



Export Finance and Insurance Corporation Amendment (Support for Commonwealth Entities) Act 2017

No. 100, 2017

**An Act to amend the *Export Finance and Insurance
Corporation Act 1991*, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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Export Finance and Insurance Corporation Amendment (Support for Commonwealth Entities) Act 2017

No. 100, 2017

An Act to amend the *Export Finance and Insurance Corporation Act 1991*, and for related purposes

[Assented to 14 September 2017]

The Parliament of Australia enacts:

1 Short title

This Act is the *Export Finance and Insurance Corporation
Amendment (Support for Commonwealth Entities) Act 2017*.

*No. 100, 2017 Export Finance and Insurance Corporation Amendment (Support for
Commonwealth Entities) Act 2017* *1*

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	15 September 2017

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Export Finance and Insurance Corporation Act 1991

1 Subsection 3(1)

Insert:

Commonwealth company has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

EFIC's Commonwealth entities function means the function set out in paragraph 7(1)(dc).

large business: see section 3A.

related party, for a business, has the meaning given by section 228 of the *Corporations Act 2001*.

substantial part of a business means a part of a business that is substantial and not minor or insignificant.

2 At the end of subsection 3(3)

Add:

- ; or (e) the supply to persons who are not ordinarily resident in Australia of services relating to tourism; or
- (f) the conduct of an online business with customers outside Australia; or
- (g) the sale or licensing of intellectual property and related rights to persons outside Australia; or
- (h) direct investment outside Australia where a benefit flows back to Australia (whether directly or indirectly).

2A After section 3

Insert:

3A Meaning of *large business*

- (1) A business is a *large business* at a particular time in a financial year (the *current financial year*) if:
 - (a) its revenue for the previous financial year is \$150,000,000 or more; or
 - (b) if there was no time in the previous financial year when the business was carried on—its revenue for the current financial year is as at that time \$150,000,000 or more.
- (2) Revenue is to be calculated for the purposes of this section in accordance with accounting standards in force at the relevant time.

3 After paragraph 7(1)(db)

Insert:

- (dc) as directed by the Minister, to assist Commonwealth entities and Commonwealth companies in performing their functions or achieving their purposes by providing services in relation to financial arrangements and agreements;

4 At the end of section 7

Add:

- (3) The reference in paragraph (1)(dc) to providing services in relation to financial arrangements and agreements does not include the provision of loans, insurance or guarantees.

5 Subsection 8(3)

Repeal the subsection, substitute:

- (3) Subsection (1) and subparagraphs (2)(b)(i) and (iii) do not apply in relation to:
 - (a) EFIC's Northern Australia economic infrastructure functions; or
 - (b) EFIC's Commonwealth entities function.

6 Subsection 9(6)

Omit all the words after "does not apply", substitute:

in relation to:

-
- (a) EFIC's Northern Australia economic infrastructure functions;
or
 - (b) EFIC's Commonwealth entities function.

6A At the end of section 16

Add:

- (3) However, EFIC must not make a guarantee or enter into a contract under this section in relation to a loan or a proposed loan that is to be used for the dominant purpose of direct investment outside Australia unless the requirements in subsection (4) are satisfied.
- (4) For the purposes of subsection (3), the requirements are the following:
 - (a) the person who carries on the business must certify, by writing given to EFIC, that the person reasonably believes that the loan will result in a net increase in the number of people employed in Australia by the business, or a related party of the business, during the term of the loan;
 - (b) at the completion of the loan, the person carrying on the business must certify to EFIC whether the loan has resulted in a net increase in the number of people employed in Australia by the business, or a related party of the business;
 - (c) if the business is a large business—the person who carries on the business must certify, by writing given to EFIC, that the loan will not be used to move the whole or a substantial part of the business, or of a related party of the business, overseas; and
 - (d) EFIC must ensure that it publicly discloses copies of the certification it receives under subsection (4)(b).

6B At the end of section 23

Add:

- (3) However, EFIC must not lend money under this section for the purpose of financing a transaction whose dominant purpose is direct investment outside Australia by a person carrying on business in Australia unless the requirements in subsection (4) are satisfied.

- (4) For the purposes of subsection (3), the requirements are the following:
- (a) a person to whom the money is lent must certify, by writing given to EFIC, that the person reasonably believes that the loan will result in a net increase in the number of people employed in Australia by the business, or a related party of the business, during the term of the loan;
 - (b) at the completion of the loan, the person carrying on the business must certify to EFIC whether the loan has resulted in a net increase in the number of people employed in Australia by the business, or a related party of the business;
 - (c) if the business is a large business—the person who carries on the business must certify, by writing given to EFIC, that the loan will not be used to move the whole or a substantial part of the business, or of a related party of the business, overseas; and
 - (d) EFIC must ensure that it publicly discloses copies of the certification it receives under subsection (4)(b).

7 Section 84A

Repeal the section, substitute:

84A EFIC must charge for certain services

- (1) EFIC must charge fees for services it provides in performing the following:
- (a) EFIC's Northern Australia economic infrastructure functions;
 - (b) EFIC's Commonwealth entities function.
- (2) The fees:
- (a) must be sufficient to compensate EFIC for the services it provides in relation to those functions; but
 - (b) must not be such as to amount to taxation.

*[Minister's second reading speech made in—
House of Representatives on 9 November 2016
Senate on 8 August 2017]*

(168/16)
