

# EXPORT FINANCE AND INSURANCE CORPORATION AMENDMENT ACT 1976

## No. 102 of 1976

An Act to amend the *Export Finance and Insurance Corporation Act* 1974.

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

1. (1) This Act may be cited as the *Export Finance and Insurance Corporation Amendment Act* 1976.<sup>1</sup> Short title and citation.

(2) The *Export Finance and Insurance Corporation Act* 1974<sup>2</sup> is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Export Finance and Insurance Corporation Act* 1974-1976.

2. This Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup> Commencement.

3. Section 11 of the Principal Act is amended by inserting after paragraph (c) of sub-section (2) the following paragraph:— Questions of policy.

“(ca) the undertaking of liabilities in relation to overseas investment transactions within the meaning of Division 4;”.

4. Section 27 of the Principal Act is amended— Interpretation.

(a) by omitting from paragraph (c) of the definition of “overseas investment transaction” in sub-section (1) the words “Australia; or” and substituting the words “Australia or the guaranteeing of the repayment of moneys so lent and of the payment of interest or other charges that may become payable in respect of moneys so lent;”;

(b) by adding at the end of that definition the following word and paragraph:—

“; or (e) the transferring of moneys, or the supply of equipment or other goods, by a corporation to another corporation in which that first-mentioned corporation has a substantial shareholding, being moneys, equipment or goods for use in, or in connexion with, a business carried on, or proposed to be carried on,

by that other corporation in a country outside Australia.”; and

- (c) by omitting from sub-section (1) the definition of “war-like operation”.

5. Section 28 of the Principal Act is repealed and the following section substituted:—

Declarations  
of approved  
causes of  
loss.

“28. (1) The Board may, with the approval of the Minister, declare a cause of loss of a kind specified in the declaration to be an approved cause of loss for the purposes of this Division.

“(2) The Board shall not revoke a declaration made by it under sub-section (1) except with the approval of the Minister.

“(3) Where, in pursuance of this section, the Board makes or revokes a declaration, it shall cause notice of the declaration or of the revocation, as the case may be, to be published in the *Gazette*.”

6. Section 30 of the Principal Act is repealed and the following sections are substituted:—

Corporation  
may enter  
into  
contracts of  
insurance in  
respect of  
overseas  
investment  
transaction.

“29A. (1) Upon receipt of an application in accordance with section 29, the Corporation may, subject to sub-section 30 (2), enter into a contract of insurance of the kind referred to in that section in respect of the whole, or a part, of the overseas investment transaction to which the application relates.

“(2) The Corporation shall not, under sub-section (1), enter into a contract of insurance under which a person is insured—

- (a) in respect of risks that are normally insured with commercial insurers; or
- (b) against loss or other detriment attributable to circumstances within the control of that person.

Reference of  
applications  
to Minister.

“30. (1) Subject to sub-section (2), where—

- (a) an application is made to the Corporation requesting it to enter into a contract of insurance of the kind referred to in section 29; and

- (b) the proposed contract would impose upon the Corporation a liability that the Corporation is not authorized to undertake or would not undertake in the ordinary course of business,

the Board may refer the application to the Minister for consideration under sub-section (3).

“(2) The Minister may give directions to the Board with respect to the circumstances or cases in which applications are, or are not, to be referred to him under sub-section (1), and the Board shall comply with any such directions.

“(3) Where an application has been referred to the Minister under sub-section (1) and the Minister is of the opinion that—

- (a) the overseas investment transaction to which the application relates will assist in the social and economic development of a country outside Australia; and
- (b) it is in the national interest that the Corporation should enter into a contract of insurance of the kind referred to in section 29 in respect of the whole, or a part, of the transaction,

the Minister may, by writing under his hand, approve the entering into by the Corporation of such a contract in respect of the whole of the transaction or of a part of the transaction specified in the approval.

“(4) The Minister shall not, under sub-section (3), approve the entering into by the Corporation of a contract of insurance under which a person is insured—

- (a) in respect of risks that are normally insured with commercial insurers; or
- (b) against loss or other detriment attributable to circumstances within the control of that person.”

7. Section 31 of the Principal Act is amended by omitting sub-sections (2), (3) and (4) and substituting the following sub-section:—

“(2) Without limiting the generality of sub-section (1), in an approval given under sub-section 30 (3) in relation to a contract of insurance insuring a person against monetary loss or other monetary detriment resulting from a particular approved cause of loss—

- (a) the Minister may direct that the insurance shall apply only where the loss or detriment—
  - (i) results from such kind or kinds of that approved cause of loss as is or are specified in the approval; or
  - (ii) is incurred in respect of such property as is, or property of such kind or kinds as is or are, specified in the approval; and
- (b) the Minister may direct that the insurance shall extend to monetary loss or other monetary detriment resulting from a cause or causes of loss specified in the approval, being a cause that is, or causes that are, related to that approved cause or loss.”

8. Section 32 of the Principal Act is amended by inserting in sub-section (1), after the word “empowered”, the words “, notwithstanding anything contained in section 11,”.

9. Section 33 of the Principal Act is repealed.

Minister may give directions with respect to insurance to be provided under insurance contracts.

Corporation to enter into insurance contracts in accordance with Minister’s approval.

Insurance to be restricted to non-commercial risks, &c.

Transitional  
provision  
and  
validation.

10. (1) Notwithstanding the amendments of the Principal Act made by this Act, the Principal Act shall continue to apply, on and after the date of commencement of this Act, to and in relation to an application made to the Export Finance and Insurance Corporation under section 29 of the Principal Act—

- (a) if the application had not been referred to the Minister before that date; or
- (b) if, before that date, the application had been so referred to the Minister but—
  - (i) the Minister had not approved, and had not refused to approve, the entry by the Corporation into a contract of insurance in respect of the matter the subject of the application; or
  - (ii) although the Minister had approved the entry by the Corporation into a contract of insurance in respect of the matter the subject of the application, the Corporation had not entered into that contract of insurance.

(2) The Principal Act shall be deemed to have applied before the date of commencement of this Act, and shall continue to apply on and after that date notwithstanding the amendments of the Principal Act made by this Act, to and in relation to an application that was referred under section 16F of the *Export Payments Insurance Corporation Act 1956-1973* to the Minister administering the last-mentioned Act (being an application in respect of which that Minister did not, before the commencement of the Principal Act, approve, or refuse to approve, the entry by the Export Payments Insurance Corporation into a contract of insurance of the kind referred to in the application) as if the application—

- (a) had been made under section 29 of the Principal Act to the Export Finance and Insurance Corporation after the commencement of the Principal Act;
- (b) had been referred under section 30 of the Principal Act to the Minister administering the Principal Act; and
- (c) related to a transaction entered upon on 22 January 1974.

(3) Where, before the commencement of the Principal Act, the Minister administering the *Export Payments Insurance Corporation Act 1956-1973* had approved, under sub-section 16F (3) of that Act, the entry by the Export Payments Insurance Corporation into a contract of insurance insuring a person against monetary loss or other monetary detriment resulting from a particular cause of loss in respect of a particular overseas investment transaction, a contract of insurance entered into by the Export Finance and Insurance Corporation insuring that person against monetary loss or other monetary detriment resulting from that cause of loss in respect of that transaction shall be deemed to be, and to

have been, as valid and effectual as it would be and would have been if, before the contract was entered into, the Minister administering the Principal Act had duly given his approval under sub-section 30 (3) of the Principal Act for the entry by the Export Finance and Insurance Corporation into a contract of such a kind with that person in respect of that transaction.

---

#### NOTES

1. Act No. 102, 1976; assented to 12 October 1976.
2. Act No. 122, 1974.