

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN TRADE COMMISSION BILL 1985

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Trade)

The Hon J S Dawkins



## AUSTRALIAN TRADE COMMISSION BILL 1985

### OUTLINE

The purpose of the Bill is to establish the Australian Trade Commission as a statutory authority.

The Bill provides for the drawing together and integration of the various operational arms of the Trade portfolio into a single statutory authority. These are:

- the Export Finance and Insurance Corporation (EFIC)
- the Australian Overseas Projects Corporation (AOPC)
- the Export Development Grants Board (EDGB)
- the Trade Commissioner Service
- and the marketing, promotion and relevant management areas of the Department of Trade.

The functions of the Commission are primarily to develop and implement programs to facilitate and encourage the export of Australian goods and services. In performing its functions the Commission is required to comply with any directions given to it by the Minister for Trade and also have regard to the desirability of improving and extending its services, the need to operate as efficiently and economically as possible and Australia's international obligations.

The Bill gives the Commission the powers to carry out the existing functions of EFIC, AOPC and the EDGB, which include: the encouragement of Australia's exports of goods and services by providing a specialised range of insurance, guarantee and finance facilities; assistance to Australian industry in competing for contracts for development projects overseas; and administration of the provisions of the Export Market Development Grants Act. In addition, the Commission will be responsible for marketing, promotion and publicity activities currently undertaken by the Department of Trade.

The Bill also provides the Commission with a number of new or expanded powers in response to present market conditions. Principally, these will relate to greater capabilities in the areas of financing, bonding and financial advice; the power to administer aid funds if requested to do so; and the removal of certain constraints which have hindered AOPC activities, in order for the Commission to take a more active role assisting Australian firms and organisations in securing overseas contracts.

The overall management and policy direction of the Commission will be determined by a Board of 9-11 members including a Chairperson, a Deputy Chairperson, a Managing Director, and a Government member. Board members will be appointed by the Minister for Trade. In appointing the Managing Director and also the Deputy Managing Director who carry out the day-to-day operations of the Commission, the Minister will take into account the views of the Board.

Accountability of the Commission will take several forms. In addition to the normal requirement for statutory authorities to report annually to Parliament, the Commission will be required to prepare a 3 year Corporate Plan, reviewed and updated annually, which sets out a broad outline of the objectives, policies and strategies to be pursued. The Corporate Plan will require the approval of the Minister for Trade.

Complementary to the Corporate Plan is the requirement for an Annual Operational Plan to be prepared by the Managing Director for the Board's approval setting out details of the strategies and programs the Commission proposes to follow and the resources it proposes to allocate to each program.

The Commission will have the power to charge for its services, but the nature of most of the Commission's functions will prevent the recovery of a significant proportion of its costs, outside the insurance area.

In line with the commercial orientation of the Commission, the Bill has been framed to give the Commission considerable flexibility in financial matters. It is able to select its own banker and directly manage its assets and business affairs in Australia and overseas.

Except for the cost of purchasing commercial insurance, the Commission is being established with no increases in net Government outlays. While an annual appropriation will be required from the Budget, the amount will essentially represent a transfer of funds from the Department of Trade and other Departments to the Commission.

The Bill provides for the Commission to employ staff on terms and conditions determined by the Board with approval of the Public Service Board.

## NOTES ON CLAUSES

### PART I - PRELIMINARY

#### Clause 1 : Short title

1. Cites the short title of the Act.

#### Clause 2 : Commencement

2. Provides for the commencement of the legislation. Clauses 1, 2, 3 and 97 of the Act will come into effect on the day the Act receives Royal Assent. The remaining provisions will come into effect on a day to be fixed by Proclamation.

#### Clause 3 : Interpretation

3. Provides for the interpretation of the legislation.

#### Clause 4 : Extension to Territories

4. Extends the provisions of the Act to the Territories and authorises the Minister to declare any Territory to be a foreign country for the purposes of the Act.

#### Clause 5 : Application of Act outside Australia

5. Enables the provisions of the Act to apply both within and outside Australia.

#### Clause 6 : Application of Export Market Development Grants Act 1974 not affected

6. Ensures that the application of the Export Market Development Grants Act (as amended) is unaffected by clauses 4 and 5.

### PART II - ESTABLISHMENT AND FUNCTIONS OF AUSTRALIAN TRADE COMMISSION

#### Clause 7 : Australian Trade Commission

7. Establishes the Australian Trade Commission.

Clause 8 : Functions of Commission

8. Specifies in some detail the functions of the Commission that will be undertaken to facilitate and encourage the export of Australian goods, services and related matters. The list is not intended to be exhaustive but is designed to encompass functions which the Commission may undertake in the conduct of its affairs.
9. It should be noted that 'trade between Australia and foreign countries' is defined in clause 3(2)(d) as: "...includes a reference to any transaction (including the rendering of a service) involving a consideration in money or money's worth accruing from a person in the course of carrying on business or other activities outside Australia to a person carrying on business or other activities in Australia".

Clause 9 : Duties

10. Requires the Commission to perform its functions in such a manner as will best assist in the development of Australia's export trade having regard to the desirability of improving and extending its services, the need to operate as efficiently and economically as possible and Australia's international obligations. The Commission is also required to comply with Ministerial directions as per clause 10.

Clause 10 : Power of Minister to give directions

11. Empowers the Minister to direct the Commission in the performance of its functions or the exercise of its powers if the Minister considers it necessary to do so. However sub-clause 10(2) generally precludes the Minister from directing the Commission on commercial matters relating to particular contracts, agreements, arrangements or particular guarantees. Sub-clause 10(3) also precludes the Minister from giving directions in respect of a particular person or claim under the Export Market Development Grants Act 1974 or such other schemes approved by the Minister under clause 30.
12. The purpose of sub-clause 10(4) is to preserve the specific powers of the Minister to give directions in relation to the export finance and insurance functions in national interest circumstances.

PART III - ESTABLISHMENT AND FUNCTIONS OF AUSTRALIAN TRADE COMMISSION BOARD

Clause 11 : Establishment of Australian Trade Commission Board

13. Establishes an Australian Trade Commission Board.

Clause 12 : Membership of Board

14. Specifies the composition of the Board and provides for the appointment of its members by the Minister, all of whom will be part-time except the Managing Director. Members who have attained the age of 65 may not be appointed nor shall their appointment extend beyond the date they attain age 65.
15. The clause further specifies that the Government member will hold office during the Minister's pleasure while other members appointed by the Minister shall hold office for a term, not exceeding 7 years, as specified in the Minister's instrument of appointment. Members are eligible for reappointment.

Clause 13 : Functions of Board in relation to  
Commission

16. Sets down the functions and powers of the Board which, subject to directions from the Minister (clause 10) are to determine the policy to be followed in the conduct of the affairs of the Commission and to conduct the affairs of the Commission.

Clause 14 : Committees

17. This clause authorises the Board of the Commission to set up committees to assist it in carrying out its functions. Such committees shall include at least one Board member.

Clause 15 : Remuneration and allowances of appointed  
members

18. This clause provides for the remuneration of Board members, other than the Managing Director, to be determined by the Remuneration Tribunal. Allowances for Board members will be prescribed.

Clauses 16 & 17 : Acting Chairperson, acting Deputy  
Chairperson and acting member

19. These clauses authorise the Minister to appoint persons to be acting Chairperson, acting Deputy Chairperson or acting member of the Board, in the event of there being a vacancy in one or more of these positions. These clauses also limit any such appointments to a period not exceeding 12 months.

Clause 18 : Leave of absence of appointed members

20. Provides for the Minister to grant leave of absence to the Chairperson, and for the Chairperson to grant leave of absence to other Board members other than the Managing Director.

Clause 19 : Resignation of appointed members

21. This clause provides that resignation by Board members shall be tendered in writing to the Minister.

Clause 20 : Termination of appointment of appointed members

22. Provides discretion for the Minister to terminate the appointment of a member for misbehaviour or physical or mental incapacity. Sub-clause 20(2) however makes it mandatory for the Minister to terminate any appointment if a member becomes bankrupt, is absent without leave from three consecutive meetings, or fails to comply with the obligations concerning disclosure of pecuniary interests (clause 22).

Clause 21 : Meetings of Board

23. Provides for the convening of meetings of the Board, and the working arrangements to apply at such meetings.

Clause 22 : Disclosure of interests

24. This clause provides that a member who has a pecuniary interest in a matter requiring the Board's consideration shall disclose the nature of that interest. The member shall not take part in any deliberation or decision of the Board on the matter unless the Board or Minister otherwise determines.

PART IV - GENERAL POWERS AND DUTIES OF COMMISSION

Clause 23 : General powers of Commission

25. This clause provides the Commission with the general power to do all things that are necessary or convenient to be done in the performance of its functions. To the extent practicable, the Commission is required to ensure that the exercise of these powers is consistent with the corporate and annual operational plans (Part VII).



Clause 24 : Commission may establish offices in Australia and in countries outside Australia

26. Authorises the Commission to establish and operate offices in Australia and overseas in order to facilitate the more effective performance of its functions.

Clause 25 : Trading powers of Commission

27. This clause precludes the Commission from trading in goods or services, except as required in the day-to-day operations of the Commission, or in the performance of its functions while in association with an Australian organisation. An 'Australian Organisation' is a defined term (clause 3(1)).

Clause 26 : Powers in relation to carrying out overseas development projects

28. This clause authorises the Commission to do all things necessary to assist Australian organisations gain contracts to carry out the whole or part of an overseas development project. Sub-clause 26(2) authorises the Commission to enter into a contract to carry out an overseas development project where some or all of the work can be subcontracted to an Australian organisation.

Clause 27 : Commission may provide advice to promote trade

29. Enables the Commission to provide information or advice, including that relating to financial arrangements and opportunities for investment, to any person on any matter likely to assist the development of Australia's export trade.

Clause 28 : Powers in relation to provision of services and performance of work

30. This authorises the Commission to enter into an arrangement or agreement with a person to provide services or work to the Commission or its business associations. It also provides for the Commission to enter into an arrangement or agreement to provide services to a person, and to advertise and charge fees for such services.

Clause 29 : Commission may form, or join in the formation of, companies, partnerships, consortiums or other business associations

31. This clause authorises the Commission to form companies and other business associations for the purpose of carrying out overseas development projects

or such other purposes in connection with the performance of its functions. Any such business undertaking is required to be approved by the Minister, consistent with the Corporate Plan and within the limits of net assessed commercial risk set for the Commission (clause 88(2)).

Clause 30 : Export market development schemes

32. Authorises the Commission to develop, for the Minister's approval, proposals for schemes to provide export market development assistance. Where the Minister approves a proposal, the Commission is required to develop detailed guidelines for the administration of the scheme and seek the Minister's approval for such guidelines. The Commission must take such steps it considers necessary to publicise the guidelines or any variation thereto.

Clause 31 : Encouragement of financing of eligible export transactions by Australian banks, &c.

33. This clause provides that the Commission shall encourage financial institutions to finance or assist in financing export transactions.

Clause 32 : Commission may administer aid funds required in respect of eligible export transactions

34. Provides that the Commission may administer and disburse aid funds on behalf of the Australian Government.

PART V - INSURANCE AND FINANCE SERVICES

Division 1 - Preliminary

Clause 33 : Interpretation

35. Provides for interpretations and definitions used in Part V.

Clause 34 : Reinsurance &c., in relation to business of Commission

36. Provides for the Commission to enter into reinsurance arrangements, take security, or reduce or reschedule any actual or contingent liability in respect of insurance and finance services.

Clause 35 : Use of Export Finance and Insurance Corporation  
business name and seal

37. Provides that the Commission may use the name and seal of the former Export Finance and Insurance Corporation in the conduct of its insurance and finance business.

Division 2 - Overseas Trade Insurance and Reinsurance  
Services

Clause 36 : Export payments insurance contracts

38. Enables the Commission to provide export payments insurance in respect of trade with foreign countries.

Clause 37 : Reinsurance in relation to transactions with  
countries outside Australia

39. This clause authorises the Commission to guarantee or indemnify an insurer against monetary loss in respect of a contract the insurer has entered into which insures or guarantees a third party against monetary loss in connection with the export of goods or services.

Clause 38 : Guarantees and subsidies in relation to loans  
to Australian suppliers

40. This clause enables the Commission to give guarantees of repayment of monies lent to Australian suppliers for the purpose of financing export transactions. It further provides for the payment of a subsidy in relation to such a guarantee. In common with the similar provision in clause 39, a subsidy payment would arise when the return to the lender was less than a return agreed between the Commission and the lender.

Clause 39: Guarantees and subsidies in relation to loans  
to overseas buyers, &c

41. This enables the Commission to give buyer credit guarantees in respect of loans to overseas buyers. It also provides for the payment of a subsidy in relation to such a guarantee.

Clause 40 : Reinsurance of guarantees in relation to loans to overseas buyers, &c.

42. This clause parallels, in respect of buyer credit guarantees, the general reinsurance provision set out in clause 37.

Clause 41 : Tender guarantees and performance guarantees

43. Enables the Commission to provide tender and performance guarantees in relation to an export contract.

Clause 42 : Reinsurance in relation to tender guarantees and performance guarantees

44. Provides for the Commission to indemnify or guarantee a guarantor in relation to a tender or performance guarantee.

Clause 43 : Guarantees in relation to certain export transactions

45. Provides for the Commission to provide guarantees of repayment to a co-lender involved with the Commission in financing an eligible export transaction.

Clause 44 : Certain contracts and guarantees to be provided by Commission in the national interest

46. Enables the Commission to provide a contract of insurance or indemnity or give a guarantee on the Government's account in the national interest.
47. Sub-clause 44(5) provides for the Minister to direct the Commission in the national interest to enter into a contract or guarantee which is included in a specified class of contracts or guarantees.
48. Sub-clause 44(9) provides that the Commission notify in the Gazette details of national interest contracts or guarantees including the Commonwealth's liability

### Division 3 - Overseas Investment Insurance Services

Clause 45 : Declarations of approved causes of loss

49. This clause enables the Commission to declare a cause of loss for the purposes of this Division.

Clause 46 : Applications for insurance

50. Sets out the procedure to be followed by an applicant when applying for overseas investment insurance cover.

Clause 47 : Commission may enter into contracts of insurance in respect of overseas investment transactions

51. Provides for the Commission to insure investments on its own account except in the case where the loss is attributable to circumstances within the control of the insured party.

Clause 48 : Certain contracts of insurance to be entered into in the national interest.

52. This clause authorises the Minister to approve on the Government's account insurance of overseas investments which will assist in the social and economic development of the host country and where the Minister considers it to be in Australia's national interest. The Minister may also direct the Commission as to the circumstances in which applications are referred for decision.

Division 4 - Finance Services

Clause 49 : Financing eligible export transactions

53. This clause enables the Commission to provide loans in connection with an eligible export transaction .

Clause 50 : Certain loans to be made in the national interest

54. This clause authorises the Minister to approve the making of loans, or class of loans, for financing eligible export transactions which the Minister concedes to be in Australia's national interest, and permits the Commission to participate in those loans. The Minister may also direct the Commission as to the circumstances in which applications are referred for decision.

PART VI - STAFF

Division 1 - Managing Director and Deputy Managing Director

Clause 51 : Managing Director and Deputy Managing Director

55. Provides for the Commission to have a Managing Director and Deputy Managing Director.

Clause 52 : Appointment of Managing Director and Deputy Managing Director

56. Provides for the Managing Director and Deputy Managing Director to be appointed by the Minister for Trade, having regard to the views of the Board. The terms of appointment shall not exceed seven years, nor shall an appointee hold office beyond the age of 65. Office holders may be re-appointed.

Clause 53 : Duties of Managing Director and Deputy Managing Director

57. This clause provides that the Managing Director shall manage the affairs of the Commission, and gives the office the necessary powers to do so, in accordance with the policy of, or any directions given by, the Board.
58. Sub-clause 53(4) provides that the Deputy Managing Director shall perform such duties as the Managing Director directs.

Clause 54 : Remuneration and allowances

59. This clause provides for the remuneration of the Managing Director and Deputy Managing Director to be determined by the Remuneration Tribunal. Allowances will be prescribed.

Clause 55 : Managing Director and Deputy Managing Director not to engage in paid employment

60. Stipulates that the Managing Director and Deputy Managing Director shall not engage in paid employment outside the Commission without the Board's approval.

Clause 56 : Acting Managing Director and acting Deputy Managing Director

61. Provides that the Deputy Managing Director or Acting Deputy Managing Director shall act as Managing Director when there is a vacancy in that office or the appointee is absent from duty.
62. Authorises the Minister to appoint an acting Deputy Managing Director in the event of there being a vacancy in that office or the occupant is absent from duty. The term of such an appointment is limited to a period not exceeding 12 months.

Clause 57 : Leave of absence

63. Provides for the Board to grant leave of absence to the Managing Director and Deputy Managing Director.

Clause 58 : Resignation

64. This clause provides that the Managing Director and Deputy Managing Director may resign from office by writing to the Minister.

Clause 59 : Termination of appointment

- 65 Provides discretionary power to the Minister to terminate the appointment of the Managing Director and Deputy Managing Director for misbehaviour or physical or mental incapacity or on the grounds of incompetence. In the latter case the Minister must first receive a recommendation from at least seven members of the Board before exercising this power.
- 66 Sub-clause 59(5) makes it mandatory for the Minister to terminate the appointment of the Managing Director or Deputy Managing Director if either becomes bankrupt, engages in paid employment outside the Commission without approval, is absent without leave for specific periods, or fails to comply with obligations concerning disclosure of pecuniary interests (clause 22).

Division 2 - Other Staff

Clause 60 : Employment of other staff

- 67 This clause authorises the Commission to employ staff on terms and conditions determined by the Board with the approval of the Public Service Board.

Clause 61 : Location and designation of persons employed

68. This clause provides that employees of the Commission are required to serve in such locations as the Commission determines appropriate. The designation of an employee will be as determined by the Commission.

Clause 62 : Application of Merit Protection (Australian Government Employees) Act 1984 to persons employed

69. This clause provides that the Merit Protection Act 1984, or provisions and/or modified provisions of that Act may apply to the employees of the Commission except for overseas engaged employees.

Clause 63 : Persons employed under section 60 to have certain rights of entry into the Australian Public Service

70. This clause entitles employees to the provisions of Part IV of the Public Service Act. Specifically these provisions enable Commission staff to apply for promotion and transfer on merit to vacant positions in the Australian Public Service with the same promotion and appeal rights as Australian public servants.

## PART VII - CORPORATE PLANS AND ANNUAL OPERATIONAL PLANS

### Division 1 - Corporate Plans

Clause 64 : Commission to develop corporate plans

71. Requires the Commission to prepare and update annually a three year corporate plan setting out its principal objectives and a broad outline of policies and strategies to be pursued. In doing so, the Commission is required to specify in broad terms the resources that are to be used in each year of the plan. The first plan will cover the period 1 July 1986 to 30 June 1989.

Clause 65 : Approval of corporate plans

72. Provides that the corporate plan should not take effect until approved by the Minister.

Clause 66 : Variation of corporate plans

73. This clause provides for variations to be made to the corporate plan at any time on the initiative of the Minister or the Commission. Any such change shall not take effect until approved by the Minister.

### Division 2 - Annual Operational Plans

Clause 67 : Managing Director to develop annual operational plans

74. Requires the Managing Director to prepare annual operational plans giving effect to and consistent with, the corporate plan, setting out the details of the strategies the Commission proposes to pursue, the programs it proposes to carry out and the resources it proposes to allocate to each program. The first plan will cover the period 1 July 1986 to 30 June 1987.



Clause 68 : Approval of annual operational plans

75. Provides that the annual operational plan shall not take effect until approved by the Board of the Commission.

Clause 69 : Variation of annual operational plans at the request of Commission

76. This clause provides that the Commission may request the Managing Director to vary an operational plan at any time.

PART VIII - FINANCE

Clause 70 : Interpretation

77. Provides for the interpretation of Part VIII.  
"Corporation" refers to Export Finance and Insurance Corporation and "Fund" refers to the Export Finance and Insurance Fund established under clause 73.

Clause 71 : Money of the Commission

78. This clause provides that there shall be funds appropriated by Parliament for the purposes of the Commission including amounts for the payment of grants under the EMIG Act 1974 and subsidies in respect of buyer and supplier loan guarantees (clauses 38 and 39).

Clause 72 : Application of money of Commission other than money standing to credit of Fund

79. This clause provides that except money standing to the credit of the Fund, the Commission's money may only be applied in payment of expenses, salaries and liabilities incurred in the performance of its functions, in making investments, and in making payments into the Fund when its reserves fall below a determined level.

Clause 73 : Export Finance and Insurance Fund

80. This clause establishes the Export Finance and Insurance Fund, a reserve of assets on which the Commission may draw in the event of financial loss incurred in the conduct of insurance and finance business.
81. The clause also provides that transactions involving the Commission in respect of its finance and insurance business or the investment of the Fund's reserves, shall be made from or paid into the Fund.

Clause 74 : Commission to keep separate bank accounts and maintain separate financial records in relation to Fund.

82. Provides that all payments and receipts of the Fund shall be made from, or deposited into, an approved bank account(s) which are separate from other Commission accounts and that adequate financial records, procedures, and controls be maintained.

Clause 75 : Only Fund assets to be taken in execution in proceedings relating to contracts and guarantees under Part V

83. Provides that the amount of any claim against the Commission in relation to a contract of insurance, indemnity or guarantee given, be limited to the money and other assets constituting the Fund.

Clause 76 : Estimates

84. This clause requires the Commission to prepare estimates of revenue and expenditure and to submit those to the Minister for approval.

Clause 77 : Provision in the nature of reserves

85. Authorises the Commission to determine the extent to which it will make provision in its accounts for depreciation or future or contingent liabilities.

Clause 78 : Borrowings from Commonwealth

86. Provides that the Commission may borrow from the Commonwealth on terms and conditions determined by the Minister for Finance.

Clause 79 : Borrowings otherwise than from Commonwealth

87. Authorises the Commission, with the approval of the Treasurer, to borrow money either by dealing with securities or otherwise.

Clause 80 : Commission may give security

88. This clause authorises the Commission to give security over its assets for any borrowings with the proviso that the assets of the Fund shall be given as security for borrowings in relation to the provision of insurance and finance services only.

Clause 81 : Borrowings not otherwise permitted

89. Provides that the Commission may not borrow otherwise than as specified in this Act.

Clause 82 : Guarantee by Commonwealth

90. Provides that the Australian Government will guarantee the payment of all monies due and payable by the Commission.

Clause 83 : Exemption from taxation

91. Provides that the Commission is exempt from any Commonwealth, State, or Territory taxation laws. Exceptions to the general exemption may be stated in the regulations and the general exemption does not apply to subsidiaries or other business associations of the Commission.

Clause 84 : Contracts and guarantees in the national interest

92. This clause provides that the Commission shall maintain separate accounts in respect of contracts of insurance and indemnity or guarantee given in the national interest. The Commission shall pay to the Commonwealth the income related to such an undertaking, having deducted an amount corresponding to the Commission's agreed proportion of the undertaking (if any) and administration costs determined in a manner by the Minister for Finance. The Commonwealth shall pay to the Commission amounts needed to discharge any liability resulting from such an undertaking, less an amount corresponding to the Commission's agreed proportion of liability (if any).

Clause 85 : Loans made under Division 4 of Part V in the national interest

93. This clause parallels clause 80 in respect of loans made in the national interest.

Clause 86 : Maximum contingent liability of Commission under Part V

94. Provides that the extent of the Commission's insurance and guarantee business shall not exceed a level of maximum contingent liability as prescribed in the Regulations.

Clause 87 : Maximum amount of loans given by Commission under Part V

95. Provides that loans made by the Commission will not exceed an amount specified in Regulations.

Clause 88 : Assessed net commercial risk in relation to business of Commission relating to overseas development projects

96. This clause provides that in relation to the Commission's involvement in overseas development projects, the Commission shall determine its total exposure to financial risk in accordance with generally accepted commercial practice. The Commission's involvement in such activities is limited to the total level of assessed risk as prescribed by regulation.

Clause 89 : Application of Division 2 of Part XI of Audit Act 1901

97. This is a standard provision which requires the Commission to manage its financial affairs in accordance with Division 2 Part XI of the Audit Act. This provision requires among other things, that the Auditor-General should audit the Commission's accounts.

#### PART IX - MISCELLANEOUS

Clause 90 : Delegations by Minister and Managing Director

98. Authorises the Minister to delegate to the Board all or any of the powers of the Minister under this Act and the EMDG Act except this power to delegate and the powers under clauses 44, 48, 50, 65 and 66 of this Act.
99. Sub-clause 90(2) authorises the Managing Director to delegate to the Deputy Managing Director or a person empowered by the Commission, all or any of the powers of the Managing Director except this power of delegation under this Act.

Clause 91 : Delegation by Commission

100. This clause authorises the Commission to delegate all or any of its powers and functions under this Act (other than this power of delegation) to a committee appointed under clause 14, the Managing Director or Deputy Managing Director, or any other person. The Minister may give directions to the Commission concerning the exercise of its power of delegation

Clause 92 : Annual Reports

101. This clause specifies that for the purpose of the annual report prepared in accordance with sub-clause 89(1), the first annual report of the Commission to be submitted to the Minister will cover the period from the commencement of the Commission to the 30 June 1987. This same period will be taken to apply to operations relating to the application of the EMDG Act 1974 but not the Export Expansion Act 1978.
102. Sub-clause 92(2) specifies that each annual report will include particulars of all directions given by the Minister under clause 10(1) except where disclosure would have an adverse affect on the Commonwealth's financial or property interests or national security.
103. Sub-clause 92(3) further requires the Commission to include in each annual report a statement of the Commission's principal objectives and an assessment of the extent to which it has achieved these objectives for that period.

Clause 93 : Commission to keep Minister informed

104. This clause requires the Commission to keep the Minister informed in relation to the general conduct of its activities and to supply any information to the Minister on those activities.

Clause 94 : Secrecy

105. Requires Board members and employees of the Commission to observe secrecy and prescribes the penalties for infringement of the Act.

Clause 95 : Offences

106. Provides penalties for persons wilfully making false or misleading statements in connection with applications for insurance, indemnities, guarantees or loans from the Commission or claims against the Commission.

Clause 96 : Validity of contracts, guarantees and agreements

107. Provides that contracts, guarantees or agreements entered into by the Commission shall not be invalidated by virtue of a provision of the Act not being observed.

Clause 97 : Regulations

198. Authorises the Governor-General to make regulations in connection with the Act.



