



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

No. 44, 1997

An Act to repeal the *Export Market Development Grants Act 1974* and to deal with consequential matters arising from the repeal of that Act and the enactment of the *Export Market Development Grants Act 1997*

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An Act to repeal the *Export Market Development Grants Act 1974* and to deal with consequential matters arising from the repeal of that Act and the enactment of the *Export Market Development Grants Act 1997*

[Assented to 22 April 1997]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the *Export Market Development Grants (Repeal and Consequential Provisions) Act 1997*.

2 Commencement

This Act commences on 1 July 1997.

Part 2—Repeal and amendments

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Part 3—Transitional provisions

4 Interpretation

- (1) In this Part:

new Act means the *Export Market Development Grants Act 1997*.

- (2) Unless the contrary intention appears, expressions used in this Part that are also used in the new Act have in this Part the same meaning as in that Act.

5 Approved body etc. under the repealed Act to continue to exist

- (1) An approval of a person as an approved body under section 40B of the repealed Act that had effect immediately before 1 July 1997:
- (a) continues to have effect on and after that day, and may be varied and cancelled, as if it were an approval of the person as an approved body under section 89 of the new Act; and
 - (b) unless sooner cancelled, continues so to have effect until the day on which it would have ceased to be in force under the repealed Act if that Act had not been repealed.
- (2) An approval of a person as a trading house under section 40BA of the repealed Act that had effect immediately before 1 July 1997:
- (a) continues to have effect on and after that day, and may be varied and cancelled, as if it were an approval of the person as a trading house under section 89 of the new Act; and
 - (b) unless sooner cancelled, continues so to have effect until the day on which it would have ceased to be in force under the repealed Act if that Act had not been repealed.
- (3) An approval of a group of persons as an approved joint venture or approved consortium under section 40BD of the repealed Act that had effect immediately before 1 July 1997:
- (a) continues to have effect on and after that day, and may be varied and cancelled, as if it were an approval of the group as a joint venture under section 89 of the new Act; and

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- (b) unless sooner cancelled, continues so to have effect until the day on which it would have ceased to be in force under the repealed Act if that Act had not been repealed.

6 Guidelines relating to approved trading houses etc.

Any guidelines under section 41 or 42 of the repealed Act that had effect immediately before 1 July 1997 continue to have effect on and after that day, and may be varied and revoked, as if they were guidelines made under paragraph 101(1)(c) of the new Act.

7 Application for approval as a trading house etc.

- (1) Any application for approval as a trading house, as a joint venture or consortium, or as an approved body, under the repealed Act that was pending when that Act was repealed, is taken, for the purposes of the new Act, to be an application for approval as a trading house, as a joint venture or as an approved body (as the case may be) made under section 88 of the new Act on 1 July 1997.
- (2) Any questions asked by Austrade before 1 July 1997 of the person that made the application under the repealed Act, and any answers to those questions given before that date, are taken to be questions asked and answers given on 1 July 1997 for the purposes of the application that is taken to have been made under section 88 of the new Act.

8 Cancellation of approval as trading house etc.

- (1) An invitation under paragraph 40BC(2)(c) or 40BG(2)(c) of the repealed Act to make a written submission to Austrade within a period that ends on or after 1 July 1997 is taken to be an invitation issued on that day under paragraph 91(1)(b) of the new Act.
- (2) Any submission received by Austrade before 1 July 1997 as a result of any invitation referred to in subsection (1) is to be treated as a submission received on 1 July 1997 for the purposes of section 91 of the new Act.

9 Determination limiting the number of approved joint ventures of which a person may be a member

A determination under section 40BH of the repealed Act that had effect immediately before 1 July 1997 continues to have effect on and after that day, and may be varied and revoked, as if it were a determination made under section 92 of the new Act.

10 Registration for purposes of new Act

- (1) If a person was registered under section 13I of the repealed Act for the grant year commencing on 1 July 1996, the person is taken to be registered for the purposes of the new Act under section 19 of that Act.
- (2) If a person:
 - (a) had applied, under section 13I of the repealed Act, to be registered for the grant year commencing on 1 July 1996; but
 - (b) had not been so registered before 1 July 1997;Austrade must, as soon as practicable, register the person for the purposes of the new Act under section 19 of that Act.

11 Determination for purposes of grants entry test

A determination under section 13K of the repealed Act that had effect immediately before 1 July 1997 continues to have effect on and after that day, and may be varied and revoked, as if it were a determination made under section 21 of the new Act.

12 Grants entry test for grant year 1996-97

- (1) If:
 - (a) a person had taken a grants entry test under the repealed Act; but
 - (b) Austrade had not decided before 1 July 1997 whether the person had passed the test;the person is to be treated, for the purposes of the new Act, as having taken the test under section 20 of that Act.

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- (2) Any request under subsection 13L(2) of the repealed Act for information to be given to Austrade within a period that ends on or after 1 July 1997 is taken to be a request made on that day under section 22 of the new Act.
 - (3) Any information given to Austrade before 1 July 1997 as a result of a request referred to in subsection (2) is to be treated as information received on that day for the purposes of section 22 of the new Act.

13 Change in ownership of business etc.—principles relating to the exemption of claimants from relevant provisions

Any principles under section 19A of the repealed Act that had effect immediately before 1 July 1997 continue to have effect on and after that day, and may be varied and revoked, as if they were guidelines made under paragraph 101(1)(d) of the new Act.

14 Person applying for grant in respect of grant year 1996-97 and previous year

- (1) This section applies if a person that is not a grantee in respect of any previous year applies for a grant in respect of the grant year commencing on 1 July 1996.
- (2) In working out the person's eligible expenses, expenses incurred by the person during the previous year are to be excluded if they were incurred in respect of an eligible promotional activity carried out for an approved promotional purpose relating to eligible external services that were not eligible services for the purposes of the repealed Act.

Schedule 1—Repeal

Export Market Development Grants Act 1974

1 The whole of the Act

Repeal the Act.

2 Continued application of repealed Act

- (1) Despite its repeal, the repealed Act continues to apply to:
- (a) a claimant whose claim for a grant under that Act had not yet been finalised immediately before 1 July 1997; and
Note: For *claim not being finalised* see subitem (3).
 - (b) a person that would, but for the repeal of that Act, have been permitted by Austrade to submit a claim in respect of a claim period under subsection 13(2B) of that Act; and
 - (c) a person to whom a grant was payable under the repealed Act immediately before 1 July 1997; and
 - (d) a person that was, immediately before 1 July 1997, indebted to Austrade under section 39A or 40 of that Act; and
 - (e) a person that was, immediately before 1 July 1997, liable to be prosecuted, or against whom a prosecution was at that time pending, for an offence against that Act.
- (2) In so far as it applies to a person because of subitem (1), the repealed Act has effect as if the definition of *grant year* in subsection 3(1) of that Act did not include:
- (a) the year commencing on 1 July 1996; or
 - (b) a subsequent year.
- (3) For the purposes of paragraph (1)(a), a claim for a grant under the repealed Act is taken *not to be finalised* so long as:
- (a) Austrade has not made a determination under section 12 of that Act whether the claimant is entitled to a grant; or
 - (b) such a determination by Austrade in respect of the claimant, or a decision of a court affecting that determination, may still be, or is, subject to a review by, or an appeal to, another court.

(4) In this item:

Austrade means the Australian Trade Commission established by section 7 of the *Australian Trade Commission Act 1985*.

court includes the Administrative Appeals Tribunal.

repealed Act means the *Export Market Development Grants Act 1974*.

Schedule 2—Amendment of the Australian Trade Commission Act 1985

1 Subsection 3(3)

Omit “1974” (wherever occurring), substitute “1997”.

2 At the end of section 3

Add:

- (4) Unless the contrary intention appears, a reference in this Act to the *Export Market Development Grants Act 1997* includes a reference to the *Export Market Development Grants Act 1974* to the extent that that Act continues to apply because of item 2 of Schedule 1 to the *Export Market Development Grants (Repeal and Consequential Provisions) Act 1997*.

3 Section 6

Omit “1974”, substitute “1997”.

Note: The heading to section 6 is altered by omitting “1974” and substituting “1997”.

4 Subparagraph 8(a)(viii)

Omit “1974”, substitute “1997”.

5 Subsection 10(3)

Omit “other application for a benefit”, substitute “application for a grant or other benefit”.

6 Subsection 10(3)

Omit “1974”, substitute “1997”.

7 Subsection 10(4)

Omit “a claim”, substitute “an application”.

8 Subsection 10(4)

Omit “1974”, substitute “1997”.

9 Subsection 13(3)

Omit “1974”, substitute “1997”.

10 Subsection 23(3)

Omit “1974”, substitute “1997”.

11 Subsection 30(1)

Omit “1974”, substitute “1997”.

12 Subsection 71(1)

Omit “1974”, substitute “1997”.

13 Section 90

Omit “1974” (wherever occurring), substitute “1997”.

14 Paragraph 92(1)(b)

Omit “1974”, substitute “1997”.

15 Paragraph 94(4)(b)

After “*Export Market Development Grants Act 1974*”, insert “or the *Export Market Development Grants Act 1997*”.

16 At the end of paragraph 94(4)(c)

Add “or the *Export Market Development Grants Act 1997*”.

17 Subsection 94(5)

Omit “or the *Export Market Development Grants Act 1974*”, substitute “, the *Export Market Development Grants Act 1974* or the *Export Market Development Grants Act 1997*”.

[*Minister’s second reading speech made in—
House of Representatives on 27 February 1997
Senate on 20 March 1997*]

(20/97)

I HEREBY CERTIFY that the above is a fair print of the Export Market Development Grants (Repeal and Consequential Provisions) Bill 1997 which originated in the House of Representatives and has been finally passed by the Senate and the House of Representatives.

Clerk of the House of Representatives

IN THE NAME OF HER MAJESTY, I assent to this Act.

Governor-General
1997