

Industrial Research and Development Grants

No. 59 of 1972

An Act to amend the *Industrial Research and Development Grants Act 1967*.

[Assented to 22 August 1972]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Industrial Research and Development Grants Act 1972*.

Short title and citation.

(2.) The *Industrial Research and Development Grants Act 1967** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Industrial Research and Development Grants Act 1967–1972*.

2.—(1.) This Act shall come into operation on the day on which it receives the Royal Assent.

Commencement.

(2.) The amendments made by this Act apply in relation to the grant year that commences on the first day of July, One thousand nine hundred and seventy-two, and in relation to succeeding grant years.

* Act No. 51, 1967.

3. Section 4 of the Principal Act is repealed and the following section inserted in its stead:—

Object of Act.

“ 4. The object of this Act is to promote the development of Australian industry by encouraging increased industrial research and development in Australia.”

Interpretation.

4. Section 5 of the Principal Act is amended—

(a) by omitting from sub-section (1.) the definition of “ Australia ” and inserting in its stead the following definitions:—

“ ‘ Australia ’ includes—

- (a) in relation to mining operations—such areas of the sea bed adjacent to Australia as are prescribed; and
- (b) in relation to the manufacture of goods—such areas of the sea adjacent to Australia as are prescribed;

‘ company ’ means a body or association of persons, whether corporate or unincorporate;”;

(b) by omitting from sub-section (1.) the definitions of “ contract expenditure ” and “ eligible company ” and inserting in their stead the following definitions:—

“ ‘ contract expenditure ’, in relation to a company, means—

- (a) in respect of the base period—payments made by the company to a research organization for the performance of industrial research and development in that period; and
- (b) in respect of a grant year—payments made by the company to a research organization for the performance of industrial research and development in that year at a time in relation to which a declaration under paragraph (a) of section 6 of this Act is applicable to the research organization;

‘ corporate membership ’, in relation to a body, means membership of the body that entitles the member concerned to full voting and other rights under the rules or other document governing the activities of the body;

‘ eligible company ’ means a company that—

- (a) is incorporated under the law of a State or of a Territory of the Commonwealth forming part of the Commonwealth or, in the case of an unincorporated body or association of persons, is prescribed by the regulations for the purposes of this paragraph; and
- (b) carried on in Australia in the relevant grant year or in the next succeeding grant year the manufacture of goods or mining operations;”;

(c) by omitting from the definition of “ grant year ” in sub-section (1.) the word “ four ” and inserting in its stead the word “ nine ”;

- (d) by inserting in paragraph (a) of the definition of “ industrial research and development ” in sub-section (1.), after the word “ products ” (last occurring), the words “ (including processes for disposing of, or rendering harmless, waste products or emissions resulting from the production or use of material products) ”;
- (e) by inserting in sub-section (1.), after the definition of “ net plant expenditure ”, the following definition:—

“ ‘ net prescribed expenditure ’, in relation to a company in respect of a year, means the prescribed expenditure of the company in respect of that year, less so much of any consideration received or receivable in respect of the disposal, loss or destruction of prescribed articles in that year or a previous year that has not been deducted in ascertaining the net prescribed expenditure of the company in respect of a previous year as does not exceed the prescribed expenditure of the company in respect of the first-mentioned year;”;

- (f) by omitting from sub-section (1.) the definitions of “ plant ”, “ plant expenditure ” and “ professional qualification ” and inserting in their stead the following definitions:—

“ ‘ plant ’ means—

- (a) in relation to purchase, hire, construction or installation—plant or equipment that is intended solely for use for the purpose of industrial research and development by or on behalf of the company concerned; or
- (b) in relation to ownership, disposal, loss or destruction—plant or equipment that has been used by or on behalf of the company concerned solely or principally for that purpose;

‘ plant expenditure ’, in relation to a company in respect of a grant year, means payments made by the company in that year in the purchase, hire, construction or installation of plant, less one-tenth of the depreciated value within the meaning of Division 3 of Part III. of the *Income Tax Assessment Act 1936–1972*, at the commencement of that year, of the plant (other than plant being a prototype or pilot plant) owned by the company at the commencement of that year;

‘ prescribed articles ’ means articles acquired as a result of prescribed expenditure;

‘ prescribed class of expenditure ’ means a class of expenditure, being expenditure directly related to the performance of industrial research and development, that is prescribed for the purposes of paragraph (d) of sub-section (1.) of section 25 of this Act;

‘prescribed expenditure’, in relation to a company in respect of a year, means payments made by the company in respect of that year in respect of prescribed classes of expenditure;

‘professional qualification’ means—

- (a) the holding, in a branch of science or engineering, of a degree, diploma or similar qualification that was granted by a university or by a college or other institution of tertiary or technical education and is approved by the Board for the purposes of this Act; or
- (b) corporate membership of a body in Australia in respect of which a declaration is in force under paragraph (b) of section 6 of this Act or the holding of educational qualifications that are sufficient for admission to corporate membership of such a body;

‘professional or technical research and development work’ means—

- (a) work by way of industrial research and development performed by a full-time employee of the company concerned who has a professional qualification; or
 - (b) work by way of direct assistance in a technical capacity to the performance of work referred to in the last preceding paragraph;”;
- (g) by omitting from sub-section (1.) the definitions of “salary expenditure” and “the base year” and inserting in their stead the following definitions:—

“‘salary expenditure’, in relation to a company in respect of a year, means the total of the following amounts expended by the company:—

- (a) the salaries or wages in respect of that year of full-time employees who, throughout their employment by the company in that year, were, during their ordinary hours of duty, engaged primarily and principally in professional or technical research and development work and not engaged to any substantial extent in any other duties; and
- (b) so much of the salary or wages in respect of that year of any other full-time employee as was paid in respect of the whole or any part of a continuous period of not less than four weeks during which the employee was, during his ordinary hours of duty, engaged primarily and principally in professional or technical research and development work and not engaged to any substantial extent in any other duties, less so much of any amount that became receivable by the

company for the performance by the company of industrial research and development for another person in that year as is reasonably attributable to the professional or technical research and development work involved in the performance of that industrial research and development, being professional or technical research and development work engaged in by employees referred to in paragraph (a) of this definition or engaged in by an employee referred to in paragraph (b) of this definition during a period referred to in that paragraph;

‘ salary or wages ’ does not include salary or wages of an employee in respect of a period when the employee was absent from his employment on long-service leave;

‘ the base period ’ means the period of three years that ended twelve months before the commencement of the relevant grant year;”;

(h) by adding at the end of sub-section (1.) the following definition:—
“ ‘ year ’ means a period of twelve months commencing on the first day of July.”;

(j) by omitting from paragraph (b) of sub-section (3.) the word “ year ” (first occurring) and inserting in its stead the word “ period ”;

(k) by omitting sub-sections (4.) and (5.) and inserting in their stead the following sub-sections:—

“ (4.) A reference in this Act to industrial research and development, in relation to an eligible company, shall be read as a reference to such industrial research and development only as is—

(a) performed by or for the company directly in relation to—

(i) the manufacture, or proposed manufacture, in Australia of goods by the company or by another company that is related to the company;

(ii) the manufacture, or proposed manufacture, in Australia of goods by another person, being goods that are directly related to the sale or manufacture of goods manufactured, or proposed to be manufactured, in Australia by the company or by another company that is related to the company; or

(iii) mining operations, or proposed mining operations, in Australia of the company or of another company that is related to the company; or

(b) performed by the company, acting as a research organization, directly in relation to the manufacture, or proposed manufacture, in Australia of goods by another person, or to mining operations, or proposed mining operations, in Australia of another person.

“(5.) In this section, a reference to consideration received or receivable in respect of the disposal, loss or destruction of plant or of prescribed articles shall be read as a reference—

- (a) in the case of a sale of plant or articles—to the sale price less the expenses of the sale;
- (b) in the case of loss or destruction of plant or articles—to the amount or value received or receivable under a policy of insurance or otherwise in respect of the loss or destruction;
- (c) in the case of a sale of plant or articles with other assets where no separate value is allocated to the plant or articles—to the amount determined by the Board; and
- (d) in the case of a disposal of plant or articles otherwise than by sale—to the value, if any, of the plant or articles at the date of disposal.”; and

(l) by adding at the end thereof the following sub-sections:—

“(7.) A company shall be deemed for the purposes of this Act to have carried on the manufacture of goods in a year if, under a contract entered into between the company and another person, that other person manufactured goods for the company in that year.

“(8.) A payment or payments made by a company to a research organization for the performance of industrial research and development shall, if the Board is satisfied that the organization was, during the whole, or a substantial part, of the period when the research and development was performed, associated with the company, be taken into account for the purposes of this Act in ascertaining contract expenditure of the company only to the extent to which that payment or the sum of those payments, as the case may be, does not exceed the cost to the research organization of the performance of that research and development.

“(9.) For the purposes of this Act—

- (a) a research organization shall be taken to be associated with a company if—
 - (i) in the case of a research organization that is not a body corporate—the company, or another company that is related to the company, is in a position to exercise control of the operations of the research organization; or
 - (ii) in the case of a research organization that is a body corporate—the research organization is a subsidiary of the company or of another company that is related to the company; and
- (b) the question whether a company is a subsidiary of another company or whether a company is related to another company shall be determined in the same manner as the

question whether a corporation is a subsidiary of another corporation or whether two corporations are related to each other, as the case may be, is determined under the *Companies Ordinance 1962–1971* of the Australian Capital Territory, but, in determining such a question, paragraph (b) of sub-section (1.) of section 6 of that Ordinance shall be disregarded.

“(10.) For the purpose of ascertaining the prescribed expenditure of a company in respect of a year, where the Board is satisfied that an amount (not being an amount expended by the company) would, in accordance with the accounting principles generally applied in commercial practice, be taken into account as part of the cost of the performance by the company of any industrial research and development in that year, the Board may, in its discretion, treat the company as having expended that amount in that year in the performance of that industrial research and development.

“(11.) The regulations may prescribe as a class of expenditure for the purposes of paragraph (d) of sub-section (1.) of section 25 of this Act the making of provision in the accounts of a company to meet contingent or future liabilities of a kind specified in the regulations, and, in that case, so much of any amount provided in the accounts of a company to meet liabilities of that kind as the Board is satisfied is reasonably required to be provided by the company to meet such liabilities shall be deemed, for the purposes of this Act, to have been expended by the company in respect of that class of expenditure.

“(12.) Where two periods of employment of an employee were separated by a period during which the employee was absent from his employment with the consent of his employer, the Board may, in its discretion, for the purpose of the definition of ‘salary expenditure’ in sub-section (1.) of this section, treat those two periods of employment as having been continuous.”.

5. Section 6 of the Principal Act is amended—

- (a) by omitting from paragraph (a) the word “and”; and
- (b) by omitting paragraph (b) and inserting in its stead the following paragraphs:—

“(b) declare that a specified body in Australia is, or shall be deemed to have been at or from any time, a recognized professional institute for the purposes of this Act; and

“(c) revoke a declaration made under either of the last two preceding paragraphs with effect from the date of publication of the notice of revocation in the *Gazette*.”.

Approval of
research
organizations
and
professional
institutes.

6. Section 9 of the Principal Act is repealed and the following section inserted in its stead:—

Remuneration.

“9.—(1.) A member shall be paid remuneration—

- (a) in the case of the Chairman—at the rate of Twelve thousand five hundred and thirty-one dollars per annum; and
- (b) in any other case—at the rate of One thousand six hundred and fifty dollars per annum.

“(2.) A member shall be paid such allowances for expenses (not including an annual allowance) as are prescribed.”.

Members to notify certain interests.

7. Section 14 of the Principal Act is amended—

- (a) by inserting in sub-section (1.), after the word “Minister”, the words “and to each other member”; and
- (b) by omitting sub-section (2.).

Application of Superannuation Act in relation to the Chairman.

8. Section 16 of the Principal Act is amended by omitting sub-section (2.).

Advisory Committee.

9. Section 21 of the Principal Act is amended by omitting sub-section (4.) and inserting in its stead the following sub-section:—

“(4.) Members of the Committee shall be paid such allowances for expenses (not including an annual allowance) as are prescribed.”.

Secrecy.

10. Section 23 of the Principal Act is amended by inserting after sub-section (3.) the following sub-section:—

“(3A.) Sub-section (2.) of this section does not prevent the Board from making public at any time the names of companies to which the Board has authorized the payments of grants and the respective amounts of the grants.”.

11. Section 25 of the Principal Act is repealed and the following sections are inserted in its stead:—

Company to undertake to exploit results of research and development.

“24A. A company is not eligible for a grant in respect of a grant year unless the company has given an undertaking in writing to the Board that the company will exploit, on normal commercial terms, and otherwise in a manner that will be for the benefit of the Australian economy, the results of the industrial research and development in relation to which the eligible expenditure of the company in respect of that grant year was incurred.

Eligible expenditure.

“25.—(1.) For the purpose of calculating the eligible expenditure of a company in respect of a grant year, the following classes of expenditure of the company in respect of that year and in respect of the base period shall be taken into account in accordance with this section, namely:—

- (a) salary expenditure;
- (b) contract expenditure;

- (c) plant expenditure; and
- (d) such other classes of expenditure as are prescribed.

“(2.) Subject to this Part, the eligible expenditure of a company for a grant year is the sum of—

- (a) the amount, if any, by which the total of any salary expenditure and contract expenditure of the company in respect of that grant year exceeds one-third of the total of the salary expenditures and contract expenditures of the company in respect of the years comprised in the base period;
- (b) the amount of any net plant expenditure of the company in respect of that grant year; and
- (c) the amount, if any, by which the net prescribed expenditure of the company in respect of that grant year exceeds one-third of the total of the net prescribed expenditures of the company in respect of the years comprised in the base period.

“(3.) Expenditure included in a prescribed class of expenditure shall only be taken into account for the purpose referred to in sub-section (1.) of this section subject to such conditions, if any, as are prescribed.

“25A.—(1.) In this section, ‘relevant expenditure’ means expenditure comprising any one or more of the following classes of expenditure, namely, salary expenditure, contract expenditure and prescribed expenditure.

Power of Board to treat certain expenditure as being reduced or increased in certain circumstances.

“(2.) This section applies in relation to a company in respect of a grant year if—

- (a) the relevant expenditure of the company in respect of that grant year includes a class of expenditure referred to in the last preceding sub-section but the relevant expenditure of the company in respect of the base period does not include that class of expenditure;
- (b) the relevant expenditure of the company in respect of the base period includes a class of expenditure referred to in the last preceding sub-section but the relevant expenditure of the company in respect of that grant year does not include that class of expenditure; or
- (c) a class of expenditure referred to in the last preceding sub-section is included in the relevant expenditure of the company in respect of that grant year and in the relevant expenditure of the company in respect of the base period but the proportion that the amount of that class of expenditure included in the first-mentioned relevant expenditure bears to that first-mentioned relevant expenditure is different from the proportion that the amount of that class of expenditure included in the second-mentioned relevant expenditure bears to that second-mentioned relevant expenditure.

“(3.) Where this section applies in relation to a company in respect of a grant year, the Board may treat the amount of the class of expenditure concerned that was included in the relevant expenditure of the company in respect of that year as being reduced or increased to such extent as the Board considers appropriate in the circumstances, and the reduced or increased amount shall be deemed, for the purposes of the last preceding section, to be the expenditure by the company of that class of expenditure in respect of that year, whether that year is being taken into account as a grant year or as a year included in the period that is the base period in relation to a later grant year.

Power of Board to treat eligible expenditure as being reduced or increased in certain circumstances.

“25B. Where the Board is satisfied that the amount of the eligible expenditure of a company for a grant year is greater or less than it would otherwise be by reason of the take-over by the company of another company or of the take-over by another company of the company, or the acquisition by the company of the whole or any part of a business or undertaking carried on by another person or the disposal by the company of the whole or any part of its business or undertaking, the Board may treat that amount of eligible expenditure as being reduced or increased by such amount as the Board considers appropriate in the circumstances, and the reduced or increased amount shall be deemed, for the purposes of section 25 of this Act, to be the eligible expenditure of the company for that year, whether that year is being taken into account as a grant year or as a year included in the period that is the base period in relation to a later grant year.”.

General grants.

12. Section 26 of the Principal Act is amended by adding at the end thereof the following sub-sections:—

“(4.) A direction of the Minister under section 20 of this Act fixing a fraction for the purposes of the last preceding sub-section—

- (a) shall relate only to one grant year, being a grant year specified in the direction; and
- (b) shall be given only after the Minister has consulted the Treasurer.

“(5.) The Minister shall seek to ensure that any direction referred to in the last preceding sub-section is given earlier than six months before the commencement of the grant year to which the direction relates.”.

Repeal of sections 28 and 29.

13. Sections 28 and 29 of the Principal Act are repealed.

14. After section 30 of the Principal Act the following section is inserted:—

Adjustment of grant by reason of Commonwealth financial assistance.

“30A. Where an eligible company has received (otherwise than under this Act) financial assistance from the Commonwealth, or out of moneys provided by the Commonwealth, and it appears to the Board that that financial assistance has aided the company to perform industrial research and development in a grant year, the Board may reduce the amount of the grant to the company in respect of that grant year to such extent as it thinks appropriate by reason of that financial assistance.”.

15. Section 32 of the Principal Act is amended by inserting after sub-section (2.) the following sub-section:— Applications.

“(2A.) An application to the Board under this Act shall be deemed not to have been made until it has been received by the Board or has been received on behalf of the Board by a member of the staff assisting the Board or by a person appointed by the Board to receive applications under this Act.”.

16. Section 38 of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:— Reports.

“(1.) The Board shall, as soon as practicable after each thirtieth day of June, furnish to the Minister a report on the operation of this Act, with particular reference to its operation during the year that ended on that date.”.
