



# **Export Market Development Grants Amendment Act 2014**

**No. 23, 2014**

**An Act to amend the *Export Market Development  
Grants Act 1997*, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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## **An Act to amend the *Export Market Development Grants Act 1997*, and for related purposes**

[Assented to 9 April 2014]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Export Market Development Grants  
Amendment Act 2014*.

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## **2 Commencement**

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## **Schedule 1—Amendments**

### ***Export Market Development Grants Act 1997***

#### **1 Readers guide (including the list of terms defined in Part 9)**

Repeal the guide.

#### **2 Paragraphs 7(1)(c) and (4)(b)**

Omit “7 or more”, substitute “8 or more”.

#### **3 Paragraph 29(d)**

Omit “\$20,000”, substitute “\$15,000”.

#### **4 Subsection 63(1)**

Omit “\$5,000”, substitute “\$2,500”.

#### **5 Application of amendments**

The amendments made by items 2 to 4 apply in relation to applications for grants in respect of the grant year that began on 1 July 2013, and later grant years.

#### **6 After Division 2 of Part 7**

Insert:

### **Division 2A—Fit and proper person test for export market development grants consultants**

#### **79A Fit and proper person test—excluded consultants**

- (1) The CEO of Austrade may, in accordance with the guidelines determined under paragraph 101(1)(bab), determine, in writing, that a person is an excluded consultant for the purposes of this Act if:
  - (a) the person is, or has been, an export market development grants consultant or an associate of an export market development grants consultant; and

- (b) the CEO has formed the opinion, in accordance with the guidelines, that the person, or an associate of the person, is not a fit and proper person.

Note: For revocation of a determination that a person is an excluded consultant, see section 79E.

- (2) The CEO of Austrade may, by written notice given to a person referred to in paragraph (1)(a), ask the person to:
  - (a) give the CEO specified information; or
  - (b) make available to the CEO specified books, records or documents; or
  - (c) give the CEO a written consent (whether of the person or of any associate of the person) to enable the CEO to obtain information;for the purpose of deciding whether to make a determination under subsection (1) in respect of the person.
- (3) Without limiting paragraph 101(1)(bab), the guidelines determined under that paragraph may provide for the CEO of Austrade to have regard to a person's failure to comply with a request under subsection (2) of this section in deciding whether to make a determination under subsection (1) in respect of the person.
- (4) In this section:

*associate* means a person who is determined to be an associate in accordance with the guidelines determined under paragraph 101(1)(bab).

#### **79B Rejection of application prepared by, or with the help of, an excluded consultant**

- (1) The CEO of Austrade must reject an application for a grant if the CEO becomes aware, at any time before the CEO determines whether the applicant is entitled to the grant, that a person who prepared, or helped to prepare, the application:
  - (a) was, at the time when the application was made, an excluded consultant; or
  - (b) became an excluded consultant at any time during the period beginning when the application was made and ending immediately before the CEO determines whether the applicant is entitled to a grant.



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- (2) If the CEO of Austrade rejects an application under subsection (1), the application is taken, for the purposes of this Act (other than this Division), not to have been made.

### **79C The CEO of Austrade must notify applicant of rejection**

If the CEO of Austrade rejects an application for a grant under section 79B, the CEO must, as soon as practicable, give the applicant a written notice:

- (a) stating that the application has been rejected; and
- (b) setting out the effect of section 79D.

### **79D When applicant may make fresh application**

- (1) If the CEO of Austrade rejects an application under section 79B, the applicant may make a fresh application under subsection 70(1).
- (2) The fresh application must be made within:
  - (a) 90 days after the applicant receives the notice referred to in section 79C; or
  - (b) 5 months after the end of the grant year;whichever is the later.

### **79E Excluded consultant may apply for revocation of determination**

- (1) An excluded consultant may apply, in writing, to the CEO of Austrade for the CEO to revoke the determination made under subsection 79A(1) in relation to the excluded consultant.
- (2) The CEO of Austrade must revoke a determination made under subsection 79A(1) in relation to an excluded consultant if:
  - (a) the excluded consultant has made an application under subsection (1) of this section; and
  - (b) the CEO is satisfied that the circumstances that resulted in the determination being made no longer exist; and
  - (c) the CEO is not aware of any other reason for the determination to remain in force.
- (3) A determination made under subsection 79A(1) can only be revoked under this section.

## 7 Section 82

Omit all the words from and including “the grant becomes payable” to and including “the grant is determined”, substitute “the grant becomes payable on the day the amount of the grant is determined”.

## 8 After paragraph 97(1)(c)

Insert:

(caa) a decision under Division 2A of Part 7 (excluded consultants);

## 9 After paragraph 101(1)(baa)

Insert:

(bab) guidelines to be complied with by the CEO in making a decision for the purposes of subsection 79A(1) (which deals with excluded consultants); and

## 9A Section 105

Omit “The costs”, substitute “(1) The costs”.

## 9B At the end of section 105

Add:

(2) Paragraph (1)(b) does not apply in relation to the financial year that started on 1 July 2013. Despite paragraph (1)(a), to the extent that the costs of the administration of this Act for that financial year exceed 5% of the appropriation amount for that financial year, those costs are to be paid otherwise than out of that appropriation amount.

## 10 Subsection 107(1)

Insert:

*excluded consultant*: a person is an *excluded consultant* if a determination under subsection 79A(1) that the person is an excluded consultant is in force.

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*[Minister's second reading speech made in—  
House of Representatives on 6 March 2014  
Senate on 24 March 2014]*

(18/14)

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