



Export Market Development Grants Legislation Amendment Act 1999

No. 100, 1999



Export Market Development Grants Legislation Amendment Act 1999

No. 100, 1999

**An Act to amend legislation relating to export
market development grants, and for related
purposes**

Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	2
Schedule 1—Amendment of the Export Market Development Grants Act 1997		3
Schedule 2—Amendment of other legislation		10
	<i>Australian Trade Commission Act 1985</i>	10
	<i>Export Market Development Grants (Repeal and Consequential Provisions) Act 1997</i>	10



Export Market Development Grants Legislation Amendment Act 1999

No. 100, 1999

An Act to amend legislation relating to export market development grants, and for related purposes

[Assented to 16 July 1999]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Export Market Development Grants
Legislation Amendment Act 1999*.

2 Commencement

This Act commences on the day on which it receives the Royal
Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Export Market Development Grants Act 1997

1 Paragraph 7(1)(c)

Omit “subject to section 8,”.

2 Paragraph 7(1)(h)

Repeal the paragraph, substitute:

- (h) if Division 5 applies to the person:
 - (i) the person has been registered under section 19; and
 - (ii) Austrade has decided under section 20 that the person met the grants entry requirements.

3 Subsection 7(1) (note)

Omit “*test*”, substitute “*requirements*”.

4 Before paragraph 7(4)(a)

Insert:

- (aa) the person was, in Austrade’s opinion, genuinely carrying on business in Australia during the grant year as trustee of the trust estate;

5 Paragraph 7(4)(b)

Repeal the paragraph, substitute:

- (b) the person is not a grantee in respect of 8 or more previous grant years;

6 Paragraph 7(4)(h)

Repeal the paragraph, substitute:

- (h) if Division 5 applies to the person (as trustee of the trust estate):
 - (i) the person (in that capacity) has been registered under section 19; and
 - (ii) Austrade has decided under section 20 that the person (in that capacity) met the grants entry requirements.

7 Subsection 7(4) (note)

Omit “*test*”, substitute “*requirements*”.

8 Subsection 8(1)

Omit “paragraph 7(1)(c), (2)(a) or (4)(b)”, substitute “this Act”.

Note: The heading to section 8 is altered by omitting “previous”.

9 Subsection 8(2)

Omit “Paragraph 7(1)(c) does not apply”, substitute “Neither paragraph 7(1)(c) nor paragraph 7(4)(b) applies”.

10 Division 5 of Part 3 (heading)

Repeal the heading, substitute:

Division 5—Registration and grants entry requirements

11 Sections 20, 21 and 22

Repeal the sections, substitute:

20 Austrade must decide whether person meets grants entry requirements

- (1) Once the person has been registered, Austrade must decide whether the person met the grants entry requirements at a time Austrade considers appropriate.

Note: The grants entry requirements are the requirements determined under section 21.

- (2) If Austrade decides that the person did not meet one or more of the grants entry requirements, Austrade must tell the person in writing which of the requirements the person did not meet.
- (3) Despite subsection (1), Austrade is taken to have decided that the person met the grants entry requirements at the appropriate time if the person passed the grants entry test under:
 - (a) the repealed Act; or
 - (b) this Act without the amendments made by the *Export Market Development Grants Legislation Amendment Act 1999*.

21 Determination of grants entry requirements to take account of prospects of success of export enterprise

- (1) Austrade may determine the grants entry requirements in writing.
- (2) In determining the grants entry requirements, Austrade may determine only requirements that are relevant to the prospects of success of export enterprises in relation to which grants are being sought.
- (3) The determination may require the person:
 - (a) to give Austrade particular information contained in existing documents; or
 - (b) to prepare documents containing particular information and give them to Austrade.
- (4) A determination under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

22 Austrade may request information

- (1) Before deciding whether a person met the grants entry requirements, Austrade may give the person a written request to give Austrade information about a specified matter that Austrade needs to make the decision.
- (2) Austrade may request the person to provide the information in a specified way, and within a specified period of at least 28 days.
- (3) Austrade need not decide whether the person met the grants entry requirements if the person does not give Austrade the information requested.
- (4) This section does not limit subsection 72(1).

12 Application and saving provisions

- (1) The amendment made by item 11 does not apply in relation to persons registered under section 19 of the *Export Market Development Grants Act 1997* before the commencement of this Act.
- (2) A determination in force under section 21 of the *Export Market Development Grants Act 1997* immediately before the commencement

of this Act also has effect as if it had been made under section 21 of that Act as amended by this Act.

Note: Section 21 of the *Export Market Development Grants Act 1997* lets Austrade determine grants entry requirements. Before the commencement of this Act, that section let Austrade determine the requirements a person had to satisfy to pass the grants entry test.

- (3) Subitem (2) does not prevent the revocation or amendment of a determination.

13 At the end of section 33

Add:

- (3) However, only 65% of any expenses incurred by the applicant on first class air fares is to be taken into account in working out the applicant's claimable expenses.

14 Subsection 34(2)

Repeal the subsection, substitute:

- (2) Subject to subsection (6), an air fare for any air travel reasonably undertaken by the applicant or its agent is an allowable expense.

Note: Only 65% of a first class air fare is to be taken into account as a claimable expense. See subsection 33(3).

15 Subsection 61(4)

Repeal the subsection, substitute:

- (4) Division 4 lets the Minister and Austrade determine some of the things affecting the amount of a grant.

16 Section 64

Repeal the section, substitute:

64 If applicant's export earnings or eligible expenses are adjusted by Austrade

If Austrade adjusts the applicant's export earnings or eligible expenses (or both) under section 96, the applicant's *provisional grant amount* for the grant year is the amount worked out under this Division using the adjusted export earnings or eligible expenses.

17 Subsection 68(3)

Repeal the subsection, substitute:

- (3) The Minister must cause the determination to be tabled in each House of the Parliament within 15 sitting days of that House after the determination is made.

18 Paragraph 73(a)

Omit “subsection 70(2)”, substitute “paragraph 70(2)(a)”.

19 At the end of section 73

Add:

- (2) Austrade must not consider an application made more than 5 months after the end of the grant year to which it relates.

20 Paragraph 94(3)(d)

Repeal the paragraph, substitute:

- (d) treat the new owner as if Austrade had decided that the new owner had met the grants entry requirements if Austrade had decided that the previous owner met the grants entry requirements; and

21 Section 94 (note)

Omit “*test*”, substitute “*requirements*”.

22 Paragraph 96(d)

Repeal the paragraph, substitute:

- (d) work out the amount that is the applicant’s provisional grant amount for the grant year because of section 64.

23 Paragraph 97(a)

Repeal the paragraph, substitute:

- (a) a decision under section 20 that a person did not meet the grants entry requirements;

24 Saving provision

A decision that was a reviewable decision for the purposes of the *Export Market Development Grants Act 1997* immediately before the commencement of this Act remains a reviewable decision for the purposes of that Act, despite the amendment of section 97 of that Act by this Act.

25 Paragraph 101(1)(a)

Omit “(4)(a)”, substitute “(4)(aa)”.

26 Saving of guidelines

- (1) Any guidelines that were determined under paragraph 101(1)(a) of the *Export Market Development Grants Act 1997* and were in force immediately before the amendment of that paragraph by this Act continue to have effect after that amendment as if they had been determined under that paragraph immediately after the amendment.
- (2) To avoid doubt, the provisions of the *Acts Interpretation Act 1901* that apply in relation to guidelines because of subsection 101(4) do not apply again to guidelines continued in force by subitem (1) because of that subitem.

27 After section 106

Insert:

106A Review of the scheme

- (1) Not later than 1 January 2000, the Minister must cause Austrade to conduct a review of the export market development grants scheme for the purpose of making recommendations about the continuation of the scheme for an indefinite period.
- (2) In conducting the review, Austrade must call for submissions from the public and may conduct public hearings.
- (3) Austrade must complete the review and provide a written report to the Minister not later than 30 June 2000.
- (4) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days after receiving it.

28 Section 107 (at the end of the definition of *grantee*)

Add “(other than a grant that must be disregarded because of subsection 8(1))”.

Note 1: The heading to section 86 is altered by omitting “**grantee etc.**” and substituting “**person**”.

Note 2: The heading to section 87 is altered by omitting “**Grantee etc.**” and substituting “**Person**”.

29 Section 107 (definition of *grants entry test*)

Repeal the definition.

30 Section 107

Insert:

grants entry requirements means the grants entry requirements determined under subsection 21(1).

31 Section 107 (paragraph (a) of the definition of *grant year*)

Omit “or 1 July 1998”, substitute “, 1 July 1998, 1 July 1999 or 1 July 2000”.

32 Subsection 113(2)

Omit “or any other new market for the person”.

33 Application of amendments made by this Schedule

- (1) The amendments made by this Schedule apply for the purposes of determining eligibility for, and the amounts of, grants in respect of a grant year commencing on or after 1 July 1998.
- (2) However, subitem (1) does not apply in relation to amendments of the following provisions of the *Export Market Development Grants Act 1997*:
 - (a) section 73;
 - (b) section 107 (definition of *grant year*).

Schedule 2—Amendment of other legislation

Australian Trade Commission Act 1985

1 Paragraph 94(4)(b)

Repeal the paragraph, substitute:

- (b) the following information relating to payments of grants authorised by the Commission under the *Export Market Development Grants Act 1997* or the *Export Market Development Grants Act 1974*:
 - (i) the name and address of a person to whom the Commission has authorised a payment;
 - (ii) the amount of a grant to a person;
 - (iii) the industry to which a grant relates; and

Export Market Development Grants (Repeal and Consequential Provisions) Act 1997

2 Paragraph 5(1)(b)

Repeal the paragraph, substitute:

- (b) continues to have effect until:
 - (i) the third anniversary of the approval; or
 - (ii) if the third anniversary of the approval occurs or has occurred before the day 3 months after the commencement of this subparagraph—that day;(unless cancelled sooner).

[*Minister's second reading speech made in—
House of Representatives on 10 March 1999
Senate on 25 March 1999*]

(23/99)
