

1983

THE PARLIAMENT OF THE COMMONWEALTH

OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN INDUSTRY DEVELOPMENT CORPORATION AMENDMENT BILL
1983

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Industry and
Commerce, Senator the Honourable John N. Button).

THEORY OF THE EARTH

CHAPTER I

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OUTLINE

The Australian Industry Development Corporation Amendment Bill 1983 proposes to amend the Australian Industry Development Corporation Act 1970 to:

- (i) extend the role of the Australian Industry Development Corporation (the Corporation);
- (ii) introduce revised functions of the Corporation which provide for it to invest in any industry but to give priority to finance for manufacturing and internationally tradeable services industries including tourism, and for industry reconstruction and the development of high technology industries;
- (iii) increase the statutory capital of the Corporation by \$50 million to \$150 million with the Corporation able to call upon this additional capital in amounts of up to \$12.5 million per annum;
- (iv) increase the gearing ratio so that the Corporation will be able to borrow up to 15 times the level of its capital and reserves (8 times at present);
- (v) provide for Commonwealth guarantee of all borrowings by the Corporation;
- (vi) simplify the national interest provisions by removing the requirement for a National Interest Committee and telescoping the reporting requirements;
- (vii) require the Corporation to pay to the Commonwealth 50 per cent of its net profits after income tax;
- (viii) include a number of administrative changes designed to improve the operation of the Corporation.

NOTES ON CLAUSES

- Clause 1 : Citation of the amending Act and indentification of the Australian Industry Development Corporation Act 1970 as the Principal Act.
- Clause 2 : Provides for the amending Act to come into operation on the date of Royal Assent.
- Clause 3 : Inserts new definitions of "Chairman", "Chief Executive" and "goods" into the Principal Act as a consequence of the amendments proposed to be made by clauses 4 and 11.
- Clause 4 : Remakes paragraph 6(1)(a) of the Principal Act to provide for revised functions of the Australian Industry Development Corporation (the Corporation) to facilitate and encourage, and to facilitate participation by Australian residents and enterprises in, the establishment, development and advancement of Australian industries;
- Inserts a new sub-section 6(1A) into the Principal Act to provide that the Corporation is to give priority in the performance of its functions to provide finance for manufacturing industries, service industries (including tourism) of a kind subject to competition in domestic or overseas markets from overseas industry and high technology industries; and
- Provides for the functions of the Corporation as proposed by paragraph 6(1A)(b), to be required to be performed in a manner that will promote greater efficiency and competitiveness of Australian industry, facilitate reconstruction of Australian industry and promote new industries with good growth prospects.
- Clause 5 : Provides in sub-section 7(2) of the Principal Act, for the Corporation to have the power to act as trustee for other persons; and
- Amends sub-section 7(3) to increase the maximum amount which can be borrowed by the Corporation otherwise than for temporary purposes, so that the total amount borrowed and not repaid is increased from 8 to 15 times its capital and reserves.
- Clause 6 : Omits the qualifying paragraphs from sub-section 8(2) of the Principal Act to have the effect of providing that the Corporation shall operate in accordance with sound business principles in the performance of its functions.

Clause 7 : Substitutes a new sub-section 8A(5) into the Principal Act to provide that where reports are to be furnished to the Minister by the Corporation for the purposes of sub-sections (2) and (4), the Corporation is to conduct such inquiries as are necessary to determine whether the Government could enable the Corporation to provide finance for, or to engage or participate in, the enterprise or project. The results of the inquiries are to be included in the reports;

Substitutes paragraphs 8A(6)(c), (d) and (e) to include new provisions:

- (i) to provide that the Minister may give such guarantees as are necessary to enable the Corporation to provide finance for, or engage or participate in the enterprise or project;
- (ii) to provide that the Minister may make payments to the Corporation by way of loan or otherwise for that purpose, out of moneys appropriated by Parliament on such terms and conditions as determined by the Minister; and
- (iii) to provide that the Minister may authorize the Corporation to borrow moneys for that purpose;

Inserts a new section 9A into the Principal Act to provide that where the Minister authorizes the Corporation to borrow moneys under paragraph (6)(e), the Corporation shall apply those moneys for the purpose for which they were authorized, and those moneys shall not be taken into account for the purposes of the limits set out in sub-sections 7(3) (as proposed to be amended by clause 5) and sub-section 24(5);

Amends sub-section 8A(10) of the Principal Act to provide that the Corporation shall keep separate accounts for each operation involving moneys paid to or borrowed by the Corporation under section 8A;

Omits sub-section 8A(11) and amends sub-section 8A(12) of the Principal Act as a consequence of the amendments to section 29 as proposed by clause 18;

Amends sub-section 8A(13) so that it also applies in circumstances where moneys are paid to or borrowed by the Corporation; and

Omits sub-sections 8A(14) and (15) to remove the provisions relating to the National Interest Committee.

Clause 8 : Substitutes a new section 10 into the Principal Act to provide that a Board of Directors of the Corporation shall have the power to determine the policies to be pursued by the Corporation. A Chief Executive is to manage the Corporation subject to directions by the Board;

Inserts a new section 10A into the Principal Act to provide for policy consultation procedures;

Provision is made in sub-section 10(A)(1) for the Board to furnish annually to the Minister a statement of the general policy of the Corporation in relation to the performance of its functions and duties. Provision is also made for the procedures to be adopted in the event of a difference of opinion between the Government and the Board as to what the general policy referred to in sub-section (1) should be. If the Minister and the Board are unable to reach agreement, the policy to be adopted is to be determined by order of the Governor-General, acting with the advice of the Federal Executive Council. The Government is to accept responsibility for the adoption of the policy determined by the order and the Board is to ensure that effect is given to this policy; and

Substitutes a new section 11 into the Principal Act relating to the membership of the Board.

Clause 9 : Amends section 12 of the Principal Act so that that section applies to the Chairman as well as a Director.

Clause 10: Repeals sections 13 to 20 of the Principal Act and substitutes new sections 15 to 20B in their place:

Section 15

Provides for the Chief Executive to be appointed by the Board, to hold office for such period as is specified by the Board up to a maximum of 5 years, and to retire at age 65.

Section 16

Provides that the Chairman, Chief Executive and the Directors shall be paid such remuneration as is determined by the Remuneration Tribunal and allowances as are prescribed in the case of the Chairman and the Directors.

Section 17

Provides for the Board to grant leave of absence to the Chairman or a Director.

Section 18

Allows for the resignation of the Chairman or a Director.

Section 19

Provides for the termination of the appointment of the Chairman or a Director in certain enumerated circumstances.

Sections 20 and 20A

Provides for the Minister to have the power to appoint persons in an acting capacity in the event of temporary vacancies of the Chairman or a Director. The Chief Executive and the two Secretaries to the Departments are not able to act in the position of Chairman.

Section 20B

Provides that the Board shall have the power to appoint a person to act in the Office of the Chief Executive in the event of a temporary vacancy.

- Clause 11: Amends section 21 of the Principal Act to vary the provision relating to meetings of the Board and in particular provides that a quorum is to be constituted by 5 Directors.
- Clause 12: Amends section 21A of the Principal Act to substitute references to "Resources and Energy" for "Trade and Resources". This is consequential on changes to the machinery of government on 11 March 1983.
- Clause 13: Alters the delegation provisions in section 23 of the Principal Act.
- Clause 14: Inserts a new section 23A into the Principal Act to provide that the Chief Executive may delegate his powers, other than the power of delegation.
- Clause 15: Amends section 24 of the Principal Act to provide for the capital of the Corporation to be \$150 million. This represents an increase of \$50 million;

Inserts a new sub-section 24(3A) to provide that instalments of capital may be paid before the expiration of 12 months, with the approval of the Minister for Finance;

Inserts a new sub-section 24(4) to provide that, except with the consent of the Minister for Finance, the total amount payable to the Corporation under section 24 is not to exceed \$12 1/2 million in any financial year; and

Omits sub-section 24(8) so as to allow the Corporation to use its capital in its operations.

- Clause 16: Inserts a new section 24A into the Principal Act to require the Corporation to pay 50 per cent of its net profit within 6 months of the end of each financial year, to the Commonwealth.
- Clause 17: Amends section 26 of the Principal Act to remove the reference to the need for the Corporation to obtain revenue for the purpose of meeting expenses.
- Clause 18: Substitutes a new section 29 into the Principal Act to provide that the Auditor-General is to audit the financial statements of the Corporation and its subsidiaries. Sub-clause(7) creates an offence for a contravention of sub-clause (6) relating to the furnishing of information to the Auditor-General.
- The provisions of proposed sub-section 29(8) will allow the Corporation or its subsidiaries to continue to have their financial statements audited by a person who is registered as a company auditor under a law of a State or Territory in addition to the audit by the Auditor-General.
- Clause 19: Repeals sections 33, 34, 35, 36 and 36A of the Principal Act and substitutes new sections 33, 35 and 36 in their place:

Section 33

Provides that, subject to the Remuneration Tribunal Act 1973, the Corporation may pay allowances and provide any other benefits to the Chief Executive or any officer or employee of the Corporation as are necessary to assist them in the performance of their duties. The Corporation may also reimburse the Chairman, any Director, the Chief Executive or any officer or

employee of the Corporation for any loss or expenditure incurred in the course of the performance of his duties.

Section 35

Provides for Commonwealth guarantee for the Corporation's liabilities.

Section 36

Removes the requirement that the head office of the Corporation be in Canberra. Provides that the head office may be situated anywhere in Australia and further provides that it may establish such other offices within or outside Australia, as the Board determines.

Clause 20: Amends section 37 of the Principal Act as a consequence of the new section 29, as proposed to be amended by clause 18.

Clause 21: Provides for formal amendments to be made to the Principal Act as set out in the Schedule.

