

1994

THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

SENATE

EXPORT MARKET DEVELOPMENT GRANTS
AMENDMENT BILL 1994

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Trade,
Senator The Hon Bob McMullan)



EXPORT MARKET DEVELOPMENT GRANTS AMENDMENT BILL 1994

OUTLINE

1. The purpose of this Bill is to amend the Export Market Development Grants Act 1974 (EMDG) to:
 - (a) extend the period for consideration of Approved Joint Venture and Consortium (AJVC) applications, and Approved Trading House (ATH) applications, from 30 days to 60 days.
 - (b) limit the life of AJVC and ATH to three years with a discretion to extend the approval for subsequent 3 year periods.
 - (c) Limit the maximum number of grants payable to any AJVC to 5.
 - (d) provide for ongoing review of AJVC and ATH against guidelines existing at the time of the review.
 - (e) tie the overseas visit allowance more directly to specifically promotional activity.
 - (f) provide the power to establish an accreditation mechanism for EMDG consultants.

EXPLANATION OF REASONS FOR INTRODUCTION.

2. This Bill makes a number of technical amendments to the Export Market Development Grants Act. Broadly, these amendments will allow better management and control of Approved Joint Ventures and Consortia and Approved Trading Houses, give a greater promotional focus to payments for overseas travel expenditure and provide Austrade with the power to introduce and administer a system of accreditation for export grants consultants.
3. The EMDG Scheme allows groups of exporters who pool international promotional resources to achieve greater ongoing international impact to be eligible for EMDG grants. International trading companies with the export knowledge and expertise that can assist small exporters with limited promotional funding and marketing capability to promote their products internationally may also be eligible as Approved Trading Houses.
4. Currently Austrade has only 30 days in which to make all relevant enquiries to assist it in the process of deciding whether to grant approved status to a joint venture or consortium, or trading house. In some cases, Austrade has found this period too short due to the large number of applications received at the end of the claim lodgement period.. Accordingly the Bill provides for a period of 60 days. The 90 day period in which Austrade must make a decision remains unchanged.

5. The general limitation of 8 grants currently applies to Approved Joint Ventures and Consortium. It is Austrade's experience that these associations are generally designed to address shorter term objectives. This Bill limits approved status to a 3 year period with a discretion for Austrade to extend the approval for subsequent 3 year periods. It also limits the number of grants to a maximum of 5 in the event that Austrade does extend the approved status period.
6. It is important that these associations are accountable in meeting the objectives of the EMDG Scheme and subject to ongoing scrutiny. This Bill strengthens powers to reconsider, vary or cancel approved status.
7. The scheme provides for notional eligible expenditure on an overseas promotional trip of \$200 per day to cover accommodation, entertainment and sustenance to a maximum of 21 days per trip. This Bill ties grants more closely to the actual time spent on direct promotional activity than was previously the case.
8. Consultants provide advice and assistance to claimants in the preparation of more than 50% of claims under the EMDG scheme. As part of a program of enhanced risk management which aims to improve the quality and accuracy of claims lodged, this Bill proposes a framework for the establishment of a system of accreditation for consultants.

FINANCIAL IMPACT

9. It is expected that, overall, some minor savings may be possible.

ABBREVIATIONS

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

EMDG ; Export Market Development Grants
AJVC; Approved Joint Venture and Approved Consortium.
ATH; Approved Trading House.
OVA; Overseas Visits Allowance

NOTES ON CLAUSES

Clause 1. Short title etc.

11. This clause provides for the Act to be cited as the Export Market Development Grants Amendment Act 1994. The “ Principal Act” means the Export Market Development Grants Act 1974.

Clause 2. Commencement

12. This clause provides that the Act comes into operation on the day of Royal Assent.

Clause 3 Object of Part 2

13. The object of the part is to limit the duration of approvals for Joint Ventures and Consortia and Trading Houses to 3 years terms..

Amended section 40BA

Clause 4. Approval of Trading Houses

14. This clause limits the approval period of EMDG eligibility for trading houses to three years with a discretion to Austrade to grant fresh approvals for subsequent 3 year periods. Austrade is not obliged to grant status and the onus is on the trading house to establish an ongoing bona fide case.
15. Under proposed subsection (3A) approvals expire automatically after 3 years.
16. Proposed subsection (3B) provides that 90 days after the commencement of this Act, any existing approval older than 3 years expires on that day.

17. Under proposed subsections (3C) and (3D), in order to obtain a fresh approval, Approved Trading Houses must re-apply under subsection 40BA (1) within ninety days of the expiry of the approval. Austrade has a discretion whether to grant a fresh approval of status.
18. Proposed subsection (3E) provides that any fresh approval commences once the old approval expires.

Amended section 40BD

Clause 5. Approval of Joint Ventures and Consortia

19. This clause limits the period of approval period of EMDG eligibility for AJVC to 3 years with a discretion for Austrade to grant fresh approvals for subsequent 3 year periods. Austrade is not obliged to grant status and the onus is on the joint venture or consortium to establish a bona fide case.
20. Under proposed subsection (4A) approvals expire automatically after 3 years.
21. Proposed subsection (4B) provides that 90 days after the commencement of this Act, any existing approval older than 3 years expires on that day.
22. Under proposed subsections (4C) and (4D), in order to obtain a fresh approval, Approved Joint Ventures and Consortia must re-apply under subsection 40BD (1) within 90 days of the expiry of the approval. Austrade has a discretion whether to grant a fresh approval of status.
23. Proposed subsection (4E) provides that any fresh approval commences once the old approval expires.

Clause 6. Object of Part 3

24. The object of this part is to limit grants to Approved Joint Ventures and Consortia to 5.

Amended section 14.

Clause 7. Grant entitlements of Approved Joint Ventures and Consortia

25. The substituted section (9) provides that AJVC cannot receive more than 5 grants by excluding AJVC as eligible after 5 active grant years. General claimants are still eligible for up to 8 active grant years.

Clause 8. Object of Part 4

26. The object of this part is to calculate overseas visits allowance on a daily basis.

Amended section 11L

Clause 9. Calculation of entitlement to overseas visit allowance

- 27. This clause provides that for persons undertaking an overseas trip OVA will be calculated for each day principally and primarily spent on eligible activities.
- 28. Subclauses (a) to (f) specify that a person is entitled to OVA on activity days and bridging periods. Activity days are days in which the person is principally and primarily undertaking qualifying export development activities. Bridging periods include weekends and public holidays if they fall between actual working or "activity" days.

Clause 10. Application of new provisions to trips in progress

- 29. This clause provides that a claimant may elect in writing to have this system of determining OVA on a daily basis applied to a visit which is in progress when this Act comes into operation.

Clause 11. Object of Part 5

- 30. The object of this part is to lengthen the investigation period during which Austrade can ask questions relating to applications for approval as a joint venture or consortium or a trading house.

Amended section 40BB

Clause 12. Amendments relating to the investigation period for approvals of trading houses

- 31. This clause amends subsection (5) by extending the period during which Austrade can ask for information from a claimant in relation to an application for a approved status by a trading house from 30 days from the application to 60 days.

Amended section 40BE

Clause 13. Amendments relating to the investigation period for approvals of joint ventures and consortia

- 32. This clause amends subsection (5) by extending the period during which Austrade can ask for information from a claimant in relation to an application for a approved status by a joint venture or consortia from 30 days from the application to 60 days.

Clause 14. Application of amendments to investigation period

33. This clause provides that the amendment applies to all applications received after the period that starts 29 days before the commencement of this section.

Clause 15 Object of Part 6

34. The object of this part is to ensure clarify the matters that may be covered by the guidelines for cancellation of approved status and to confirm that Austrade may apply new guidelines for cancellation of approved status to existing approvals.

Amended section 41

Clause 16. Amendments relating to cancellation of approved status for trading houses.

35. This clause adds new subsections (3A) and (7) providing that Austrade does not have to continue to apply the guidelines which governed any initial approval in cancelling the approval of an ATH. Austrade can apply fresh criteria in determining whether to cancel an approval.

Amended section 42

Clause 17. Amendments relating to cancellation of approved status for joint ventures and consortia.

36. This clause adds new subsections (3A) and (7) providing that Austrade does not have to continue to apply the guidelines which governed any initial approval in cancelling the approval of an AJVC. Austrade can apply fresh criteria in determining whether to cancel an approval.

Amended section 3

Clause 18. Interpretations relating to accreditation of consultants

37. Export market development grants consultant is a person who prepares or advises on, for a fee, EMDG claims.

Amended section 40A

Clause 19. Review of decisions of the Commission

38. This clause confirms that consultants which, under the approved accreditation scheme, are either refused accreditation or their accreditation is varied or cancelled, may ask for the decision to be reviewed under the rules that Austrade has issued.

New Section 42A

Clause 20. Accreditation of Export Market Development Grants consultants

39. Proposed subsection (1) provides a legislative framework for the establishment of a scheme of accreditation for Export Market Development Grants consultants.
40. Proposed subsection (2) empowers Austrade, at its discretion, to introduce a scheme to accredit consultants providing advice and preparing claims under the Export Market Development Grants Act. The Scheme may also allow Austrade to vary or cancel the accreditation of consultants. The scheme must be in writing.
41. Under proposed subsection (3) Austrade may also establish a register of accredited consultants, determine who has access to the register and any fees to be charged for providing access.
42. Under proposed subsection (4) Austrade must provide a free copy of the scheme to any person who requests it.
43. Proposed subsection (5) provides that Parliament has the power to disallow the rules of a scheme introduced by Austrade under this clause.

New Section 42B

44. Under this proposed section it is an offence for any person to falsely hold themselves, or any other person, up as an accredited Export Market Development Grants Consultant with a penalty of 30 penalty units and an amount that the court may determine which is equal to the benefit derived from the false representation..

New section 42C

45. This proposed section imputes the state of mind of a director or employee of a body corporate to the body corporate for proceedings in relation to an offence under the proposed section 42B.