpayments - Student Assistance Schemes.

Previous Reports have expressed concern at the increasing trend in unrecovered overpayments and at delays in recovery action.

It is still a matter of concern that, notwithstanding the introduction of revised procedures supported by mini-computers, the amount of unrecovered overpayments in respect of all student assistance schemes continued to rise, although there were fewer individual cases at 30 June 1978 than at 30 June 1977.

The following figures have been extracted from departmental records and show the comparative position at 30 June for the years 1976, 1977 and 1978.

Date	Number of Cases	Amount \$
30 June 1978	8 661	2 665 536
30 June 1977 (a)	9 174	2 428 835
30 June 1976	6 051	1 281 537

(a) Figures shown in my 1976-77 Report subsequently amended by departmental advice.

Included in the above figures for 30 June 1978 are 6 090 individual overpayment cases in respect of the tertiary education assistance scheme with a total value of \$2 137 834 and 615 cases totalling \$355 276 which relate to unclassified overpayments caused by departmental errors. Overpayments in the latter category are subject to limited recovery action.

In response to the Committee's request, the Department provided submissions on these matters, which are at Appendices 3A and 3B.

Background

3.2 The Tertiary Education Assistance Scheme comes under the Student Assistance Act 1973. The only other scheme covered by this legislation is the Post-Graduate Award Scheme: together, these two schemes account for two-thirds of all students assisted and for about 75 per cent of all student assistance expenditure. The other schemes, listed below, are not covered by this legislation, but are the result of Ministerial decision and, as such, are covered by detailed rules and policy guidelines which are approved by him.<sup>1</sup>

	<u>Established</u>
Aboriginal Study Grants Scheme	1969
Aboriginal Secondary Grants Scheme	1970
Assistance for Isolated Children Scheme	1973
Secondary Allowances Scheme	1974
Aboriginal Overseas Study Awards Scheme	1975
Adult Secondary Education Assistance Scheme	1975

Eight other schemes are in the process of being phased out.

3.3 TEAS provides for assistance by means of a living allowance for students undertaking approved diploma and bachelor courses at tertiary institutions, as well as some approved vocational courses (eg secretarial courses). Assistance is also provided for some post-graduate qualifications where these qualifications form a career sequence, eg post-graduate diplomas, masters degree qualifying courses. The allowances are subject to a means test and the amount received by the student is determined by eligibility criteria relating to his place of residence, means of support and status as a full or part-time student. The student is assisted for only one year at a time, and must submit a fresh application prior to each academic year; this enables a check to be made on academic progress and continuing eligibility for assistance. At 30 June 1978, 88,719 students were receiving benefits.<sup>2</sup>

3.4 Application forms are usually made available in November each year, and are completed and returned by students to the relevant State Offices of the Department. In 1978, 120,000 TEAS and Post-graduate award applications were received at offices of the Department, mainly in the months between January and April. During this period the Department

- Minutes of Evidence, pp 32, 46.
- Department of Education, Annual Report 1978.
- Department of Education, Annual Report 1978.

increases its student assistance staff by some 20 per cent, restricts recreation leave and extends the provision for overtime.<sup>4</sup> In response to a question, the Committee was advised that in 1974 and 1975 it had been attempted to mesh the Department's peak period with the institutions' peak periods, but the time periods were found to be incompatible.<sup>5</sup>

#### Fraud

3.5 In May 1977, fourteen bogus applications were lodged with the Victorian Office of the Department.<sup>6</sup> Nine were rejected at initial assessment stage. In view of the similarity of a number of features of the rejected applications, a full-scale investigation revealed the other five applications. This latter group was intercepted before any payment was made. Commonwealth Police established that the persons thought to be involved in the fraud had moved to Western Australia and an investigation in that State found two further bogus applications. Both had already been rejected during initial assessment and were being followed up by the Department. The majority of bogus applications were discovered through checks applied by the Department at the stage of initial assessment, and no payment of allowances made. With regard to the five applications in Victoria which satisfied the initial checks, it has been acknowledged that these cases would have been detected by later verification checks.

3.6 The Committee received a copy of the TEAS application form and noted the requirement for applicants to formally declare that the information they have provided is true and correct, and to acknowledge that acceptance of payment constitutes acceptance of all relevant conditions. The declaration also contains an authorisation for the Department to obtain, "from any organisation or individual", verification of the information provided.\* Students are reminded of their obligation to advise the Department of changes in their circumstances by means of regular notices sent to them with their payments.\* The frequency of this notice has been increased from twice a year to four times each year.<sup>7</sup> In addition the Department provides an information booklet on TEAS, formally setting out student obligations under Regulation 85 of the Student Assistance Act.

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\* The texts of the declaration and the reminder notice are reproduced at Appendix 3C.

4. Departmental Submission, 3 November 1978, para 2 (AGR 6).
5. Minutes of Evidence, pp 34, 40-41.
6. Submission (AGR 6), paras 6-9.
7. Departmental Submission, 3 November 1978, para 9 (AGR 5).

3.7 The Department also restricts the distribution of application forms.<sup>8</sup> Continuing students and most school leavers have application forms mailed directly to them. In some States, tertiary education admission procedures are not uniform or centralised, and State facilities therefore do not provide a complete cover of students and institutions. In such cases application forms are made available at institutions for school leavers and for the small proportion of students who fit neither category. The pilot study in South Australia mentioned in the Auditor-General's Report in Paragraph 3.8.1 was conducted to test whether fraudulent applications were most likely to come from those groups who obtain their applications from the institutions. All non-continuing students were checked against various data sources and final results have verified the existence of all these students, with not one false application being discovered.

3.8 When applications are first received checks are made to ensure that duplicate applications have not been lodged for assistance against other schemes administered by the Department.<sup>9</sup> Checks are also made that the applicant is not receiving assistance or grants from a variety of other Government sources. The information supplied on income may be checked with the Commissioner for Taxation. Prior to the commencement of allowance payments, information contained in applications is subjected to a further series of cross checks to ensure it is logically consistent, and supporting statutory declarations are examined. The Department submits that rejected or suspicious forms are promptly followed up with students.

3.9 Applications in any one State are not normally checked against those from other States, although the Department made an all-States manual comparison in 1976.<sup>10</sup> At the time, it was a laborious exercise and only a low error rate was found, so the Department has not repeated it. The only inter-State comparison now carried out is prior to writing off overpayments, when all States are checked to establish whether the student has moved and is now registered with another State office of the Department.

3.10 The Department's assessors are provided with policy manuals and a document titled "Minimum Requirements for Processing Application Forms". The latter is a confidential document and a copy was provided for the Committee. This document, which is quite comprehensive, sets out minimum standards of information which have to be satisfied before an initial payment is made.

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8. Submission (AGR 6), paras 11-15.
  9. Submission (AGR 6), paras 3-5.
  10. Minutes of Evidence, p 39.

Under these minimum standards, it is possible for payment to be initiated in the absence or error of fairly basic information about the applicant, as once initial requirements are satisfied payment is commenced. However, the Committee recognises that further, more detailed checks are undertaken progressively through the year. It is these later checks, the Department contends, that would eventually have detected the fraud attempts.

3.11 The Auditor-General suggested to the Department that, in an attempt to detect fraud early and reduce overpayments, the Department should ensure students continue to attend institutions regularly.<sup>11</sup> The Department advised the Auditor-General that such assurance is not feasible, although it did attempt to carry out attendance checks at certain technical colleges in 1975.<sup>12</sup> These were terminated because attendance was recorded on an irregular basis or not at all, and records were found to be unreliable. In evidence to the Committee the Department explained that it was not the usual practice of tertiary institutions to keep attendance records, as they regarded student performance, as reflected in work output and examination results, as a better indication of course involvement.<sup>13</sup>

3.12 Similarly, the Department again cited past experience in response to the Auditor-General's contention that the only effective means of verifying the existence of students and deterring fraud was for applicants to produce proof of enrolment prior to payment by the Department.<sup>14</sup> In 1974 the Department required proof of enrolment to be returned with the application form.<sup>15</sup> This practice was abandoned the following year because it was found that:

- a significant proportion of students did not follow the procedures laid down;
- the general "lack of co-operation by tertiary institutions", (Auditor-General's Report 1977-78); and
- although it provided verification of enrolment, it did not provide final verification of courses undertaken, as students often vary their subjects well into the first term. This can substantially alter the allowance received by the student.

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11. Auditor-General's Report 1977-78, para 3.8.1.  
12. Submission (AGR 6), paras 19-20.  
13. Minutes of Evidence, p 40.  
14. Auditor-General's Report 1977-78, para 3.8.1.  
15. Submission (AGR 6), paras 16-18.

However, from 1979 the Department requires all students to supply with their applications the identity number allocated to them by their institutions.\*

3.13 Regular checks are also conducted in April and September of each year, when student enrolment has firmed and examination results are known.<sup>17</sup> The Committee queried whether more checks could be made, and was advised that the Department seeks to avoid clashing with periods of peak activity at institutions, and thus straining smaller institutions' resources. Peak activity usually occurs at enrolment, in February/March, and at examination times at the middle and end of each year.<sup>18</sup> The Department claims that these bi-annual checks provide an effective check of applicants' existence, and supported this by stating that in 1977, 87,167 recipients had their enrolment data checked without one false application being discovered. However, these controls and checks still leave the system open to overpayments to students.<sup>19</sup>

#### Overpayments\*

3.14 In its submission to the Committee, the Department said that it:

...shares the Auditor-General's concern that the amount of unrecovered overpayments has risen from \$2.4m at 30 June 1977 to \$2.6m at 30 June 1978, an increase of 8.3%. This growth reflects the 9.6% increase in total expenditure on student assistance from \$186.8m in 1976/77 to \$204.9m in 1977/78, and the higher average benefit per student provided under a number of schemes. Overall, however, the amount of \$2.6 m unrecovered at 30 June 1978 is only 1.3% of total student assistance expenditure for 1977/78, which represents no growth on the situation for the preceding financial year when the unrecovered amount of \$2.4m was also 1.3% of total expenditure.<sup>20</sup>

3.15 The Committee is pleased that the Auditor-General's concern is shared, but notes that in some respects the Department's figures appear to be more optimistically presented than do the Auditor-General's.

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\* All Assistance Schemes.

16. Submission (AGR 5), para 9.
17. Submission (AGR 6), para 17.
18. Minutes of Evidence, p 34.
19. Submission (AGR 6), paras 16-18.
20. Submission (AGR 5), para 2.

TABLE 1

Unrecovered Overpayments

	30 June			
	1976	1977	1978	1979
No. of Cases	6051	9174	8661	7916
Amount of Overpayments (\$m)	1.281	2.428	2.665	3.017
% Increase Over Previous Year	n.a.	89.5%	9.7%	13.2%
Total Student Assistance Expenditure (\$m)	n.a.	186.8	204.9	214.8
Overpayments as % of Expenditure (\$m)	n.a.	1.3%	1.3%	1.4%

Note: The figures for 1976-1978 are based on information supplied in the Auditor-General's Report for 1977-1978. The figures for 1979 are based on his Report for 1978-79.

As can be seen from Table 1, between 30 June 1977 and 30 June 1978 the true increase based on actual amounts was 9.7 per cent, not 8.3 per cent as the Department submitted. In this case, the percentage increase on a rounded figure is of little use and doubtful validity, particularly as the rounded amount for June 1978 is in fact \$2.7m, not \$2.6m.

3.16 The Committee queried the large rise in the number of cases and the amount of unrecovered overpayments between 30 June 1976 and 30 June 1977. In response, the Department advised that there were three main reasons for this increase:

- the number of students assisted rose from 67,173 at 30 June 1975 to 86,271 at 30 June 1977. The number of students who altered their courses without advising the Department rose accordingly, and of the 9,174 cases at 30 June 1977, 67 per cent were attributed to this cause;
- much faster processing of applications was possible following the introduction of mini-computers, thus allowing more time for verification and control procedures and therefore increasing the number of cases detected; and

the policy of allowing students to repay overpayments by instalments produces a cumulative effect, with the result that a substantial proportion of cases were carried over from the previous year.<sup>21</sup>

3.17 With reference to this last reason, Table 1 shows that this cumulative effect appears to have much less impact on the number of cases in succeeding years, as this has continued to decrease since 30 June 1977.

3.18 From the 185,000 applications for all schemes processed during 1979, 166,000 students were deemed to be eligible for assistance.<sup>22</sup> In its evidence, the Department made the point that there can be multiple "assessment decisions" for each individual application, and in fact, that the number of assessment decisions provides a more indicative guide to workload than do the number of applicants.\* On this basis, the Department estimated that there were 378,000 assessment decisions arising from the 1978 applications. The Committee was advised that 18,573 new overpayments had been registered during 1977-78 in respect of these assessment decisions.<sup>23</sup> Supervisors undertake systematic and random checks of assessors' work, to ensure that assessors meet an acceptable level of performance and accuracy. The assessors examine each application against the eligibility<sup>24</sup> criteria and code the applications for processing.

3.19 Despite the expressed Department view that "by and large the financial year figure would equate with a calendar year figure", the Committee doubts this and questions the value of such a hopeful comparison without firm data to back it.<sup>25</sup>

\* A single application might involve several assessment decisions, from the initial assessment deeming the student to be eligible through to further assessments as the same student's status or circumstances change: eg when the student moves away from home, changes his course, or marries. The Department's estimate of the number of assessment decisions is an averaged figure. The Committee is not in a position to assess the validity of the Department's method of estimation, but takes its point on workload implications.

21. Departmental Supplementary Submission, 9 July 1979, para 7.
22. Minutes of Evidence, p 37
23. Minutes of Evidence, pp 37-38.
24. Minutes of Evidence, p 55.
25. Minutes of Evidence, p 38.

3.20 In its submission the Department provided a table showing the causes of overpayments at 30 June 1978.<sup>26</sup>

The table is reproduced below.

Causes of Overpayments

	Cause	No. of cases	Proportion
1.	Student failed to commence proposed course	296	3.4
2.	Discontinued course	5219	60.2
3.	Reduced study load to part-time status	470	5.4
4.	Accepted another award	334	3.9
5.	Entered a bonded arrangement with future employer	146	1.7
6.	Parental income found to exceed income declared in application form	400	4.6
7.	Student's income exceeds permissible limit	428	4.9
8.	Data (other than parental income) declared on form found to be incorrect	143	1.7
9.	Departmental error	615	7.1
10.	Death of student	13	0.2
11.	Brother/sister cease study, thereby terminating means test concession	86	1.0
12.	Other	511	5.9
	<b>TOTAL</b>	<b>8661</b>	<b>100.0</b>

26. Submission (AGR 5), para 6.

3.21 The Committee noted the relatively high percentage of cases attributed to departmental error. Since 1977 it has been the Department's policy not to press for recovery of such overpayments, out of concern for individuals who may be faced with repayment through no fault of their own.<sup>27</sup> At this stage, the Department is carrying these outstanding amounts, pending the issue of specific guidelines which the Department of Finance is currently considering. The Committee understands that these guidelines would be part of an instrument of delegation from the Minister for Finance, enabling particular Permanent Heads or their deputies, and including the Department of Education, to waive the Commonwealth's right of recovery in certain cases of overpayments. The guidelines would cover payments received in good faith by the recipients, and any recovery action would then be dictated by the individual's financial circumstances and prospects.

3.22 The Committee understands that this policy of waiving the right to recovery of such overpayments is consistent with that followed by the Departments of Social Security and Veterans' Affairs.<sup>28</sup> The Audit Act was amended in 1979, clarifying the right of the Minister for Finance to delegate the power to write moneys off and to waive the right to recovery. The Department of Education has written off about \$140 000 over the last three financial years, being overpayments, through any cause, which are deemed under existing general Finance Guidelines to be irrecoverable.<sup>29</sup>

3.23 In the meantime, overpayments arising from departmental error are being accumulated, and inflating both the number of cases attributable to departmental error and the apparent amounts outstanding. The witnesses' attempts to explain these figures confused rather than clarified the situation, and the Committee was left with an impression of poor preparation by witnesses and of the material presented to it.<sup>30</sup>

3.24 With respect to the total amount of outstanding overpayments, the Department emphasised that as a result of recovery action a significant proportion of this outstanding amount is recovered later.<sup>31</sup> Of the \$2.4m outstanding at 30 June 1977, \$1.55m or 64 per cent had been returned to revenue during the following financial year. The Department expects to recover a further proportion of the outstanding amount as money is paid back on a

27. Minutes of Evidence, pp 65-67.

28. Minutes of Evidence, p 67.

29. Supplementary Submission, 9 July 1979, para 4(b).

30. Minutes of Evidence, pp 39, 63-65.

31. Submission (AGR 5), paras 3-5.

long-term basis by students. Of the 8,661 cases of unrecovered overpayments at 30 June 1978, the Department states that 2,675 or 32 per cent of cases of outstanding overpayments are being paid back by long-term instalments. This results in accumulated unrecovered overpayments being inevitable in any one year.

3.25 The Committee was conscious of the substantial amounts of money this involved, and the consequent loss to the Commonwealth of the use of this money for extended periods. This practice in effect provides interest-free loans to the students concerned. In response to a query from the Committee the Department of Education advised that "there are no guidelines in the Audit Act", for charging interest upon these amounts, and that no consideration had been given to such a measure.<sup>32</sup> The observer from the Department of Finance stated that interest is not recouped in other areas where money is recovered by instalments. He suggested that, in this case, it may be due to the fact that although the total amount involved is substantial, the individual repayments are often very small and thus it could be doubtful if it would be cost effective to calculate interest due. The observer from the Department of Finance agreed with the Committee's view that there could be merit in giving more detailed consideration to the charging of interest on these and similar overpayments.

3.26 From the beginning of 1978, the Department has paid allowances mainly in arrears with the aim of reducing both the magnitude and incidence of overpayments.<sup>33</sup> This measure is particularly directed at the substantial proportion of students who fail to notify the Department that they have discontinued their course. The Department believes that this measure has significantly contributed to the reduction in the number of cases recorded to 30 June 1978, and that this trend will continue. Despite this, the Department's systems are still open to payments being made to a discontinued student. In an extreme case, if a student decided to discontinue his course in May, immediately after the Department's April check with institutions, the Department has agreed that it is possible that that student could continue to receive payments for up to 5 months afterwards if the obligation to advise the Department is ignored.<sup>34</sup> Even if the student promptly advises the Department, a further payment may still be made due to the time taken in preparing and making payments. In such cases the Department has stated that it is not unusual for students to retain the overpayment on the basis that they consider that having discontinued

32. Minutes of Evidence, pp 61-62.

33. Submission (AGR 5), para 8.

34. Minutes of Evidence, p 55.

in, say, the middle of a pay period they are therefore entitled to a portion of that overpayment. The matter then becomes the subject of negotiation between the student and the Department.<sup>35</sup>

#### ADP Resources

3.27 At present, the Department uses fourteen programmable calculators, originally designed for use in small businesses, which were bought in 1976 in order to speed up processing of applications for assistance.<sup>36</sup> Until early 1977, a fully manual system was used to monitor and recover overpayments under student assistance schemes.<sup>37</sup> These functions were then partially transferred to the mini-computers (ie programmable computers), but as these are primarily required for processing and payments work, the recoveries/overpayments work is restricted to a few days each month. Problems in equipment and storage capacity also mean that manual records must be kept to supplement computer records, and that extensive manual checks are required to reconcile ledger cards and computer records. Generally, the present equipment is basic and insufficient for the Department's Student Assistance Division requirements.

3.28 The Department initially stated that following the introduction of improved computer techniques in 1979 there would be greater internal control, closer monitoring of overpayments and more efficient recovery action.<sup>38</sup> The Department's proposals for improved techniques were based on the expectation that its equipment would be upgraded or replaced, but the Committee has since been advised that this plan has now been deferred. In 1978 a program of replacement and upgrading was recommended: around the same time, the Department commenced a review of its total ADP needs, in conjunction with the Public Service Board. As a result, it was decided that no major changes to the recoveries system should be developed until the review is finalised.<sup>39</sup> The Department has advised that preliminary investigations indicate that to meet ADP requirements for the whole Education portfolio an expenditure of \$0.75m to \$1.0m will probably be required, and that it is unlikely that any new equipment will come on line until mid-1981, (assuming that approval is given to the Department's submission for funds).

35. Minutes of Evidence, pp 51-52.

36. Minutes of Evidence, pp 69-70.

37. Supplementary Submission, 9 July 1979, para 1.

38. Submission (AGR 5), para 7.

39. Supplementary Submission, 9 July 1979, para 1.

3.29 Another matter of concern to the Committee is the Department's apparent difficulty in assembling or retrieving statistical and historical data from its system. In response to requests by the Committee, the Department in some cases was unable to provide information on the basis that it was unavailable or would necessitate extensive manual checks. In other cases, data based on samples of 100 students was provided.<sup>40</sup> A witness described the Department's "rather rudimentary overpayments system" in the following terms:

We do not keep historical data of overpayments gone by in a readily accessible form. What we are mainly concerned with is a monthly situation in terms of those coming on as new cases, those that are finalising and going off and those that are at a particular point in the recovery process. At this stage, for example, to get the information you are talking about we would have to go back to 1978 cases, which are not stored in a memory in a computer...<sup>41</sup>

3.30 The Committee asked if the Department's administrative and recovery processes had been subject to any sort of a cost benefit analysis.<sup>42</sup> Witnesses indicated that the Department had not specifically considered the trade-off between costs of administration and saving of public funds, but stated that it was a factor kept "constantly and consciously in mind", particularly when staff ceilings were being allocated.<sup>43</sup>

3.31 The relative advantages of calendar year versus financial year records were also canvassed, and a witness advised that the Department operates the scheme... "as far as the individual is concerned on a calendar year basis but that in that process we conform to financial year appropriations."<sup>44</sup>

#### Co-operation and Liaison with Tertiary Institutions

3.32 In paragraph 3.8.1 of the Auditor-General's Report 1977/78, the Department is reported as citing "the general lack of co-operation by tertiary institutions" as being one of the main reasons why it found it difficult to obtain confirmation of student enrolment. The Department qualified this statement

40. Minutes of Evidence, pp 44-45.  
41. Minutes of Evidence, p 57.  
42. Minutes of Evidence, p 72.  
43. Minutes of Evidence, p 74.  
44. Minutes of Evidence, pp 67-69.

considerably during the course of the hearing and in subsequent submissions. It advised that it has had continuing discussions with various institutions and representative bodies, particularly the University of Melbourne and the Vice-Chancellors Committee,<sup>45</sup> aimed at improving liaison and relations with the institutions. One matter which has been resolved is that of the release of confidential material by institutions, and students now sign a release authority contained in the application form.

3.33 However, the Department said that co-operation and liaison with individual institutions can vary considerably, and is largely dependent upon the resources and records systems of the institutions. Some institutions with sophisticated records systems automatically notify the Department of students who do not meet course requirements. The Department hopes that once they are in a position to supply institutions with the students' identification numbers in an acceptable computerised format, more institutions will then be able to "earmark" TEAS and other grantees and so advise the Department promptly of changes in course requirements.

3.34 Although the Department advised that it is now satisfied with the general level of co-operation from institutions, it is experiencing problems with one particular institution which does not accept the authority given on the application form. The name of this institution will remain confidential, at the Department's request. The Department is negotiating with the institution concerned, and the Committee wishes to be advised of the outcome.

3.35 In relation to liaison with State education authorities on student assistance matters, the Department declares itself to be very satisfied with the general level of co-operation. However, liaison is mainly confined to routine administrative matters relating to assistance to secondary school students and to technical and further education.<sup>46</sup>

#### Lack of Legislation

3.36 Money for student assistance is appropriated by Parliament and therefore subject to the Audit Act. Nevertheless, the Committee expressed its concern that the regulation of expenditure of this magnitude and kind is not subject to scrutiny by Parliament. Representatives from the Department agreed that there was "a case in principle" to have the schemes legislated for, but contended that there were significant practical difficulties in legislating for all of them.<sup>47</sup> In order to give legislative effect to the 5 major student assistance schemes that are currently not legislated for, the Department stated, in a

45. Minutes of Evidence, p 35.  
46. Departmental Supplementary Submission, 6 April 1979.  
47. Minutes of Evidence, p 46.  
48. Minutes of Evidence, p 33.

supplementary submission to the Committee, that in July 1977 it was advised by Parliamentary Counsel that once Cabinet approval had been given it would take 3 months to draft a Bill to amend the Student Assistance Act 1973.<sup>49</sup>

3.37 However, the Department considers that the most time-consuming part of the task would be the subsequent drafting of the necessary Regulations to support the legislation. It states that the Attorney-General's Department has estimated that this would take its staff approximately two and a half years subject to staff being available. At the same time, the Department of Education considers that the two officers (Class 9 and Class 6) of the Legislation Sub-section of the Student Assistance Division would be employed for the whole of the drafting period and for a period of approximately 2 years after introduction of the Regulations, in order to cater for amendments later found to be necessary. In addition, the Department claims that a total of 7 man-months work at higher levels would be required in the student assistance policy areas for the drafting of Regulations. This would be followed by 1-2 man-months work per scheme per year for two years for subsequent amendment after the introduction of the legislation.

#### Penalties

3.38 Section 36 of the Student Assistance Act gives the Governor-General power to make regulations for the administration of the Act, and provides under Regulation 91 of the Student Assistance Regulations for a fine not exceeding \$100 for giving misleading information. The Act also provides for semi-permanent Tribunals for review of student appeals against decisions which are based on the Act and its Regulations (Ss 17-30). The amount of \$100 was set as the maximum fine in 1974, and has not been altered since. Following questions by the Committee, departmental witnesses stated that no consideration had been given to increasing this amount or to providing for some form of indexation.

3.39 During 1976-77 and 1977-78 fifteen persons were prosecuted under these Regulations.<sup>51</sup> Convictions were obtained in thirteen cases, \$459 in fines levied and costs of \$225 recovered. In a later submission to the Committee the Department advised that at 21 June 1979 the following action towards prosecution was being taken in the various States and Territories:<sup>52</sup>

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- 49. Supplementary Submission, 9 July 1979, para 3.
  - 50. Minutes of Evidence, pp 52-53.
  - 51. Supplementary Submission, 6 April 1979.
  - 52. Supplementary Submission, 9 July 1979, para 6.

<u>STATE OR TERRITORY</u>	<u>NO. OF CASES ON WHICH PROSECUTION ACTIVITY UNDERWAY</u>
N.S.W.	7
VICTORIA	34
SOUTH AUSTRALIA	3
QUEENSLAND	4
WESTERN AUSTRALIA	Figures not available
TASMANIA	-
A.C.T.	2
NORTHERN TERRITORY	-

Upon querying the disproportionately high figure of investigations/prosecutions in Victoria, the Committee was advised that it was primarily a result of the constraints of time in the launching and undertaking of prosecutions.<sup>53</sup> The Student Assistance Act requires that prosecution be effected within a period of one year from the commission of the offence. The Department is dependent upon a number of authorities in this process, including institutions, Commonwealth Police and Deputy Crown Solicitors. The Department, of course, also needs time to initiate and co-ordinate action. The extent to which authorities are able to respond to the Department's requests varies considerably.

3.40 The Department states that in the case of Victoria during the last year, the various authorities have been in a position to respond promptly to its requests and this has resulted in activity there generally reaching a more advanced level than in other States. It contends that all State offices have been active in submitting requests for enrolment checks to institutions, but delays have been experienced in some States at different stages of action.

3.41 The Attorney-General's Department has been approached with a view to amending the Act to provide for a longer period of time for prosecution action. The Committee is advised that due to legislative priorities, it is unlikely that such an amendment will be made in the near future. New guidelines on prosecution action are being introduced following consultation with the Commonwealth Police and the Crown Solicitor's Office, and it is anticipated that this will result in an increase in the number of cases brought to court. The Committee has also noted the recent reference by the Auditor-General to delays in the institution of prosecution proceedings.<sup>54</sup>

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- 53. Acting Secretary, Department of Education, to Secretary, Joint Committee of Public Accounts, 10 August 1979.
  - 54. Auditor-General's Report 1978-79, para 2.6.2.



3.42 Section 29C of the Crimes Act provides for a penalty of up to 2 years imprisonment for persons found guilty of giving false information. In response to questions from the Committee the Department advised that it had informally raised with the Attorney-General's Department the possibility of prosecuting under legislation other than the Crimes Act.<sup>55</sup> Preliminary advice received from that Department is that this Act is the most appropriate avenue. To July 1979, thirteen successful prosecutions have been obtained under the Act.<sup>56</sup>

#### Conclusions

3.43 The Committee supports prompt payment being made to students in order to avoid possible hardship, but expects the Department to continue to seek means to tighten eligibility controls over initial payment. If elements of risk are unavoidable in initiating payments, detection and recovery processes should then be very efficient. The Department's systems have failed badly in providing adequate responses. The Committee believes that in some cases there is a fine line between fraud, and negligence leading to retention of overpayments. While the Committee concurs with the Department that the increased amount of overpayments does not necessarily represent a deteriorating situation (overpayments have remained constant in proportion to total expenditure), it does not believe that a situation of "no improvement" is a matter for satisfaction.<sup>57</sup> This is particularly so as this situation can be largely attributed to the Department's previous neglect of control and recovery functions in its student assistance schemes.

#### 3.44 Interest on Instalment Repayments by Students:

The Committee commends the Department's sympathetic policy of allowing overpaid students to repay outstanding amounts gradually, as their circumstances improve.<sup>58</sup> However, in cases where a student's definite negligence has resulted in an overpayment the Committee believes that it may be appropriate to charge interest on the overpayment. The Committee recommends that the Department of Education give consideration to amending the Student Assistance Act to provide for the imposition of interest charges, by way of penalty. The Committee also considers that the Department of Finance might examine the principle of applying a similar provision to other overpayments, subject to any limitations imposed by the Audit Act. The Committee would be interested in the Departments' views.

55. Minutes of Evidence, pp 53-55.

56. Supplementary Submission, 9 July 1979, para 6(d).

57. See para 3.14.

58. See para 3.16.

#### 3.45 Amounts Outstanding as a Result of Departmental Error:

The Committee is most concerned at the extent of the accumulation of overpayments in this category which have not been recovered and regards the present situation as quite unsatisfactory.<sup>59</sup> It urges the Department of Finance to hasten the introduction of guidelines, which would formalise the Department of Education's current practice of not recovering overpayments arising from departmental error. This would allow the Department to reduce the total apparent amount of outstanding overpayments and would enable the rate and results of departmental error to be assessed with more accuracy.

#### 3.46 Design of Application Forms - Students' Obligations:

The Committee believes that the declaration in the application form could be made more effective if the form contained a statement similar to that contained in the reminders sent to students.<sup>60</sup> That is, a statement, or reference in plain English to students' obligation to advise the Department of a change in their status, what in fact actually constitutes such a change and the inconvenience to both the student and Department if these obligations are not observed. If that part of the application form does not lend itself to the inclusion of such a statement, it could be incorporated elsewhere and reference made to it in the declaration.

#### 3.47 Recovery of Overpayments - ADP Capacity

The Committee supports the Department's attempts to assess and present total departmental ADP requirements, but deplores the apparent lack of foresight and co-ordination that preceded this.<sup>61</sup> The Department's response to the administrative requirements of student assistance schemes has been on an ad hoc basis. In respect of ADP needs, computer equipment was not purchased until 1976 even though TEAS began in 1974,<sup>\*</sup> and other schemes even earlier. The equipment, when purchased, was inadequate to meet the existing requirements of the assistance schemes. In addition, although consecutive Auditor-General's Reports since 1973-74 had indicated that there were serious problems in the control of overpayments, recovery and overpayment functions were not automated until 1977.

3.48 As accumulated overpayments were over \$2.50m at 30 June 1978, the Committee considers that the estimated cost, between \$0.75m and \$1.0m, of new ADP equipment is not excessive, and expects that there will be no undue delays in its selection and installation. It also recommends that the Department explore

\* Originally called the Tertiary Allowances Scheme.

59. See paras 3.14 - 3.24.

60. See para 3.6.

61. See paras 3.27 - 3.28.

alternative or temporary means of improving the ADP capacity of the Student Assistance Division, pending the results of the comprehensive review of ADP requirements currently being undertaken by the Department.

#### 3.49 Evaluation:

The Department does not appear to have the capacity to collect, store or retrieve data for analysis without seriously disrupting routine functions.<sup>62</sup> Without such a capacity the Committee considers that realistic evaluation of the efficiency and effectiveness of program administration is impossible. No such comprehensive evaluation has been attempted. The Committee recommends that the Department, or another organisation, initiate a comprehensive and continuing evaluation of the Department's aims and efficiency in administering these schemes, with particular reference to cost effectiveness.

#### 3.50 Legislation:

The Committee can only express its dismay and astonishment at the Department's estimate of the workload involved in bringing the five major non-Legislated schemes under uniform legislation.<sup>63</sup> The Committee would have expected that subsequent regulations would primarily be a matter of formalising existing practice. Detailed rules and policy guidelines for these schemes have already been formulated and set out in extensive departmental manuals. Furthermore, all the schemes have been operating for at least four years, the longest ten years, so it could be assumed that the administrative processes for the schemes are well established.<sup>64</sup>

3.51 The Committee is seriously concerned at the continuing delays in the preparation of subordinate legislation, and has previously commented on this in its 103rd and 144th Reports. In the latter Report, on the then Department of Education and Science, the Committee recommended that public authorities should ensure the availability of adequate administrative machinery to permit the prompt drafting of regulations. The Treasury Minute responding to this recommendation advised of measures being undertaken by the Attorney-General's Department, including training courses which would "ensure that an adequate number of experienced and capable draftsmen will be available and thus obviate the shortages of past years".<sup>65</sup>

3.52 No response was made in the Minute to the Committee's suggestion that consideration could be given to the employment under contract of competent lawyers outside the Public Service.<sup>66</sup>

62. See para 3.29.

63. See paras 3.36 - 3.37.

64. See para 3.2.

65. Joint Committee of Public Accounts 159th Report.

66. Joint Committee of Public Accounts 144th Report.

The delay by the Public Service Board in responding to this comment is totally unacceptable to the Committee and it expects to receive the Board's response as a matter of urgency.

#### 3.53 Penalties and Prosecutions:

With reference to penalties for fraud or providing misleading information, it is obvious that a fine of \$100 does not have the same value as a deterrent now that it had in 1974.<sup>67</sup> The Committee recommends that this be significantly increased and the whole concept and structure of penalties be reviewed, with the aim of producing more effective deterrents. The Committee is concerned also at the apparent unwillingness by the Courts to impose even the present penalties. Persons convicted under the Regulations receive public funds from the Department in the full knowledge of the mutual obligations and duties that this contract dictates.

3.54 The high incidence of overpayments resulting from student negligence suggests an attitude of acceptance by some students that they have a "right" to public funds and disregard any consequent obligations this imposes on them. In evidence to the Committee, one of the Department's witnesses said:

The situation we have reached is that we both (the Department and the Chairman of the Australian Vice-Chancellors' Committee) feel we must exclude reliance as far as possible on the student's memory to do things in the process if we can.<sup>68</sup>

The Committee does not accept this proposition that students are not capable of accepting responsibility for their actions in applying for and accepting Government assistance. This policy of the Department and the Vice-Chancellors' Committee gives tacit approval to casual and irresponsible attitudes by some students. The Committee has noted the Department's attempts to make students more aware of their obligations and commends its actions. However, the Committee considers that if some students are not motivated sufficiently by public responsibility to fulfil their obligations then more effective deterrents and punitive measures must be considered. The Committee wishes to be kept advised of departmental action on this matter.

3.55 The relatively low level of investigations and prosecutions in New South Wales was noted by the Committee.<sup>69</sup> The Department explained that this situation is not necessarily due to inactivity by its State office, but can be attributed to the difficulties in

67. See para 3.38.

68. Minutes of Evidence p 35.

69. See para 3.39.

co-ordinating action between the authorities involved, and the twelve-month limit on prosecution. Notwithstanding this explanation, the Committee wishes to receive specific reasons for the low level of activity in New South Wales, with details of any particular difficulties which may have been experienced in that State.

### 3.56 Liaison with Institutions and State Authorities:

Following an allegation of lack of co-operation by institutions, made by the Department in the Auditor-General's Report, the Committee questioned the Department closely.<sup>70</sup> The Committee was concerned by this statement, as it was surprising that institutions could ignore the benefits received from the Federal Government and the mutual obligations and ties that this brings. Evidence presented by the Department showed that only one institution was withholding its co-operation and in fact, that the Department was satisfied with the general level of co-operation.<sup>71</sup>

3.57 The Committee regrets that the Department should make such a serious allegation and then not substantiate it, and would be most concerned if other unfounded allegations were to be made in any future appearances. The Committee also wishes to be kept advised of the progress of negotiations with the above institution.

3.58 Generally, the Committee is satisfied that progress is being made in improving liaison with institutions, and commends the Department's proposal to progressively computerise exchange of data with institutions.<sup>72</sup> However, the benefits of such a proposal will be much reduced by undue delays incurred in updating the Student Assistance Division's ADP capacity.

3.59 The Committee trusts that authorities and institutions in the States will continue to establish uniform and centralised admission procedures, and expects the Department to continue to encourage and promote such measures.

### 3.60 The Department's Evidence:

The Committee has indicated aspects of departmental administration which it feels must be improved, but was hampered in making more positive comment on the Department's activities by the poor standard of evidence. While there were exceptions to this poor standard, the evidence displayed carelessness in preparation. The evidence presented was often superficial or

70. See para 3.12.  
71. See para 3.34.  
72. See para 3.33.

confusing, and there were cases where statistics supplied by the Department were incorrect or misleading. The Committee believes that the evidence would have been of higher quality if the Department had been represented at a more senior level. In any event, the Committee deplores this low standard, and emphasises that such an attitude can only reflect poorly on the Department concerned.

### 3.61 Auditor-General's Report 1978-79:

The Committee notes that the Auditor-General has made further reference to both eligibility checks and overpayments in his Report for 1978-79.<sup>73</sup> As far as eligibility checks are concerned, the Committee is satisfied that the Department's eligibility checks and measures against deliberate fraud are adequate. However, it shares the Auditor-General's concern over the continuing high level of overpayments, particularly those attributed to departmental error.

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73. Auditor-General's Report 1978-79, paras 2.6.3 and 2.6.4.

## CHAPTER 4

### DEPARTMENT OF PRIMARY INDUSTRY

#### Beef Industry Incentive Payments Scheme

4.1 At paragraph 3.19.1 of his Report for 1977-78, the Auditor-General stated:

Following examination by my officers of the administration of the Scheme, departmental comments were sought on 30 June 1978 in respect of the entitlements of certain applicants to receive payments in circumstances where combinations of cattle ownership occur.

Procedural aspects of the Scheme referred to the Department for comment on 21 July 1978 included:

- deficiencies in the ADP system developed to process claims because of inadequate documentation and lack of authorisation of program changes;
- some lapses in controls associated with the processing, examination and payment of claims and non-compliance with Finance Directions relating to the receipt and control of public moneys; and
- the adequacy of the investigation program adopted to ensure validity of payments as in addition to 30 claims totalling approximately \$46 000 identified by departmental investigation, the Audit review disclosed further cases where some doubt of eligibility for payment was apparent.

#### Background

4.2 The Beef Industry Incentive Payments Scheme was introduced by the Government during the last months of 1977 to encourage the maintenance of good husbandry and disease control practices in the beef industry at a time when the economic circumstances and the financial position of many producers were very bad.<sup>1</sup> The beef industry in Australia in 1977 consisted of some 50,000 producers owning about 30 million beef cattle. Of these, about 30,000 producers each owned at least 200 cattle. The difficulties for beef producers arose in 1974 and 1975 when, largely as a result of a very sharp increase in world beef production and decisions as to the level of imports in major importing countries, severe restrictions were placed upon access to a number of Australia's major beef export markets. At the same time, the prices received for these exports fell dramatically to about one third their 1973 value. This situation severely restricted

1. Minutes of Evidence, pp 31-32, 161.

the income position of beef producers. Estimates made within the Bureau of Agricultural Economics suggested that, during 1975, one third of all specialist beef producers in Australia were making a net loss.

4.3 The Beef Industry (Incentive Payments) Act 1977 implemented the Government's decision to make cash grants to beef producers. Eligibility to benefit from this scheme and the benefits themselves were limited by several criteria:

- the beneficiary had to be a beef producer who owned 50 or more cattle at 30 June 1977 or, at the relevant time, continuously for three months;
- the amount of the incentive payment per animal was \$10 and payments to a beef producer were not to be made in respect of more than 200 cattle;
- the recognised disease control and husbandry practices included:
  - treatment of the animal for external and internal parasites,
  - vaccination of the animal for the purpose of controlling disease,
  - testing or treatment of the animal for the purpose of diagnosing or eradicating brucellosis or tuberculosis, and
  - spaying of heifers which had not attained the age of two years;
- the procedures had to have been carried out in the year beginning 23 September 1977;
- the claims for payment had to be made by 31 December 1978;
- only one claim could be made in respect of any one animal; and
- each claimant could make only two claims.

4.4 Claims were required to be in a form approved by the Minister and accompanied by necessary documentation. A press release<sup>2</sup> publicising the Scheme outlined the required details, which included:

- details identifying the owner;

2. Press Release PI 77/203 by the Minister for Primary Industry, 13 October 1977.

- a statement of eligibility (verified by a responsible person);
- details of the procedures carried out including evidence, such as invoices of materials used or a certificate by a veterinary practitioner or Government official when such persons conducted or supervised the procedure; and
- a declaration by the owner verifying the claim.

4.5 Throughout this inquiry, the Committee recognised the short time scale given to the Department to implement the Scheme. The Committee concurred with the Department's attributing<sup>3</sup> much of the blame for the subsequent difficulties to the urgency of introducing the Scheme. The Committee was advised<sup>4</sup> of the chronology of events leading to the initial payments made under the Act. This timetable appears at Appendix 4A. Seven weeks elapsed from the initial Cabinet Decision that there should be a scheme until enabling legislation was assented to, and a further three weeks until the first payments were made. The Committee agrees with the Department<sup>5</sup> that the Scheme was conceived in undue haste and led to administrative difficulties.

4.6 Throughout this period a high level of publicity for the scheme was maintained by a series of press releases and statements. A list of this series is included in Appendix 4B.

4.7 A copy of the Department's submission is at Appendix 4C.

4.8 At paragraph 2.16.3 of his 1978-79 Report, the Auditor-General has again referred to the Beef Industry Incentive Payments Scheme. The Committee has noted the Auditor-General's continued interest in this matter and his report on the further action being taken by the Department.

#### The Committee's Inquiry

4.9 The Committee was concerned with three major issues. The first is the adequacy of the Department's administration of the legislation, its interpretation and the degree of control exercised over the payments. The second concerns the administrative arrangements involved in implementing the Scheme and the difficulties created by the short time for the Department to

3. Minutes of Evidence, pp 144-145.
4. Minutes of Evidence, pp 33-34, 55-56.
5. Minutes of Evidence, p 54.

implement the Cabinet Decision. The third relates to the deficiencies in the ADP system.

#### Departmental Interpretation of the Legislation

4.10 At the public inquiry, the departmental witnesses stated<sup>6</sup> that the clear intent of the Government was for individual owners, partnerships, trusts and companies to be treated as separate entities for the purpose of payment under the Scheme. This was consistent with statements publicising the Scheme and on the claim forms. Five categories were established in the administrative procedures differentiating between different types of producers who were then paid without adequate cross-checking. The five categories were:

- sole producers;
- joint producers;
- partnerships with a registered business name;
- registered companies; and
- ownerships in a representative capacity, including trusts and deceased estates.

It was not initially realised in the Department that, in addition to being able to isolate these categories, it was also necessary to inter-relate them.

4.11 The Committee was informed<sup>7</sup> that the Department was not aware of this error in its interpretation of the legislation until a number of related claims were received and the matter was referred to by the Audit Office on 30 June 1977. Subsequently, on 3 July, the Department referred the problem to the Attorney-General's Department for advice which was received, on 14 August, to the effect that in some cases the Department had not strictly followed the exact wording of the legislation in determining eligibility for some joint payment claims.<sup>8</sup> The Department submitted<sup>9</sup> that the application of the principles in the legal opinion gave rise to some overpayments and underpayments. Thus it was necessary to reprogram the computer and input additional data to identify the claims requiring re-assessment.<sup>10</sup>

6. Minutes of Evidence, pp 37-39.
7. Minutes of Evidence, p 79.
8. Minutes of Evidence, p 39.
9. Departmental Submission, para 3.2.
10. Departmental Submission, para 4.

4.12 To 16 March 1979, the Department had identified 140 claims involving overpayments totalling \$189 300, of which \$135 330 had been recovered leaving a total of 43 overpayments at a value of \$53 970 outstanding. The Department had taken action to recover overpayments.

#### Investigation Program

4.13 The Auditor-General's Office referred the adequacy of the investigation program to ensure the validity of payments to the Department. The Chief Auditor stated in his memorandum of 21 July 1978 that:

...there appears to be no investigation program established and as the tests applied by the single Investigation Officer are necessarily limited, it seems that the degree of control exercised by the Department to ensure that public moneys are correctly expended is severely restricted.<sup>11</sup>

4.14 The Department replied<sup>12</sup> on 1 August that:

...given the magnitude of the Scheme, its unique nature and the demand by Government for minimal delays in paying claims, it was, and is not, feasible to undertake extensive prepayment tests.

The Department indicated that post-payment investigation was always an integral part of the Scheme's administration, and, as the rate of receipt of claims declined, resources were increasingly devoted to this. In addition, the Department had several computer programs available for its investigatory work which enabled cross-checking and comparison of key information provided by claimants. The use of new computer programs and the rejection of claims by the Investigation Officer in both the pre-payment stage and in post-payment investigating demonstrated the effectiveness of the Scheme's internal controls. The Department therefore rejected the Auditor-General's claim that the degree of control exercised to ensure that public moneys are correctly expended is severely restricted.

#### Procedures Adopted to Ensure Validity of Claims

4.15 The Committee was interested in the concept "pay now, argue later" which appeared to be basic to the administrative procedures adopted to ensure the validity of payments made under the scheme. The Committee was concerned to learn<sup>13</sup> that the considerable post-payment examination and investigation had only occurred as a result of the Auditor-General's Report.

11. Departmental Submission, para 8.2.

12. Departmental Submission, para 8.3.

13. Minutes of Evidence, p 54.

4.16 The Department admitted that prepayment checks were not conducted in relation to, for example, verification of ownership and documentation of increases in the size of the herd. However, due to lack of some basic information, over 30 per cent of claims were returned to claimants after preliminary examination.

4.17 Random testing for accuracy was carried out on about 1 per cent of all claims on receipt. These were automatically returned, before being processed, for complete verification of at least two items of the information required. Based on these checks it was concluded that no more than 1 per cent of all claims could not be verified or were sufficiently in error to alter the payments regarding those claims. The Department stated<sup>14</sup> that to extend this type of prepayment checking would have placed an enormous burden on it.

4.18 Another issue was whether the procedures to validate a claim were adequate. S.34(3) of the Audit Act 1901 states that:

No...(accounting officer)...shall certify any account until he shall have ascertained that the expenditure has been duly approved in writing by the prescribed authority and that the account is correct in every particular and that the expenditure involved therein is in accordance with the laws and regulations applicable thereto and is charged against the proper head of expenditure.

The Finance observer said that the concept of "pay now, argue later" is not a philosophy which can be accepted. However, in many areas, such as pensions and other benefits, claims are certified on the basis of an application made. This is because the certifying officer would not have any reason to doubt that the claim was properly made. Nevertheless abuses did occur which required subsequent action. The Audit observer said that the Audit Act required that there be examination and a certificate, but that this was impossible with respect to pensions and other benefits. What is necessary is that reasonable and economic steps be taken to verify the information prior to payment. In this case, the Auditor-General had reservations about the adequacy of the prepayment checks. However, he made it clear that the Auditor-General's Office did not advocate expensive checks to prevent small overpayments.

4.19 The Department conceded that the original procedures designed to administer the Scheme were inadequate and that, following Audit inquiries and receipt of the Attorney-General's Department's advice, a completely different system was introduced which allowed comparison of every claimant by name and ensured the cross-checking of the five categories of producers.

14. Minutes of Evidence, p 171.

4.20 The Committee was also concerned with what level of fraud may have been associated with this Scheme and what safeguards there were to detect attempts. The Department was only able to point to one person lodging two fraudulent claims. However, the Committee was not convinced that other fraudulent claims had not been lodged. It was observed<sup>15</sup> that even if checks in the field were carried out, these would not necessarily verify the claim.

#### Duplication of payments

4.21 The Committee examined the audit observation<sup>16</sup> that a breakdown in procedures had led to duplicate cheques worth \$206 080 being produced of which seven, to the value of \$11 100, were negotiated. Whilst these particular cheques were issued on 29 March 1978, stop-payments were not notified to the Reserve Bank until 7 April. The Audit Office enquired why departmental officers had not detected this duplication and advised the Department of Finance earlier. The Department said<sup>17</sup> that the breakdown in procedures occurred within the Department of Finance. The reprocessing of these cheques was not authorized by the Department of Primary Industry and was detected on 5 April by that Department during its routine examination of the daily ledger printouts from the Department of Finance which was immediately advised. The Finance observer confirmed that the despatch of the cheques was an error which occurred in the Finance Office and which arose from difficulties in processing a particular computer tape and inadequate management of procedures authorizing release of the cheques. The Committee is concerned that there is not a more rapid stop-payment system which would minimize subsequent recovery action.

#### Administrative Difficulties Arising from the Rapid Introduction of the Scheme

4.22 The Department claimed<sup>18</sup> that the tight timing involved in the introduction of the Scheme led to the difficulties in staffing, form design and documentation of its procedures. The Department admitted<sup>19</sup> that there was a lot of pressure to have the Scheme operating quickly and that, as if to emphasize its unique nature, it was not aware of any other scheme with respect to assistance by the Commonwealth Government where there was such a short timetable in which to have the scheme operating. When it was announced, there were insufficient resources within the Department to administer it.<sup>20</sup> Consequently, temporary staff

15. Minutes of Evidence, pp 62-63.
16. Departmental Submission, para 7.14.
17. Minutes of Evidence, pp 85-86.
18. Minutes of Evidence, pp 55, 145-147.
19. Minutes of Evidence, pp 144, 150.
20. Minutes of Evidence, p 47.

ceiling cover for 22 extra people was sought from the Public Service Board. Ministerial approval for these arrangements was obtained on 25 October 1977. The processing staff, subsequently obtained through the Public Service Inspector's Office, were, except in two cases, inexperienced and unfamiliar with this type of work.<sup>21</sup> This demonstrated to the Committee the lack of flexibility within the Public Service when the government desires urgent implementation of a scheme such as this.<sup>22</sup> The present policy is that departments are expected to absorb new functions within their existing staff ceilings. The Public Service Board observer agreed that there is merit in allowing flexibility in re-allocating staff resources as circumstances demand, but added that he believed the current twice yearly review of staff ceilings is adequate to meet these situations.

4.23 In July 1978, the Chief Auditor expressed concern over weaknesses in the design of the claim form. The Committee was informed<sup>23</sup> that the period from when the Cabinet Decision agreeing the details of the Scheme was taken until the claim form design had to be finalised was twelve days. The form<sup>24</sup> was designed within the Department in consultation with the Attorney-General's Department. The Public Service Board, the Department of Finance and, formally, the Auditor-General's Office were not consulted. In the event the eligibility guidelines were consistent with the initial departmental interpretation of the legislation but not with the later legal advice received from the Attorney-General's Department.<sup>25</sup> The Department also conceded that two data items requested could be misinterpreted. The Department admitted that these faults were not detected until after the claim form was printed and that costs prevented the re-printing and redistribution of the form. The Committee agreed that in cases such as this, departments should consider consulting with the Auditor-General's Office in the preparation of forms to ensure that they meet the requirements of the Audit Act.

4.24 Another matter to concern the Chief Auditor in July 1978 was that adequate departmental instructions had not been prepared in connection with the operations of the Scheme. In evidence,<sup>26</sup> the Department admitted confronting problems with which it could not cope immediately, including the documentation of programs and procedures. These instructions have been prepared since the Audit examination.<sup>27</sup>

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21. Minutes of Evidence, p 52.
  22. Minutes of Evidence, pp 165-169.
  23. Minutes of Evidence, pp 33, 55.
  24. A copy of the claim form design is included in Appendix 4C.
  25. Departmental Submission, para 7.5
  26. Minutes of Evidence, p 47.
  27. Departmental Submission, para 7.15.

## Deficiencies in the ADP System

4.25 The Auditor-General was concerned with several deficiencies in the ADP systems of the Scheme including the lack of adequate documentation and the lack of authorization of program changes. The Department stated<sup>28</sup> that, even in normal circumstances, its ADP resources were fully extended and that trying to cope with the Scheme as an additional project made it impossible to document fully the whole program and procedures as the Scheme was implemented. This difficulty was exacerbated by the rapid turnover in staff which was occurring in the ADP programming area of the Department at the time. The Department advised<sup>29</sup> that documentation of the ADP system had been completed since the audit inquiry.

4.26 On the lack of authorization of program changes, the Audit Office blamed these together with the inadequate documentation for deficiencies in the ADP system developed to process claims. The Department responded<sup>30</sup> that although documentation and authorization of changes were incomplete at the time of the Audit inquiry, the changes were readily identifiable from the program listings. The Department was unaware of any specific example where the delay in documentation resulted in incorrect processing and regarded<sup>31</sup> this lack of formal authorization as a minor defective procedure.

4.27 The Committee was also concerned<sup>32</sup> about the nature and extent of audit trails in the computer system. The Department stated that the controls which were inbuilt essentially related to the security of the data and involved passwords and error messages. In commenting on the adequacy of these audit trails, the Audit observer stated that the Auditor-General's Office has for some time been advocating that there should be standards for government accounting as applied to ADP. At present these do not exist. In this respect, the Auditor-General's Office regards the Computer Control Guidelines issued by the Canadian Institute of Chartered Accountants as an authoritative publication. It conforms with what is advocated by computer societies in Australia. This publication suggests that the ADP system should ensure the adequacy of management and audit trails and that there should be some method of identifying and locating the component file records and input/output documents involved in the processing of a given transaction or in the accumulation of a given total. The Auditor-General's Office regards these as standards essential to an ADP system. In terms of the broader issue of documentation, the Auditor-General's observer stated that, as a matter for specification by standard, systems should be documented, program variations should be authorized and responsibility within the operation of ADP systems should be divided to provide normal safeguards against illicit interference with systems.

28. Minutes of Evidence, pp 57, 158.  
29. Departmental Submission, para 1.2.  
30. Departmental Submission, para 6.  
31. Minutes of Evidence, p 184.  
32. Minutes of Evidence, pp 185-186.

## Conclusions

4.28 Several aspects of the Beef Industry Incentive Payments Scheme and its administration concerned the Committee. Principally, the Committee concluded that the Department of Primary Industry had been unable to anticipate the difficulties with which it found itself confronted. In conceding<sup>33</sup> that it had learnt from this experience, the Department said<sup>34</sup> that it would be very wary in future of devising a scheme which relies upon a particular ownership situation as a basis for payment.

4.29 Whilst it is a matter for the Government to determine the eligibility criteria for schemes devised to assist different sections of the community, the Department of Primary Industry faced problems similar to those which beset departments which administer welfare and other benefits schemes for which payments are made on the basis of claims submitted. What has concerned the Auditor-General and the Committee in this case has been the inadequate prepayment checks to ensure the eligibility of claimants and the validity of their claims. Whilst this was not assisted by the Department's misinterpretation of the legislation, the difficulties involving staffing, form design and documentation of the Scheme have led the Committee to conclude that the Scheme was both conceived and implemented in haste.

4.30 Nevertheless the Committee is unconvinced by the Department's claim<sup>35</sup> that had it had more time it could have designed tighter procedures. The Committee's view is that the Department should have ensured that the various implementation aspects were proceeded with concurrently. This would have involved the initial planning and documentation of the Scheme, the consultation with other departments and authorities, including those that may have had some experience in similarly based schemes, and the testing, implementation and evaluation of the procedures. Obviously, experience or information gained during consultation, testing and evaluation could have been used to provide feedback into the overall planning of the Scheme's implementation. The Committee is not satisfied that this occurred as it should. This is a situation that is coming before the Committee too often. The Committee recommends that more flexibility be exhibited in providing adequate staff to meet similar short-term needs.

4.31 To assist in any similar future situation, the Committee recommends that several other basic procedures be adopted. Firstly, legislation of this type should be carefully examined

33. Minutes of Evidence, p 147.  
34. Minutes of Evidence, p 42.  
35. Minutes of Evidence, p 144.



JOINT COMMITTEE OF PUBLIC ACCOUNTS

INQUIRY INTO AUDITOR-GENERAL'S REPORT 1977-78

SUBMISSION BY THE DEPARTMENT OF DEFENCE

LEASE CHARGES ON RAN PIPELINES AT FREMANTLE

ITEM 3.7.7

and the procedures developed to administer it should be confirmed as conforming with the legislation. Secondly, when claim forms are involved, these should be cleared with interested departments and authorities, including the Auditor-General's Office, to ensure that there is compliance with related legislative requirements including the Audit Act and Finance Regulations and Directions. Thirdly, to ensure adequate controls over ADP systems, accounting standards, including those for audit trails in ADP systems, proposed by the Auditor-General's Office should be mandatory. Fourthly, the Department of Finance should consider the introduction of a more rapid stop-payment system which would minimize subsequent recovery action arising from duplicate and other over-payments. This should have applied not only to this Scheme but should also apply to other benefit schemes where similar problems can arise.

4.32 For and on behalf of the Committee,

David M. Connolly,  
Chairman

M.J. Talberg,  
Secretary,  
Joint Committee of Public Accounts,  
Parliament House,  
CANBERRA.

19 October 1979

Introduction

1. The Auditor-General's Report 1978 at paragraph 3.7.7 refers to Navy owned pipelines jointly used by BP Australia Pty Ltd at Fremantle WA. The report commented on the non-collection of revenue from rental charges and the lack of progress in renegotiating the agreement when the rental charges were disputed by BP Australia.

Background

2. The Department owns oil pipelines in the port of Fremantle which for many years have been jointly used by BP Aust Ltd on the basis of an annual rental payment by the company.

3. These arrangements were largely the result of an interchange of letters with respect to the use and operation of the pipelines.

4. Subsequently usage of the pipelines by BP Aust had declined to the extent that in September 1969 the company proposed reduced rental charges. This proposal was made to the former Department of Navy.

5. Audit reviews have since disclosed that charges raised for the period 1965 to 1972 have not been paid in full by the company as the appropriate charges payable are in dispute. Rental charges for the use of one section of the system were last raised in 1972 and for the other section in 1974.

Departmental Reply

6. The proposal BP Aust Ltd put to the Naval Officer-in-Charge Western Australia Area in September 1969 in respect of the pipelines was in three parts:

- a. the rental to be paid by BP for the use (from 1965-1970) of the Navy pipeline from Knutsford St Fremantle to 'H' Berth on Fremantle Harbour;
- b. the rental to be paid by BP for the use (from 1970-1974) of the Navy pipeline from Knutsford St along Hampton Road to the South Fremantle storage;
- c. the charge to be made by BP for bunkering Navy ships using BP pipelines (from 1970 - 1974).

7. The pipeline from Knutsford St to 'H' Berth (paragraph 6a. above) originally extended to North Wharf on the other side of Fremantle Harbour. The original rental had been fixed, in 1954, at £1,000 a year and BP had paid that amount until 1964. The proposal sought a reduction of rental from 1965 in accordance with reductions in the length of the line.

8. Rental for the Hampton Road pipeline (paragraph 6b. above) was \$1,500 per annum in 1969. BP proposed an annual charge of \$5,063 for the period 1 January 1970 to 12 December 1974 based on 13% of the replacement value of the line, assessed by BP at \$75,000.

9. BP also proposed an overall charge of \$1.00 per ton x bunkering HMA Ships plus actual additional costs of overtime.

10. The total proposal was examined by the Stores and Accounting areas of the Department of Navy which recommended some modifications and that the proposals be referred to the then Department of Interior for negotiation of an agreement.

11. Following the Auditor-General's Observation in 1972, BP was billed for rental of the pipeline detailed in paragraph 6a. at the original rental of \$2,000 per annum: an amount of \$16,000 for the period 1965 to 1972. BP paid \$8,000 on 21 December 1972 pending a Departmental reaction to its proposal described in paragraphs 6 - 9.

12. Following the 1978 Auditor-General's Report an investigation by the now reorganised Department of Defence revealed that in the context of BP's total proposal it appeared a nett balance was owing to the company. It was established that no action had been taken to press BP for payment of the \$8,000 shown in the ledger as outstanding against the company.

13. Discussions were therefore held between BP management and the Regional Secretary Western Australia on 29 August 1978. The recommendations mentioned in paragraph 10, formed the basis of the Regional Secretary's approach and conclusions were reached on the proposals regarding the rental of the Navy pipelines. These agreements have now been ratified and BP has decided to pay all outstanding rentals calculated in accordance with those agreements.

14. The question of bunkering charges payable to BP awaits further discussions following preparation of a detailed claim by the company.

Conclusions

15. All outstanding charges have now been collected and agreements for rental of the Navy pipelines ratified. Moreover arrangements are being made with the Department of Administrative Services and the Naval Officer Commanding Western Australia to negotiate a period contract fixing bunkering charges for the future.

16. As HMA Ships MELBOURNE, VAMPIRE and VENDETTA require the maintenance of Furnace Fuel Oil (FFO) stocks at least until 1985, the South Fremantle Oil Fuel Installation must be retained. Since East Fremantle is a Dieso storage both FFO and Dieso fuel lines are therefore required to preserve minimum reliance on commercial facilities.

7 November 1978

JOINT COMMITTEE OF PUBLIC ACCOUNTS  
INQUIRY INTO AUDITOR-GENERAL'S REPORT 1977-78

SUBMISSION BY THE DEPARTMENT OF DEFENCE

LEASE CHARGES ON RAN PIPELINES AT FREMANTLE

ITEM 3.7.7

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Background

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3. These arrangements were largely the result of an interchange of letters with respect to the use and operation of the pipelines.

4. Subsequently usage of the pipelines by BP Aust had declined to the extent that in September 1969 the company proposed reduced rental charges. This proposal was made to the former Department of Navy.

5. Audit reviews have since disclosed that charges raised for the period 1965 to 1972 have not been paid in full by the company as the appropriate charges payable are in dispute. Rental charges for the use of one section of the system were last raised in 1972 and for the other section in 1974.

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9. BP also proposed an overall charge of \$1.00 per ton for bunkering HMA Ships plus actual additional costs of overtime.

10. The total proposal was examined by the Stores and Accounting areas of the Department of Navy which recommended some modifications and that the proposals be referred to the then Department of Interior for negotiation of an agreement.

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12. Following the 1978 Auditor-General's Report an investigation by the now reorganised Department of Defence revealed that in the context of BP's total proposal it appeared a nett balance was owing to the company. It was established that no action had been taken to press BP for payment of the \$8,000 shown in the ledger as outstanding against the company.

13. Discussions were therefore held between BP management and the Regional Secretary Western Australia on 29 August 1978. The recommendations mentioned in paragraph formed the basis of the Regional Secretary's approach and conclusions were reached on the proposals regarding the rental of Navy pipelines. The arrangements have been agreed to orally and it has also been agreed to offset all outstanding rentals calculated in accordance with those agreements against bunkering charges owed by the Commonwealth to BP. A claim for bunkering charges is currently being prepared by BP and the amount is expected to be in the vicinity of \$95,000.

Conclusions

14. Action is being taken to offset outstanding charges for rental owed to the Commonwealth against the much larger bunkering charges payable to BP currently being assessed by the Company. The oral agreements reached for the rental of Navy pipelines will be formalised in writing.

15. As HMA Ships MELBOURNE, VAMPIRE and VENDETTA require the maintenance of Furnace Fuel Oil (FFO) stocks at least until 1985, the South Fremantle Oil Fuel Installation must be retained. Since East Fremantle is a Dieso storage both FFO and Dieso fuel lines are therefore required to preserve minimum reliance on commercial facilities.

26 January 1979

Extract from

REPORT OF THE AUDITOR-GENERAL 1978-79

2.5.10 References Continued from Previous Reports  
Lease Charges on RAN Pipelines at Fremantle

Paragraph 3.7.7 of my 1977-78 Report referred to the joint use of a fuel pipeline system at Fremantle, Western Australia, by the RAN and an oil company, and to the non-collection of revenue due by way of rental payments by the company. Reference was also made to the absence of a legally enforceable agreement and to prolonged delays in deciding on an agreed basis of charge and in the collection of the revenue involved.

Audit reviews during 1978-79 disclosed that negotiations continued between the parties and agreement was reached on terms of settlement. Settlement was effected on 9 April 1979 and involved the payment of revenue previously not collected, offset in part by revised charge arrangements for the bunkering of RAN ships by the oil company concerned. Subsequent examinations by the Department and my officers indicated errors in the calculation of the settlement amount. In August 1979 the Department advised details of action for final settlement.

The issue was the subject of an inquiry conducted during the year by the Joint Committee of Public Accounts.

JOINT COMMITTEE OF PUBLIC ACCOUNTS

INQUIRY INTO THE AUDITOR-GENERAL'S REPORT, 1977-78

SUBMISSION BY THE DEPARTMENT OF EDUCATION

PARAGRAPH 3.8.1. TERTIARY EDUCATION ASSISTANCE SCHEME

ELIGIBILITY CHECKS

PROCESSING CYCLE FOR APPLICATIONS

1. Under the Regulations to the Student Assistance Act 1973, assistance under the Tertiary Education Assistance Scheme may be provided for only one year at a time. Students must submit a fresh application, therefore, at the beginning of each year of their course in order to have their academic progress checked, eligibility re-assessed, the means test applied, and assistance continued. In 1977, 116,844 applications were processed, and by the end of the September this year, 116,776.

2. Application forms are usually made available in November each year and are completed and returned by students to State Offices of the Department mainly in the ensuing four-five months. The period January-April in State Offices is one of peak activity in which every effort is made to assess applications, advise students of their entitlements and wherever possible begin payment of allowances by the commencement of the next academic year. To this end, officers are not normally permitted to take holiday leave, overtime is worked and manpower resources are increased by some 20% through the acquisition of seasonal staff, during the peak period. Of the 116,776 applications received to the end of September 1978, 112,520 or 96% were received in the January-April period.

3. School-leavers seeking assistance for the first time are asked in publicity documentation not to submit application forms until they have enrolled at an appropriate institution and can provide the name of their proposed course and subjects to

be attempted. For continuing students, details of examination results for the preceding year together with details of proposed course for the following year, must be provided. All applicants are required to declare that information given in forms is correct, they are warned that it will be checked and that the penalty for providing misleading information is \$100.

4. When applications are first received in State Offices, checks are made to ensure that duplicate applications have not been lodged for assistance under other schemes administered by the Department. As part of initial assessment and prior to commencement of allowance payments, information contained in forms is subjected to a series of cross checks to ensure it is logically consistent, and supporting statutory declarations examined. Rejected or suspicious forms are promptly followed up with students. These checks are set down for assessors in a document titled Minimum Requirements for Processing Application Forms, a copy of which is attached.

5. During the off peak period, after initial assessments have been completed and payment of allowances commenced, the Department conducts a wide range of checks to verify information supplied by students in their forms. These checks involve liaison with tertiary institutions, other Commonwealth Departments such as the Department of Social Security and the Taxation Office, and in certain instances require students to produce objective documentation such as birth and marriage certificates. Consequently, the checks take several months to implement and finalise. A list of the 1978 checks is attached. Both these and the Minimum Processing Requirements are marked CONFIDENTIAL for obvious reasons and it would be appreciated if they could be so regarded by the Committee.

FRAUDULENT APPLICATIONS

6. In 1977 an attempted fraud in Victoria and Western Australia was discovered by departmental officers. Subsequent

action by Commonwealth Police led to the arrest of two persons who have been convicted and sentenced to three months imprisonment.

7. In May 1977, fourteen bogus applications were lodged with the Victorian Office of the Department. Nine of them were rejected at initial assessment stage. In view of the similarity of a number of features of the rejected applications, a full scale investigation was carried out and a further five applications were discovered. While this latter group had satisfied the checks, they were intercepted prior to payment and as reported by the Auditor-General, no payment of allowance on behalf of the bogus applications was made.

8. When Commonwealth Police established that the persons thought to be involved in the fraud had moved to Western Australia, an investigation was carried out in the Department's Office in that State which yielded a further two bogus applications. Both had already been rejected during initial assessment and were being followed up by departmental officers.

9. It should be noted that the majority of bogus applications were discovered through checks applied by the Department at the stage of initial assessment, and no payment of allowances made. With regard to the five applications in Victoria which satisfied the checks, the Auditor-General's Office has acknowledged in correspondence with the Department that these cases would have been detected later by the verification checks outlined in paragraph 5. above.

#### MATTERS RAISED BY AUDITOR GENERAL

10. In June 1978, the Auditor-General wrote to the Department suggesting that in order to detect fraudulent applications as early as possible, and reduce the possibility of overpayments, consideration should be given to introducing procedures to

- a) verify the existence of each applicant prior to payment of allowances

- b) verify enrolment of each applicant in an approved course prior to payment of allowances, and
- c) ensure students continue to attend institutions regularly whilst in receipt of assistance.

11. Existence of Students. In response to the Auditor, the Department advised that it attempts to verify the existence of applicants by the largely controlled distribution of application forms. Continuing students, who make up some 55% of grantees, are subjected to the checks outlined in paragraphs 4 and 5 above, including confirmation of enrolment and verification of examination results, in the first year of their course. Having had their existence established, in subsequent years numerically coded application forms are mailed directly to them on an individual basis.

12. In regard to school-leavers, forms are mailed directly to final year secondary students who have registered with and had examination results checked by, Tertiary Education Admission Centres in New South Wales, Queensland and Western Australia. In the A.C.T. and Tasmania there are no admission centres, and in Victoria and South Australia centres do not cater for students proceeding to tertiary study in the T.A.F.E. and non-government sector. In these States and the Territory forms are delivered to institutions for completion by students at enrolment time. School leavers make up 40% of grantees.

13. The remaining 5% of grantees are non-continuing students who were also not in their final year of secondary schooling immediately preceding the commencement of tertiary study. For example, they might be resuming study after several years in the workforce, have transferred from interstate, or be returning to study as a mature entrant after raising a family for several years. To cater for these students supplies of application forms are placed at institutions.

14. To test the Auditor-General's contention that fraudulent applications were most likely to come from groups required

to obtain forms from suppliers distributed to institutions, the Department conducted a pilot study in South Australia. All non-continuing students including the 5% mentioned in para. 13, were checked against special lists provided by the South Australian Public Examinations Board, the Tertiary Education Admission Centre, non-government colleges and enrolment records at universities, colleges of advanced education and technical and further education institutions. The existence of all 3,424 students in these categories has now been verified and not one bogus application discovered.

15. The Department endorses the general conclusion drawn by the Auditor-General in his Report that controlled distribution of application forms does offer some protection.

#### 16. CONFIRMATION OF ENROLMENT.

In correspondence with the Department the Auditor-General's Office stated that it considered the only effective check on existence of students was for applicants to produce evidence of enrolment in a tertiary institution prior to the first payment of allowance. The Department is unable to agree to this suggestion because such a procedure was attempted in 1974 and found to be unsuccessful for the reasons set out below. It should be noted that under the scheme students must declare not only that they are enrolled but also the individual subjects to be attempted so that assessors can determine whether they are attempting a full time load as required under the Regulations. The key problems with the procedure were -

- a) the procedure was of dubious value in that enrolment periods closed up to 4-5 weeks in advance of the first day of lectures but students were then permitted to vary enrolments, particularly in terms of subjects to be attempted, well into first term. In essence the procedure gave no assurance at all that students had commenced the course proposed in their forms.

- b) significant numbers of students did not follow the procedure set down in that they failed to provide details of subjects proposed in the course to be undertaken, or omitted to have enrolment details endorsed by institution authorities, or misplaced the enrolment document which was a tear off section of the application form. Consequently substantial follow up action had to be taken which interrupted and delayed processing and payment activity, which in turn generated further enquiries.

17. Because of these problems, it was decided to eliminate the students' role in the procedure, and defer the check until such time as enrolments had been firmed up for the year and the students were attending courses. The outcome is the present procedure whereby confirmation of enrolment in approved subjects and existence of students is established in April (and September) each year by the Department through direct contact with institutions. While this check is necessarily conducted after payments of allowance commence, it should be noted that in 1977, 87,167 grantees had their enrolment data checked and not one bogus application was discovered.

18. In previous years, students who discontinued study prior to April were not included in the check. The Department agrees with the Auditor-General's suggestion that they should be, and this has been done for 1978 and will be done in future years.

#### 19. CHECK ATTENDANCE REGULARLY.

In correspondence the Auditor-General's Office also pointed out that checks conducted by the Department do not ensure that students continue to attend institutions whilst allowance payments continue. In a large number of university and college of advanced education courses, attendance at all classes is not compulsory and records are not kept. Attempts by the Department to carry out attendance checks at certain technical colleges in 1975, on a trial basis, were terminated



because attendance was recorded on an irregular basis and records were found to be unreliable.

20. Students are advised in publicity documentation, and by reminder inserts distributed with allowance cheques twice per year, of the need to advise the Department immediately whenever they discontinue study, and the penalty under the Regulations for failing to do so. In addition, enrolment checks are conducted twice per year and follow up action taken on those who are recorded by institutions as not sitting for examinations, but who did not advise the Department they had discontinued study.

#### CONCLUSION

21. The Department welcomes the suggestions for amendments to its checking and verification procedures suggested by the Auditor-General's Office. Co-operation in evaluating procedures will continue and improvements introduced wherever possible.

22. As mentioned earlier in the submission, the Department conducts checking operations, both prior to commencement of payment of allowances and on much larger scale during the year. These arrangements have proved effective in preventing major fraud and should continue to do so.

23. While the Department agrees, in principle, that it is desirable to check as much data as possible prior to allowances being paid, there are practical limits. Given the limited time available between the time when a student can apply for assistance and the commencement of term, increased checking prior to payment will inevitably create delays in assessment and payment of allowances. The Department is faced therefore with the problem of balancing the requirement for checking against the requirement to readily provide assistance to needy students, the vast majority of whom checks have shown to be honest.

24. For 1979 the Department is considering two further measures. Firstly all students will be required to enter on their application forms the identity number allocated to them by institutions at enrolment time. Acquisition of the number by the Department will facilitate exchange of data for checking purposes with institutions and may also act as a deterrent to fraud. Secondly the frequency with which reminders are sent to students during the year, drawing attention to their obligations will be increased.

APPENDIX 3B

Exhibit 176/AGR/5

JOINT COMMITTEE OF PUBLIC ACCOUNTS

INQUIRY INTO THE AUDITOR-GENERAL'S REPORT, 1977-78

SUBMISSION BY THE DEPARTMENT OF EDUCATION

PARAGRAPH 3.8.4 OVERPAYMENTS -

STUDENT ASSISTANCE SCHEMES

GENERAL

1. The Department is pleased to be able to confirm the Auditor-General's observation that within the 1977-78 financial year the number of unrecovered overpayment cases under student assistance schemes has been reduced, thereby reversing the growth trend of previous years. In the financial year 1976/77 the number of unrecovered cases rose from 6051 at 30 June 1976 to 9174 at 30 June 1977, an increase of 52%. By 30 June 1978 however, the number of unrecovered cases had been reduced to 8661, which is a drop of 6%.

2. The Department shares the Auditor-General's concern that the amount of unrecovered overpayments has risen from \$2.4 m at 30 June 1977 to \$2.6 m at 30 June 1978, an increase of 8.3%. This growth reflects the 9.6% increase in total expenditure on student assistance from \$186.8 m in 1976/77 to \$204.9 m in 1977/78, and the higher average benefit per student provided under a number of schemes. Overall, however, the amount of \$2.6 m unrecovered at 30 June 1978 is only 1.3% of total student assistance expenditure for 1977/78, which represents no growth on the situation for the preceding financial year when the unrecovered amount of \$2.4 m was also 1.3% of total expenditure.

RECOVERY OF OVERPAYMENTS

3. The Department makes diligent efforts to recover overpayments and would emphasise that the amount of unrecovered overpayments does not represent money lost to the Commonwealth for all time. During the financial year 1977/78, \$1.55 m was returned to Revenue from student assistance sources. This amount is equivalent

to 64% of the \$2.4 m outstanding at 30 June 1977. Similarly in the three months July, August, September 1978, some \$574,500 has already been repaid, representing 22% of the \$2.6 m unrecovered at 30 June 1978.

4. In the longer term, additional moneys will be recovered through the Department's long standing policy, which has been endorsed by successive Governments, of permitting students to repay overpayments by regular instalments while continuing with their studies. This is done on the understanding that when the course is completed and employment obtained, the instalments would be increased. Of the 8661 unrecovered overpayment cases at 30 June 1978, 2765 or 32% are being repaid by instalments. The remainder are at various stages of the recoveries process.

5. The practice of permitting repayments by instalments makes it inevitable that there will always be unrecovered overpayments. Furthermore the number of unrecovered cases at any time will contain the cumulative effect of carrying over instalment cases from year to year. Nevertheless, the Department firmly believes that the practice of permitting repayments by instalments is the most effective way of maximising recoveries.

6. While the Department will continue to make efforts to reduce the incidence of overpayments wherever possible, the major causes of overpayments continue to be beyond the Department's immediate control. Of the 8661 cases of unrecovered overpayment at 30 June 1978, 5985 or 69% were brought about by students failing to commence their proposed course, discontinuing it, or transferring to part-time study and not promptly advising the Department. The following table shows the major causes of unrecovered overpayments.

Cause	No. of cases	Proportion %
1. Student failed to commence proposed course	296	3.4
2. Discontinued course	5219	60.2
3. Reduced study load to part-time status	470	5.4

4. Accepted another award	334	3.9
5. Entered a bonded arrangement with future employer	146	1.7
6. Parental income found to exceed income declared in application form	400	4.6
7. Student's income exceeds permissible limit	428	4.9
8. Data (other than parental income) declared on form found to be incorrect	143	1.7
9. Departmental error	615	7.1
10. Death of student	13	0.2
11. Brother/sister cease study, thereby terminating means test concession	86	1.0
12. Other	511	5.9
<b>TOTAL</b>	<b>8661</b>	<b>100</b>

#### IMPROVED PROCEDURES

7. In his Report for 1976-77, the Auditor-General indicated that the Department had introduced measures which had resulted in a significant improvement in internal control. The Department has recently reviewed its Recoveries system and as a result new measures, based on improved computer techniques will be introduced in 1979. These should provide greater internal control, closer monitoring of overpayments and more efficient recovery action.

8. At the beginning of 1978, a new measure of making payment of allowances mainly in arrears was introduced. The aim was to reduce both the magnitude and incidence of overpayments. The Department believes that this measure has significantly contributed to the reduction in the number of cases recorded to 30 June 1978 and that further improvements will be forthcoming over the next twelve months.

9. Two further measures are being developed for introduction in 1979. At present students receive with their monthly

allowance cheques in April and September a reminder insert drawing attention to the need to advise the Department immediately their personal circumstances or study plans change. An examination of the possibility of improving the impact of these reminders is currently being made and the frequency of distribution will be increased. Secondly, for the first time, students will be required to provide on their application forms for 1979 the identity number allocated to them by the institution at which they are proposing to study. This measure will enable the Department to more readily verify student data with institutions, and reduce the possibility of fraudulent applications.

Department of Education

3 November 1978

APPENDIX 3C

DEPARTMENT OF EDUCATION

1. Text of Student Declaration on TEAS Application Form

I, ..... of .....  
(Name) .....  
(Address)

declare that the information supplied by me on this form is complete, true and correct in every particular, that I have not omitted any relevant information and that the Commonwealth Department of Education has my authority to obtain or verify any information relevant to my application for Tertiary Education Assistance from any organisation or individual. I acknowledge that each payment made to me will be a payment by way of an advance on account of benefits that may become payable to me, and that my acceptance of each advance payment will constitute acceptance by me of all relevant conditions attaching to such payment.

I make this declaration in the knowledge that under regulation 91 of the Student Assistance Regulations, the furnishing in or in connection with an application for Tertiary Education Assistance of information that is false or misleading is an offence, the penalty for which is \$100.

Dated this ..... day of .....19....

Signature of Student .....

2. Text of Reminder Notice sent to Recipients of TEAS Benefits

TERTIARY EDUCATION ASSISTANCE SCHEME

IMPORTANT REMINDER

1. Your allowance was calculated and has continued on the basis of details supplied in your application form. You undertook to advise the Commonwealth Department of Education whenever these details varied.
2. Experience has shown that students commonly forget to advise us when they:
  - (1) Discontinue study (last date of attendance at lectures should be advised).
  - (2) Change enrolment (including a change in any subject).
  - (3) Accept another award, scholarship or bursary.
  - (4) Earn more income than they estimated in the application form (this also applies to dependants and siblings).
  - (5) Change their permanent home address.
3. Failure to advise the Commonwealth Department of Education may lead to students receiving allowances to which they are not entitled. *These moneys must be refunded.*
4. To avoid possible prosecution action, you should advise the Commonwealth Department of Education immediately of any changes to your circumstances which might affect your entitlement to the allowance. A full list of your obligations as grantees under the scheme is set out in the Information Booklet for the scheme and in the information brochure which was forwarded with your assessment advice.

APPENDIX 4A

Time table of events leading to initial payments under the Act

- . on 21 September 1977, a Cabinet Decision was made to undertake a series of assistance measures to the beef industry. This Decision included the incentive payments scheme together with other schemes;
- . on 22 September, details of these assistance measures were announced to the House of Representatives by the Minister for Primary Industry;
- . on 13 October, a Cabinet Decision was made agreeing the details of the Scheme. On the same day, the details were announced<sup>1</sup> by the Minister;
- . within days, legislation drafting instructions had been prepared by the Department and forwarded to Parliamentary Counsel;
- . on 21 October, the ADP system design and programming commenced;
- . on 25 October, initial draft legislation was received from the Parliamentary Counsel and the claim form and explanatory leaflet designs were to have been finalised;
- . by 31 October, the final draft Bill had been prepared;
- . by 1 November, 200,000 claim forms and 100,000 leaflets were to have been printed;
- . on 2 November, the Bill was introduced in the House of Representatives by the Minister;
- . by 8 November, the remaining claim forms and leaflets were to have been printed;
- . on 9 November, the Bill passed its final reading in the Senate;
- . on 10 November, the Act received the Royal Assent;
- . by 18 November, operative ADP systems were to have been developed;
- . by 24 November, claim forms and explanatory notes were posted to beef producers;<sup>2</sup>
- . on 1 December, the first 100 payments were made;<sup>3</sup> and
- . on 2 December 1977, the systems were completed.

1. Press Release PI 77/203 by the Minister for Primary Industry, 13 October 1977.
2. Press Release PI 77/232 by the Department of Primary Industry, 14 November 1977.
3. Press Release PI 77/252 by the Minister for Primary Industry, 30 November 1977.

APPENDIX 4B

Press Releases and Statements concerning the Scheme

- . 22 September 1977, Press Release PI 77/184 by the Minister for Primary Industry;
- . 29 September 1977, Press Release PI 77/194 by the Minister for Primary Industry;
- . 5 October 1977, Government Initiatives in the Rural Sector, statement by the Minister for Primary Industry;
- . 6 October 1977, Question without Notice to the Minister for Primary Industry;
- . 13 October 1977, Press Release PI 77/203 by the Minister for Primary Industry;
- . 2 November 1977, Second Reading Speech by the Minister for Primary Industry;
- . 14 November 1977, Press Release PI 77/232 by the Department of Primary Industry; and
- . 30 November 1977, Press Release PI 77/252 by the Minister for Primary Industry.

APPENDIX 4C

Exhibit 176/AGR/9

JOINT COMMITTEE OF PUBLIC ACCOUNTS

INQUIRY INTO THE AUDITOR-GENERAL'S REPORT 1977-78

SUBMISSION BY THE DEPARTMENT OF PRIMARY INDUSTRY

BEEF INDUSTRY INCENTIVE PAYMENTS SCHEME

1. INTRODUCTION

1.1 The Auditor-General in his Annual Report 1977-78 has drawn attention to the following aspects of the Department's administration of the Beef Industry (Incentive Payments) Act 1977:-

- 1.1.1 whether the entitlement of certain applicants to receive payments in certain ownership situations, as determined by the Department, was in accordance with the legislation,
- 1.1.2 deficiencies in the ADP system due to inadequate documentation, some lapses in controls associated with the processing of claims and the adequacy of the investigation program.

1.2 In respect of these matters raised the Department has taken the following action:-

- 1.2.1 legal advice has been obtained from the Attorney-General's Department regarding the application of the eligibility clauses of the legislation. As a result of the advice the Department has reviewed the basis for determining the eligibility of related claims and is making the ADP system changes necessary to identify those claims which now require re-assessment,
- 1.2.2 documentation of the ADP system is now complete,
- 1.2.3 in relation to controls in the processing of claims remedial action has been taken where considered necessary,
- 1.2.4 the Department regards the investigation function as an important part of the Scheme's operation. Extensive pre-payment investigations are not possible due to the magnitude of the Scheme, its nature and the need for minimal delays in processing claims, however post-payment investigations are being directed to the validation of claims. It is proposed that post-payment investigations will continue for some time after the processing of claims has been completed. ADP programs are utilised to highlight those claims which prima facie indicate the need for investigation and validation.

## 2. ADMINISTRATIVE APPROACH

2.1 In designing the administrative systems to process claims lodged under the Beef Industry (Incentive Payments) Act 1977 the Department was mindful of the following factors:-

- 2.1.1 the purpose and intent of the legislation which was to help alleviate the cash flow position of beef producers while serving the national interest by maintaining essential animal health activity,
- 2.1.2 the particular requirements of the Act,
- 2.1.3 the desire of the Government for the early implementation of the Scheme and minimal delays in paying claims,
- 2.1.4 the magnitude of the Scheme in terms of the number of claims expected to be lodged, and
- 2.1.5 the need for administrative controls to comply with the provisions of the Audit Act, Regulations and Finance Directions in the processing of claims.

## 3. APPLICATION OF LEGISLATION

3.1 Because of doubts which arose in connection with some of the more complex partnership claims, advice was sought from the Attorney-General's Department on the system which the Department had adopted in administering the Act and on the application of the Act to certain specific situations. The claims which gave rise to these doubts were those involving joint owners and partnerships. The claims were for different herds with varying ownership categories but with one or more common partners. In some instances members of partnerships were also owners of individual herds in their own right.

3.2 The advice sought has now been received from the Attorney-General's Department and while it has been confirmed that the basis adopted for administering the Act is reasonable, the advice does contain interpretations of certain sections of the legislation which differ from the interpretations adopted by the Department. The application of the principles in the legal opinion is expected to give rise to some overpayments and some underpayments.

3.3 The major points made in the Attorney-General's advice to the Department were:-

- 3.3.1 once a beef producer has been paid a total of \$2,000 by virtue of a single owner claim and/or any other claim(s) lodged under another ownership category, no further incentive payments may be made directly to that beef producer,
- 3.3.2 where all members but one of a partnership are ineligible to receive further incentive payments then the effect of the operation of section 6(5) of the Act on a claim from that partnership is to leave that one member standing alone as the "sole" owner and the incentive payment should be made to him provided the other requirements of the Act have been fulfilled,
- 3.3.3 the Act is not concerned with what happens to moneys after they have been paid to eligible persons even though the division of payments among partners after receipt could result in a producer receiving more than the maximum \$2,000,
- 3.3.4 there is nothing in the Act which requires claims to be processed in any particular order. However when a number of "related" claims (i.e. claims which are linked by a common owner or part-owner) are being processed together, those claims should be processed in an order which allows the greatest benefit to beef producers. The reason for this is that the Act may be characterised as beneficial legislation,
- 3.3.5 the Department is not required to re-examine already processed claims to determine whether they are related and thus whether by processing them in a different order greater payments could have been made.

4. To give effect to the above advice the ADP system is being re-programmed and additional data is being input to the computer to identify the claims requiring re-assessment. Due to the volume of this data it will be some time before it is known how many claims will require adjustment, either because of over payments or under payments. New claims received are being processed in accordance with the advice received from the Attorney-General's Department.

## 5. ATTACHMENTS

5.1 A copy of the Claim Form and Explanatory Notes together with copies of the correspondence between the Department and the Attorney-General's Department concerning the interpretation of the legislation are attached. (Appendices 1 to 7).

## 6. ADP SYSTEM

6.1 The Report of the Auditor-General 1977-78 contains the following reference in connection with the Scheme's administration-

"deficiencies in the ADP system developed to process claims because of inadequate documentation and lack of authorisation of program changes".

6.2 At the time of the examination of the administration of the Scheme by officers of the Auditor-General's Office documentation of the ADP system was not complete and program changes made had not been formally authorised, although they were readily identifiable from the program listings. This situation was brought about by the limited programming resources available to develop the ADP system within the time available and the turnover in programming staff that occurred in the first few months of the project.

6.3 Documentation of the system has since been completed and the program changes made are being summarised for authorisation by management. The Department is unaware of any specific examples where the delay in documentation resulted in incorrect processing.

## 7. CONTROLS

7.1 In the Report of the Auditor-General 1977-78 reference is made to the following matter which was referred to the Department for comment on 21 July 1978 -

"some lapses in controls associated with the processing, examination and payment of claims and non-compliance with Finance directions relating to the receipt and control of public moneys".

The major items referred to the Department for comment under this category are discussed in paragraphs 7.2 to 7.15.

### 7.2 Receipt and Control of Public Moneys

The particular matter raised was the lack of a remittance book to record returned cheques received through the post. The correct procedure is now being followed.

### 7.3 Certification of Accounts

7.3.1 In his memorandum to the Department dated 21 July 1978 the Chief Auditor commented as follows -

"Section 34 of the Audit Act requires among other things that before certification the account "must be correct in every particular", that the expenditure involved is in accordance with the laws and regulations applicable thereto and that the correctness of every account in regard to rates of charge and faithful performance of the services charged shall be certified.

Although certain information needed to be supplied on the claim form and a declaration given by either a Tax Agent, Bank Manager or Town/Shire Clerk that the claimant was a beef producer your advice would be appreciated as to how the responsibilities placed upon the people required to give certificates under Section 34 of the Audit Act can be discharged."

7.3.2 In its reply to the Chief Auditor dated 1 August 1978 the Department commented as follows-

"The Scheme's administrative systems and accounting controls were designed by the Department having been given predetermined covering legislation and clear directions on the purpose and intent of the Government's initiatives in introducing the Scheme. It is not possible therefore in any discussion of the Scheme's administration to put aside the unique nature and objectives of the Scheme. The certificates under Section 34 of the Audit Act are issued on the basis of the information provided and declared in a witnessed statement by the claimant and supported by one or more declarations including a declaration by a Registered Tax Agent, Bank Manager or Shire or Town Clerk. Due to the magnitude of the Scheme it is not administratively or economically feasible to require further evidence that a claimant has satisfied the legal requirements of the Scheme in the normal course."

### 7.4 Person Incurring Expense - S.34(5) Audit Act

7.4.1 In his memorandum to the Department dated 21 July 1978 the Chief Auditor commented -



"Even though the claim form has provision for the signature of the 'Person Incurring Expense' the forms are not signed and it is understood that no such appointment has been made."

7.4.2 The Department's response to the Chief Auditor in this matter dated 1 August 1978 was as follows -

"Because of the lead time required for printing and distribution of the claim form and because of Government directives for payments to commence in the first week in December the Department had to finalise the design of the claim form before some of the detailed systems and procedures design had been completed. One such area was the system for the provision of certified accounts to the Department of Finance and the subsequent production of cheques. It was not clear at the time when the forms design had to be concluded whether the certification and payments processes would be handled on a manual or computerised basis and provision for the signature of the 'Person Incurring Expense' was left on the reverse of the claim form in the event that a manual process would be adopted. As you are aware the system finally adopted included the production of a composite Form 18, covering Form 22A authorisation and provision of payment details on magnetic tape for cheque production. The certification provided by the Certifying Officer on the composite Form 18 is made "within the meaning of Section 34 of the Audit Act (as amended)" and therefore covers the certification required in respect of Section 34(5) of the Audit Act; the amended Form 18 was approved by the Department of Finance".

#### 7.5 Design of Claim Form

7.5.1 In his memorandum to the Department dated 21 July 1978 the Chief Auditor commented -

"Certain weaknesses have been noted in the design of the claim form which it is felt could result in the supplying of misleading information:

- (a) the eligibility guidelines at the top left of page 1 state that "... partnerships and trusts will be treated as single owners which infers that partnerships will be treated as entities; the legislation however does not recognise partnership but only joint ownership
- (b) no indication is given that beef producers owning cattle jointly are required to be paid jointly for those cattle
- (c) the column requesting dates infers that date of purchase of supplies is required rather than date of treatment in order to determine eligibility
- (d) "Total cattle treated" appears to be the sum of the column "No. of cattle treated". As the items are not necessarily exhaustive it is possible that cattle could be double counted."

7.5.2 The guideline on the claim form referred to in (a) above states - "Companies, partnerships and trusts will be treated as single owners". This statement is in accord with statements made by the Minister for Primary Industry when the Scheme was first announced and on subsequent occasions. It is also in accord with the system which the Department had originally adopted to process claims and was based on the Departmental interpretation of the legislation and the purpose and intent of the Act. In respect of claims from partnerships the guideline is now incorrect in the light of the legal advice received from the Attorney-General's Department. The advice does not alter the treatment of claims from companies and trusts.

7.5.3 In respect of items (b), (c), and (d) above the Department replied to the Chief Auditor on 1 August 1978 in the following terms:-

"The Department does not believe that there is a requirement to include on the claim form an indication that beef producers owning cattle jointly are required to be paid jointly. The form contains a

declaration (Declaration A) to be completed by a person making a claim on behalf of a company, partnership or trust and this requires the claimant to list the persons who were the owners of the subject cattle.

It is conceded that the "Date(s)" column can be interpreted as the date of purchase of supplies rather than the date of treatment. Unfortunately this fault was not detected until after the claim form was printed and costs prevented the re-printing and re-distribution of the form.

The "Total Cattle Treated" box could be interpreted as the sum of the entries made in the column "No. of Beef Cattle Treated". However this is an area which is subject to close scrutiny by the Examiners and Assessors and the design fault is offset to a large degree by the detail provided in the claimant's declaration at the foot of page 1 relating to the number of cattle which are the subject of the claim. Further, the results of Internal Audit investigations and the Scheme's investigations in this area have revealed minimal misinterpretation of the information required."

#### 7.6 Prepunch Edit

7.6.1 In his memorandum to the Department dated 21 July 1978 the Chief Auditor commented -

"To enable the provisions of the Act to be met administrative conditions require a list of partners of a partnership (including unincorporated pastoral companies) to be listed at Declaration A. Audit examination indicates that treatment of the partners names is inconsistent as regards edit prior to keying e.g.

- (a) not inputting all members of the partnership; and
- (b) inputting trading names of partnerships rather than members names."

7.6.2 The effect of (a) and (b) was seen by the Chief Auditor to be a weakening of the usefulness of both the postcode and name reports produced by the computer system in determining the eligibility of related claims for payment.

7.6.3 In processing claims under the administrative systems originally implemented by the Department it was not considered necessary to input the complete details of all members of partnerships as listed in Declaration A as each different ownership category was regarded as an entity and a claim under one category was not determined to affect a claim made under another category. However consistency was maintained in that where the names of the partners exceeded the number of characters available in the relevant field in the computer record the trading name of the partnership was used.

7.6.4 With the receipt of the legal opinion from the Attorney-General's Department referred to in paras 2 and 3 above the basis originally adopted to determine the eligibility of related claims has been changed and as indicated in para 4 the complete details of all members of partnerships is now being input to the computer to give effect to the legal advice.

#### 7.7 Checks Performed by the Investigation Officer

7.7.1 In his memorandum to the Department dated 21 July, 1978 the Chief Auditor commented -

"The prepayment control exercised by the Investigations Officer was examined in paragraph 3 above. A prior control uses the examining of the SORTS for duplicate payments. Audit investigation indicates that to date examination has covered those cases listed in the SORTS to March 1978. As it is understood that no further action has been taken on these for some time, when is it anticipated that the control will be resumed."

7.7.2 The Department's response to the Chief Auditor in this matter dated 1 August 1978 was as follows -

"The investigation function performed by the Investigation Officer is of necessity somewhat irregular in that efforts are directed, on the instructions of the Scheme's Administrative Officer, to those aspects which are considered to rate highest priority at a particular time. It happens therefore that the thrust of investigation work varies from prepayment to post payment aspects and between such areas as:-

- (i) claims lodged from a particular Tax Agent;
- (ii) claims lodged from a particular family;
- (iii) claims lodged from a particular geographic area.

In addition investigations are conducted on particular claims which for a number of varying reasons are considered worthy of further tests. It has always been envisaged that post payment investigations are necessary and may include field investigations where considered appropriate."

#### 7.8 Microfiche Check

7.8.1 In his memorandum to the Department dated 21 July 1978 the Chief Auditor commented -

"A control in the system is a pre-registration check of claims to a post-code sorted microfiche of claims paid in order to identify duplicate claims; problems inherent in the system are:-

- (a) lag in microfiche production - in order to overcome this has consideration been given to including a second prepayment examination of the microfiche at the pre 18 stage; and
- (b) claimants may submit additional claims in relation to properties at different postal addresses."

7.8.2 The Department's response to the Chief Auditor in this matter dated 1 August 1978 was as follows -

"The introduction of a second prepayment examination at the pre 18 stage of processing has not been implemented, although it was considered, due to the limited effectiveness of the examination and the delays that it would introduce into the system.

The incidence of claimants submitting additional claims in relation to properties at different postal addresses is minimal and it is therefore not justifiable to introduce a second prepayment examination to detect such claims. These would be detected through post payment checks."

#### 7.9 Separation of Duties

7.9.1 In his memorandum to the Department dated 21 July 1978 the Chief Auditor commented that the "basic procedural controls in the system are quite strong" but raised the question of the "separation of the design/analyses and programming functions" which he described as "integral to good internal control in computer based systems".

7.9.2 The Department's response to the Chief Auditor in this matter dated 1 August 1978 was as follows -

"It is not clear whether the comments made in your memorandum under this heading refer to the separation of duties between system design and system analysis or between the programming and computer operation duties. If they refer to the former the Department does not accept that staff engaged on system design and analysis should necessarily be separate, and in any case, no further system design has taken place since the initial implementation of the system. It is agreed that programming and computer operation functions should be performed separately and independent staff are employed in these areas. Due to staff absences it has been necessary for the programmer to operate the node but this has only occurred when it has been essential to the system's operation."

## 7.10 ADP System Documentation

7.10.1 In his memorandum to the Department dated 21 July 1978 the Chief Auditor commented -

"Internal audit records examined by this Office indicates that at 9 March 1978 minimal systems documentation had been prepared. Audit examination disclosed that while operating instructions have now been produced other documentation had not yet been formalised and approved."

7.10.2 The Department's response to the Chief Auditor in this matter dated 1 August 1978 was as follows -

"The Department has been aware of shortcomings in this area which were the result of limited staff resources and the allocation of those resources to other higher priority tasks associated with the Scheme. However full ADP system and programme documentation is now complete."

## 7.11 Report Integrity

7.11.1 In his memorandum to the Department dated 21 July 1978 the Chief Auditor commented -

"A major control in the system is the post-payment examination of the POSTCODE and ALPHA SORTS. In view of the importance of these checks has consideration been given to, the inclusion of a record count on the reports. It is considered that such a count could be reconciled to total payments plus rejections thereby ensuring that there is no unauthorised suppression of records being listed."

7.11.2 Following investigations into this matter the Department has taken action to implement a record count on the reports produced from the system to reconcile the payment details recorded on the ADP file with the details listed in the reports.

## 7.12 Control of File Notation/Amendment

7.12.1 In his memorandum to the Department dated 21 July 1978 the Chief Auditor commented -

"A further major control in the system is that before payment can be made a notation authorising such payment must be input to the computer record. All notations and amendments to the record are processed by the input of a payment/amendment sheet coded by the assessors and checked by the applicable team leader. Deficiencies noted in the accounting controls over the input forms included:

- (i) forms not sequentially numbered;
- (ii) while the last five assessor numbers are retained on the computer record there is no audit trail (batch numbers etc) allowing the ready tracing of action taken to a given record to the relevant input sheets;
- (iii) in the majority of cases examined claim forms were not signed by either the preparing or checking officers; and
- (iv) unused portions of the form were not cancelled to prevent unauthorised entry subsequent to checking."

7.12.2 The Department in its reply of 1 August 1978 to the Chief Auditor made the following comments -

"Payment/amendment coding sheets are in fact manually sequentially numbered and in addition carry the appropriate batch number. It is considered that this provides adequate initial control of the input to the computer.

Your comments regarding the provision of additional information on each computer record for the purposes of providing an audit trail are noted. While the structure of the record could be altered to provide for this the Department is not convinced that such an amendment would be cost justified. It would of course only affect records added to the ADP file subsequently.

Your comments regarding the absence of signatures on payment/amendment coding sheets and the cancellation of unused portions of the forms are noted. It is considered that while these may appear important such clerical procedures are of minor importance to controls over actual amendments to the ADP file due to subsequent reports such as the CORREC which enables checking of a claim to finality by three independent staff before final payment certification."

### 7.13 PAYREC Processing

- 7.13.1 In his memorandum to the Department dated 21 July 1978 the Chief Auditor commented -

"Discussion with Departmental Officers indicates that current procedure is such that the PAYREC tape after return from the Department of Finance is allocated by CSIRO to the general scratch tape area; the tape is scratched during subsequent use by another user. In view of the information held on these tapes has consideration been given to arranging for them to be scratched as soon as possible after receipt in CSIRO."

- 7.13.2 Magnetic tapes returned to the CSIRO Computer Centre are placed in the "scratch pool" and are re-allocated to users for writing only from this pool. Procedures in operation at the Computer Centre do not enable a tape from the "scratch pool" to be issued for reading and the Department considers that these procedures are satisfactory for safeguarding the confidentiality of the information recorded on the tapes. There are no facilities available at the Computer Centre for scratching tapes other than the over-writing of tapes when re-allocated from the "scratch pool".

### 7.14 Duplication of Payments

- 7.14.1 In his memorandum to the Department dated 21 July 1978 the Chief Auditor commented -

"During the course of audit examination it was noted that a breakdown in procedures had occurred which allowed batches 382 and 383 to be processed twice resulting in overpayments of \$61,280 and \$144,800 respectively. Stop payments were notified to the Reserve Bank with the result that no negotiations occurred on batch 383; seven negotiations did occur, however, on batch 382 to the value of \$11,100.

The timing of the payments is understood to be:

No. 382 issued 29 March 1978 Stop  
payment 7 April 1978

No. 383 issued 7 April 1978 Stop  
payment 10 April 1978

As it seems that the Department of Finance was not advised until 7 April 1978 of the duplication of cheque issue then the question is raised as to why your Departmental Officers did not become aware of the duplication as a result of the procedures required to be undertaken by Finance Regulation 94 and Finance Direction 37/8 and, if so, why was the Department of Finance not advised earlier."

- 7.14.2 The Department's response to the Chief Auditor in this matter dated 1 August 1978 was as follows -

"The breakdown in procedures which resulted in the duplicate processing of Forms 18, Nos. 382 and 383 is directly attributable to actions within the Department of Finance. This Department did not authorise the re-processing of the batches in question but the duplication of payments was detected in this office through routine examination of daily ledger printouts from the Department of Finance. The Department of Finance was verbally advised by this Department of the duplication prior to 7 April 1978 and it is considered that the seven negotiations which did occur were the result of a combination of technical operations within the Department initially and secondly delays in acting on this Department's advice on the duplication."

## 7.15 Departmental Instructions

7.15.1 In his memorandum to the Department dated 21 July 1978 the Chief Auditor commented -

"Adequate departmental instructions have not been prepared in connection with the operations of the 'Scheme' and in this regard, it is desirable that properly authorized instructions be issued."

7.15.2 Instructions for the staff involved in the processing of claims have been prepared since the Audit examination. Previously due to limited staff resources and the need to allocate staff to operational functions relating to the Scheme it was not possible to devote resources to this requirement. Staff engaged for the Scheme were of course given training sessions on their functions and through further on-the-job training, supervision of their performance, and internal controls in the system the Department has ensured that the Claims Unit established to process claims has functioned efficiently.

7.16 In addition to the items discussed in paragraphs 7.2 to 7.15 the Chief Auditor referred other minor matters in this category to the Department for comment on 21 July 1978. Replies in respect of these were included in the Department's memorandum to the Chief Auditor dated 1 August 1978 and remedial action has been taken where necessary.

## 6. INVESTIGATION PROGRAM

8.1 In the Report of the Auditor-General 1977-78 reference is made to the following matter which was referred to the Department for comment on 21 July 1978 -

"The adequacy of the investigation program adopted to ensure validity of payments as in addition to 30 claims totalling approximately \$46,500 identified by departmental investigation, the Audit review disclosed further cases where some doubt of eligibility for payment was apparent."

8.2 The Chief Auditor's comment to the Department regarding the investigation program in his memorandum of 21 July 1978 was as follows -

"In a selected sample of the ALPHASORT, 29 cases were identified by audit where prima facie, there appeared to be some doubt as to the validity of the sole ownership claim (Examples at Attachment 1).

It is understood that the Investigation Officer has rejected 27 claims prior to payment being made (approximately \$40,000 at average rate of \$1,475) and his post examination of payments disclosed instances where joint ownership existed and, consequently, the sole ownership claims were disallowed (Attachment 2).

No record was maintained of the number of claims examined by the Investigation Officer in order to establish the form of ownership - it is appreciated that a considerable number of claims would have been reviewed in relation to other aspects.

Departmental records indicate, however, that:

- (i) the prepayment tests have been operating for a short time and within a limited scope i.e. generally, only cases with the same stock on hand are queried; and
- (ii) the post-payment tests resulted from ad-hoc investigations i.e. there appeared to be no definite procedure laid down for this type of examination.

Since the commencement of the Scheme a basic control used to avoid duplicate payments being made was the examination of the post-code sorted microfiche and it appears that the prepayment tests could, also, have been subjected to this control.

There appears to be no investigation program established and as the tests applied by the single Investigation Officer are necessarily limited (53,684 claims processed to 12 May 1978 for \$72.97M) it seems that the degree of control exercised by the department to ensure that public moneys are correctly expended is severely restricted."

8.3 The Department in its reply to the Chief Auditor on 1 August 1978 commented as follows:-

"It is difficult to provide meaningful comment on the 29 cases from the selected ALPHASORT where, prima facie, there appeared to be doubt as to the validity of the sole ownership claim, without knowing the size

of the sample. However in a recent BHCHEC run, only 1 family appeared in a sample of 144 claims, covering all claims lodged for postcodes 2,000 - 2,099 and 2,300 - 2,350, which warranted further investigation. From the Department's experience in investigating such claims legal evidence is normally provided supporting the existence of the separate entities lodging the claims. In view of these comments the reference to the 29 cases would appear to be of little importance.

The rejection of claims by the Investigation Officer in both the prepayment stage and in post payment investigating illustrates the effectiveness of these internal controls in the Scheme's administration.

Each claim investigated by the Investigation Officer, and other staff engaged on investigation duties, is flagged in the ALPHASORT report. In addition the Investigation Officer maintains a separate record of investigations conducted.

Given the magnitude of the Scheme, its unique nature and the demand by Government for minimal delays in paying claims, it was, and is not feasible to undertake extensive prepayment tests. However, prepayment tests have always been conducted by the Investigation Officer, the Administrative Officer and the Certifying Officer. These are usually commenced when 2 or more claims are received in the same envelope or when an examination of the postcode sort fails to indicate whether the claim form relates to a first, second or duplicate claim from the producer.

The Department refutes the statement that the degree of control exercised to ensure that public moneys are correctly expended is severely restricted. While it is agreed that the work of the Investigation Officer is limited it is pointed out that the Administrative Officer and Certifying Officer also undertake investigations and a Clerk Class 2/3 is also fully engaged in post payment investigation work. As indicated in my memorandum of 26 July 1978 post payment investigation has always been an integral part of the Scheme's administration and with the current decline in the rate of receipt of claims it has now become possible to devote more resources to this aspect of the operations. In addition to the programmes previously mentioned, the Alpha Sort (ALSORT) and Microfiche Report (LISREC) the Department has or will shortly have the following additional programmes available for its investigation work:-

Postcost Sort	(FCSORT)
P.O. Box Sort	(TESORT)
Tax Agent Sort	(TAXSORT)
Daily Alpha Sort	(ALREC)
Age Analysis Report	(AGEAN)
Property Sort	
Tail Tag Sort	

From such a range of programmes which enable the interrogation of the ADP file for comparison of key information provided by applicants it cannot possibly be stated that the controls exercised by the Department on the correct expenditure of moneys under the Scheme are severely restricted."

8.4 As at 13 October 1978 the Department had identified 77 overpayments totalling \$119,260 and of this amount \$89,290 has been recovered leaving \$29,970 outstanding.

3 November 1978



DEPARTMENT OF PRIMARY INDUSTRY  
BEEF INDUSTRY (INCENTIVE PAYMENTS) ACT 1977

Appendix 1

Claim Form

ELIGIBILITY

- The claimant must have been the owner of 50 or more beef cattle at 30 June 1977.
- The husbandry procedures listed below must have been carried out during the period 23 September, 1977 to 22 September, 1978.
- Claims must be lodged by 31 December, 1978.
- The maximum allowable claim for any one animal is ten dollars (\$10).
- The cattle claimed for must have been owned for a period of at least three (3) months.
- Companies, partnerships and trusts will be treated as single owners.

Tick whether 1st or 2nd Claim 1st  2nd  IMPORTANT. If 2nd claim, state Account Number

Tick if claim made on behalf of a company, partnership or trust  If so, Declaration A on reverse to be completed

PERSONAL PARTICULARS OF OWNER(S) OF BEEF CATTLE (Use black letters)

Surname  Other names (if full)

Total address

Postcode

Property address on which beef herd kept

Postcode

Number of beef cattle on hand at 30 June 1977  as per Taxation Livestock Trading Account

Toll Tag No. (incl. Tasmania)

When a Veterinarian or Government Officer performs a procedure, he should complete the Declaration on the reverse of this form.

BASIS OF CLAIM

1. Husbandry Procedures

- (a) Drenching/injection for internal parasites
- (b) Dipping or other treatment for external parasites
- (c) Vaccination

(d) Other - give details

2. Brucellosis and Tuberculosis Eradication

- (a) Blood Sampling
- (b) Brucellosis vaccination
- (c) Tuberculosis testing

3. Spaying of beef cattle heifers under 2 years old

	Supplies Purchased from (show name and address)	Date(s)	No. of Beef cattle treated
(a)			
(b)			
(c)			
(d)			
2.	Performed by (show name and address)	Date(s)	No. of Beef cattle treated
(a)			
(b)			
(c)			
3.	Performed by (show name and address)	Date(s)	No. of beef cattle treated

DECLARATION

I hereby claim an amount of \$  in respect of the procedures which have been carried out as stated above on (state number) beef cattle owned by me.

No claim in respect of any of these cattle has previously been made by me.

These cattle have been owned by me or by the persons named on the reverse for a period of not less than three months.

The total amount claimed by me to date, inclusive of this claim, does not exceed \$2000.

The statements made herein are true and correct in every detail.

Claimant  Witness

(Signature) (Signature)

Address

DECLARATION C OR D MUST BE COMPLETED.  
PENALTIES ARE PROVIDED FOR MAKING FALSE OR MISLEADING STATEMENT OR DOING FRAUDULENT ACTS FOR THE PURPOSE OF OBTAINING A PAYMENT UNDER THE ACT. 88

A. DECLARATION WHERE CLAIM IS MADE ON BEHALF ON ANY COMPANY, PARTNERSHIP OR TRUST.

This claim is made on behalf of the company named below OR this claim is made on behalf of the following persons (list names) who were the owners of the subject cattle at the time the procedures stated were carried out:

Signature  Date

If any of the procedures in respect of which a claim is made was carried out by a Veterinarian or Government Officer, the declaration below must be completed by that person.

B. DECLARATION BY VETERINARIAN OR GOVERNMENT OFFICER

I  of

(name) (address)

(occupation)

carried out the procedures specified in Item  on the date there specified.

(insert item number from previous page)

Signature  Date

ONE OF THE DECLARATIONS HEREUNDER MUST BE COMPLETED

C. DECLARATION BY REGISTERED TAX AGENT

I  of

(name) (address)

herby state that the claimant(s) is a/are beef cattle producer(s).

Signature of Tax Agent  Date

Registered Tax Agent No.

D. DECLARATION BY BANK MANAGER, SHIRE OR TOWN CLERK

I  of

(name) (address)

herby state that the claimant(s) is a / are beef cattle producer(s).

Signature  Date

Position held  Stamp of Bank, Shire or Town.

Claims should be forwarded to: Department of Primary Industry  
Post Office Box 404  
Canberra City 2601

Office Use only

Examined by  Date

Checked by person incurring expense (Section 34(5) Audit Act)

Signature  Date

Amount Due



Appendix 2

**BEEF INDUSTRY (INCENTIVE PAYMENTS) ACT 1977**  
**Explanation of Scheme and Instructions for Obtaining Payments.**

Subject to the provisions of the Act, the scheme provides for payments of \$10 per head to beef cattle producers carrying out recognised disease control and husbandry procedures with a maximum payment of \$2000 to any one producer. Companies, partnerships and trusts are treated as individual producers.

**Who is Eligible to Receive a Payment?**

To be eligible to receive a payment, the beef producer:

1. Must have owned 50 or more beef cattle at 30 June 1977 as shown in the Livestock Trading Account of his Income Tax Return.
2. Must have carried out one of the recognised disease control and husbandry procedures during the period 23 September 1977 to 22 September 1978. Recognised procedures include:
  - (a) Drenching/injection for internal parasites
  - (b) Dipping or other treatment for external parasites
  - (c) Vaccination
  - (d) Brucellosis and Tuberculosis testing, Brucellosis vaccination
  - (e) Spaying of beef cattle heifers under two years old
3. Must have owned the beef cattle on which the procedures were carried out on 30 June 1977 or for a period of at least three months if purchased subsequently.
4. Must lodge a claim on the official claim form of the Commonwealth Department of Primary Industry before 31 December 1978. Each claimant is restricted to two claims during the period of the scheme.
5. May claim for payment once only in respect of any one animal on which procedures have been carried out during the period.
6. Must supply, if requested, documented evidence, (e.g. invoices, statements of account, receipts, etc.) that procedures have been carried out.
7. If you believe that a disease control procedure, other than those listed under 2 above, may be eligible, you should list it under Item 1(d) in the Claim Form and give full details.

**How do you make a Claim for Payment?**

1. Complete clearly and in block letters the details requested on the official CLAIM FORM. You may obtain additional claim forms at district post offices, central metropolitan post offices in capital cities or the Regional Offices of the Commonwealth Department of Primary Industry in your State Capital. Addresses are listed on reverse.
2. Complete Declaration and sign as claimant on the front of the claim form.
3. Declarations A and B on the back of the claim form must be completed where applicable.
  - A. Declaration where a claim is made on behalf of any other person  
This declaration must be signed by an authorised person where the owner of the beef cattle at the time of the performance of the procedure is a company, partnership or trust.
  - B. Declaration by a Veterinarian or Government Officer  
This declaration is to be signed where the procedures were carried out or supervised by a Veterinarian or Government Officer.
4. ONE OF THE DECLARATIONS C OR D MUST BE COMPLETED BY THE CLAIMANT'S BANK MANAGER, REGISTERED TAX AGENT OR SHIRE OR TOWN CLERK AS APPLICABLE.
5. Post the completed claim form in a stamped envelope no later than 31 December 1978, clearly addressed to:

Commonwealth Department of Primary Industry,  
P.O. Box 404,  
CANBERRA CITY A.C.T. 2601

**Payment of Claims**

Claims will be processed in order of receipt and paid progressively after validation. Incomplete or questionable claims will be returned to the claimant for amendment or completion.

Payments made to beef producers under this scheme are assessable income according to the provisions of the Income Tax Assessment Act.

**Second Claims**

An ACCOUNT NUMBER will be allocated at time of first payment and will be clearly highlighted on the cheque posted to each producer. Claimants are requested to state their ACCOUNT NUMBER on top of the claim form for second claims or on any correspondence entered into with the Department of Primary Industry.

**Penalties**

The legislation provides for penalties for making false or misleading statements or for doing fraudulent acts for the purpose of obtaining a payment.

Additional claim forms are available from the following  
Regional Offices of the Commonwealth Department of  
Primary Industry

Regional Director,  
Union Carbide House,  
157 - 107 Liverpool Street,  
Sydney, N.S.W. 2000

Regional Director,  
10 - 16 Queen Street,  
Melbourne, Vic. 3001

Regional Executive Officer,  
Australian Government Centre,  
Cnr. Ann and Creek Streets,  
Brisbane, Qld. 4000

Regional Executive Officer,  
Sun Alliance House, 13th Floor,  
45 Grenfell Street,  
Adelaide, S.A. 5000

Regional Executive Officer,  
2nd Floor, Council House,  
27 St. Georges Terrace,  
Perth, W.A. 6000

Regional Executive Officer,  
Continental Building,  
182 Macquarie Street,  
Hobart, Tas. 7000

Commonwealth Department of Primary Industry,  
P.O. Box 404,  
CANBERRA, A.C.T. 2601

G.P.O. Box 2246 U,  
Melbourne, Vic. 3001

G.P.O. Box 778,  
Brisbane, Qld. 4000

G.P.O. Box 2166,  
Adelaide, S.A. 5001

G.P.O. Box M957,  
Perth, W.A. 6001

G.P.O. Box 573 F,  
Hobart, Tas. 7001

Appendix 3

S77/1649

3 July 1978

The Secretary  
Attorney-General's Department  
Administrative Building  
PARKES. ACT 2600

ATTENTION: Mr R. Wilde,  
Advinsings Division

Beef Industry (Incentive Payments) Act 1977

I refer to oral discussions between Mr R. Hind and Ms C. Sinclair of this Department and Mr R. Wilde of your Department, concerning the interpretation of the above Act.

2. In those discussions several examples were analysed where it appeared that a strict literal interpretation of the Act was possible, which meant that in many circumstances a payment either could not be paid where merited, or could be paid to persons who technically should not receive a payment. An actual example of the type of difficulties which arise is as follows.
3. Four claim forms were received for four partnerships owning distinct herds. In each case the same person was nominated to receive payments on behalf of the other partners under paragraph 6(1)(c). Three of the partnerships comprise the same four people; in two cases ("A" and "B") the partners have equal shares; in the other, ("C") two partners have one sixth each and two have one third each. The remaining partnership ("D") comprises the same four people plus one other.
4. Sub-section 3(3) states that where a payment is made to a nominee under paragraph 6(1)(c) each joint owner is deemed to have been paid the full amount. In respect of A, B and C, if one claim is paid to the full \$2,000, all four partners are deemed to have been paid \$10 in respect of each animal, i.e. they have claimed for 200 animals each. Sub-section 6(4) states that incentive payments are not payable to the one beef producer in respect of more than 200 cattle. It therefore appears that no further payment to any of the partners in A, B and C may be made.

5. Applying this to D, the four common partners from A, B and C, each being deemed to have been paid for 200 animals by sub-section 3(3), are disqualified from receiving further payments by sub-section 6(4). Sub-section 6(5) states that where an incentive payment is not payable by virtue of sub-section 6(4), a beef producer is deemed not to be the owner of an animal at the relevant time. The effect of this is to leave the fifth partner of D standing alone.

6. Applying sub-section 6(1) to this situation, this person apparently cannot claim under paragraph 6(1)(a) since, although he is technically the only remaining owner, he does not appear to own the animals "solely" within the meaning of the paragraph. He cannot be paid under paragraph 6(1)(b) or 6(1)(c), since they contemplate joint ownership and there is only one owner left. (It appears that while there is room for debate as to whether sole ownership as a legal concept is what was intended in this paragraph, the context makes it almost impossible to put any other interpretation on the words.) The conclusion is that technically no payment may be made to partnership D.

7. If there had been two additional members in partnership D who were not otherwise disqualified then a payment could be made under paragraph 6(1)(b) or (c). The question then arises as to how much would be paid to these remaining owners. (I understand that in a partnership, each member is only entitled to his portion of the value of the partnership property. Thus in the case of three partners owning three cattle, it can neither be said that each owns one animal, nor that each owns one third of each animal. Each partner is, however, entitled to receive one third of the income from the cattle.) Would these additional partners be entitled to claim the full \$2,000 or only a portion of it? Further, I also understand that partners are legally accountable to each other for profits. Thus, if these two partners are paid, say \$2,000, then under the Act their common partners cannot be paid, while under partnership law, they must share in the profits.

8. Further problems also arise where one or more members of a partnership also own cattle independently of the partnership. I have attached a series of examples illustrating some of these problems.

9. You may be aware that the original intent of the Act was to improve the immediate cash-flow situation of beef producers, and that the drafting and implementation of the Act, including the development of the computer program on which administration of the scheme is based, occurred under conditions of extreme pressure and urgency. In the limited time available it was not possible to envisage all the possible factual situations which might arise, and the basic principle

was simply to make cash available to farmers who owned 50 or more cattle for beef production. The situations of a person owning cattle both in his own right and as the executor of a will, or as a trustee, were foreseen (sub-section 3(4)) and sub-section 3(3) was included with the intent of preventing each member of a partnership from claiming \$2,000 in his own right for the same cattle.

10. Given the purpose of the Act, the need to make payments as quickly as possible, the limitations of the computer program and the intelligence and ability of the persons selected as Clerical Assistants Grade 1, who were required to read micro-fiches to draw attention to duplicate and second claims, it was impossible to do other than take a liberal interpretation of the Act.

11. In the event major categories were set up, viz:-

- (a) sole beef producer;
- (b) joint beef producers;
- (c) registered partnerships; (i.e. those with a registered business name)
- (d) registered companies;
- (e) ownership in a representative capacity.

The system identifies whether a person makes more than one claim under the one category, ensures that he receives no more than a total of \$2,000 in respect of claims in that category, and that he does not claim for the same animals twice within that category.

12. The result in the case of the example discussed above is therefore that the three claims for partnerships, A, B and C are treated as a single claim under category (b) while the claim for partnership D is treated as a separate claim under category (b). This appears to be a just result, and while it may result technically in some beef producers receiving more than 200 incentive payments, it was the only feasible means of supervising and controlling payments under the Act, given the administrative limitations.

13. In the light of the above, I would be pleased if you could advise, at your earliest possible convenience, whether in your opinion the method which was adopted in administering the Beef Industry (Incentive Payments) Act 1977 is justifiable in that it is consistent with the spirit and intent of the legislation. In the event that you cannot express this opinion, would you please give a comprehensive interpretation of the meaning and effect of the provisions of the Act and whether, and under what circumstances, recovery measures should be instituted having regard to the system of payments used to date.

(D.P. CLEARY)  
Assistant Secretary  
Management Services Branch

Examples of Problems which may arise under  
the Beef Industry (Incentive Payments) Act

Example 1.

X and Y own 50 cattle in partnership. X is nominated to receive the payment. X also owns 25 cattle in his own right. X will receive the amount payable for the partnership animals, i.e. \$500. X may also claim for his 25 animals since he is a "beef producer" by virtue of his joint ownership of 50 cattle, and will receive an additional \$250. After payment of both claims X will have received \$500 which he must share with Y and \$250 which he may keep.

Example 2.

X and Y jointly own 200 or more cattle. X also owns 50 cattle in his own right. Where the partnership claims for the 200 cattle X and Y are each deemed to have claims for 200 cattle by sub-section 3(3). Thus X is unable to claim for his 50 cattle by virtue of sub-section 6(4) which states that incentive payments are not payable to the one beef producer in respect of more than 200 cattle.

However, if X claims for his 50 cattle first, when the partnership claim is submitted he will only be entitled to claim for 150 cattle. By sub-section 6(5) he is deemed not to be the owner of the other 50 partnership cattle. X and Y could thus jointly claim under paragraph 6(1)(c) for 150 of the partnership cattle. Y could not claim for the other 50 since he is the only remaining owner, but not the sole owner. (Under paragraph 6(1)(a) an incentive payment is payable where, at the relevant time, the animal was owned solely by a beef producer - to that beef producer.)

Example 3.

X, Y and Z jointly own 200 cattle. Z owns 50 cattle independently. If the partnership claims first, X, Y and Z are deemed to be paid for 200 cattle each. Z cannot then claim for his own cattle.

If Z claims first, when the partnership claims, he is only entitled to claim for 150 cattle. He is deemed not to own the other 50 cattle. X, Y and Z can jointly claim for 150 of the partnership cattle. X and Y are left as the only owners of the remaining 50 and as such may claim under paragraph 6(1)(c). The question then arises as to how much to pay X and Y and whether they must share with Z.

Example 4.

Where X and Y jointly own 200 cattle and X also owns 200, if the partnership claims first, X cannot claim his 200.

If X claims first, then he is deemed not to be the owner of the partnership cattle. Y owns them alone, but solely so cannot claim under sub-section 6(1).

Does Y have an action against X to make good lost profits since under partnership law, one partner may not enrich himself to the disadvantage of the others?

Example 5.

Where X, Y and Z jointly own 200 cattle and X also owns 200, if the partnership claims first X cannot claim for his 200 cattle.

If X claims first, he is not the owner of the partnership cattle, Y and Z are the remaining joint owners and can claim under paragraph 6(1)(c). How much can they claim? Can X claim a share?

Example 6.

Where partnerships have a common partner problems arise since, if as a partner in partnership 1, he is deemed to have received \$2,000 then when partnership 2 claims, he is not entitled to claim at all. He is deemed not to be the owner of the partnership 2 cattle which leaves the remaining partner(s) open to the same problems as outlined above.

Further, one person (X) may have a share in many distinct partnerships and if each of these partnerships qualifies independently X may eventually receive well over \$2,000. Must X be eliminated after he receives a total of \$2,000, with further payments being denied him, for example, by instructing the persons nominated to receive the payments on behalf of any other partnerships to which X belongs not to pay any money to X?

S77/1649

The Secretary,  
Attorney-General's Department,  
Administrative Building,  
PARKES A.C.T. 2600

19 JUL 1978


ATTENTION: Mr R. Wilde,  
Advising Division.

Beef Industry (Incentive Payments) Act 1977

With reference to my memorandum of 3 July 1977 to you on this subject, I would be pleased if you would also consider the following question:

Since on a strict interpretation of the Act, the order in which claims are received may be decisive of whether a particular payment may be made and who may receive it, what criteria should the Department adopt when processing several related claims which arrive in the same batch of mail on the same day? Example 2 outlines a fact situation in which such a consideration would be relevant.

Following an audit of payments enquiries have been received from the Auditor-General's Department. So that a reply to these enquiries may be made and any other necessary administrative action initiated, your urgent consideration of this and the other matters raised would be appreciated.

  
(D.P. CLEARY)  
Assistant Secretary  
Management Services Branch



Appendix 5

ATTORNEY-GENERAL'S DEPARTMENT

TEL: 61 9111

CANBERRA, A.C.T. 2600

PLEASE QUOTE A/78/3936

YOUR REF: S77/1649

14 AUG 1978

The Secretary,  
Department of Primary Industry,  
CANBERRA. A.C.T. 2600

Beef Industry (Incentive Payments) Act 1977 -  
Validity of Payments

I refer to your memoranda dated 3 and 19 July 1978 regarding the interpretation of the abovementioned Act. You have, I understand, received enquiries from the Auditor-General's Department with respect to certain incentive payments made under the Act. For the purpose of replying to those enquiries and taking any further administrative action that may be necessary to properly implement the Act, you now seek advice in general with respect to the system adopted by you in administering the Act, and in particular with respect to the application of the Act to certain specified situations outlined by you in your memorandum of 3 July and attachment thereto.

Administration of the Act

2. In administering the Act you have adopted a system of dividing claims into the following categories:

- (a) sole beef producers;
- (b) joint beef producers;
- (c) registered partnerships, (i.e. those with a registered business name);
- (d) registered companies;
- (e) ownership in a representative capacity.

3. This system, you state, identifies whether a person makes more than one claim under the one category, ensures that he receives no more than a total of \$2000 in respect of claims in that category, and that he does not claim for the same animals twice in that category.

4. In the absence of complete details as to how this system works in practice it is difficult to assess it fully. Assuming that it produces the results you claim for it, it may well be that it is a reasonable basis for administering the Act. However, in the ultimate, the question must always be whether a particular payment is authorised by the Act as properly construed. For example, as I have indicated below and in the attachment hereto, the effect of section 6(5) of the Act could result in one beef producer falling within different categories for the purpose of payment. Thus in the example set out in your memorandum the claim by partnership "D" should be dealt with under category (a) and not (b). The effectiveness of your system will therefore depend upon the proper application of the Act to each particular case.

Particular Situations

5. I turn now to consider the particular situations instanced by you. The following example illustrates the kinds of problems you have encountered in your administration of the Act. Four claim forms were received from four partnerships owning distinct herds, each of at least 200 head. In each case, the same person was nominated to receive payments on behalf of the other partners under section 6(1)(c) of the Act. Three of the partnerships comprise the same four people; in two cases ("A" and "B") the partners have equal shares; in the other, ("C") two partners have one-sixth each and two have one-third each. Partnership "D" comprises those same four people plus one other. In a fifth situation contemplated by you, which I shall call partnership "E", those same four people plus two others comprise the partnership.

6. The provisions of the Act, insofar as they are relevant provide:

"3.(3) Where an incentive payment in respect of an animal is payable, or has been paid, to a person nominated by 2 or more beef producers, or to 2 or more beef producers jointly, in accordance with paragraph 6(1)(c), that incentive payment shall, for the purposes of sub-section 6(3) or (4), be deemed to be payable or to have been paid, as the case may be, to each of those beef producers.

4. If -

- (a) a recognized procedure has been carried out with respect to an animal during the year to which this Act applies; and
- (b) at the time when the recognized procedure was carried out, the owner, or one of the owners, of the animal was a beef producer,

then, subject to this Act, a payment, to be known as an incentive payment, is payable in respect of the animal.

5. The amount of the incentive payment in respect of an animal is \$10.

6.(1) Subject to this Act, an incentive payment in respect of an animal is payable -

- (a) where, at the relevant time, the animal was owned solely by a beef producer - to that beef producer;
- (b) where, at the relevant time, the animal was owned by 2 or more persons of whom one only was a beef producer - to that beef producer; or
- (c) where, at the relevant time, the animal was owned by 2 or more persons, being persons who are or include 2 or more beef producers - to a person nominated by those beef producers for division among those beef producers or, in a case or class of cases approved by an authorized person, to those beef producers jointly.

(2) For the purposes of sub-section (1), a beef producer shall be deemed not to have been the owner, or one of the owners, of an animal at the relevant time unless -

- (a) at the relevant time, the beef producer has been the owner, or one of the owners, of the animal since a date not later than 30 June 1977 or for a period of not less than 3 months; or
  - (b) the beef producer has, after the relevant time, continued to be the owner, or one of the owners, of the animal for a period that, together with the period during which the beef producer had, before the relevant time, been the owner, or one of the owners, of the animal, is not less than 3 months.
- (3) Not more than one incentive payment is payable to a beef producer in respect of the one animal.
- (4) Incentive payments are not payable to the one beef producer in respect of more than 200 cattle.
- (5) Where, by virtue of sub-section (3) or (4) of this section or section 10, a particular incentive payment in respect of an animal is not payable to a beef producer, then, for the purposes of sub-section (1), the beef producer shall be deemed not to have been the owner, or one of the owners, of the animal at the relevant time.

7. Where an incentive payment is, in accordance with paragraph 6(1)(c), paid to a person nominated by 2 or more beef producers for division among those beef producers, that person shall divide that payment among those beef producers in such proportions as are agreed upon by those beef producers or, in default of such agreement, in such proportions as are determined by the Minister having regard to the circumstances of the case."

#### Partnerships "A", "B" and "C"

7. Applying sections 3(3) and 6(1)(c) to "A", "B" and "C", if one claim is paid to the full \$2000 the four partners are in effect deemed to have been paid in respect of each of 200 animals. By virtue of section 6(4) they are disqualified from receiving any further payments. Division of the payment pursuant to section 7 would depend upon which claim it was that was paid.

#### Partnership "D"

8. The operation of section 6(5) of the Act must then be considered in relation to the claim by "D". For the purpose of determining whether an incentive payment is payable, the four common partners are deemed not to have been owners for the purposes of section 6(1).

9. Where, as in the case of partnership "D", there is only one additional partner, your assessment of the situation is that by applying sub-section 6(1) to this situation, this person apparently cannot claim under paragraph 6(1)(a) although he is technically the only remaining owner, he does not appear to own the animals "solely" within the meaning of the paragraph. He cannot be paid under paragraph 6(1)(b) or 6(1)(c), since they contemplate joint ownership and there is only one owner left. (It appears that while there is room for debate as to whether sole ownership as a legal concept is what was intended in this paragraph, the context makes it almost impossible to put any other interpretation on the words.) The conclusion is that technically no payment may be made to partnership D.

10. I do not agree with this conclusion. Where the operation of section 6(5) requires all but the fifth partner to be left out of account for the purposes of section 6(1), I think the only conclusion to be drawn is that he owns the cattle "solely" for the purposes of that sub-section. Accordingly, in the case of the claim by "D", the effect of the operation of section 6(5) upon section 6(1) is to leave the fifth partner of D standing alone as the "sole" owner for the purposes of section 6(1)(a), and it is to him that the incentive payment should be made.

### Partnership "E"

11. In the case of "E" where they are two additional members of the partnership you seek advice whether these partners are entitled to claim the full \$2000 or only a portion of it.

12. In my opinion, it is clear from the provisions of sections 3(3), 6(1)(c), and 6(5) that the additional partners would be entitled to a separate payment under section 6(1)(c) for the full \$2000. The four common partners, by virtue of section 6(5), are excluded as owners for the purposes of section 6(1).

### Effect of Partnership Law

13. In respect of the entitlement of "E", you are concerned with the effect of the law of partnership upon the payments, stating that 'if these two partners cannot be paid, while under partnership law, they must share in the profits'.

14. It may be (although I offer no opinion on the matter) that under the terms of the relevant partnership agreement or under State partnership legislation, the fifth partner (in the case of "D") and the fifth and sixth partners (in the case of "E") would be required to divide the payment among the other partners. The result of this would, of course, be that the four common partners would in fact receive payment in respect of more than 200 cattle. This, however, would not be contrary to the Act, since such payments would not be "incentive payments" within the meaning of the Act. That is, such payments would not be received under the Act but rather would be received by the common partners from the remaining partners by virtue of the partnership agreement or any State legislation. The Act is not, in my opinion, concerned with what happens to moneys after they have been paid to the appropriate people by way of incentive payments in accordance with the Act.

### Other Situations

15. You attached to your earlier memorandum for my consideration examples of situations where one or more members of a partnership also own cattle independently of the partnership. I have set out these examples in the attachment to this memorandum, together with the method of dealing with them, based on the interpretation of the Act I have taken above.

### Priority of Claims

16. Finally, in your memorandum dated 19 July 1978, you seek advice upon a further question, namely, the


approach to be adopted when processing several related claims which are received in the same batch of mail on the same day.

17. If a system of priority were to be established for dealing with claims the result would be that because of the operation of the particular provisions of the Act a decision to process one claim before another could deprive a beef producer of a payment to which he would have been entitled if the claims had been processed in another order. By way of illustration, in Example 2 in the attachment, if the partnership were to claim and be paid first, X would not be entitled to claim for the 50 head of cattle he owned in his own right. As I have indicated in that example, this would not be the case where X claimed and was paid first.

18. In my view, the Act in question is to be characterized as beneficial legislation in relation to which the courts are inclined to favour the interpretation which most favours the class intended to be benefited, provided, of course, that the provisions of the Act are not given a strained meaning and are otherwise complied with. The approach taken by the courts in interpreting beneficial legislation is indicated by D.C. Pearce in his book 'Statutory Interpretation in Australia' at paragraph 162, and also in the case of Bull v. Attorney-General for N.S.W. (1913) 17 C.L.R. 370 at p.384, where Isaacs J. said:

"In the first place, this is a remedial Act, and therefore, if any ambiguity existed, like all such Acts should be construed beneficially ... This means, of course, not that the true signification of the provision should be strained or exceeded, but that it should be construed so as to give the fullest relief which the fair meaning of its language will allow.

19. Accordingly, I would not regard the right to receive an incentive payment as being dependent upon which of two claims might have been received first in time. There is nothing in the Act which requires claims to be dealt with in order of receipt. Thus, where you have a number of related claims to determine, whether or not they were received on the same day, you should process them in an order which allows the greatest benefit to beef producers. For instance, where the two claims referred to in Example 2 were being processed at the same time by your Department, the claims should be dealt with in the manner set out in paragraph (ii) of that example. The other examples in the attachment should also be read in the light of the foregoing comments.

  
(F.S. Marris)  
for Secretary

ATTACHMENT

Example 1

This is correct. Consistent with the Act a total of \$750 is paid for 75 cattle. X receives \$500. Y receives \$250.

Example 2

- (i) This is correct. A total of \$2000 is paid for 200 cattle.
- (ii) This is correct with respect to X who has a claim under section 6(1)(a) for 50 cattle owned in his own right and a section 6(1)(c) claim for the 150 cattle owned with Y. Y has a section 6(1)(c) claim with respect to those 150 and a section 6(1)(a) claim for the remaining 50 (see paragraph 10 of my memorandum). A total of \$2500 is paid for 250 cattle.

Example 3

- (i) This is correct. A total of \$2000 is paid for 200 cattle.
- (ii) This is correct. Z claims under section 6(1)(a) for 50 cattle owned by himself and under section 6(1)(c) for 150 cattle owned with X and Y. X and Y claim, with Z under section 6(1)(c) for 150 cattle, and then, without Z, for the remaining 50 cattle under section 6(1)(c). Thus there are two section 6(1)(c) claims which should be paid separately to the person nominated for division between the relevant beef producers in such proportions as are agreed upon (section 7). A total of \$2500 is thus paid for 250 cattle.

Example 4

- (i) This is correct.
- (ii) This is not correct. If both X and the partnership make a claim, X would receive \$2000 under section 6(1)(a) and Y would also receive \$2000 under section 6(1)(a) by virtue of the operation of sections 6(4) and (5) (see paragraph 10 of my memorandum). A total of \$4000 is thus paid for 400 cattle.

Example 5

- (i) This is correct.
- (ii) X receives \$2000 under section 6(1)(a). The person nominated by Y and Z receives \$2000 under section

6(1)(c) by virtue of the operation of sections 6(4) and (5) for division between Y and Z in such proportions as they agree upon (section 7). X cannot claim a share under the Act. I offer no opinion as to his rights under the partnership agreement.

Example 6

- (i) This is dealt with in paragraphs 9-14 of my memorandum.
- (ii) X will not be entitled to receive any further incentive payments under the Act when, by virtue of the operation of section 3(3) of the Act, he is deemed to have received payments of \$2000 in respect of 200 cattle. As to the possible effects of partnership agreements and partnership law, see paragraph 14 of my memorandum.



22 August 1978

The Secretary  
 Attorney-General's Department  
 Administrative Building  
 PARKES ACT 2600

Attention: Mr F.S. Marris

Beef Industry (Incentive Payments) Act 1977

Thank you for your memorandum A/78/3936 of 14 August 1978 in reply to our requests for advice of 3 and 19 July 1978.

2. In relation to paragraphs 18-20 of your memorandum concerning the determination of priorities for processing "related claims", I am concerned that your comments may have broad implications for the whole manner in which the scheme is administered. In particular, I am concerned that your advice may imply that "related claims" which have already been processed may have to be examined to determine whether they could have been processed in a different order, thus allowing greater payments to be made. It seems to me that if this is not done, it might be said that the Department had adopted two inconsistent approaches to the processing of claims.

3. I understand that in a telephone conversation between Mr Marris of your Department and Mr Hind of this Department on 18 August 1978, the view was expressed that the characterisation of the Beef Industry (Incentive Payments) Act 1977 in paragraph 18 of your memorandum as "beneficial legislation" does not require the re-examination of already processed "related claims". I would be pleased if you could urgently confirm this view as we wish to proceed with drawing up revised programs and administrative procedures for the scheme as soon as possible.

(D.P. CLEARY)  
 Assistant Secretary  
 Management Services Branch



ATTORNEY-GENERAL'S DEPARTMENT

TEL: 61 9111

CANBERRA, A.C.T. 2600  
 PLEASE QUOTE A/78/3936  
 YOUR REF:

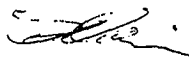
31 August 1978

The Secretary,  
 Department of Primary Industry,  
CANBERRA. A.C.T. 2600

Beef Industry (Incentive Payments)  
 Act 1977 : Validity of Payments

I refer to your memorandum dated 22 August 1978 in which you seek confirmation of the view that paragraphs 18 and 19 of this Department's memorandum to you dated 14 August 1978 do not require a general re-examination of already processed 'related claims'.

2. I confirm that view. If any individual representations are received by you alleging that under-payments have occurred in 'related claims' situations I would be happy to examine them for you.

  
 (F.S. Marris)  
 for Secretary