

Export Incentive Grants Act 1973

No. 180 of 1973

AN ACT

To amend the *Export Incentive Grants Act 1971*.

[Assented to 14 December 1973]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Export Incentive Grants Act 1973*.
- (2) The *Export Incentive Grants Act 1971** is in this Act referred to as the Principal Act.

- (3) The Principal Act, as amended by this Act, may be cited as the *Export Incentive Grants Act 1971–1973*.

Commence-
ment.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Parts.

3. Section 3 of the Principal Act is repealed.

Inter-
pretation.

4. Section 4 of the Principal Act is amended—
 - (a) by omitting from sub-section (1) the definition of “grant year” and substituting the following definition:—

“ ‘grant year’ means the financial year that began on 1st July, 1971, or either of the next two succeeding financial years;”;

* Act No. 110, 1971.

- (b) by inserting in sub-section (1), after the definition of "know-how", the following definition:—

" 'licensee', in relation to a marketing authority, means a person licensed by, or otherwise authorized to act as an agent for, that marketing authority for purposes connected with the marketing of goods in respect of which the marketing authority performs its functions, and 'licence' has a corresponding meaning;";

- (c) by inserting in sub-section (1), after the definition of "marketing authority", the following definition:—

" 'meat' means fresh, chilled or frozen flesh or edible offal of bovine animals, sheep, goats or pigs, other than flesh or offal that has been canned, cooked or cured;";

- (d) by omitting from sub-section (1) the definition of "the last grant year" and substituting the following definition:—

" 'the last grant year' means the grant year beginning on 1st July, 1973;";

- (e) by inserting after sub-section (1) the following sub-section:—

" (1A) For the purposes of this Act, a reference to goods exported or sold for export by a marketing authority includes a reference to goods exported or sold for export by the authority but not owned by the authority at the time they are so exported or sold for export."; and

- (f) by adding at the end thereof the following sub-sections:—

" (10) For the purposes of the definition of 'value of export sales' in sub-section (1), where, by virtue of sub-section (3) of section 26, a marketing authority is deemed to be the producer for export in relation to goods not owned by it at the time of export or sale for export, the export or sale for export of those goods by the authority shall be deemed to be the disposal by the authority of those goods and the consideration receivable by the authority in respect of the export or sale for export of those goods shall be deemed to be consideration receivable in respect of the disposal of those goods.

" (11) Where—

- (a) in relation to a grant year, a marketing authority is deemed by virtue of sub-section (3) of section 26 to be a producer for export in relation to goods of a class specified in an election made under sub-section (2) of that section; and
- (b) a person has, at any time, supplied to the authority goods of that class,

then, for the purpose of ascertaining the increase in export sales of the authority and of that person in respect of that grant year—

- (c) the period constituting the base period of the authority and of that person in relation to that grant year; and
- (d) the value of export sales of the authority and of that person in respect of a financial year comprised in that period,

shall be ascertained as if sub-section (10) had applied in relation to each financial year since the authority came into existence as that sub-section applies in relation to a grant year, and as if, in each of those financial years, the authority, and no other person, had been the producer for export in relation to all goods of that class exported or sold for export by the authority in that financial year, other than goods supplied to the authority by a person who, in the first-mentioned grant year, supplied goods of that class in relation to which sub-section (3) of section 26 does not, by virtue of sub-section (5) of that section, apply.”.

5. After section 4 of the Principal Act the following section is inserted in Part I:—

Meat
exports.

“ 4A. (1) Where meat was or is exported from Australia on or after 1 October 1973, the amounts of consideration receivable by any person in respect of the disposal of that meat shall be disregarded for the purposes of this Act.

“ (2) The amount that would, but for this sub-section, be the value of export sales of any person for the base period in relation to the last grant year or, where applicable, that amount as varied in accordance with section 11, 21 or 22, shall be reduced by an amount equal to three-quarters of the amount or amounts, if any, included in that value by reason of the disposal of any meat.”.

Changes in
ownership
of business,
&c.

6. Section 11 of the Principal Act is amended—

- (a) by omitting from sub-sections (2) and (3) the word “ Where ” and substituting the words “ Subject to sub-sections (3A) and (3B), where ”;
- (b) by inserting after sub-section (3) the following sub-sections:—

“ (3A) Where, during the period that commenced on 1 July 1973 and ended on 30 September 1973, a person acquired a business from another person, whether by purchase or otherwise, then, in relation to so much of the amount of the value of export sales for a year of the base period in relation to either of those persons in relation to the last grant year as is attributable to the disposal of meat in the course of that business, sub-section (2) and paragraph (b) of sub-section (3) have effect as if the last grant year comprised only that period.

“(3B) Where, on or after 1 October 1973, a person acquired or acquires a business from another person, whether by purchase or otherwise, sub-sections (2) and (3) do not apply in relation to so much of the amount of the value of export sales for the base period in relation to either of those persons in relation to the last grant year as is attributable to the disposal of meat.”; and

- (c) by omitting from paragraph (a) of sub-section (4) the words “under section 21” and substituting the words “under section 4A or 21”.

7. Section 12 of the Principal Act is amended by adding at the end thereof the following sub-section:— Grant entitlements.

“(3) The grant values of export certificates issued to the employer as a licensee of a marketing authority under sub-section (9) of section 23 shall not be taken into account for the purposes of sub-section (1) to the extent, if any, to which the total of those grant values exceeds the amount calculated in accordance with the formula—

$$\frac{3ab}{2c}$$

where—

- a is the amount of notional tax in respect of the grant year;
- b is a number equal to the number of dollars in so much of the total wages taken into account in ascertaining the notional tax of the employer in respect of the grant year as is attributable to his activities as licensee of that authority; and
- c is a number equal to the number of dollars included in the total wages taken into account in ascertaining the notional tax of the employer in respect of the grant year.”.

8. Section 16 of the Principal Act is amended by omitting from sub-section (4) the words “or sub-section (7)” and substituting the figures and word “, (7) or (11)”. Deter-minations.

9. Section 17 of the Principal Act is amended—

- (a) by omitting from paragraph (d) of sub-section (4) the word “or” (last occurring); and
- (b) by inserting after paragraph (d) of sub-section (4) the following paragraph:—

“(da) in order to give effect to an election made by a marketing authority under sub-section (2) of section 26 of this Act after the commencement of the *Export Incentive Grants Act 1973*; or”.

Amendment
of determina-
tions.

Review of
base period
export sales.

10. Section 21 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words “and section 11” and substituting the words “and sections 4A and 11”; and
- (b) by omitting from sub-section (7) the words “of section 11” and substituting the words “of sections 4A and 11”.

Review of
amounts
added to
value of
export sales
for base
period under
section 11.

11. Section 22 of the Principal Act is amended by omitting from sub-section (1) the words “from section 11” and substituting the words “from sections 4A and 11”.

Export
certificates.

12. Section 23 of the Principal Act is amended—

- (a) by inserting in sub-section (6), after the words “issued to him” (wherever occurring), the words “, other than certificates issued under sub-section (9),”; and

- (b) by adding at the end thereof the following sub-section:—

“ (9) Where, in any grant year—

- (a) a marketing authority is, whether by virtue of an election under section 26 or otherwise, the producer for export in relation to goods in respect of which it performs its functions; and

- (b) a licensee of the authority has, in accordance with its licence, performed functions connected with the marketing of those goods,

the authority may, subject only to the limit imposed by sub-section (6) on the sum of the grant values that may be specified in export certificates issued by the authority in respect of that grant year, issue export certificates to the licensee in addition to any export certificates it may issue to the licensee under sub-sections (2) and (4).”.

13. Section 26 of the Principal Act is repealed and the following section substituted:—

Elections by
marketing
authorities.

“ 26. (1) In this section, ‘ 1971–72 grant year ’ means the grant year that commenced on 1st July, 1971, and ‘ 1972–73 grant year ’ and ‘ 1973–74 grant year ’ have corresponding meanings.

“ (2) A marketing authority may, by notice in writing lodged with the Commissioner, elect to be treated for the purposes of this Act as a producer for export in relation to prescribed goods produced in Australia of a class specified in the election exported or sold for export by the authority (including goods exported or sold by the authority before the date of the election), being goods in relation to which the authority would not, but for the election, be the producer for export.

“(3) Subject to sub-section (5), where a marketing authority, in a grant year specified in sub-section (4) or (6) in relation to an election by the authority under this section, exports or sells for export goods of a class specified in that election—

- (a) the authority shall be deemed to be, and to have been, the producer for export in relation to those goods; and
- (b) no other person shall be taken to be, or to have been, a producer for export in relation to those goods.

“(4) An election made under this section by a marketing authority on or after the date of commencement of the *Export Incentive Grants Act* 1973 has effect for the purposes of ascertaining the value of export sales of the authority—

- (a) in the case of an election made within sixty days after the coming into existence of the authority—for the 1973–74 grant year and, if the authority came into existence in the 1972–73 grant year, that grant year;
- (b) in the case of an election not made within sixty days after the coming into existence of the authority but made in the 1972–73 grant year—for the 1973–74 grant year and the 1972–73 grant year and, if the election so specifies, the 1971–72 grant year; or
- (c) in the case of an election not made within sixty days after the coming into existence of the authority but made in the 1973–74 grant year—for that grant year and, if the election so specifies—
 - (i) the 1972–73 grant year; or
 - (ii) the 1972–73 grant year and the 1971–72 grant year.

“(5) Where—

- (a) a marketing authority has made an election to which sub-section (4) applies;
- (b) the election has effect for the purpose of ascertaining the value of export sales of the authority for a grant year; and
- (c) before the date of the making of the election, a person who, in that grant year, supplied to the authority goods of a class specified in the election has, in relation to that grant year—
 - (i) issued an export certificate as the producer for export in relation to goods of that class; or
 - (ii) made a claim in accordance with section 15,

sub-section (3) does not apply in relation to the first-mentioned goods.

“(6) For the purposes of this Act, an election made, or deemed to be duly made, by a marketing authority under the section 26 that was repealed by the *Export Incentive Grants Act* 1973, being an election that was in effect immediately before the date of commencement of that Act, shall be deemed to be an election duly made under this section and has

effect for the purpose of ascertaining the value of export sales of the authority—

- (a) in the case of an authority that came into existence in the 1972–73 grant year—for that grant year and the 1973–74 grant year; and
- (b) in the case of any other authority—for all grant years.

“(7) For the purposes of this section, an election shall be deemed to be made on the date on which notice of the election is lodged in accordance with sub-section (2).”.

Gold.

14. Section 27 of the Principal Act is amended—

- (a) by omitting from sub-section (2) the words “the export from Australia of”; and
- (b) by omitting from paragraph (b) of sub-section (2) the words “exported by” and substituting the words “sold to”.

15. After section 27 of the Principal Act the following section is inserted:—

Certain gold deemed not to have been acquired from Reserve Bank.

“27A. (1) In this section—

- ‘Banking Act’ means the *Banking Act* 1959 as amended and in force for the time being;
- ‘delivered’ means delivered in accordance with section 42 of the Banking Act, and ‘delivery’ has a corresponding meaning;
- ‘gold to which this section applies’ means gold referred to in sub-section (2) of section 27;
- ‘prescribed company’ and ‘Reserve Bank’ have the same respective meanings as in section 27;
- ‘producer’, in relation to any gold, means the person who by mining (including the working of alluvial or surface deposits) produced the minerals from which the gold was obtained.

“(2) Where a prescribed company has, at any time in a grant year, purchased from the Reserve Bank gold to which this section applies, the company shall, for the purposes of this Act, be deemed not to have purchased it from the Reserve Bank but to have acquired it at that time from persons who were, in the financial year immediately preceding that grant year, shareholders in the company and were producers of gold delivered in that financial year.

“(3) Where in a grant year a company is to be deemed, by virtue of sub-section (2), to have acquired gold from a person, the company shall be deemed to have acquired the gold from that person for an amount of consideration that bears to the total consideration receivable for the disposal by the company of gold actually purchased by the company

from the Reserve Bank in that grant year, being gold to which this section applies, the same proportion as the quantity of gold delivered to the Reserve Bank in the financial year immediately preceding that grant year of which the person was the producer bears to the total quantity of gold delivered to the Reserve Bank in that financial year of which shareholders in the company were producers.

“(4) For the purposes of this section, gold shall be deemed to have been delivered at the time treated by the Reserve Bank as the time of delivery of the gold for the purpose of payment of the price fixed and published under section 44 of the Banking Act.”.

16. (1) The amendments made by paragraph 3 (c) and sections 5, 6, 10 and 11 apply in relation to grants, and the issue of export certificates, in respect of the grant year that commenced on 1 July 1973. Application
of amend-
ments.

(2) The amendments made by the remaining provisions of this Act, other than section 3, apply in relation to grants, and the issue of export certificates, in respect of the grant year that commenced on 1 July 1971 and each succeeding grant year.