



## Export Market Development Grants Legislation Amendment Bill 2006

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### Contents

Purpose.....	2
Background.....	2
Main provisions .....	5
Concluding comments .....	6
Endnotes.....	6

## Export Market Development Grants Legislation Amendment Bill 2006

**Date introduced:** 30 March 2006

**House:** House of Representatives

**Portfolio:** Trade

**Commencement:** On Royal Assent, with the exception of item 34 in Schedule 1. Item 34 is retrospective, correcting a minor drafting error.

### Purpose

The purpose of the Bill is to amend the *Export Market Development Grants Act 1997* in order to continue the Export Market Development Grants (EMDG) scheme and to implement changes that enhance the effectiveness of the scheme. The Bill also repeals the *Export Expansion Grants Act 1978*.

### Background

The EMDG scheme, administered by the Australian Trade Commission (Austrade), assists Australian companies to commence or sustain export activity by partially reimbursing eligible export promotion expenses. In 2004-05, the EMDG scheme delivered 3,277 grants valued at \$123.9 million to Australian businesses.<sup>1</sup>

In its 32 year history, the EMDG scheme, in its various forms, has become an integral component in the export strategy of Australian firms seeking to commence or sustain export activity. This is particularly true for small to medium-sized enterprises (SMEs), for whom the costs of commencing or sustaining export activity present a substantial hurdle.

The Austrade Board estimates that the EMDG scheme accounts for more than one-third of the export income for SMEs participating in the scheme. Without access to the scheme, such firms would likely reduce or cease export activity. In 2004-05, approximately 77 per cent of EMDG payments went to small businesses with an annual income of \$5 million or less.<sup>2</sup>

The final grant year for the current EMDG scheme will be 2005-06, for which applications will be received in 2006-07. In June 2004, the Minister for Trade requested that Austrade undertake a review of the EMDG scheme and make recommendations on the continuation of the scheme, as required under section 106A of the *Export Development Grants Act 1997*.

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The [Austrade review](#) considered 394 public submissions, feedback from 70 consultation meetings and the results of independent research carried out by the Centre for International Economics (CIE). The review found the EMDG scheme to be an effective tool to assist SMEs to commence or sustain export activity. It also found that the scheme enjoys the strong support from the Australian business community across a wide range of industry sectors. Accordingly, the review recommended that the EMDG scheme be continued.

The review also identified options to improve the effectiveness of the scheme based around four broad categories:

1. Increasing the incentive for SMEs to internationalise by visiting overseas markets;
2. Updating the scheme to support new and emerging export industries and practices;
3. Reducing risk management and administration costs; and
4. Improving the certainty of payment (see discussion below).

On 24 January 2006, the Trade Minister announced the Government's intention to extend the EMDG for a further five years, until the end of 2010-11 and to implement certain changes recommended in the Austrade review, subject to the passage of the current Bill.<sup>3</sup>

The key changes to the scheme included in the Bill are:

- An increase in the overseas visit allowance from \$200 to \$300 per day.
- Provision of greater flexibility in the handling of applications that do not technically meet requirements under the current scheme.
- Modification of the current Australian origin rules.
- Make eligible an applicant's expenses incurred to increase the return on the disposal of intellectual property and know-how through related overseas companies.
- Separation of the overseas representatives and marketing consultants expense categories and capping of overseas representatives expenses at \$200,000 per annum and marketing consultants expenses at \$50,000 per annum.
- Revision of rules covering changes in business ownership.
- Increase in the period for which Austrade can grant special approval status, including approved body status, from three years to five years.
- Clarification of Austrade's power to disregard unsubstantiated, unreasonable, uncommercial or non-bona fide expense claims and the limitation of eligibility for cash payments to \$10,000 per claim.

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- Removal of the export performance test.

The Bill in its current form has only a limited ability to address what has become the key concern of industry and exporter associations—certainty of payment.

In 1997, the Australian Government capped funding of the scheme at \$A150 million a year until 2005-06. Grants larger than an ‘initial payment ceiling’, currently set at \$50 000, are paid in two instalments. The first instalment is payable immediately after assessment by Austrade. The second instalment is multiplied by a ‘payout factor’ determined by the amount of funds remaining in the pool. Consequently, if demand for grants exceeds the scheme budget, payments to applicants eligible for a grant above the ‘initial payment ceiling’ are reduced.

This creates uncertainty in the amount of the final payment as noted by the Australian Chamber of Commerce and Industry:

In the 2002/03 round of payments, there were insufficient funds to pay the total amount of claims, and 900 Australian businesses had their grants reduced and will receive approximately 75 per cent of their entitlement.<sup>4</sup>

This makes it impossible to factor in with any certainty the reimbursement of eligible export promotion expenses prior to undertaking activity, effectively removing the incentive factor. The ACCI goes on to note:

This continuing shortfall is of great concern to the Australian Chamber movement, and to rank-and-file member firms who look to the Scheme to contribute to their export performance, many of whom formulate their export plans on the basis of an Export Market Development Grants Scheme of diminishing value.<sup>5</sup>

While the majority of submissions to the Austrade review recognise that funding of the scheme should be addressed in the context of the budget, many also support changes to the legislation that would contribute to payment certainty in the scheme. This could include:

- Indexing funding of the scheme to the central price index (CPI) to preserve its real value.
- Indexing payments such as the overseas visit allowance to the CPI. Changes in the current Bill raising the overseas visit daily allowance from \$200 to \$300 is the first time it will have been raised since 1990.
- Allowing funds not spent in years of low demand to be carried forward over the lifetime of the program.

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## Main provisions

**Schedule 1** amends the *Export Development Grants Act 1997* to continue the Export Market Development Grants (EMDG) scheme and to implement changes to enhance the effectiveness of the scheme.

**Item 6** of Schedule 1 removes references to defining and measuring the amount of an applicant's export earnings.

**Item 10** of Schedule 1 modifies eligibility rules regarding the Australian content of goods to be exported. The item replaces Australian content rules with the requirements that goods are 'made in Australia'. Rules for defining 'made in Australia' are to be set out in Ministerial guidelines. It also provides that goods not 'made in Australia' will be eligible if Austrade is satisfied that Australia will derive a 'significant net benefit' from their sale outside Australia, in accordance with Ministerial guidelines.

**Item 13** of Schedule 1 separates the overseas representative and marketing consultant expense categories and caps claims for overseas representatives at \$200,000 per annum and claims for marketing consultants at \$50,000 per annum.

**Item 16** of Schedule 1 increases the claimable overseas visit allowance from \$200 to \$300 per day.

**Item 17** of Schedule 1 enables Austrade to determine whether an applicant's claims are reasonable and to disregard unsubstantiated, unreasonable, uncommercial or non-bona fide expense claims. It requires Austrade to notify the applicant that certain expenses are not considered reasonable and to invite the applicant to respond. See also item 38.

**Item 20** of Schedule 1 increases the flexibility of Austrade to consider applications that do not technically meet principal status requirements under the scheme.

**Item 28** of Schedule 1 allows applicants to claim reasonable expenses incurred promoting the return on the disposal of intellectual property and know-how through related overseas companies.

**Item 29** of Schedule 1 limits eligibility for cash payments to \$10,000 per claim.

**Item 35** of Schedule 1 increases the period for which Austrade can grant special approval status from three years to five years. It also increases the period for which Austrade can grant special approval status renewals of five years.

**Item 38** of Schedule 1 revises the rules covering changes in business ownership. It also deals with Austrade's power to disregard expenses (see also item 17).

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**Item 42** of Schedule 1 provides for Ministerial guidelines to be complied with by Austrade to determine whether goods are made in Australia and whether Australia will derive a significant net benefit from the sale of goods outside of Australia, as referred to in item 10 of Schedule 1.

**Item 43** of Schedule 1 provides for Ministerial guidelines to be complied with by Austrade to determine if changes in business ownership comply with revised section 94 of the Act, as referred to in item 38 of Schedule 1.

**Item 47** of Schedule 1 requires that an independent review of the scheme commence no later than 1 January 2010 and to report by 30 June 2010. It requires that submissions from the public must be sought and public hearings may be conducted.

**Item 52** of Schedule 1 extends the scheme for a further five years, until the 2010-11 grant year, for which grants will be paid in the 2011-12 financial year.

**Schedule 2** provides for the repeal of the *Export Expansion Grants Act 1978*. **Part 1** repeals the *Export Expansion Grants Act 1978*, under which the Exports Expansion Grants scheme was administered and **Part 2** removes references to the *Export Expansion Grants Act 1978* in the *Australian Trade Commission Act 1985*.

## Concluding comments

The Bill provides the exporting community with greater certainty on the continuation of the scheme and provides changes that will enhance the effectiveness and management of the scheme. However, given that a primary concern of the exporter community—certainty of payment—lies outside the current amendments, the ultimate effectiveness of the EMDG scheme in encouraging creation, development and expansion of foreign markets for Australian goods, services, intellectual property, also lies outside the current amendments.

## Endnotes

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1. Austrade, “Review of the Export Market Development Grants Scheme”, Commonwealth of Australia, 2005.
2. *ibid.*
3. Mark Vaile, “Added certainty for exporters as grants scheme extended for five years”, *Press Release*, 24 January 2006.
4. ACCI, “Stopping the rot: adequately resourcing the EMDG scheme”, Submission to the Austrade review of the EMDG scheme, August 2004.
5. *ibid.*

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