

Export Market Development Grants Legislation Amendment Bill 2006

Report to the Senate

Introduction

1. On 30 March 2006, the Senate referred to the Committee for examination and report by Tuesday 2 May 2006, the provisions of the Export Market Development Grants Legislation Amendment Bill 2006.

2. The Bill proposes to amend the *Export Market Development Grants Act 1997* (the Act) to:

- continue the Export Market Development Grants (EMDG) scheme to the end of the 2010–11 grant year and provide for a review of the scheme, with a report to the Minister for Trade by 30 June 2010;
- increase the overseas visit allowance from \$200 to \$300 per day;
- allow Austrade to deem certain applicants eligible when they do not technically meet the Act's current 'principal status' requirements;
- modify the scheme's Australian origin rules so that (1) goods coming into their final form in Australia must be 'made in Australia' to be eligible and (2) for other goods to be eligible, Austrade must be satisfied that Australia will derive a significant net benefit from the sale of those goods outside Australia;
- make applicants' expenses eligible when they are incurred to increase the return on the disposal of intellectual property and know-how to a related company;
- separate the claimable expense categories for overseas representatives and marketing consultants, cap expense claims for overseas representatives at \$200 000 per claim and for marketing consultants at \$50 000 per claim;
- revise the rule covering changes in business ownership to make it clearer for applicants and easier to administer;
- allow Austrade to grant special approval status, including approved body status, for five years rather than three;
- provide that the eligibility of cash payments made by applicants is limited to \$10 000 per claim;
- ensure that the scheme's rules clearly set out Austrade's power to disregard any unsubstantiated, unreasonable, uncommercial or non-bona fide expense claim;
- remove the export performance test from the EMDG scheme;

- ensure that, as intended, commission payments remain ineligible for the scheme;¹
- correct minor errors in the Act;
- repeal the *Export Expansion Grants Act 1978*.²

Background

3. The Export Market Development Grants scheme is the Australian government's principal financial assistance program for Australian exporters. Established in 1974, the scheme focuses on small and medium-sized enterprises and provides grants to reimburse up to 50 per cent of designated export promotion and marketing expenses.

4. The EMDG scheme is administered by Austrade, which also undertakes export promotion activities, such as providing business information and advice, and administers other export programs.³

5. From 1997 to 2002, funding for the EMDG scheme was capped at \$150 million a year in the 2004–2005 budget, the Australian government announced an additional \$30 million for the scheme, to be provided for 2005–2006 and 2006–2007.⁴

6. In 2004–2005, total funding for Austrade's export promotion activities, the EMDG scheme and related export programs was around \$280 million. In this period the scheme assisted 3277 eligible Australian businesses to enter into export and develop sustainable export markets. Seventy-seven per cent of these were small businesses with annual incomes of \$5 million or less.⁵

Review of the Export Market Development Grants Scheme

7. Under section 106A of the Export Market Development Grants Act 1997, Austrade is required to review the EMDG scheme and to make recommendations to

1 According to the Explanatory Memorandum: Under the current EMDG Act (see section 49), all commissions, discounts, credits and similar transactions that are based on the level of sales made by an applicant are intended to be ineligible. However, due to the technical wording of the relevant provision, the Act may not have this legal effect in all cases and may only apply if the commissions etc are paid to a customer of the applicant. This amendment bill clarifies the current rules to ensure that all expenses incurred as commissions, discounts and other amounts including salaries, retainers or fees that are based on the level of sales will be ineligible, irrespective of the person or entity to whom they are paid. (Explanatory memorandum, p. 7 and p. 33.)

2 Export Market Development Grants Legislation Amendment Bill 2006, explanatory memorandum, p. 2, and pp. 3–7.

3 Productivity Commission, Trade and Assistance Review 2004–05, p. 3.5

4 Productivity Commission, Trade and Assistance Review 2004–05, p. 3.5

5 Productivity Commission, Trade and Assistance Review 2004–05, p. 3.5; Austrade, Review of the Export Market Development Grants Scheme, 2005, p. 7.

the Minister for Trade on whether the scheme should be continued beyond the 2005–2006 grant year.

8. On 23 June 2004, the Hon Mark Vaile MP, Minister for Trade, announced the review and provided Austrade with the terms of reference. The Centre for International Economics (CIE) was commissioned to assess the scheme's effects on export activity and also its economy-wide effects.

9. The review report stated that:

Austrade took a consultative approach during the review and sought input from EMDG scheme recipients and other exporters, the business sector, industry associations, the community and other government departments and agencies.

Austrade advertised for public submission; engaged a review facilitator to collect the views of exporters and other stakeholders; drew on a survey of recent EMDG recipients and analysis carried out by an independent research company; and took into account its own experience as the administrator of the scheme.

The independent survey of recent EMDG scheme recipients and analysis of the results, carried out by the Centre for International Economics, indicated that the scheme induces export promotion, boosts exports, improves the sustainability of small and medium enterprises, and has a positive impact on export culture. The impact of the scheme was shown to be greatest in the presence of finance constraints and smaller firm size.⁶

10. Austrade, as administrator, reviewed the extent to which the current scheme is simple and accountable and concluded that:

....while greater simplicity remains a desirable goal—the current balance between simplicity in scheme rules and accountability in the expenditure of public monies remains appropriate.⁷

11. Austrade examined all proposals submitted during the review in regard to the scheme's provisions, such as: eligibility of businesses, products and expenses, for calculating grant amounts, and for applying for and paying grants. It concluded that most current scheme parameters and rules remain appropriate, but that a number of options for enhancing the scheme's performance could be considered.

12. The review explored the following options for the improved performance of the scheme:

6 Austrade, Review of the Export Market Development Grants Scheme, 2005, pp. 7–8.

7 Austrade, Review of the Export Market Development Grants Scheme, 2005, p. 8.

- increasing the incentive for small and medium enterprises to internationalise by visiting overseas markets
- updating the scheme to better support new and emerging export sectors and practices
- reducing risk and administration costs, and
- improving the certainty of payment.⁸

13. The review's finding was that:

... the scheme is effective in increasing the number of SMEs that develop into new exporters, in increasing the number of SMEs that achieve sustainability in export markets, in generating additional exports, and in further developing an export culture in Australia.

14. It went on to say...

Extending the scheme indefinitely would offer greatest certainty to industry. However, a five year extension, with a review before the end of that period, would ensure accountability and give business, industry, governments and the broader community an opportunity to again review the program's performance. A five-year extension would balance the need for certainty with the need for accountability and transparency.⁹

15. Austrade recommended that the Export Market Development Grants scheme continue for a minimum of five years until the end of 2010–11. It further recommended that there should be a legislative requirement to review the scheme, with a report provided to the Minister for Trade by 30 June 2010.

Explanatory memorandum

16. The explanatory memorandum for this bill is a detailed document which analyses the 14 amendments to the bill. It outlines the purpose of the bill, its financial impact and describes a regulation impact statement (IRS).

17. The IRS 'explores the merits of continuing, ceasing or replacing' the EMDG scheme, with following options:

1. continue the EMDG scheme
2. allow the EMDG scheme to lapse on 30 June 2006
3. introduce tax deductions for eligible export promotion expenditure
4. introduce a discretionary grants scheme, or

8 Austrade, Review of the Export Market Development Grants Scheme, 2005, p. 9

9 Austrade, Review of the Export Market Development Grants Scheme, 2005, p. 9.

5. introduce a loans scheme for eligible exporters.
18. The regulation impact statement found that:

Overall, the evidence suggests that the EMDG scheme is effective in supporting current and aspiring exporters. It is therefore recommended that the scheme continue until the end of 2010–11, and that there be a legislative requirement to review the scheme, with a report to the Minister for Trade by 30 June 2010.¹⁰

Submissions

19. The Committee called for submissions from Austrade, Department of Foreign Affairs and Trade and a range of stakeholders in the export industry. It received five submissions (*see appendix 1*).

20. The views expressed in the submissions were generally positive about the scheme. All submitters endorsed the proposed changes and supported the continuation of the scheme.¹¹ There were, however, a few suggested amendments to the proposed provisions.¹²

Grants available for approved bodies

21. The Western Australian Fishing Industry Council (Inc) (WAFIC) was concerned about the status of 'approved bodies'¹³ within the scheme. It was of the view that there are inefficiencies built into the current rules that 'severely' limit the effectiveness of approved bodies in assisting small and regional enterprises to expand into export markets.¹⁴ In its submission, it made several recommendations for the more efficient and effective use of approved bodies in promoting very small businesses to export.

22. WAFIC noted that Approved Bodies represent the most efficient vehicle for new and small and medium business enterprises to enter export markets. Approved Bodies can 'organise events and or provide expertise that is frequently beyond the capacity of individual exporters, particularly for new exporters and those from remote regional areas.' In this way, according to WAFIC, they effectively 'reduce the numbers

10 Explanatory memorandum, pp. 8–28. See page 8 for Executive summary of the regulation impact statement.

11 See *submissions P1, P3, P5*.

12 *Submission P2*. See also *Submission P5*, from The Australian Industry Group, which provided the Committee with a copy of its submission to the review of the EMDG scheme.

13 In the Act, an **approved body** means any body corporate, cooperative or association that is approved by Austrade as an approved body under section 89. (See section 107–Definitions, p. 71.)

14 *Submission P2*, p. 1.

of often very small claims made to Austrade, and thus the burden of administration and audit.

23. Based on this argument, WAFIC suggested that the grant to Approved Bodies be increased from a ceiling of \$150,000 to \$400,000. It contended that 'by increasing the grant allowance to approved bodies, Austrade would encourage more very small businesses and regional businesses to enter export marketing in a most cost effective and accountable manner'.¹⁵

24. It further noted that the amounts of money involved are relatively small:

If every one of the 22 active Approved Bodies was eligible for a full grant as proposed (\$400,000 pa) the total payment would be just \$8.8 million, less than 65 of the total available for EMGD. This would be offset by a reduction in the number of small grants paid to smaller businesses, and apply the grants to the areas where they are most effective ie to new and small regional businesses.¹⁶

25. This recommendation to raise the ceiling to \$400,000 was put forward by only one submitter. The committee draws attention to this recommendation.

Renewal process for approved body status

26. Under the current EMDG Act, Austrade may allow 'Approved Bodies' to apply for grants. The grants may be approved for periods of three years and, at Austrade's discretion, renewed for further three-year-periods. The proposed amendment would allow Austrade to grant special approval status for five years rather than three, for both initial approval and for renewals.¹⁷ According to Austrade, this measure would reduce administration and increase industry certainty.¹⁸

27. WAFIC criticised the requirement for Approved Bodies to submit a new application to retain their status every three years. In its view, the requirement created unnecessary work for both the applicant and Austrade. It suggested:

Instead of requiring an application for status every three years Austrade should simply review the export performance of each Approved Body by analysis of the outcomes of its market activities and its claim record.

As a safeguard Austrade would have the ability to require that an Approved Body that did not undertake eligible export activity, say over three consecutive years, to show cause why the status should not be removed.

15 *Submission P2*, Western Australian Fishing Industry Council (Inc), pp. 1–3.

16 *Submission P2*, p. 3.

17 Explanatory Memorandum, p. 5.

18 *Submission P5*, p. 5.

Austrade would also, as now, be able to cancel an Approved Body Status in the event of a serious breach of the conditions of approval.¹⁹

28. The Australian Cotton Shippers Association endorsed the extension of the scheme for a further five years. With regard to approved bodies, it suggested that the Act 'provide for approved body organisations to retain their eligibility for participation through ongoing generic export market promotion by waiving the onerous and costly requirements of the three year re-application procedure'.²⁰

29. The committee notes that under the proposed amendment to the bill, Austrade may grant special approval status for five years rather than three, both for initial approval and for renewals. Even so, the committee suggests that the government consider the alternatives proposed by WAFIC and the Australian Cotton Shippers Association with a view to further simplifying and reducing the costs of maintaining or extending Approved Body status.

Conclusions

30. The Committee notes the Government's intention to conduct a review of the scheme with a report to the Minister for Trade by 30 June 2010. While the Committee supports this review, it is concerned that the operation of the scheme, which involves substantial sums of money, is not subject to scrutiny by independent and experienced analysts. The Committee, therefore, makes the following recommendation.

Recommendation 1

31. The Committee recommends that the Australian government requests the Auditor-General to conduct a performance audit of the scheme two years after the proposed legislation comes into effect.

32. Overall, the provisions of the bill attracted little or no comment and the submissions to the inquiry strongly supported the continuation of the scheme.

Recommendation 2

33. The Committee recommends that the Bill be passed.

19 *Submission P2*, p. 3.

20 *Submission P3*, Australian Cotton Shippers Association, p. 2.

A handwritten signature in black ink, appearing to read "David Johnston". The signature is fluid and cursive, with a large loop at the end.

David Johnston

Chair