

1988

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

EXPORT MARKET DEVELOPMENT GRANTS AMENDMENT BILL 1988

EXPLANATORY MEMORANDUM

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



## EXPORT MARKET DEVELOPMENT GRANTS LEGISLATION AMENDMENT BILL 1988

### Outline

1. This Bill proposes amendments to the Export Market Development Grants (EMDG) scheme to increase the cost effectiveness of the scheme.
2. The amendments propose that:
  - (a) the minimum expenditure that a person must incur before being eligible for a grant be increased from \$5,000 to \$10,000;
  - (b) export promotion expenditure in, and export earnings from, New Zealand be excluded from the scheme;
  - (c) the maximum grant payable as a ninth grant be reduced from \$200,000 to \$150,000 and as tenth and subsequent grants be reduced to \$100,000;
  - (d) a claimant may be requested to submit an export market plan with its claim;
  - (e) foreign language training be allowed as eligible expenditure;
  - (f) an affiliated companies test be introduced for the purposes of the export ceilings on eligibility;
  - (g) the percentage of export earnings which limits grants to third and subsequent year claimants be tightened; and
  - (h) the circumstances in which a new owner of a business activity may be deemed to have received grants paid to the previous owner of that activity be clarified.

### Financial Impact Statement

3. It is estimated that the amendments will save \$ 52 mil. in the 1989/90 financial year and \$ 59 mil. in the 1990/91 financial year. No savings will occur in the 1988/89 financial year as grants in that year will relate to expenditure incurred by claimants in the 1987/88 financial year.

### Abbreviations

4. The following abbreviations are used in the Explanatory Memorandum:

Act: Export Market Development Grants Act 1974  
 Commission: Australian Trade Commission  
 EMDG: Export Market Development Grants  
 EMDG scheme: The scheme operating under the EMDG Act.

### Notes on Clauses

#### Clause 1: Short title etc

5. Provides for the short title of the Bill and that in the Bill a reference to the Principal Act is a reference to the EMDG Act 1974.

#### Clause 2: Commencement

6. Provides for the Bill to come into operation on 1 July 1988.

#### Clause 3: Interpretation

7. Provides for the definition of certain terms used in the Bill to be included in section 3 of the Act. The terms are required for the "affiliated companies" test which is included in the Act by clause 7 (see paragraph 13 below).
8. The definition of affiliated companies provides that for the purposes of any grant year, companies A and B are affiliated if, at any time during that year:

(i) A is a wholly - owned subsidiary of B;

(ii) B is a wholly - owned subsidiary of A; or

(iii) A and B are at the same time wholly - owned subsidiaries of a third company.

9. Subsidiary is given the same meaning as it is given in the Companies Act 1981. A wholly-owned subsidiary is defined as a subsidiary whose only members are a holding company, a wholly owned subsidiary of that holding company or a nominee of either of those.

Clause 4: Eligible expenditure

10. Provides that subsection 4(2) of the Act be amended so that expenses incurred for the purposes of foreign language training may be included as expenditure for the purposes of the section. By virtue of subsection 4(1) such expenditure may be eligible expenditure if, in the opinion of the Commission, it is incurred for "export promotion" (that is to promote those activities listed in paragraphs 4(1)(a) to (f)). Thus the person who incurred that expenditure may be eligible for a grant in respect of it. The expenditure must be incurred in respect of language training undertaken by the claimant, an employee, a director or a partner of the claimant.
11. The wages and salaries that are paid during the period of language training to the employee etc or amounts paid to a relative of that person are not claimable as eligible expenditure. Accommodation and sustenance of a person whilst undertaking training may be included as eligible expenditure. This is to allow for claims in respect of live-in courses.

Clause 5: Expenditure in relation to New Zealand trade not eligible etc

12. Provides for a new section 6 which will exclude, for all purposes, trade and related activities with New Zealand from the EMDG scheme. Specifically, expenditure that relates to New Zealand may not be treated as eligible expenditure (section 4 of the Act), and consideration

resulting from trade with New Zealand may not be treated as export earnings (section 3A of the Act). This effects paragraph 14(4)(a) of the Act (the "export ceilings test") and subsection 16(2) of the Act ("the export earnings test").

Clause 6: Claims for grants

13. Clause 6(a) provides for section 13 of the Act to be amended so that a person, when lodging a claim, may be required by the Commission to lodge an export market plan containing such information as the Commission requires. A discretion is accorded to the Commission because only in some cases, such as new claimants, will the lodgement of such a plan be considered appropriate. It is not considered necessary to require established exporters to lodge a plan. There is no requirement that the plan must be approved by the Commission before a claimant becomes eligible to receive a grant.
14. Paragraphs 6(b) to (d) are consequential amendments resulting from the inclusion by clause 7 of this Bill of the affiliated companies test in section 14 of the Act. Paragraph 6(c) enables the Commission to approach affiliated companies of a claimant to ascertain whether the affiliate intends to lodge a claim and thus whether the export earnings of that affiliate are to be taken into consideration for the purposes of paragraph 14(4)(a) of the Act ("the export ceilings test").

Clause 7: Persons not eligible for grants

15. Provides for a new subsection 14(4) and that for the purposes of paragraph 14(4)(a) of the Act ("the export ceilings test") the "relevant" export earnings of affiliated companies which are claimants are to be considered together. The amendment provides that "relevant" export earnings are those earnings of a company while it is an affiliate. Thus if the total of the

relevant export earnings of affiliated companies which lodge claims are greater than \$20,000,000 none of the affiliates will be eligible for a grant. Affiliated companies are described in paragraph 7 above.

16. Paragraph 7(b) of the Bill provides for the minimum eligible expenditure that a person must incur before being eligible for a grant to be increased from \$5,000 to \$10,000.

Clause 8: Grant entitlements

17. Paragraph 8(a) of the Bill will amend paragraph 16(1)(a) which provides that grants are calculated on 70% of the amount of the eligible expenditure incurred by a claimant. It also provides that the minimum amount of eligible expenditure that a claimant must incur before being eligible for a grant and this amendment will increase that amount from \$5,000 to \$10,000.
18. Paragraphs 8(b) and (c) of the Bill introduce the concept of "ceiling amount" which is required because of the reduction in the maximum amount payable as ninth and subsequent grants (see paragraph 18 below).
19. Paragraphs 8(d) - (h) of the Bill amend paragraphs 16(2)(c)-(g) of the Act and provide for an alteration in the percentage of export earnings that are payable as maximum grants for third to seventh and subsequent grants. The percentage is reduced from 50% to 40% for third grants, from 25% to 20% for fourth grants, from 12.5% to 10% for fifth grants, from 10% to 7.5% for sixth grants and from 7.5% to 5% for seventh and subsequent grants.
20. Paragraph 8(j) of the Bill provides for a new subsection 16(4) which sets a "ceiling amount" for grants. Currently the ceiling for all grants is \$200,000. The amendment maintains that ceiling for up to and including an eighth grant but for a ninth grant the ceiling is reduced to \$150,000 and for a tenth or subsequent grant it is reduced to \$100,000.

Clause 9: Change in ownership of business etc

21. Provides for section 19 of the Act to be amended to clarify the manner in which the Commission may treat expenditure incurred in respect of a business activity, export earnings received from that business activity, and/or any grant or part of a grant paid under the scheme in respect of that activity, as having been incurred, received or paid to a new owner of that business activity. Currently the provision does not provide for past grants to be deemed as having been received by a new owner unless notional grants have been calculated for that new owner. Calculating notional grants involves isolating export earnings and eligible expenditure attributable to the activity and the export earnings of the new owners in those years, all of which has proven difficult and burdensome to those involved.
22. The amendment also clarifies that if the original owner of an activity also carried on other activities, the part of any grant received that is attributable to the activity which has been sold or otherwise transferred may be deemed to have been received by the new owner.

Clause 10: Transitional provisions

23. Provides that the amendment of sections 14 and 16 will not affect claims made in the 1988/89 financial year which relate to the grant year which commenced on 1 July 1987 or earlier grant years.