

1990-91-92

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 4 November 1992

(Parliamentary Secretary to the Minister for Foreign Affairs and Trade)

A BILL

FOR

An Act to amend the *Export Market Development Grants Act 1974*

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title etc.

5 **1.(1)** This Act may be cited as the *Export Market Development Grants Amendment Act 1992*.

(2) In this Act, “**Principal Act**” means the *Export Market Development Grants Act 1974*¹.

Commencement

2. This Act is taken to have commenced on 1 July 1992.

Interpretation

3. Section 3 of the Principal Act is amended by inserting the following definition in subsection (1):

“**eligible expenditure for a new market**’ has the meaning given by section 15;”.

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Eligibility for grant

4. Section 14 of the Principal Act is amended:

- (a) by inserting in subsection (1) “and section 15” after “and (9)”;
- (b) by inserting in subsection (9) “and section 15” after “and (14)”;
- (c) by adding at the end of subsection (10) the following word and paragraph:
“; or (c) a claimant to whom section 15 applies”.

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5. After section 14 of the Principal Act the following section is inserted:

Grants in relation to new markets

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“15.(1) If:

- (a) a claimant (other than an approved body, approved trading house, approved joint venture or approved consortium) (**‘the claimant’**) has received grants in respect of 8 or more grant years; and
- (b) in a subsequent grant year, the claimant has incurred eligible expenditure for new markets; and
- (c) the amount of that eligible expenditure is \$15,000 or more; and
- (d) section 14 otherwise applies to the claimant in respect of that grant year;

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then, because of this section, the claimant is eligible for a grant for that grant year under section 14.

“(2) Eligible expenditure is **eligible expenditure for a new market** only if, in the Commission’s opinion, it is directly attributable to expenses incurred by the claimant in the grant year for the purposes of undertaking qualifying export development activities for or in connection with:

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- (a) the supply of a particular kind of goods, services, know-how or property rights to a market that is a new market for the claimant in relation to that kind of goods, services, know-how or property rights; or
- (b) the supply of a particular kind of technical services to a market that is a new market for the claimant in relation to that kind of technical services.

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Note: For the meaning of ‘qualifying export development activities’, see subsection 3(1A).

“(3) Subject to subsection (5), a market is **a new market for the claimant in relation to a particular kind of goods, services, know-how or**

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property rights only if, in the Commission's opinion, the claimant has received export earnings in relation to that kind of goods, services, know-how or property rights:

- 5 (a) of an amount not more than \$300,000 or, if the regulations prescribe another amount, not more than that amount; and
(b) for the prescribed period;
in respect of that market.

10 "(4) Subject to subsection (5), a market is a **new market for the claimant in relation to a particular kind of technical services** only if, in the Commission's opinion, the claimant has received export earnings in relation to that kind of technical services:

- (a) of an amount not more than \$1,000,000 or, if the regulations prescribe another amount, not more than that amount; and
15 (b) for the prescribed period;
in respect of that market.

20 "(5) After the claimant has received grants because of this section for 3 grant years in respect of a new market in relation to a particular kind of goods, services, know-how, property rights or technical services, the market ceases to be a new market for the claimant in relation to that kind of goods, services, know-how, property rights or technical services.

"(6) Subsection (5) does not preclude the market being, in the Commission's opinion:

- 25 (a) a new market for the claimant in relation to other kinds of goods, services, know-how, property rights or technical services;
or
(b) a new market for another claimant.

30 "(7) In applying this section to a particular kind of eligible internal educational services, eligible internal services or eligible tourism services supplied within Australia, the services are taken to have been supplied to a market constituted by a foreign country if, in the Commission's opinion, the services are services:

- (a) supplied to residents of that country; or
(b) otherwise destined for that market.

35 "(8) In this section:

'foreign country' means a country the territory of which is outside Australia, being a country that is:

- (a) an independent sovereign state; or
40 (b) a separate territory (whether or not it is self-governing) that is not part of an independent sovereign state;

'goods' means eligible goods and **'a particular kind of goods'** means a particular kind of eligible goods specified in the regulations for the purposes of this section;

'know-how' means eligible know-how and **'a particular kind of know-how'** means a particular kind of eligible know-how specified in the regulations for the purposes of this section;

'market' means a market constituted by a foreign country;

'prescribed period', in relation to a new market for a claimant in respect of a particular kind of goods, services, know-how, property rights or technical services, means: 5

(a) if paragraph (b) does not apply—the period of 3 years immediately before the grant year for which the claimant first makes the claim in respect of that new market in relation to that particular kind of goods, services, know-how, property rights or technical services; or 10

(b) if the regulations prescribe another period—that period;

'property rights' means eligible industrial property rights and **'a particular kind of property rights'** means a particular kind of eligible industrial property rights specified in the regulations for the purposes of this section; 15

'services' means any of the following:

- (a) eligible services (other than technical services);
- (b) eligible internal educational services; 20
- (c) eligible external governmental educational services;
- (d) eligible internal services;
- (e) eligible tourism services;

and **'a particular kind of services'** means a particular kind of any of those services specified in the regulations for the purposes of this section; 25

'supply', in relation to the supply of property rights or know-how to a market, means the disposal of the rights or know-how in that market;

'technical services' means eligible services that are technical services in relation to any of the following fields: 30

- (a) construction;
- (b) engineering;
- (c) mining;
- (d) protection of the environment;
- (e) any other fields specified in the regulations; 35

and **'a particular kind of technical services'** means a particular kind of technical services specified in the regulations for the purposes of this section."

Amount of grant

6. Section 16 of the Principal Act is amended: 40

- (a) by omitting from subsection (3) "where **eligible expenditure** is the eligible expenditure incurred by the claimant during that grant year." and substituting the following:

“where **eligible expenditure** is:

(a) if paragraph (b) does not apply—the eligible expenditure incurred by the claimant during that grant year; or

(b) if section 15 applies to the claimant—the eligible expenditure in respect of new markets incurred by the claimant during that grant year.”;

(b) by omitting “8” from item 6 in the Table at the end of subsection (6) and substituting “8 or more”.

Carry forward of unmatched eligible expenditure

7. Section 16A of the Principal Act is amended:

(a) by omitting “If” from subsection (3) and substituting “Subject to subsection (8), if”;

(b) by omitting “If” from subsection (6) and substituting “Subject to subsection (8), if”;

(c) by adding at the end of the section the following subsection:

“(8) In applying this section to a claimant to whom section 15 applies:

(a) if the claimant had unmatched eligible expenditure for a grant year before the claimant’s ninth grant year, that unmatched eligible expenditure has no effect in relation to the claimant’s ninth grant year or any subsequent grant year under this section; and

(b) the references to the claimant’s eligible expenditure in the following provisions are taken to be references to the claimant’s eligible expenditure in respect of new markets:

(i) sub-subparagraphs (3)(b)(ii)(A) and (B);

(ii) the definition of ‘threshold shortfall’ in paragraph (4)(b);

(iii) sub-subparagraphs (6)(a)(ii)(A) and (B).”.

NOTE

1. No. 154, 1974 as amended. For previous amendments, see Nos. 36 and 192, 1978; Nos. 74 and 119, 1981; No. 157, 1982; Nos. 65, 110 and 187, 1985; No. 168, 1986; No. 141, 1987; Nos. 38 and 90, 1988; No. 27, 1990; and Nos. 8 and 66, 1991.





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