

1996

THE PARLIAMENT OF THE COMMONWEALTH

OF AUSTRALIA

SENATE

EXPORT MARKET DEVELOPMENT GRANTS

AMENDMENT BILL (No. 1) 1996

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Trade,
The Hon Tim Fischer)



EXPORT MARKET DEVELOPMENT GRANTS AMENDMENT BILL (No.1) 1996

OUTLINE

1. The purpose of this Bill is to amend the Export Market Development Grants Act 1974 (EMDG) to:

- (a) Reduce the maximum grant payable in any one year from \$250,000 to \$200,000.
- (b) Cap the amount of extra grant that may be generated in respect of expenditure details which are submitted by a claimant after the lodgement of that claimant's claim.
- (c) Limit the number of EMDG approved joint ventures and consortia to which a "person" may be a member.
- (d) Provide for disallowance of expenditure by an approved joint venture or consortium which breaches the conditions of its approval.
- (e) Provide that claims prepared by a consultant or other persons who have been convicted of offences relating to fraud or dishonesty are invalid.
- (f) Exclude from eligibility any expenditure which relates to activities which are illegal under Australian law or the law of the country in which the activities take place.
- (g) More clearly define the term "ordinarily employed".
- (h) Provide for the pre-registration of first time EMDG claimants.
- (i) Establish a grants entry test for first time EMDG claimants.

PURPOSE OF THE BILL

- 2. Item (a) - Reduced maximum grant (Schedule 1): The current maximum annual grant is \$250,000, except for approved trading houses. Only a limited number of larger companies receive the maximum grant.
- 3. This Bill reduces the maximum annual grant from \$250,000 to \$200,000, providing for fairer distribution of the available funding amongst small and medium exporters, whilst continuing to provide a substantial grant to the larger claimants. The \$250,000 and \$500,000 limits applicable to company groups and approved trading houses respectively, are not altered.
- 4. The balance of the measures, items (c) to (h), are introduced as part of Austrade's ongoing program of improved accountability and risk management recommended by the efficiency and effectiveness audit of the EMDG Scheme undertaken by the Australian National Audit Office in 1993/94.

5. Item (b) - Disclosure of eligible expenditure after claim submitted (Schedule 2): As part of its risk management program, Austrade is aiming to raise the standard and accuracy of lodged claims. A number of measures have already been put in place to achieve this end.
6. Sometimes a lodged claim will not include all of the eligible expenditure incurred by the claimant, with the claimant subsequently requesting that additional amounts be added, often well after the time of lodgement. The current rules allow unlimited additional expenditure and encourage a poor standard of claim. This inhibits the smooth administration of the Scheme over the twelve month cycle, makes forward planning of funding and resource requirements difficult, and increases administrative delays for those claimants submitting high standard claims.
7. This Bill provides that, where a claimant discloses eligible expenditure after the claim has been submitted, the claimant's grant will be limited to an amount of no more than 110 per cent of what it would have been were the grant determined solely on the basis of the expenditure detailed in the claim as submitted.
8. An upward adjustment of up to ten percent is allowed as in certain circumstances there may be valid reasons for some expenditure to be submitted after the lodgement of the original claim. The Government is seeking to direct greater and earlier attention to claims preparation through this mechanism, not to limit grants.
9. Item (c) - Limit on membership of multiple approved joint venture & consortium (Schedule 3): Under the EMDG Scheme, Austrade has the power to approve, against Ministerially approved guidelines, the establishment of approved joint venture and consortium (AJVC). Each AJVC is a "person" for the purposes of the EMDG Scheme with the ability to attract the general maximum grant of \$250,000 per annum.
10. Currently there is no limit to the number of approved joint venture and consortium of which a "person" may be a member. Membership of AJVC does not affect the ability of individual members to continue to obtain grants in their own right. Therefore, an individual who is a member of many AJVC may obtain the benefit of many grants in respect of a given grant year.
11. The EMDG Scheme is focussed on small to medium size business. In general, smaller businesses could not reasonably be involved in more than a limited number of AJVC and maintain focus. It is considered at this time that an appropriate limit is three AJVC at any one time. To provide flexibility should this number be found inappropriate, the limit is to be set by Ministerial guideline, rather than prescribed in the Act.
12. Item (d) - Conditions of approval of AJVC expenditure (Schedule 4): Under current rules an AJVC will not be approved where it does not meet the criteria set out in the Act or guidelines. The guidelines provide Austrade with the power to cancel AJVC status should an AJVC continue to fail to meet the criteria. However, the breach of conditions of approval may not come to the notice of Austrade until after the conclusion of a grant year and the lodgement of a claim. As the legislation currently stands, Austrade is required to pay the totality of the outstanding grant(s) as

calculated, regardless of circumstances where Austrade may elect to cancel AJVC status relative to a breach of conditions occurring within the previous grant year or years.

13. This Bill provides that the portion of grant generated by the amount of expenditure in breach of the Act or guidelines, as these relate to the conditions of approval for that AJVC, is not payable.
14. For example, a breach of conditions in an AJVC comprising three members would be where one member exceeds the 50% expenditure limitation. If the member contributed 60% of the AJVC's total expenditure, the 10% in excess of the 50% limit would not be included for the calculation of the grant, and would be lost to the AJVC. Where the breach of conditions is more fundamental, for example, a totally different product is promoted to that agreed to by Austrade, then the whole grant, and not just a portion of the grant, will not be payable.
15. Item (e) - Disqualified individuals (Schedule 5): The current Act provides that "persons" who have been convicted of certain offences are not eligible to receive grants. These provisions were introduced to reduce avenues for potential fraudulent behaviour by claimants. There is currently no similar provision which applies to claims consultants who are in the business of preparing claims for a fee.
16. The majority of EMDG claims are prepared and or lodged with the assistance of such consultants. Austrade is unaware of any consultant who has been convicted of fraud or dishonesty offences. However, given the prominent role of consultants in the preparation of claims, the Government considers allowing convicted consultants to be associated with the Scheme brings a potential risk of fraudulent behaviour. Austrade currently manages a Code of Conduct with respect to EMDG consultants.
17. This Bill provides that no grant will be payable if a person with convictions for fraud or dishonesty (a "disqualified person") participated in preparing the claim, effectively excluding such persons from claims preparation work.
18. The disqualification will last for five years from the date of conviction or release from prison. No grant will be payable if a disqualified person has participated in preparing the claim. However, if the claimant was unaware that the consultant was disqualified, the claimant will be permitted to lodge a new claim within 90 days.
19. Item (f) - Illegal activity (Schedule 6): Currently, the EMDG Act does not specifically prevent the payment of grants in respect of illegal activity, either with respect to the actual 'product' promoted or the associated promotional expenditure. While Austrade is not aware of a situation where the EMDG Scheme has supported an illegal activity within Australia or overseas, the Government wishes to ensure that export assistance finance cannot be used to support illegal activities.
20. This Bill closes a potential loophole by ensuring that grant monies cannot be paid with respect to the carrying out of, or promotion of, activities which are illegal in Australia or in the country in which the activity is carried out.

21. Item (g) - "Ordinarily employed" (Schedule 7): Generally the Scheme does not allow as eligible, payments to a person who is "ordinarily employed" in Australia by the claimant (except for special circumstances where certain 'in house' costs such as salaries are eligible for grants consideration, as in the preparation of tenders). For example, the salary of a claimant's employee, or fee paid to a claimant's director, or remuneration to a claimant partnership's partner, is not eligible for grants consideration in circumstances where the person's base of operation is Australia. This exclusion operates regardless of whether the particular activity of the person occurs within or outside of Australia. The wording of the legislation, however, does not preclude eligibility of expenditure where payment is made to an interposed company.
22. For instance, should a claimant employ an individual's private company to obtain that individual's full time services, and pay the salary to the individual's company, under the current wording of the legislation, that payment constitutes eligible expenditure.
23. This Bill renders such expenditure ineligible, as expenditure in such situations falls outside of the intention and spirit of the EMDG Scheme.
24. Items (h) & (i) - Registration of first-time claimants and grants entry testing (Schedules 8 & 9): The current criteria for determining eligibility for EMDG grants do not include consideration of the claimant's preparedness and capacity to sustain an export drive.
25. This Bill provides for the application of a Grants Entry Test to intending first-time claimants. This will allow the counselling and referral to appropriate services of those who need to undertake further preparation, as well as minimising the payment of grants to those who are not adequately prepared for export.
26. Also, intending first-time claimants will be required to register under the Scheme during their first grant year (or during the first six months of that year, in the case of first-half claimants). This will allow Austrade to provide them with information concerning the EMDG scheme and the requirements of the Grants Entry Test. Also, registration will provide Austrade with the information necessary to allocate resources to the application of the test.
27. Registration and subsequent Grants Entry Testing will apply only to applicants who have not received a grant under the EMDG Scheme previously.

FINANCIAL IMPACT

28. Item (a) is estimated to save \$10 million, \$11 million and \$12 million over the three years 1996/97 to 1998/99.
29. Items (b), (e) and (f) are estimated to have Nil financial impact on the basis that:
- (b) will not alter the amount of eligible expenditure or grant payable, only the timing of the presentation of expenditure to Austrade.

- Austrade is unaware of any consultant convicted of fraud or dishonesty offences (e), and is not aware of any situation where a grant has been paid in respect of illegal activity (f).

30. Item (c) is estimated to save \$0.5 million in 1995/96, rising in \$0.5 million increments to \$2.0 million in 1998/99.
31. Item (d) is estimated to save \$0.2 million per year commencing 1995/96.
32. Item (g) is estimated to save \$1.0 million per year commencing 1995/96.
33. Items (h) and (i) are estimated to achieve net savings of \$10 million over the four year period 1995/96 to 1998/99.

ABBREVIATIONS

34. The following abbreviations are used in this explanatory memorandum:

AJVC: approved joint venture and consortium.

Austrade: Australian Trade Commission.

EMDG Act: Export Market Development Grants Act 1974.

NOTES ON CLAUSES

Clause 1. Short Title

35. This clause provides for the Act to be cited as the Export Market Development Grants Amendment Act (No.1) 1996.

Clause 2. Commencement

36. This clause provides that the Act commences on the day on which it receives the Royal Assent.

Clause 3. Amendments

37. Specifies that the Export Market Development Grants Act 1974 is amended as set out in the Schedules.

SCHEDULE 1 - GRANT CEILING

Overview

38. This measure reduces the maximum annual grant payable to general EMDG claimants from \$250,000 to \$200,000.

Amended section 3(1)

39. This reduces the maximum grant payable to claimants other than approved trading houses and company groups from \$250,000 to \$200,000.
(Item 1)

Application

40. The reduced ceiling applies to all claims for the 1995-96 grant year and subsequent grant years, except for first-half claims for the 1995-96 grant year.
(Item 2)

SCHEDULE 2 - DISCLOSURE OF ELIGIBLE EXPENDITURE AFTER CLAIM SUBMITTED

Overview

41. The object of this measure is to encourage claimants to submit complete, accurate claims by the claim lodgement deadline, thereby minimising the difficulties associated with the lodgement of supplementary material after the original claim has been submitted.

42. While it will still be possible for claimants to disclose further eligible expenditure details after submission of a claim, the claimant's grant will be limited to an amount of no more than 110 per cent of what it would have been were the grant determined solely on the basis of the expenditure detailed in the claim as originally submitted.

New section 12A

43. The total of any expenditure that the claimant discloses to Austrade after submitting the claim but before the claim is determined by Austrade is called the "unclaimed expenditure". The disclosure of unclaimed expenditure cannot increase the claimant's grant to more than 110% of the grant that would have been determined had no unclaimed expenditure been disclosed.

44. For instance, claimant XYZ submits a claim on November 19 1996, in respect of the 1995-96 grant year. The claim details expenditure of \$225,000 which, after assessment and some adjustment by Austrade, would result in Austrade determining that a grant of \$100,000 was payable. On December 3 1996, XYZ then informs Austrade that they in fact incurred another \$40,000 of eligible expenditure during the 1995-96 grant year but did not include it in the claim submitted on November 19. In this case Austrade accepts that the \$40,000 is eligible and is properly substantiated. However, Austrade can only pay XYZ a grant of \$110,000, rather than the \$120,000 which would have been payable if this measure were not enacted. **(Item 1)**

Amended section 16

45. The explanatory notes in section 16 "Amount of grant" are extended to refer to the new section 12A measure. **(Items 2, 3)**

Application

46. The measure applies to all claims for the 1995-96 grant year and subsequent grant years, except for first-half claims for the 1995-96 grant year. **(Item 4)**

SCHEDULE 3 - LIMIT ON MEMBERSHIP OF MULTIPLE APPROVED JOINT VENTURES AND CONSORTIA

Overview

47. The object of this measure is to impose a limit on the number of approved joint venture and consortium of which a "person" may be a member.

48. An initial limit of three AJVC per person at any one time will be set. This will ensure that individuals are not encouraged to participate in an unmanageable number of AJVC, and will help to ensure that EMDG funding is spread fairly amongst claimants.

Amended subsection 40A(1)

49. This amendment empowers the Administrative Appeals Tribunal to review decisions made by Austrade in declining to approve or vary AJVC approvals in excess of the maximum number allowed. **(Items 1, 2)**

New subsection 40BH(1)

50. A limit on the maximum number of AJVC of which a person may be a member will be set by Ministerial determination. Austrade must not approve AJVC or vary AJVC approvals where this would result in the limit being breached in respect of one or more members of the proposed AJVC. **(Item 3)**

Application

51. The limit will apply only to approvals given and variations made after Royal Assent. Existing AJVC will, therefore, not be affected. **(Item 4)**

SCHEDULE 4 - CONDITIONS OF APPROVAL OF JOINT VENTURES AND CONSORTIA

Overview

52. The measure empowers Austrade to specify conditions to the approval of AJVC, and to reduce an AJVC's grant to the extent that these conditions are breached.

Amended section 11X

53. If the approval of a joint venture or consortium is subject to conditions, and the AJVC incurs expenditure which is in breach of these conditions, then that expenditure is non-claimable. **(Item 1)**

Amended subsection 40A(1)

54. This amendment empowers the Administrative Appeals Tribunal to review the decision(s) made by Austrade in specifying conditions to the approval of an AJVC. **(Item 2)**

Amended section 40BD

55. Subsection 40BD is amended to clarify that Austrade may approve groups of persons as AJVCs, and may specify conditions to which such approvals are subject. Austrade may also vary or revoke conditions, or impose further conditions. **(Items 3, 4, 5, 6)**

Amended section 40BE

56. Under subsection 40BE, Austrade must have regard to guidelines issued under section 42 when determining whether to approve an AJVC. The amendment provides that Austrade must also have regard to these guidelines when specifying conditions to such approvals. **(Item 7)**

Application

57. This measure applies only to approvals given and variations made after Royal Assent. Existing AJVC will, therefore, not be affected.

SCHEDULE 5 - CLAIMS PREPARED BY DISQUALIFIED INDIVIDUALS

Overview

58. The object of this measure is to minimise the risk of fraud to the scheme by ensuring that individuals - including claims consultants - who have been convicted of offences involving fraud or dishonesty do not participate in preparing claims.

59. As no grant will be payable if a "disqualified individual" (see paragraph 70) has participated in preparing the claim, such individuals will be effectively excluded from claims preparation work.

60. This measure complements the existing section 14A provision which prevents persons with certain convictions from receiving grants.

New subsection 13(2AB)

61. The intent of the measure is to ensure that disqualified individuals do not participate in the preparation of claims. In order to facilitate this, the claim must list the names of all individuals who assisted in its preparation in an "eligible capacity" (see below). This will allow Austrade to take appropriate steps to administer the measure. **(Item 2)**

New section 13B

62. Individuals who assist in the preparation of a claim may do so in an "eligible capacity" if they work on the preparation of a claim or manage or supervise such work, and are themselves export market development grants consultants or carry out the work on behalf of such a consultant. This may include persons who in any way assist or manage consultants - whether as employees, contractors, advisers, managers or other relationship - as well as "EMDG consultants" themselves as defined in the Act. A "disqualified individual" will, therefore, be prevented from participating in claim preparation even though that individual does not publicly offer himself as a claims consultant.

63. Also, to work in an "eligible capacity" on a claim an individual must carry out work which involves "forming an opinion...about the application of the law" to that claim. This means, for instance, that the clerical and secretarial staff of consultants who perform duties such as collating and sorting documents supplied by the claimant, or typing information onto the claim form - but do not apply intellectual judgement to the preparation of the claim - are not working in an "eligible capacity".

64. Also, if the claimant or the claimant's staff provide information to the consultant who is preparing the claimant's claim, these individuals will not be acting in an "eligible capacity" as they are not working "on behalf of" or as agents of the consultant. **(Item 3)**

New section 13C

65. A claim will be taken to be invalid if a disqualified person has participated in its preparation. However, if that person's period of disqualification ends before the claim is submitted, or does not begin until after Austrade has determined that the claimant is entitled to a grant, then the claim remains valid. **(Item 3)**

New sections 13D, 13E

66. These sections ensure that the claimant will not be inappropriately penalised if his or her claim is invalid because of the participation of a "disqualified individual" in its preparation.

67. In many circumstances - for instance, where the "disqualified individual's" criminal record is not a matter of public knowledge - the claimant may not be aware of the fact that the "disqualified individual" is in fact disqualified. Therefore, if the claimant did not have reasonable grounds to suspect that the individual was disqualified, the claimant will be allowed to submit a fresh claim covering the same period as the claim that was invalid. For similar reasons, resubmission will also be allowed if the disqualification did not occur until after the claim was submitted.

68. The Bill allows a claimant to submit a fresh claim up to the normal deadline, or else within 90 days of notification that the original claim was invalidated, whichever is later. The intention is that the claimant will not be disadvantaged should notification of the invalidity of a claim occur close to the normal cut off for claims lodgement.

69. However, circumstances may arise where the claimant can reasonably be held to have known that the person was disqualified. For instance: the claimant may have previously lodged a claim prepared by the "disqualified individual", and have been notified by Austrade on that occasion that the person was so disqualified; Austrade may have otherwise informed claimants that certain individuals are disqualified; or the criminal record of the person may be

a matter of public knowledge. In such circumstances, the claimant will not be able to resubmit a claim for the claim period covered by the invalid claim, and consequently will not receive grant for that period. **(Item 3)**

New section 13F

70. "Disqualified individuals" are those persons who have been convicted of offences involving fraud or dishonesty, either in Australia or overseas. However, offences which are not punishable by a period or maximum period of at least 2 years imprisonment are not taken into account.

71. The period of disqualification is limited. It ends 5 years after the date of conviction or date of release from prison.

72. In order to facilitate the operation of this section, Austrade may request that individuals who assist in the preparation of claims in an eligible capacity provide written consent to a check of their criminal records. Should the individual refuse to give such consent, Austrade may refuse to consider the claim. Austrade claims literature will explain this provision.**(Item 3)**

Application

73. These provisions will apply to all claims received on or after whichever is the later of 1 July 1996 or Royal Assent. **(Item 4)**

SCHEDULE 6 - EXPENDITURE RELATING TO ILLEGAL ACTIVITIES

Overview

74. The object of this measure is to ensure that taxpayer-funded export assistance finance cannot be used to support illegal activities.

75. Currently, the EMDG Act does not specifically prevent the payment of grants in respect of illegal activity, either with respect to the actual 'product' promoted or the associated promotional expenditure.

76. This Bill ensures that grant monies cannot be paid with respect to the carrying out or promotion of activities which are illegal in Australia or in the country in which the activity is carried out.

New section 11YB

77. Expenditure which is related to illegal activities will not attract a grant.

78. Example 1: Company ABC spent \$200,000 promoting the sale of widgets in a country where the sale and use of widgets is legal. ABC lodges a claim for a grant detailing the \$200,000 of promotional expenditure for the

purposes of receiving a grant. However, \$50,000 of that expenditure was incurred in paying bribes to individuals in the country of export, where bribery is illegal. Therefore, only \$150,000 of the expenditure claimed by ABC can be considered for the purposes of calculating a grant, as the other \$50,000 was incurred in the carrying out of an illegal activity.

79. Example 2: Company XYZ spent \$200,000 promoting the sale of widgets in a country where the sale and use of widgets is illegal. ABC lodges a claim for a grant detailing the \$200,000 of promotional expenditure for the purposes of receiving a grant. However, none of the expenditure claimed by ABC can be considered for the purposes of calculating a grant, as the entirety of the expenditure promoted, aided or encouraged an illegal activity, or was intended to do so.

80. The scope of the measure is limited to expenditure for which a grant is claimed. The intent is to ensure that grant monies are paid only in relation to legitimate export promotion activities which do not relate to illegal activities. Grant entitlement will not be affected simply because a company may be held to be involved in an illegal activity, as long as such activity is not related to the claimed expenditure. The investigation of corporate activities which are not related to claims for grant is a matter for the appropriate law enforcement bodies, rather than for Austrade.

81. An "illegal activity" for the purposes of the section is any act or omission that is an offence against any law. For an offence to be committed, the act or omission must take place within the jurisdiction of the relevant law. The focus of the measure is therefore on acts carried out in Australia which break Australian laws, or acts carried out in other countries which break the laws of those countries.

82. For instance, should an Australian exporter carry out an activity in a foreign country which is illegal in that country, then grant would not be payable in relation to the expenditure incurred in connection with that activity.

83. On the other hand, an exporter might carry out an activity in a foreign country which is legal in that country but illegal if carried out in Australia. For instance, the exporter might export goods which meet the regulatory requirements of the country of export but not of Australia. Selling such goods might be illegal in Australia but legal in the country of export. In this case, the exporter's promotional expenditure would still be eligible for grant. **(Item 1)**

Application

84. The measure applies to all claims for the 1995-96 grant year and subsequent grant years, except for first-half claims for the 1995-96 grant year. **(Item 2)**

SCHEDULE 7 - EXTENDED MEANING OF ORDINARILY EMPLOYED

Overview

85. The object of the measure is to allow Austrade to determine that a person is “ordinarily employed” by another person, for the purposes of the Act.

86. As in most cases grant cannot be paid in relation to a person who is “ordinarily employed” in Australia by the claimant, there is an inappropriate incentive for claimants to employ individuals in Australia through particular arrangements (such as through the individual's private company) and then claim that the individual is not an employee in order to obtain a larger grant. This measure allows Austrade to disregard such arrangements where appropriate.

New section 7

87. Austrade may determine that the Act has effect as if an individual were ordinarily employed by another person. In order to determine this, Austrade must have regard to a number of matters which may characterise an employment relationship, such as whether the individual works full-time at the premises of the other person, and the extent to which the activities of the individual are controlled by the other person. **(Items 1, 2)**

Amended subsections 11C(1), 11S(1)

88. Notes are added to the sections dealing with “Expenses of agent” and “Certain travel expenses” to highlight that the extended meaning of “ordinarily employed” applies. **(Items 3, 4)**

Application

89. The measure applies to all claims for the 1995-96 grant year and subsequent grant years, except for first-half claims for the 1995-96 grant year. **(Item 5)**

SCHEDULE 8 - REGISTRATION OF FIRST-TIME CLAIMANTS

Overview

90. Intending first-time claimants will be required to register under the Scheme prior to lodging their first claim.

91. Currently, Austrade may have no knowledge of or communication with intending first-time claimants until they submit their first claim. As all first-time claimants will be required to pass a Grants Entry Test before receiving their first grant, registration is needed to allow Austrade to provide such claimants with information concerning the EMDG scheme and the requirements of the

Grants Entry Test. Also, registration will provide Austrade with the information necessary to allocate resources to the application of the test.

92. Registration will apply only to applicants who have not received a grant under the EMDG Scheme previously.

New sections 13H, 13I

93. First-time claimants for EMDG are required to register in order to receive a grant. First-time full-year claimants must register during their first grant year, while first-time first-half claimants must register during the first 6 months of their first grant year.

94. First-time claimants must register in the form and manner approved by Austrade. Austrade must register all applicants who so apply, except that persons who do not apply in the form and manner approved by Austrade will be deemed not to have applied.

95. Approved bodies, approved joint ventures and consortia and approved trading houses are not required to register, as they already require prior approval from Austrade before they can submit a claim. This approval process serves a similar purpose to the registration process. **(Item 1)**

Amended subsection 19(1)

96. Section 19 allows the new owner of a business to be credited, in appropriate circumstances, with the EMDG history of the previous owner of that business. If the original owner had registered for EMDG and section 19 applies, the new owner will also receive the benefit of that registration. **(Item 2)**

Amended subsection 40A(1)

97. This amendment empowers the Administrative Appeals Tribunal to review decisions made by Austrade in making a decision under section 13I concerning registration of first-time claimants. **(Item 3)**

Application

98. Registration will apply to all claims for the 1996-97 grant year onwards. **(Item 4)**

SCHEDULE 9 - GRANTS ENTRY TEST FOR FIRST-TIME CLAIMANTS

Overview

99. The object of the measure is to establish that first-time claimants for EMDG have a level of preparedness which gives a reasonable chance of export success.

100. Austrade will subject all first-time claimants to a Grants Entry Test in order to meet this objective.

101. The Grants Entry Test will apply only to applicants who have not received a grant under the EMDG Scheme previously.

New section 13J

102. First-time claimants for EMDG are required to pass the Grants Entry Test in order to receive a grant. They must pass the test at a time between the start of their first grant year and the determination of their grant, as specified by Austrade.

103. Approved bodies, approved joint ventures and consortia and approved trading houses are not required to pass the Grants Entry Test as they already require prior approval from Austrade before they can submit a claim. This approval process serves a similar purpose to Grants Entry Testing. **(Item 2)**

New sections 13K, 13L, omitted subsection 13(2AA)

104. Austrade will formulate a Grants Entry Test which all first-year claimants will be required to pass. The test will be formulated as a disallowable instrument, and will be a publicly-available document.

105. It is envisaged that the test will focus on the claimant's preparedness to sustain a successful export drive. It will clarify that the claimant has a product or service to export, has access to adequate resources, has undertaken appropriate market research and analysis, and has management commitment. Claimants will be expected to exhibit only that level of preparedness which is appropriate to the scale of their export plans and their stage of the export cycle.

106. Austrade will formulate and administer the test in a positive and flexible manner. The registration procedure will be used as a vehicle to ensure that exporters who are subject to the test are given adequate information about the requirements of the test. It is expected that most claimants will already be sufficiently prepared to pass the test. In the case of claimants whose level of preparation is apparently inadequate, the test will be used in a diagnostic fashion, to facilitate the counselling and referral to appropriate services of those who need to undertake further preparation.

107. Claimants will be required to provide information and documents - which may include export market plans - to Austrade for the purposes of the test. Therefore subsection 13(2AA) which empowers Austrade to require the submission of export market plans is no longer necessary and is revoked. **(Items 1, 2)**

Application

108. Grants Entry Testing will apply to all claims for the 1995-96 grant year (except for half-year claims) received by Austrade subsequent to receipt of Royal Assent. It will apply to all claims including half-year claims for the 1996-97 grant year onwards. **(Item 3)**

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