



Export Finance and Insurance Corporation Amendment (Support for Infrastructure Financing) Act 2019

No. 33, 2019

***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 Infrastructure Financing) Act 2019

No. 33, 2019

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

[Assented to 5 April 2019]

The Parliament of Australia enacts:

1 Short title

This Act is the *Export Finance and Insurance Corporation
Amendment (Support for Infrastructure Financing) Act 2019*.

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Infrastructure Financing) Act 2019 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.	6 April 2019

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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 Title

Omit “by the provision of insurance and financial services and products”, substitute “and overseas infrastructure development”.

2 Subsection 3(1)

Insert:

ADI has the same meaning as in the *Banking Act 1959*.

Note: ADI is short for authorised deposit-taking institution.

Australian benefit means a benefit that flows (whether directly or indirectly) from overseas to:

- (a) Australia; or
- (b) a person carrying on business or other activities in Australia.

EFIC’s overseas infrastructure financing functions means the functions set out in paragraphs 7(1)(dd) and (de).

overseas infrastructure development means the development or enhancement of infrastructure that will be, or is, located or used wholly or substantially outside Australia.

overseas infrastructure financing means lending money to support overseas infrastructure development, if EFIC reasonably believes that lending the money is likely to result in an Australian benefit.

Note: Lending money includes providing finance, or providing a financial accommodation, in any form: see subsection (2).

3 Paragraph 7(1)(b)

Omit “banks”, substitute “ADIs”.

4 After paragraph 7(1)(dc)

Insert:

- (dd) to engage in overseas infrastructure financing under section 23A;
- (de) to encourage and facilitate overseas infrastructure financing by:
 - (i) giving guarantees under section 18A; and
 - (ii) encouraging ADIs, and other financial institutions, carrying on business in Australia to engage in, or assist in, overseas infrastructure financing; and
 - (iii) providing information and advice to any person regarding overseas infrastructure financing;

5 At the end of section 8

Add:

EFIC's overseas infrastructure financing functions

- (4) EFIC is to perform EFIC's overseas infrastructure financing functions in such a manner as EFIC reasonably believes is likely to result in the maximum Australian benefits.
- (5) Subsection (1) and subparagraph (2)(b)(i) do not apply in relation to EFIC's overseas infrastructure financing functions.

6 After section 18

Insert:

18A Guarantees to co-lenders in relation to overseas infrastructure development

If, for the purpose of supporting overseas infrastructure development:

- (a) EFIC has lent, or proposes to lend, money under section 23A to a person; and
- (b) another person (the *co-lender*), by arrangement with EFIC, has also lent, or proposes to lend, money to that person, or to another person;

EFIC may guarantee to the co-lender the repayment of the whole or any part of the money lent, or to be lent, by the co-lender and the payment of the whole or a part of any interest or other charges

that may become payable to the co-lender in respect of the money lent, or to be lent, by the co-lender.

7 At the end of subsection 23(1)

Add:

Note: EFIC's power under subsection (1) to lend money includes the power to provide finance, or to provide a financial accommodation, in any form: see subsection 3(2).

8 At the end of Part 4

Add:

23A Loans to support overseas infrastructure development

- (1) EFIC may lend money for the purpose of supporting overseas infrastructure development.

Note: EFIC's power under subsection (1) to lend money includes the power to provide finance, or to provide a financial accommodation, in any form: see subsection 3(2).

- (2) The money may be lent to such person or persons as EFIC thinks appropriate.
- (3) However, EFIC must not lend money under this section unless EFIC reasonably believes that lending the money is likely to result in an Australian benefit.

Note: See also subsection 8(4).

9 After subsection 27(4)

Insert:

- (4A) The Minister may approve of EFIC making a loan under section 23A in respect of overseas infrastructure development if the Minister is satisfied that it is in the national interest that EFIC make the loan in respect of the development.

10 Paragraph 54(8)(a)

Omit "\$200,000,000", substitute "\$1,200,000,000".

11 At the end of subsection 67(1)

Add “or in relation to overseas infrastructure development”.

12 Subsection 67(2)

After “eligible export transaction”, insert “or in connection with overseas infrastructure development”.

13 Subsection 81(1)

Omit “or under the acronym EFIC”, substitute “, under the acronym EFIC or under the name “Export Finance Australia””.

14 Subsection 81(2)

Omit “or the acronym EFIC” (first occurring), substitute “, the acronym EFIC, the name “Export Finance Australia””.

15 Subsection 81(2)

Omit “or the acronym EFIC” (second occurring), substitute “, the acronym EFIC or the name “Export Finance Australia””.

16 Subsections 81(3) and (4)

Repeal the subsections, substitute:

- (3) Nothing in subsection (2) applies to the use of a name or acronym (the *protected name or acronym*) by a person in a particular manner if:
 - (a) to the extent that subsection (2) applies in relation to the name of EFIC or the acronym EFIC—immediately before the commencement of this Act, the person was using the protected name or acronym in good faith in that manner; or
 - (b) to the extent that subsection (2) applies in relation to the name “Export Finance Australia”—immediately before the commencement of this paragraph, the person was using the protected name or acronym in good faith in that manner.
- (4) Nothing in subsection (2) affects rights conferred by law in relation to the use of a name or acronym, or the use of the name or acronym in pursuance of such a right, if:
 - (a) to the extent that subsection (2) applies in relation to the name of EFIC or the acronym EFIC—the rights were in

- existence immediately before the commencement of this Act;
or
- (b) to the extent that subsection (2) applies in relation to the name “Export Finance Australia”—the rights were in existence immediately before the commencement of this paragraph.
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*[Minister’s second reading speech made in—
House of Representatives on 13 February 2019
Senate on 2 April 2019]*

(3/19)

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