



# **Textile, Clothing and Footwear Investment and Innovation Programs Act 1999**

**Act No. 182 of 1999 as amended**

This compilation was prepared on 5 May 2011  
taking into account amendments up to Act No. 5 of 2011

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,  
Attorney-General's Department, Canberra



---

## Contents

<b>Part 1—Introduction</b>	<b>1</b>
1 Short title [see Note 1].....	1
2 Commencement [see Note 1].....	1
3 Simplified outline .....	1
4 Definitions .....	2
5 Continuity of partnerships .....	3
6 Crown to be bound .....	3
7 External Territories.....	3
<b>Part 3A—TCF Post-2005 (SIP) scheme</b>	<b>4</b>
<b>Division 1—Preliminary</b>	<b>4</b>
37A Object of Part and simplified outline of Part .....	4
37B Definitions .....	5
<b>Division 2—Formulation of TCF Post-2005 (SIP) scheme</b>	<b>6</b>
37C TCF Post-2005 (SIP) scheme .....	6
37D Caps.....	6
<b>Division 3—General policy objectives</b>	<b>7</b>
37E General policy objectives .....	7
37F 2 types of grants .....	7
37G Provisions relating to grants in respect of TCF capital investment expenditure.....	7
37H Provisions relating to grants in respect of TCF research and development expenditure.....	8
37J Grants to be made in arrears .....	9
37K Grants cap based on eligible revenue and eligible start-up investment amount.....	9
<b>Division 4—Registration for the purposes of the scheme</b>	<b>11</b>
37L Registration for the purposes of the scheme .....	11
<b>Division 5—Strategic business plans and accounts</b>	<b>12</b>
37M Strategic business plans .....	12
37N Accounts.....	12
<b>Division 6—Conditional grants</b>	<b>13</b>
37P Conditional grants .....	13
37Q Operation of electronic equipment by authorised officers .....	15
37R Operation of electronic equipment by experts .....	15
37S Pre-condition to operating electronic equipment .....	17
37T Compensation for damage to electronic equipment.....	17
37U Identity cards .....	18

---

<b>Division 7—Other matters relating to the scheme</b>	20
37V Advances on account of grants .....	20
37W Scheme may confer administrative powers on the Secretary .....	20
37X Reconsideration and review of decisions .....	20
37Y Guarantees relating to payment of scheme debts .....	21
37Z Non-arm's length transactions .....	21
37ZA Grants and advances to be inalienable .....	21
37ZB Other matters .....	21
37ZC Ancillary or incidental provisions .....	22
37ZD Scheme-making power not limited .....	22
37ZE Fee must not amount to taxation .....	22
37ZF Variation of scheme .....	23
37ZG Scheme to be a legislative instrument .....	23
37ZH Appropriation .....	23
37ZI Publication of grant totals .....	23
<b>Part 3B—TCF Small Business Program</b>	24
37ZJ TCF Small Business Program .....	24
<b>Part 3C—Clothing and Household Textile (BIC) scheme</b>	25
<b>Division 1—Preliminary</b>	25
37ZK Object of Part and simplified outline .....	25
37ZL Definitions .....	26
<b>Division 2—Formulation of Clothing and Household Textile (BIC) scheme</b>	27
37ZM Clothing and Household Textile (BIC) scheme .....	27
37ZMA Consultation .....	27
37ZN Caps .....	28
37ZO Appropriation .....	28
<b>Division 3—General policy objectives</b>	29
37ZP General policy objectives .....	29
37ZQ Type of grants .....	29
37ZQA Commitment to Australian operations .....	29
37ZQB Household textile products—manufacture using in-house fabrics .....	29
37ZR Provisions relating to innovation grants in respect of clothing/finished textile expenditure .....	29
37ZS Grants to be made in arrears .....	30
37ZT Grants cap based on eligible revenue and eligible start-up investment amount .....	30
<b>Division 4—Registration for the purposes of the scheme</b>	32
37ZU Registration for the purposes of the scheme .....	32

---

---

<b>Division 5—Strategic business plans and accounts</b>	33
37ZV Strategic business plans .....	33
37ZW Accounts .....	33
<b>Division 6—Conditional grants</b>	34
37ZX Conditional grants .....	34
37ZY Appointment of authorised officers and authorised employees of Commonwealth contractors .....	35
<b>Division 7—Monitoring of compliance</b>	37
37ZZ Operation of electronic equipment by authorised officers .....	37
37ZZA Operation of electronic equipment by experts .....	38
37ZZB Pre-condition to operating electronic equipment .....	39
37ZZC Compensation for damage to electronic equipment .....	39
37ZZD Identity cards .....	40
<b>Division 8—Other matters for which the scheme may provide</b>	42
37ZZE Advances on account of grants .....	42
37ZZF Reconsideration and review of decisions .....	42
37ZZG Guarantees relating to payment of scheme debts .....	43
37ZZH Non-arm's length transactions .....	43
37ZZI Grants and advances to be inalienable .....	43
37ZZJ Other matters .....	43
37ZZK Scheme may confer administrative powers on the Secretary .....	45
37ZZL Ancillary or incidental provisions .....	45
37ZZM Variation of scheme .....	45
<b>Division 9—Publication of grant totals</b>	46
37ZZN Publication of grant totals .....	46
<b>Part 4—Information-gathering powers</b>	47
38 Minister or Secretary may obtain information and documents .....	47
39 Copying documents—reasonable compensation .....	48
40 Self-incrimination .....	48
41 Copies of documents .....	48
42 Minister or Secretary may retain documents .....	49
<b>Part 5—Recovery of scheme debts</b>	50
43 Recovery of conditional grants .....	50
44 Scheme debts are debts due to the Commonwealth .....	50
45 Recovery by legal proceedings .....	50
46 Recovery by set-off .....	50
47 Commonwealth may collect money from a person who owes money to an entity .....	51
<b>Part 6—Offences</b>	53
48 Application of <i>Criminal Code</i> .....	53

---

---

49	False or misleading information .....	53
50	False or misleading evidence .....	53
51	False or misleading documents .....	53
<b>Part 7—Miscellaneous</b>		<b>55</b>
52	Delegation .....	55
53	Availability of grants .....	56
55	International obligations .....	56
55A	Additional effect of Act .....	57
56	Regulations .....	58
<b>Notes</b>		<b>59</b>

---

# **An Act about the Textile, Clothing and Footwear Investment and Innovation Programs, and for other purposes**

## **Part 1—Introduction**

### **1 Short title** [see Note 1]

This Act may be cited as the *Textile, Clothing and Footwear Investment and Innovation Programs Act 1999*.

### **2 Commencement** [see Note 1]

This Act commences on the day on which it receives the Royal Assent.

### **3 Simplified outline**

The following is a simplified outline of this Act:

- This Act provides a framework for the implementation of the Textile, Clothing and Footwear Strategic Investment and Innovation Programs.
- There are 2 schemes under the programs.
- The TCF Post-2005 (SIP) scheme provides for 2 grants in respect of expenditure incurred in the 2005-2006 to 2009-2010 income years. Part 3A deals with this scheme.
- The Clothing and Household Textile (BIC) scheme provides for innovation grants in respect of expenditure incurred in the 2010-2011 to 2014-2015 income years. Part 3C deals with this scheme.
- This Act also provides funding for the purposes of the TCF Small Business Program (see Part 3B).

Section 4

---

## 4 Definitions

In this Act:

**Australia**, when used in a geographical sense, includes all the external Territories.

**authorised Commonwealth contractor** has the meaning given by section 52.

**business day** means a day that is not a Saturday, a Sunday or a public holiday in the place concerned.

**Clothing and Household Textile (BIC) scheme** (short for Clothing and Household Textile (Building Innovative Capability) scheme) has the meaning given by section 37ZM.

**clothing/finished textile expenditure** means expenditure in connection with, or incidental to, the manufacture in Australia, or the design in Australia, of products that, under a TCF scheme, are taken to be:

- (a) clothing products; or
- (b) finished textile products.

**designated industry program** means a program or scheme that is:

- (a) administered by the Commonwealth; and
- (b) specified in the regulations.

**entity** has the same meaning as in the *Income Tax Assessment Act 1997*.

**importation into Australia** has the same meaning as in section 50 of the *Customs Act 1901*.

**income year** has the same meaning as in the *Income Tax Assessment Act 1997*.

**manufacture** includes make a physical or chemical transformation or conversion.

**occupier**, in relation to premises, includes a person present at the premises who apparently represents the occupier.

**scheme debt** means:



- (a) so much of an amount paid, or purportedly paid, to an entity by way of a grant under a TCF scheme as represents an overpayment; or
- (b) an amount that is payable as mentioned in subsection 37V(2) or 37ZZE(2) or (3) (advances); or
- (c) an amount that is recoverable as mentioned in section 43 (conditional grants).

**Secretary** means the Secretary of the Department.

**strategic business plan** means a strategic business plan that incorporates a strategic investment plan.

**TCF Post-2005 (SIP) scheme** means the scheme in force under section 37C.

**TCF scheme** (short for Textile, Clothing and Footwear scheme), means:

- (a) the TCF Post-2005 (SIP) scheme; or
- (b) the Clothing and Household Textile (BIC) scheme.

**TCF (SIP) scheme** (short for Textile, Clothing and Footwear (Strategic Investment Program) scheme) means the scheme in force under section 8 immediately before the repeal of that section by the *Textile, Clothing and Footwear Strategic Investment Program Amendment (Building Innovative Capability) Act 2010*.

## **5 Continuity of partnerships**

For the purposes of this Act, a change in the composition of a partnership does not affect the continuity of the partnership.

## **6 Crown to be bound**

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

## **7 External Territories**

This Act extends to all the external Territories.

## **Part 3A—TCF Post-2005 (SIP) scheme**

### **Division 1—Preliminary**

#### **37A Object of Part and simplified outline of Part**

##### *Object*

- (1) The object of this Part is to foster the development of a sustainable and internationally competitive TCF manufacturing industry and TCF design industry in Australia by providing incentives which will promote investment and innovation.

##### *Simplified outline*

- (2) The following is a simplified outline of this Part:

- The Minister must formulate a scheme (the ***TCF Post-2005 (SIP) scheme***) for the making of grants in connection with the design and manufacture, in Australia, of eligible TCF products.
- The total of the grants paid under the TCF Post-2005 (SIP) scheme must not exceed \$487.5 million.
- The TCF Post-2005 (SIP) scheme will provide for 2 types of grants:
  - (a) grants in respect of TCF capital investment expenditure on new TCF plant or buildings, brand support for TCF products or non-production related information technology; and
  - (b) grants in respect of TCF research and development expenditure.

- The TCF Post-2005 (SIP) scheme will provide for the making of those grants in respect of expenditure incurred in the 2005-2006 to 2009-2010 income years.
- Grants under the TCF Post-2005 (SIP) scheme are to be made in arrears.
- Entities who wish to obtain grants under the TCF Post-2005 (SIP) scheme will be required to register under the scheme and to submit strategic business plans and accounts.

### **37B Definitions**

In this Part:

***authorised officer*** means a person appointed under subsection 37P(6) as an authorised officer of the Department.

***claim*** means a claim for a grant.

***grant*** means a grant under the TCF Post-2005 (SIP) scheme.

***leather/technical textile expenditure*** means expenditure in connection with, or incidental to, the manufacture in Australia, or the design in Australia, of products that, under the TCF Post-2005 (SIP) scheme, are taken to be:

- (a) leather products; or
- (b) technical textile products.

## **Division 2—Formulation of TCF Post-2005 (SIP) scheme**

### **37C TCF Post-2005 (SIP) scheme**

The Minister must, by writing, formulate a scheme (the ***TCF Post-2005 (SIP) scheme***) for the making of grants in connection with, or incidental to, the following:

- (a) the manufacture in Australia of products that, under the scheme, are taken to be eligible TCF products;
- (b) the design in Australia, for manufacture in Australia, of products:
  - (i) that, under the scheme, are taken to be eligible TCF products; and
  - (ii) some or all of which are intended to be sold in Australia;
- (c) the design in Australia, for manufacture outside Australia, of products:
  - (i) that, under the scheme, are taken to be eligible TCF products; and
  - (ii) some or all of which are intended to be sold in Australia;

where the importation into Australia of some or all of the products is or will be covered by a designated industry program.

### **37D Caps**

The TCF Post-2005 (SIP) scheme must make provision for ensuring that the total of the grants (including advances on account of grants) paid under the scheme does not exceed \$487,500,000.

Note: Section 37V deals with advances on account of grants.

## **Division 3—General policy objectives**

### **37E General policy objectives**

The TCF Post-2005 (SIP) scheme must be directed towards ensuring the achievement of the policy objectives set out in this Division.

### **37F 2 types of grants**

It is a policy objective for the TCF Post-2005 (SIP) scheme that there are to be 2 types of grants, as follows:

- (a) the first type of grants are to be known as *grants in respect of TCF capital investment expenditure*;
- (b) the second type of grants are to be known as *grants in respect of TCF research and development expenditure*.

### **37G Provisions relating to grants in respect of TCF capital investment expenditure**

- (1) It is a policy objective for the TCF Post-2005 (SIP) scheme that grants in respect of TCF capital investment expenditure are only to be made as set out in this section.

#### *New TCF plant/building expenditure*

- (2) The grants are to be made in respect of expenditure that:
  - (a) under the scheme, is taken to be new TCF plant/building expenditure; and
  - (b) is incurred by an entity during any of the 2005-2006 to 2009-2010 income years of the entity.
- (3) It is a policy objective for the scheme that expenditure is only to be taken to be new TCF plant/building expenditure under the scheme if the expenditure is of the kind for which, at the commencement of this Part, a Type 1 grant could be made under the TCF (SIP) scheme.

Section 37H

---

*Brand support for TCF products expenditure*

- (4) The grants are to be made in respect of expenditure that:
- (a) under the scheme, is taken to be brand support for TCF products expenditure; and
  - (b) is incurred by an entity during any of the 2005-2006 to 2009-2010 income years of the entity.

*Non-production related information technology expenditure*

- (5) The grants are to be made in respect of expenditure that:
- (a) under the scheme, is taken to be non-production related information technology expenditure; and
  - (b) is incurred by an entity during any of the 2005-2006 to 2009-2010 income years of the entity; and
  - (c) is also clothing/finished textile expenditure.

Note: For *clothing/finished textile expenditure*, see section 4.

**37H Provisions relating to grants in respect of TCF research and development expenditure**

- (1) It is a policy objective for the TCF Post-2005 (SIP) scheme that grants in respect of TCF research and development expenditure are only to be made in respect of expenditure that:
- (a) under the scheme, is taken to be TCF research and development expenditure; and
  - (b) is incurred by an entity during any of the 2005-2006 to 2009-2010 income years of the entity.
- (2) It is a policy objective for the scheme that:
- (a) leather/technical textile expenditure is not to be taken, under the scheme, to be expenditure on TCF research and development; and
  - (b) expenditure in obtaining industrial property rights may be taken, under the scheme, to be expenditure on TCF research and development.

Note: For *leather/technical textile expenditure*, see section 37B.

### **37J Grants to be made in arrears**

It is a policy objective for the TCF Post-2005 (SIP) scheme that grants must not be made to an entity in respect of expenditure incurred by the entity during an income year of the entity unless the entity makes a claim after the end of the income year.

### **37K Grants cap based on eligible revenue and eligible start-up investment amount**

#### *Cap based on eligible revenue*

- (1) It is a policy objective for the TCF Post-2005 (SIP) scheme that there be a cap on the total of the grants that become payable to an entity during an income year (the ***claim year***) of the entity in respect of expenditure incurred by the entity otherwise than during a period that, under the scheme, is taken to be an eligible start-up period of the entity.
- (2) The total of the grants must not exceed 5% of the amount that, under the scheme, is taken to be the total eligible revenue derived by the entity, during the income year of the entity before the claim year, from sales of products that, under the scheme, are taken to be eligible TCF products.

#### *Cap based on eligible start-up investment amount*

- (3) It is a policy objective for the TCF Post-2005 (SIP) scheme that there be a cap on the total of the grants that become payable to an entity during an income year (the ***claim year***) of the entity and any income years of the entity that are earlier than the claim year in respect of expenditure incurred by the entity during a period that, under the scheme, is taken to be an eligible start-up period of the entity.
- (4) The total of the grants must not exceed 15% of the amount that, under the scheme, is taken to be the total of the eligible start-up investment amounts of the entity for each of the income years of the entity that is earlier than the claim year.

Section 37K

---

*When grant becomes payable*

- (5) For the purposes of this section, a grant becomes payable to an entity when a determination is made under the scheme that the entity is entitled to be paid the grant.



## **Division 4—Registration for the purposes of the scheme**

### **37L Registration for the purposes of the scheme**

#### *Registration requirements*

- (1) The TCF Post-2005 (SIP) scheme may impose requirements relating to the registration of entities.
- (2) The requirements may include (but are not limited to) any or all of the following requirements:
  - (a) a requirement that an entity must apply for registration;
  - (b) a requirement that an entity's application for registration be accompanied by a statement issued by a specified person as to the entity's future financial viability;
  - (c) a requirement that an entity's application for registration be accompanied by specified information about the entity (which may include statistical information);
  - (d) a requirement that an entity's application for registration be accompanied by such a fee as is ascertained in accordance with the scheme.

#### *Consequences of non-compliance with registration requirements*

- (3) The scheme may provide for one or more of the following consequences for an entity that does not comply with a particular requirement relating to registration:
  - (a) the consequence that the entity is not eligible for a grant;
  - (b) the consequence that the entity's eligibility for a grant is subject to restriction or reduction;
  - (c) the consequence that the time of payment of a grant to the entity is deferred.

## **Division 5—Strategic business plans and accounts**

### **37M Strategic business plans**

The TCF Post-2005 (SIP) scheme must provide that an entity is not eligible for a grant unless the entity has complied with such requirements (if any) as are imposed by the scheme in relation to the content and submission of:

- (a) strategic business plans; and
- (b) variations of strategic business plans.

### **37N Accounts**

The TCF Post-2005 (SIP) scheme may provide that an entity ascertained in accordance with the scheme is not eligible for a grant unless the entity has complied with such requirements as are imposed by the scheme in relation to:

- (a) the submission of audited accounts and audited financial statements; or
- (b) the submission of unaudited accounts and unaudited financial statements.

## Division 6—Conditional grants

### 37P Conditional grants

- (1) The TCF Post-2005 (SIP) scheme may make provision for and in relation to the payment of grants subject to conditions (whether conditions precedent or conditions subsequent).

Note: Section 43 deals with the recovery of a conditional grant if there has been a breach of a condition.

*Condition—compliance with information gathering notice*

- (2) A grant paid to an entity is subject to the condition that the entity comply with any notice given to the entity under section 38.

Note: Section 43 deals with the recovery of a conditional grant if there has been a breach of a condition.

*Condition—no false or misleading statements*

- (3) A grant paid to an entity is subject to the condition that:
- (a) a false or misleading statement has not been made by, or on behalf of, the entity in connection with a claim for the grant; and
  - (b) false or misleading information or evidence is not given by, or on behalf of, the entity in compliance or purported compliance with section 38; and
  - (c) a false or misleading document is not produced by, or on behalf of, the entity in compliance or purported compliance with section 38.

Note: Section 43 deals with the recovery of a conditional grant if there has been a breach of a condition.

*Condition—entry to premises etc. to monitor compliance with other conditions*

- (4) A grant paid to an entity is subject to the condition that in relation to the following premises:
- (a) business premises specified in the notice that is given to the entity notifying the entity that the entity is entitled to be paid the grant;

**Section 37P**

---

- (b) business premises specified in a later notice given to the entity by the Secretary under subsection (5);  
the entity:
  - (c) allow authorised officers of the Department, and any authorised employees of an authorised Commonwealth contractor accompanying those officers, access to the premises at any reasonable time of a business day for the purpose of monitoring compliance with other conditions that the grant is subject to; and
  - (d) allow authorised officers of the Department during that access to inspect and search the premises and any thing on the premises for the purpose of that monitoring; and
  - (e) allow authorised officers of the Department to operate electronic equipment at the premises to see whether documents in electronic form relevant to that monitoring are accessible by doing so; and
- Note: See also sections 37Q to 37T (which contain provisions relating to the operation of electronic equipment at the premises).
- (f) allow authorised officers of the Department to make copies of any documents in hard copy form found on the premises that are relevant to that monitoring; and
  - (g) provide authorised officers of the Department with all reasonable facilities and assistance in connection with that monitoring.

Note: Section 43 deals with the recovery of a conditional grant if there has been a breach of a condition.

*Secretary's powers*

- (5) The Secretary may, by written notice given to an entity, specify business premises for the purposes of paragraph (4)(b).
- (6) The Secretary may, by writing, appoint an APS employee in the Department to be an authorised officer of the Department for the purposes of this Division. The Secretary may do so only if the Secretary is satisfied that the employee has suitable qualifications for such an appointment.
- (7) The Secretary may, by writing, appoint an employee of an authorised Commonwealth contractor to be an authorised employee of the contractor for the purposes of this Division. The

Secretary may do so only if the Secretary is satisfied that the employee has suitable qualifications for such an appointment.

### **37Q Operation of electronic equipment by authorised officers**

- (1) If:
- (a) an authorised officer has obtained access to premises for the purpose of monitoring compliance with the conditions of a grant; and
  - (b) the officer finds that documents in electronic form, relevant to that monitoring, are accessible by operating electronic equipment at the premises;
- the officer may do only 1 of 2 things.

#### *Removal of documents*

- (2) One thing the officer may do is operate the equipment or other facilities at the premises to put the documents in hard copy form and remove the documents so produced.

#### *Removal of disk, tape or other storage device*

- (3) The other thing the officer may do is operate the equipment or other facilities at the premises to transfer the documents to a disk, tape or other storage device that:
- (a) is brought to the premises for the exercise of the power; or
  - (b) is at the premises and the use of which for the purpose has been agreed to in writing by the occupier of the premises;
- and remove the disk, tape or other storage device from the premises.

### **37R Operation of electronic equipment by experts**

- (1) This section applies if:
- (a) an authorised officer has obtained access to premises for the purpose of monitoring compliance with the conditions of a grant; and
  - (b) the officer believes on reasonable grounds that:
    - (i) documents in electronic form, relevant to that monitoring, may be accessible by operating electronic equipment at the premises; and

Section 37R

---

- (ii) expert assistance is required to operate the equipment;  
and
- (iii) an authorised employee (the *expert*) of an authorised Commonwealth contractor accompanying the officer in relation to that monitoring has the expertise to operate the equipment.

*Expert may operate equipment*

- (2) The expert may operate the equipment to determine whether such documents are accessible. If they are, the expert may do only 1 of 2 things.

*Produce documents in hard copy form*

- (3) One thing the expert may do is operate the equipment or other facilities at the premises to put the documents in hard copy form.

*Transfer documents to a disk, tape or other storage device*

- (4) The other thing the expert may do is operate the equipment or other facilities at the premises to transfer the documents to a disk, tape or other storage device that:
  - (a) is brought to the premises for the exercise of the power; or
  - (b) is at the premises and the use of which for the purpose has been agreed to in writing by the occupier of the premises.

*Removal*

- (5) The authorised officer may then remove the documents in hard copy form or remove the disk, tape or other storage device.

*Section 70 of the Crimes Act 1914*

- (6) For the purposes of the application of the definition of **Commonwealth officer** in subsection 3(1) of the *Crimes Act 1914* to section 70 of that Act, an authorised employee of an authorised Commonwealth contractor who exercises a power referred to in this section is taken to be a person who performs services for the Commonwealth.

### **37S Pre-condition to operating electronic equipment**

A person may operate electronic equipment at premises as mentioned in this Division only if he or she believes on reasonable grounds that the operation of the equipment can be carried out without damage to the equipment.

### **37T Compensation for damage to electronic equipment**

- (1) This section applies if:
    - (a) as a result of electronic equipment being operated as mentioned in section 37P, 37Q or 37R:
      - (i) damage is caused to the equipment; or
      - (ii) the data recorded on the equipment is damaged; or
      - (iii) programs associated with the use of the equipment, or with the use of the data, are damaged or corrupted; and
    - (b) the damage or corruption occurs because:
      - (i) insufficient care was exercised in selecting the person who was to operate the equipment; or
      - (ii) insufficient care was exercised by the person operating the equipment.
  - (2) The Commonwealth must pay the owner of the equipment, or the user of the data or programs, such reasonable compensation for the damage or corruption as the Commonwealth and the owner or user agree on.
  - (3) However, if the owner or user and the Commonwealth fail to agree, the owner or user may institute proceedings in the Federal Court of Australia for such reasonable amount of compensation as the Court determines.
  - (4) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises, or the occupier's employees and agents, if they were available at the time, provided any appropriate warning or guidance on the operation of the equipment.
  - (5) Compensation is payable out of money appropriated by the Parliament.
  - (6) For the purposes of subsection (1):
-

**damage**, in relation to data, includes damage by erasure of data or addition of other data.

### **37U Identity cards**

- (1) The Secretary must issue an identity card to an authorised officer.

#### *Form of identity card*

- (2) The identity card must:
- (a) be in the form prescribed by the regulations; and
  - (b) contain a recent photograph of the authorised officer.

#### *Offence*

- (3) A person commits an offence if:
- (a) the person has been issued with an identity card; and
  - (b) the person ceases to be an authorised officer; and
  - (c) the person does not return the identity card to the Secretary as soon as practicable.

Penalty: 1 penalty unit.

- (4) An offence against subsection (3) is an offence of strict liability.

Note: For **strict liability**, see section 6.1 of the *Criminal Code*.

#### *Card lost or destroyed*

- (5) Subsection (3) does not apply if the identity card was lost or destroyed.

Note: A defendant bears an evidential burden in relation to the matter in this subsection: see subsection 13.3(3) of the *Criminal Code*.

#### *Authorised officer must carry card*

- (6) An authorised officer must carry his or her identity card at all times when exercising powers as an authorised officer.

#### *Authorised officer must produce card on request*

- (7) An authorised officer is not entitled to exercise any powers referred to in this Division in relation to premises if:



- (a) the occupier of the premises has requested the officer to produce the officer's identity card for inspection by the occupier; and
- (b) the officer fails to comply with the request.

## **Division 7—Other matters relating to the scheme**

### **37V Advances on account of grants**

#### *Advances*

- (1) The TCF Post-2005 (SIP) scheme may provide for advances on account of grants that may become payable.

#### *Repayments*

- (2) If:
  - (a) an entity receives an amount by way of an advance on account of a grant that may become payable to the entity; and
  - (b) that amount exceeds the amount of the grant (if any);the entity is liable to pay to the Commonwealth the amount of the excess.

### **37W Scheme may confer administrative powers on the Secretary**

The TCF Post-2005 (SIP) scheme may make provision with respect to a matter by conferring on the Secretary a power to make a decision of an administrative character.

### **37X Reconsideration and review of decisions**

- (1) The TCF Post-2005 (SIP) scheme must contain provisions for and in relation to the review of decisions of the Secretary under the scheme that affect an entity.
- (2) The scheme must contain provisions under which:
  - (a) an entity who is affected by a decision (the *initial decision*) of the Secretary under the scheme may, if dissatisfied with the decision, request the Secretary to reconsider the decision; and
  - (b) the Secretary is required to reconsider the initial decision and to confirm, revoke or vary the decision; and
  - (c) an application may be made to the Administrative Appeals Tribunal for review of an initial decision that has been confirmed or varied.

- (2A) However, the scheme may contain provisions that specify decisions in relation to which the provisions mentioned in subsection (2) do not apply.
- (3) If the scheme provides that the Secretary is taken to have confirmed an initial decision after a specified period, the scheme must specify the prescribed time for making an application for review of the initial decision as so confirmed for the purposes of section 29 of the *Administrative Appeals Tribunal Act 1975*.

### **37Y Guarantees relating to payment of scheme debts**

The TCF Post-2005 (SIP) scheme may provide that an entity (the *eligible entity*) ascertained in accordance with the scheme:

- (a) is not eligible for a grant; or
  - (b) is not entitled to request an advance on account of a grant;
- unless another entity ascertained in accordance with the scheme gives a guarantee to the Commonwealth that any scheme debts owed by the eligible entity will be paid.

### **37Z Non-arm's length transactions**

The TCF Post-2005 (SIP) scheme may provide that, if an entity incurs expenditure under a transaction that is not at arm's length, the amount of that expenditure is taken to be the amount that would reasonably have been expected to be incurred if the parties had been dealing with each other at arm's length.

### **37ZA Grants and advances to be inalienable**

The TCF Post-2005 (SIP) scheme may provide for grants (including advances on account of grants) to be absolutely inalienable (whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise) except with the approval of the Secretary.

### **37ZB Other matters**

The TCF Post-2005 (SIP) scheme may make provision for and in relation to the following matters:

- (a) the making of claims for grants;

**Section 37ZC**

---

- (b) the times within which claims for grants are to be made;
- (c) requiring that a claim made by an entity ascertained in accordance with the scheme be accompanied by an audited statement relating to specified activities;
- (d) requiring that a claim made by an entity ascertained in accordance with the scheme be accompanied by an unaudited statement relating to specified activities;
- (e) requiring that a claim be accompanied by such a fee as is ascertained in accordance with the scheme;
- (f) the assessment of claims;
- (g) the apportionment of expenditure;
- (h) the adjustment of eligibility for grants in relation to the transfer of the whole or a part of a business, including (but not limited to):
  - (i) treating the transferee as if the transferee had incurred particular expenditure, had derived particular revenue and had done particular acts or things; and
  - (ii) treating the transferor as if the transferor had not incurred particular expenditure, had not derived particular revenue and had not done particular acts or things;
- (i) the times when grants become payable.

**37ZC Ancillary or incidental provisions**

The TCF Post-2005 (SIP) scheme may contain such ancillary or incidental provisions as the Minister considers appropriate.

**37ZD Scheme-making power not limited**

Sections 37D to 37ZC do not, by implication, limit section 37C.

**37ZE Fee must not amount to taxation**

The amount of a fee under the TCF Post-2005 (SIP) scheme must not be such as to amount to taxation.

**37ZF Variation of scheme**

- (1) The TCF Post-2005 (SIP) scheme may be varied, but not revoked, in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.
- (2) Subsection (1) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* to other instruments under this Act.

**37ZG Scheme to be a legislative instrument**

An instrument under section 37C is a legislative instrument.

**37ZH Appropriation**

Grants (including advances on account of grants) are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

**37ZI Publication of grant totals**

As soon as practicable after the end of each of the 2006-2007 to 2010-2011 financial years, the Minister must publish the following information:

- (a) the name of each entity paid a grant (including an advance on account of a grant) during the financial year;
- (b) the total of the grants (including advances on account of grants) paid to the entity during the financial year.

## Part 3B—TCF Small Business Program

### 37ZJ TCF Small Business Program

- (1) The object of this section is to fund the TCF Small Business Program.
- (2) The Department is responsible for administering the program. This includes (but is not limited to) responsibility for determining the following:
  - (a) the recipients of payments (including the eligibility criteria);
  - (b) the amounts of payments;
  - (c) the timing of payments;
  - (d) the terms and conditions of payments.
- (3) The Consolidated Revenue Fund is appropriated for the purpose of payments under the program, to the extent of \$25,000,000.
- (4) In this section:

***TCF Small Business Program*** means the program administered by the Commonwealth and known as the TCF Small Business Program.

## **Part 3C—Clothing and Household Textile (BIC) scheme**

### **Division 1—Preliminary**

#### **37ZK Object of Part and simplified outline**

##### *Object*

- (1) The object of this Part is to foster the development of a sustainable and internationally competitive manufacturing industry and design industry for clothing and household textiles in Australia by providing incentives which will promote innovation.

##### *Simplified outline*

- (2) The following is a simplified outline of this Part:

- The Minister must formulate a scheme (the Clothing and Household Textile (BIC) scheme) for the making of grants in connection with the design and manufacture, in Australia, of eligible clothing and household textile products.
- The total of the grants paid under the Clothing and Household Textile (BIC) scheme must not exceed \$112.5 million.
- The Clothing and Household Textile (BIC) scheme will provide for innovation grants in respect of clothing/finished textile expenditure.
- The Clothing and Household Textile (BIC) scheme will provide for the making of those grants in respect of expenditure incurred in the 2010-2011 to 2014-2015 income years.
- Grants under the Clothing and Household Textile (BIC) scheme are to be made in arrears.

**Part 3C** Clothing and Household Textile (BIC) scheme

**Division 1** Preliminary

Section 37ZL

---

- Entities that wish to obtain grants under the Clothing and Household Textile (BIC) scheme will be required to register under the scheme and to submit strategic business plans and accounts.

**37ZL Definitions**

In this Part:

*authorised officer* means a person appointed under subsection 37ZY(1) as an authorised officer of the Department.

*innovation grant* has the meaning given by section 37ZQ.



## **Division 2—Formulation of Clothing and Household Textile (BIC) scheme**

### **37ZM Clothing and Household Textile (BIC) scheme**

The Minister must, by legislative instrument, formulate a scheme (the *Clothing and Household Textile (BIC) scheme*) for the making of grants in connection with, or incidental to, the following:

- (a) the manufacture in Australia of products that, under the scheme, are taken to be eligible clothing and household textile products;
- (b) the design in Australia, for manufacture in Australia, of products:
  - (i) that, under the scheme, are taken to be eligible clothing and household textile products; and
  - (ii) some or all of which are intended to be sold in Australia;
- (c) the design in Australia, for manufacture outside Australia, of products to which both of the following apply, if the importation into Australia of some or all of the products is or will be covered by a designated industry program:
  - (i) products that, under the scheme, are taken to be eligible clothing and household textile products;
  - (ii) products, some or all of which are intended to be sold in Australia.

Note: *Clothing and Household Textile (BIC) scheme* is short for Clothing and Household Textile (Building Innovative Capability) scheme.

### **37ZMA Consultation**

Before formulating the Clothing and Household Textile (BIC) scheme, the Minister must consult with industry about the products that are to be taken, under the scheme, to be eligible clothing and household textile products.

**Part 3C** Clothing and Household Textile (BIC) scheme

**Division 2** Formulation of Clothing and Household Textile (BIC) scheme

Section 37ZN

---

**37ZN Caps**

The Clothing and Household Textile (BIC) scheme must make provision for ensuring that the total of innovation grants (including advances on account of innovation grants) paid under the scheme does not exceed \$112,500,000.

Note: Section 37ZZE deals with advances on account of innovation grants.

**37ZO Appropriation**

Innovation grants (including advances on account of innovation grants) are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

## **Division 3—General policy objectives**

### **37ZP General policy objectives**

The Clothing and Household Textile (BIC) scheme must be directed towards ensuring the achievement of the policy objectives set out in this Division.

### **37ZQ Type of grants**

It is a policy objective for the Clothing and Household Textile (BIC) scheme that there are to be grants (*innovation grants*) in respect of clothing/finished textile expenditure.

Note: For *clothing/finished textile expenditure*, see section 4.

### **37ZQA Commitment to Australian operations**

It is a policy objective for the Clothing and Household Textile (BIC) scheme that entities that wish to obtain innovation grants under the scheme must be required to demonstrate a commitment to Australian-based manufacturing or Australian-based design for manufacture in Australia activities.

### **37ZQB Household textile products—manufacture using in-house fabrics**

It is a policy objective for the Clothing and Household Textile (BIC) scheme that, for an activity of an entity that consists of the manufacture of household textile products to be taken to be an eligible clothing and household textile activity, such activity must result directly and predominantly in the manufacture of such products using fabric manufactured by the entity (in addition to complying with any other applicable requirements of scheme).

### **37ZR Provisions relating to innovation grants in respect of clothing/finished textile expenditure**

- (1) It is a policy objective for the Clothing and Household Textile (BIC) scheme that innovation grants are only to be made as set out in this section.

Section 37ZS

---

- (2) Innovation grants are to be made in respect of expenditure that:
- (a) under the scheme, is taken to be clothing/finished textile expenditure; and
  - (b) is incurred by an entity during any of the 2010-2011 to 2014-2015 income years of the entity.

Note: For *clothing/finished textile expenditure*, see section 4.

**37ZS Grants to be made in arrears**

It is a policy objective for the Clothing and Household Textile (BIC) scheme that an innovation grant must not be made to an entity in respect of expenditure incurred by the entity during an income year of the entity unless the entity makes a claim for the innovation grant after the end of the income year.

**37ZT Grants cap based on eligible revenue and eligible start-up investment amount**

*Cap based on eligible revenue*

- (1) It is a policy objective for the Clothing and Household Textile (BIC) scheme that there be a cap on the total of the innovation grants that become payable to an entity during an income year (the *claim year*) of the entity in respect of expenditure incurred by the entity otherwise than during a period that, under the scheme, is taken to be an eligible start-up period of the entity.
- (2) The total of the innovation grants must not exceed 5% of the amount that, under the scheme, is taken to be the total eligible revenue derived by the entity, during the income year of the entity before the claim year, from sales of products that, under the scheme are taken to be eligible clothing and household textile products.

*Cap based on eligible start-up investment amount*

- (3) It is a policy objective for the Clothing and Household Textile (BIC) scheme that there be a cap on the total of the innovation grants that become payable to an entity during an income year (the *claim year*) of the entity and any income years of the entity that are earlier than the claim year in respect of expenditure incurred by the

entity during a period that, under the scheme, is taken to be an eligible start-up period of the entity.

- (4) The total of the innovation grants must not exceed 15% of the amount that, under the scheme, is taken to be the total of the eligible start-up investment amounts of the entity for each of the income years of the entity that is earlier than the claim year.

*When grant becomes payable*

- (5) For the purposes of this section, an innovation grant becomes payable to an entity when a determination is made under the scheme that the entity is entitled to be paid the innovation grant.

## **Division 4—Registration for the purposes of the scheme**

### **37ZU Registration for the purposes of the scheme**

#### *Registration requirements*

- (1) The Clothing and Household Textile (BIC) scheme may impose requirements relating to the registration of entities.
- (2) The requirements may include (but are not limited to) any or all of the following requirements:
  - (a) a requirement that an entity must apply for registration;
  - (b) a requirement that an entity's application for registration be accompanied by a statement issued by a specified person as to the entity's future financial viability;
  - (c) a requirement that an entity's application for registration be accompanied by specified information about the entity (which may include statistical information);
  - (d) a requirement that an entity's application for registration be accompanied by such a fee as is ascertained in accordance with the scheme.

#### *Consequences of non-compliance with registration requirements*

- (3) The scheme may provide for one or more of the following consequences for an entity that does not comply with a particular requirement relating to registration:
  - (a) the consequence that the entity is not eligible for an innovation grant;
  - (b) the consequence that the entity's eligibility for an innovation grant is subject to restriction or reduction;
  - (c) the consequence that the time of payment of an innovation grant to the entity is deferred.

## **Division 5—Strategic business plans and accounts**

### **37ZV Strategic business plans**

The Clothing and Household Textile (BIC) scheme must provide that an entity is not eligible for an innovation grant unless the entity has complied with such requirements (if any) as are imposed by the scheme in relation to the content and submission of:

- (a) strategic business plans; and
- (b) variations of strategic business plans.

### **37ZW Accounts**

The Clothing and Household Textile (BIC) scheme may provide that an entity ascertained in accordance with the scheme is not eligible for an innovation grant unless the entity has complied with such requirements as are imposed by the scheme in relation to:

- (a) the submission of audited accounts and audited financial statements; or
- (b) the submission of unaudited accounts and unaudited financial statements.

## **Division 6—Conditional grants**

### **37ZX Conditional grants**

- (1) The Clothing and Household Textile (BIC) scheme may make provision for and in relation to the payment of innovation grants subject to conditions (whether conditions precedent or conditions subsequent).

Note: Section 43 deals with the recovery of a conditional grant if there has been a breach of a condition.

*Condition—compliance with information gathering notice*

- (2) An innovation grant paid to an entity is subject to the condition that the entity comply with any notice given to the entity under section 38.

Note: Section 43 deals with the recovery of a conditional grant if there has been a breach of a condition.

*Condition—no false or misleading statements*

- (3) An innovation grant paid to an entity is subject to the condition that:
- (a) a false or misleading statement has not been made by, or on behalf of, the entity in connection with a claim for the grant; and
  - (b) false or misleading information or evidence is not given by, or on behalf of, the entity in compliance or purported compliance with section 38; and
  - (c) a false or misleading document is not produced by, or on behalf of, the entity in compliance or purported compliance with section 38.

Note: Section 43 deals with the recovery of a conditional grant if there has been a breach of a condition.

*Condition—entry to premises etc. to monitor compliance with other conditions*

- (4) An innovation grant paid to an entity is subject to the condition that in relation to the premises covered by subsection (5), the entity:



- (a) allow authorised officers, and any authorised employees of an authorised Commonwealth contractor accompanying those officers, access to the premises at any reasonable time of a business day for the purpose of monitoring compliance with other conditions to which the innovation grant is subject; and
  - (b) allow authorised officers during that access to inspect and search the premises and any thing on the premises for the purpose of that monitoring; and
  - (c) allow authorised officers to operate electronic equipment at the premises to see whether documents in electronic form relevant to that monitoring are accessible by doing so; and
- Note: See also sections 37ZZ to 37ZZC (which contain provisions relating to the operation of electronic equipment at the premises).
- (d) allow authorised officers to make copies of any documents in hard copy form found on the premises that are relevant to that monitoring; and
  - (e) provide authorised officers with all reasonable facilities and assistance in connection with that monitoring.

Note 1: For *authorised officer*, see section 37ZL and subsection 37ZY(1).

Note 2: Section 43 deals with the recovery of a conditional grant if there has been a breach of a condition.

- (5) This subsection covers the following premises:
  - (a) business premises specified in the notice that is given to the entity notifying the entity that the entity is entitled to be paid the innovation grant;
  - (b) business premises specified in a later notice given to the entity by the Secretary under subsection (6).
- (6) The Secretary may, by written notice given to an entity, specify business premises for the purposes of paragraph (5)(b).

### **37ZY Appointment of authorised officers and authorised employees of Commonwealth contractors**

- (1) The Secretary may, by writing, appoint an APS employee in the Department to be an authorised officer of the Department for the purposes of this Part. The Secretary may do so only if the Secretary is satisfied that the employee has suitable qualifications for such an appointment.

Section 37ZY

---

- (2) The Secretary may, by writing, appoint an employee of an authorised Commonwealth contractor to be an authorised employee of the contractor for the purposes of this Part. The Secretary may do so only if the Secretary is satisfied that the employee has suitable qualifications for such an appointment.

## **Division 7—Monitoring of compliance**

### **37ZZ Operation of electronic equipment by authorised officers**

#### *Scope*

- (1) This section applies if:
  - (a) an authorised officer has obtained access to premises for the purpose of monitoring compliance with the conditions of an innovation grant; and
  - (b) the authorised officer finds that documents in electronic form, relevant to that monitoring, are accessible by operating electronic equipment at the premises.

Note: For *authorised officer*, see section 37ZL and subsection 37ZY(1).

- (2) If this section applies, the authorised officer may do only 1 of 2 things, as set out in subsection (3) or (4).

#### *Produce documents in hard copy form*

- (3) One thing the officer may do is operate the equipment or other facilities at the premises to put the documents in hard copy form.

#### *Transfer to storage device*

- (4) The other thing the officer may do is operate the equipment or other facilities at the premises to transfer the documents to a storage device (including a disk or tape) if:
  - (a) the storage device is brought to the premises for the exercise of the power; or
  - (b) the storage device is at the premises, and its use has been agreed to in writing by the occupier of the premises.

#### *Removal*

- (5) The authorised officer may then remove the documents in hard copy form or remove the storage device.

### **37ZZA Operation of electronic equipment by experts**

#### *Scope*

- (1) This section applies if:
- (a) an authorised officer has obtained access to premises for the purpose of monitoring compliance with the conditions of an innovation grant; and
  - (b) the officer believes on reasonable grounds that:
    - (i) documents in electronic form, relevant to that monitoring, may be accessible by operating electronic equipment at the premises; and
    - (ii) expert assistance is required to operate the equipment; and
    - (iii) an authorised employee (the *expert*) of an authorised Commonwealth contractor accompanying the officer in relation to that monitoring has the expertise to operate the equipment.

Note: For *authorised officer*, see section 37ZL and subsection 37ZY(1).

#### *Expert may operate equipment*

- (2) The expert may operate the equipment to determine whether such documents are accessible. If they are, the expert may do only 1 of 2 things, as set out in subsection (3) or (4).

#### *Produce documents in hard copy form*

- (3) One thing the expert may do is operate the equipment or other facilities at the premises to put the documents in hard copy form.

#### *Transfer to storage device*

- (4) The other thing the expert may do is operate the equipment or other facilities at the premises to transfer the documents to a storage device (including a disk or tape) if:
- (a) the storage device is brought to the premises for the exercise of the power; or
  - (b) the storage device is at the premises, and its use has been agreed to in writing by the occupier of the premises.

*Removal*

- (5) The authorised officer may then remove the documents in hard copy form or remove the storage device.

*Section 70 of the Crimes Act 1914*

- (6) For the purposes of the application of the definition of **Commonwealth officer** in subsection 3(1) of the *Crimes Act 1914* to section 70 of that Act, an authorised employee of an authorised Commonwealth contractor who exercises a power referred to in this section is taken to be a person who performs services for the Commonwealth.

**37ZZB Pre-condition to operating electronic equipment**

A person may operate electronic equipment at premises as mentioned in this Division only if he or she believes on reasonable grounds that the operation of the equipment can be carried out without damage to the equipment.

**37ZZC Compensation for damage to electronic equipment**

- (1) This section applies if:
- (a) as a result of equipment being operated as mentioned in section 37ZX, 37ZZ or 37ZZA:
    - (i) damage is caused to the equipment; or
    - (ii) the data recorded on the equipment is damaged; or
    - (iii) schemes associated with the use of the equipment, or with the use of the data, are damaged or corrupted; and
  - (b) the damage or corruption occurs because:
    - (i) insufficient care was exercised in selecting the person who was to operate the equipment; or
    - (ii) insufficient care was exercised by the person operating the equipment.
- (2) The Commonwealth must pay the owner of the equipment, or the user of the data or schemes, such reasonable compensation for the damage or corruption as the Commonwealth and the owner or user agree on.

**Section 37ZZD**

---

- (3) However, if the owner or user and the Commonwealth fail to agree, the owner or user may institute proceedings in the Federal Court of Australia for such reasonable amount of compensation as the Court determines.
- (4) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises, or the occupier's employees or agents, if they were available at the time, provided any appropriate warning or guidance on the operation of the equipment.
- (5) Compensation is payable out of money appropriated by the Parliament.
- (6) For the purposes of subsection (1):  
*damage*, in relation to data, includes damage by erasure of data or addition of other data.

**37ZZD Identity cards**

- (1) The Secretary must issue an identity card to an authorised officer.

*Form of identity card*

- (2) The identity card must:
  - (a) be in the form prescribed by the regulations; and
  - (b) contain a recent photograph of the authorised officer.

*Offence*

- (3) A person commits an offence if:
  - (a) the person has been issued with an identity card; and
  - (b) the person ceases to be an authorised officer; and
  - (c) the person does not return the identity card to the Secretary as soon as practicable.

Penalty: 1 penalty unit.

- (4) An offence against subsection (3) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

*Card lost or destroyed*

- (5) Subsection (3) does not apply if the identity card was lost or destroyed.

Note: A defendant bears an evidential burden in relation to the matter in this subsection: see subsection 13.3(3) of the *Criminal Code*.

*Authorised officer must carry card*

- (6) An authorised officer must carry his or her identity card at all times when exercising powers as an authorised officer.

*Authorised officer must produce card on request*

- (7) An authorised officer is not entitled to exercise any powers referred to in this Division in relation to premises if:
- (a) the occupier of the premises has requested the officer to produce the officer's identity card for inspection by the occupier; and
  - (b) the officer fails to comply with the request.

## **Division 8—Other matters for which the scheme may provide**

### **37ZZE Advances on account of grants**

#### *Advances*

- (1) The Clothing and Household Textile (BIC) scheme may provide for advances on account of innovation grants that may become payable.

#### *Repayments*

- (2) If:
  - (a) an entity receives an amount by way of an advance on account of a grant that may become payable to the entity; and
  - (b) that amount exceeds the amount of the grant;the entity is liable to pay to the Commonwealth the amount of the excess.
- (3) An entity is liable to pay to the Commonwealth the whole amount of an advance mentioned in paragraph (2)(a) if the entity does not receive the innovation grant on account of which the advance was given.

### **37ZZF Reconsideration and review of decisions**

- (1) The Clothing and Household Textile (BIC) scheme must contain provisions for and in relation to the review of decisions of the Secretary under the scheme that affect an entity.
- (2) The scheme must contain provisions under which:
  - (a) an entity that is affected by a decision (the *initial decision*) of the Secretary under the scheme may, if dissatisfied with the decision, request the Secretary to reconsider the decision; and
  - (b) the Secretary is required to reconsider the initial decision and to confirm, revoke or vary the decision; and
  - (c) an application may be made to the Administrative Appeals Tribunal for review of an initial decision that has been confirmed or varied.



- (3) However, the scheme may contain provisions that specify decisions in relation to which the provisions mentioned in subsection (2) do not apply.
- (4) If the scheme provides that the Secretary is taken to have confirmed an initial decision after a specified period, the scheme must specify the prescribed time for making an application for review of the initial decision as so confirmed for the purposes of section 29 of the *Administrative Appeals Tribunal Act 1975*.

### **37ZZG Guarantees relating to payment of scheme debts**

The Clothing and Household Textile (BIC) scheme may provide that an entity (the *eligible entity*) ascertained in accordance with the scheme:

- (a) is not eligible for an innovation grant; or
- (b) is not entitled to request an advance on account of an innovation grant;

unless another entity ascertained in accordance with the scheme gives a guarantee to the Commonwealth that any scheme debts owed by the eligible entity will be paid.

### **37ZZH Non-arm's length transactions**

The Clothing and Household Textile (BIC) scheme may provide that, if an entity incurs expenditure under a transaction that is not at arm's length, the amount of that expenditure is taken to be the amount that would reasonably have been expected to be incurred if the parties had been dealing with each other at arm's length.

### **37ZZI Grants and advances to be inalienable**

The Clothing and Household Textile (BIC) scheme may provide for innovation grants (including advances on account of innovation grants) to be absolutely inalienable (whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise) except with the approval of the Secretary.

### **37ZZJ Other matters**

- (1) The Clothing and Household Textile (BIC) scheme may make provision for and in relation to the following matters:

Section 37ZZJ

---

- (a) the making of claims for innovation grants;
  - (b) the times within which claims for innovation grants are to be made;
  - (c) requiring that a claim for an innovation grant made by an entity ascertained in accordance with the scheme be accompanied by an audited statement relating to specified activities;
  - (d) requiring that a claim for an innovation grant made by an entity ascertained in accordance with the scheme be accompanied by an unaudited statement relating to specified activities;
  - (e) requiring that a claim for an innovation grant be accompanied by such a fee as is ascertained in accordance with the scheme;
  - (f) the assessment of claims for innovation grants;
  - (g) the apportionment of expenditure;
  - (h) the adjustment of eligibility for innovation grants in relation to the transfer of the whole or a part of a business, including (but not limited to):
    - (i) treating the transferee as if the transferee had incurred particular expenditure, had derived particular revenue and had done particular acts or things; and
    - (ii) treating the transferor as if the transferor had not incurred particular expenditure, had not derived particular revenue and had not done particular acts or things;
  - (i) the times when innovation grants become payable;
  - (j) matters of a transitional nature (including any saving or application provisions) arising out of the transition from the TCF Post-2005 (SIP) scheme to the Clothing and Household Textile (BIC) scheme.
- (2) Subsection (1) does not, by implication, limit section 37ZM (power to make Clothing and Household Textile (BIC) scheme).
- (3) The amount of a fee under the Clothing and Household Textile (BIC) scheme must not be such as to amount to taxation.

**37ZZK Scheme may confer administrative powers on the Secretary**

The Clothing and Household Textile (BIC) scheme may make provision with respect to a matter by conferring on the Secretary a power to make a decision of an administrative character.

**37ZZL Ancillary or incidental provisions**

The Clothing and Household Textile (BIC) scheme may contain such ancillary or incidental provisions as the Minister considers appropriate.

**37ZZM Variation of scheme**

- (1) The Clothing and Household Textile (BIC) scheme may be varied, but not revoked, in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.
- (2) Subsection (1) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* to other instruments under this Act.

## **Division 9—Publication of grant totals**

### **37ZZN Publication of grant totals**

As soon as practicable after the end of each of the 2011-2012 to 2015-2016 financial years, the Minister must publish the following information:

- (a) the name of each entity paid an innovation grant (including an advance on account of an innovation grant) during the financial year;
- (b) the total of innovation grants (including advances on account of innovation grants) paid to the entity during the financial year.

## **Part 4—Information-gathering powers**

### **38 Minister or Secretary may obtain information and documents**

- (1) This section applies to a person if the Minister or the Secretary has reason to believe that the person:
  - (a) has information or a document that is relevant to the operation of a TCF scheme; or
  - (b) is capable of giving evidence which the Minister or the Secretary has reason to believe is relevant to the operation of a TCF scheme.
- (2) The Minister or the Secretary may, by written notice given to the person, require the person:
  - (a) to give to the Minister or the Secretary, within the period and in the manner and form specified in the notice, any such information; or
  - (b) to produce to the Minister or the Secretary, within the period and in the manner specified in the notice, any such documents; or
  - (c) to make copies of any such documents and to produce to the Minister or the Secretary, within the period and in the manner specified in the notice, those copies; or
  - (d) if the person is an individual—to appear before the Minister or the Secretary at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents; or
  - (e) if the person is a body corporate—to cause a competent officer of the body to appear before the Minister or the Secretary at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents.
- (3) A person is guilty of an offence if:
  - (a) the person is subject to a requirement under subsection (2); and
  - (b) the person contravenes the requirement.

Section 39

---

Penalty: 20 penalty units.

- (4) A notice under subsection (2) must set out the effect of the following provisions:
- (a) subsection (3);
  - (b) section 49;
  - (c) section 50;
  - (d) section 51.

**39 Copying documents—reasonable compensation**

A person is entitled to be paid reasonable compensation for complying with a requirement covered by paragraph 38(2)(c).

**40 Self-incrimination**

- (1) An individual is not excused from giving information or evidence or producing a document or a copy of a document under this Part on the ground that the information or evidence or the production of the document or copy might tend to incriminate the individual or expose the individual to a penalty.
- (2) However:
- (a) giving the information or evidence or producing the document or copy; or
  - (b) any information, document or thing obtained as a direct or indirect consequence of giving the information or evidence or producing the document or copy;
- is not admissible in evidence against the individual in criminal proceedings other than:
- (c) proceedings for an offence against subsection 38(3) or section 50 or 51; or
  - (d) proceedings for an offence against section 49 that relates to this Part.

**41 Copies of documents**

- (1) The Minister or the Secretary may inspect a document or copy produced under this Part and may make and retain copies of, or take and retain extracts from, such a document.

- (2) The Minister or the Secretary may retain possession of a copy of a document produced in accordance with a requirement covered by paragraph 38(2)(c).

#### **42 Minister or Secretary may retain documents**

- (1) The Minister or the Secretary may take, and retain for as long as is necessary, possession of a document produced under this Part.
- (2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Minister or the Secretary to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the Minister or the Secretary must, at such times and places as the Minister or the Secretary thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.

## Part 5—Recovery of scheme debts

### 43 Recovery of conditional grants

If:

- (a) a grant under a TCF scheme is paid to an entity; and
- (b) the grant is paid subject to a condition (whether a condition precedent or a condition subsequent); and
- (c) the condition is not fulfilled;

the Commonwealth may recover from the entity the whole or a part of the grant.

### 44 Scheme debts are debts due to the Commonwealth

A scheme debt is a debt due to the Commonwealth.

### 45 Recovery by legal proceedings

A scheme debt may be recovered by the Commonwealth by action in a court of competent jurisdiction.

### 46 Recovery by set-off

- (1) If an entity is liable to pay a scheme debt, the Commonwealth may recover the scheme debt from the entity by deducting the amount of the scheme debt from either or both of the following:
  - (a) one or more amounts that are payable to the entity by way of an advance or advances on account of a grant or grants that may become payable to the entity;
  - (b) one or more grants that are payable to the entity under a TCF scheme.

- (2) If the scheme debt is deducted as mentioned in subsection (1), the amount covered by paragraph (1)(a) and the grant covered by paragraph (1)(b) are taken to have been paid in full to the entity.

Example: An entity has a scheme debt of \$1,000 in relation to a grant paid under the TCF Post-2005 (SIP) scheme. An advance of \$11,000 under the Clothing and Household Textile (BIC) scheme is payable to the entity. The \$1,000 scheme debt may be deducted from the advance, so that



the entity only actually receives \$10,000. However, the entity is taken to have been paid an advance of \$11,000.

#### **47 Commonwealth may collect money from a person who owes money to an entity**

##### *What this section does*

- (1) This section allows the Commonwealth to collect money from a person who owes money to an entity that has a scheme debt.

##### *The Secretary may give direction*

- (2) The Secretary may direct a person (the **third party**) who owes, or may later owe, money (the **available money**) to the entity to pay some or all of the available money to the Commonwealth in accordance with the direction. The Secretary must give a copy of the direction to the entity.

##### *Limit on directions*

- (3) The direction cannot require an amount to be paid to the Commonwealth at a time before it becomes owing by the third party to the entity.

##### *Third party to comply*

- (4) The third party must comply with the direction, so far as the third party is able to do so.

Penalty: 20 penalty units.

##### *Court orders*

- (5) If a person is convicted of an offence in relation to a refusal or failure of the third party to comply with subsection (4), the court may (in addition to imposing a penalty on the convicted person) order the convicted person to pay to the Commonwealth an amount up to the amount involved in the refusal or failure of the third party.

Section 47

---

*Indemnity*

- (6) Any payment made by the third party under this section is taken to have been made with the authority of the entity and of all other persons concerned, and the third party is indemnified for the payment.

*Notice*

- (7) If the whole of the scheme debt of the entity is discharged before any payment is made by the third party, the Secretary must immediately give notice to the third party of that fact.

*When third party is taken to owe money*

- (8) The third party is taken to owe money to the entity if:
- (a) money is due or accruing by the third party to the entity; or
  - (b) the third party holds money for or on account of the entity; or
  - (c) the third party holds money on account of some other person for payment to the entity; or
  - (d) the third party has authority from some other person to pay money to the entity;
- whether or not the payment of the money to the entity is dependent on a pre-condition that has not been fulfilled.

*Building societies—withdrawable shares*

- (9) For the purposes of this section, money that has been paid by a person to a building society for the issue of withdrawable shares in the capital of the society, but has not been repaid, is taken to be:
- (a) if the money is payable on demand—money due by the building society to the person; or
  - (b) if the money is repayable on demand—money that may become due by the building society to the person.

*Definition*

- (10) In this section:

***building society*** means a society registered or incorporated as a building society, co-operative housing society or other similar society under the law in force in a State or Territory.

## **Part 6—Offences**

### **48 Application of *Criminal Code***

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

### **49 False or misleading information**

A person is guilty of an offence if:

- (a) the person gives information to another person; and
- (b) the person does so knowing that the information is false or misleading in a material particular; and
- (c) either of the following subparagraphs applies:
  - (i) the information is given to a person who is exercising powers or performing functions under, or in connection with, a TCF scheme;
  - (ii) the information is given in compliance or purported compliance with section 38.

Penalty: Imprisonment for 12 months.

### **50 False or misleading evidence**

A person is guilty of an offence if:

- (a) the person gives evidence to another person; and
- (b) the person does so knowing that the evidence is false or misleading in a material particular; and
- (c) the evidence is given under section 38.

Penalty: Imprisonment for 12 months.

### **51 False or misleading documents**

(1) A person is guilty of an offence if:

- (a) the person produces a document to another person; and
- (b) the person does so knowing that the document is false or misleading in a material particular; and

**Section 51**

---

- (c) the document is produced in compliance or purported compliance with section 38.

Penalty: Imprisonment for 12 months.

- (2) Subsection (1) does not apply to a person who produces a document if the document is accompanied by a written statement signed by the person or, in the case of a body corporate, by a competent officer of the body corporate:
  - (a) stating that the document is, to the knowledge of the first-mentioned person, false or misleading in a material particular; and
  - (b) setting out, or referring to, the material particular in which the document is, to the knowledge of the first-mentioned person, false or misleading.

## **Part 7—Miscellaneous**

### **52 Delegation**

#### *Delegation to senior officers of the Department*

- (1) The Secretary may, by writing, delegate to one or more senior officers of the Department any or all of the Secretary's functions or powers under this Act or a TCF scheme.
- (1A) Subsection (1) does not apply in relation to the powers under the following provisions:
  - (a) subsections 37P(6) and (7);
  - (b) section 37ZY.
- Note: The provisions are about authorising persons in relation to entry to premises etc.
- (2) A delegate is, in the performance of a function delegated under subsection (1), or in the exercise of a power delegated under subsection (1), subject to the directions of the Secretary.
- (3A) The Secretary may, by writing, delegate to one or more senior employees of an authorised Commonwealth contractor any or all of the Secretary's functions or powers under the TCF Post-2005 (SIP) scheme, other than the function referred to in paragraph 37X(2)(b) (which deals with the reconsideration of decisions).
- (3B) The Secretary may, by writing, delegate to one or more senior employees of an authorised Commonwealth contractor any or all of the Secretary's function or powers under the Clothing and Household Textile (BIC) scheme, other than the function referred to in paragraph 37ZZF(2)(b) (reconsideration of decisions).
- (4) A delegate is, in the performance of a function delegated under subsection (3A) or (3B), or in the exercise of a power delegated under subsection (3A) or (3B), subject to the directions of the Secretary.

Section 53

---

*Section 70 of the Crimes Act 1914*

- (5) For the purposes of the application of the definition of **Commonwealth officer** in subsection 3(1) of the *Crimes Act 1914* to section 70 of that Act, a person who performs functions, or exercises powers, under a delegation under this section is taken to be a person who performs services for the Commonwealth.

*Definitions*

- (6) In this section:

**authorised Commonwealth contractor** means a person who:

- (a) provides, or proposes to provide, services to the Commonwealth under a contract; and
- (b) is authorised, in writing, by the Secretary for the purposes of this definition.

**senior employee**, in relation to an authorised Commonwealth contractor, means an employee of the contractor, where the skills and responsibilities that are expected of the employee are equivalent to, or exceed, the skills and responsibilities expected of at least one of the senior officers of the Department.

**senior officer**, in relation to the Department, means:

- (a) an SES employee, or acting SES employee, in the Department; or
- (b) a person who holds or performs the duties of an Executive Officer (Level 2) office or position in the Department.

### 53 Availability of grants

To avoid doubt, nothing in this Act implies that grants under a TCF scheme must be available in respect of a particular income year.

### 55 International obligations

- (1) In performing a function, or exercising a power, conferred by this Act, the Minister must have regard to Australia's obligations under:
- (a) the Agreement Establishing the World Trade Organization; and

---

Section 55A

---

- (b) the Australia New Zealand Closer Economic Relations Trade Agreement; and
  - (c) an international agreement specified in the regulations.
- (2) Subsection (1) does not limit the matters to which the Minister may have regard.
- (3) In performing a function, or exercising a power, conferred by a TCF scheme, the Minister or the Secretary must have regard to Australia's obligations under:
  - (a) the Agreement Establishing the World Trade Organization; and
  - (b) the Australia New Zealand Closer Economic Relations Trade Agreement; and
  - (c) an international agreement specified in the regulations.
- (4) Subsection (3) does not limit the matters to which the Minister or the Secretary may have regard.
- (5) In this section:

***Australia New Zealand Closer Economic Relations Trade Agreement*** includes:

- (a) a Protocol relating to that agreement; and
- (b) an instrument under that agreement or under such a Protocol.

***international agreement*** means:

- (a) a convention to which Australia is a party; or
- (b) an agreement between Australia and a foreign country.

### **55A Additional effect of Act**

Without limiting its effect apart from this section, this Act also has the effect, and is taken always to have had the effect, it would have (or would have had) if each reference to an entity were, by express provision, confined to a reference to an entity that is:

- (a) a corporation to which paragraph 51(xx) of the Constitution applies; or
- (b) an entity that carries on business in a Territory;
- (c) an entity engaging in acts or practices in the course of, or in relation to, trade or commerce:

**Section 56**

---

- (i) between Australia and places outside Australia; or
- (ii) among the States; or
- (iii) within a Territory, between a State and a Territory or between 2 Territories.

**56 Regulations**

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.



**Table of Acts**

**Notes to the *Textile, Clothing and Footwear Investment and Innovation Programs Act 1999***

**Note 1**

The *Textile, Clothing and Footwear Investment and Innovation Programs Act 1999* as shown in this compilation comprises Act No. 182, 1999 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Textile, Clothing and Footwear Strategic Investment Program Act 1999</i>	182, 1999	22 Dec 1999	22 Dec 1999	
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (item 935): 22 Dec 1999 (a)	—
<b>as amended by</b>				
<i>Statute Law Revision Act 2002</i>	63, 2002	3 July 2002	Schedule 2 (item 29): (b)	—
<i>Textile, Clothing and Footwear Strategic Investment Program Amendment Act 2004</i>	36, 2004	20 Apr 2004	20 Apr 2004	S. 4
<i>Textile, Clothing and Footwear Strategic Investment Program Amendment (Post-2005 Scheme) Act 2004</i>	146, 2004	14 Dec 2004	Schedule 1: (c) Remainder: Royal Assent	Sch. 1 (item 11)
<i>Textile, Clothing and Footwear Strategic Investment Program Amendment (Building Innovative Capability) Act 2010</i>	43, 2010	14 Apr 2010	14 Apr 2010	Sch. 1 (items 46, 47)
<i>Statute Law Revision Act 2011</i>	5, 2011	22 Mar 2011	Schedule 7 (item 139): 19 Apr 2011	—

*Textile, Clothing and Footwear Investment and Innovation Programs Act 1999*

## Act Notes

- (a) The *Textile, Clothing and Footwear Investment and Innovation Programs Act 1999* was amended by Schedule 1 (item 935) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) to (3) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.
  - (3) If:
    - (a) an item (the **amending item**) of a Schedule to this Act is expressed to amend another Act (the **amended Act**); and
    - (b) the whole of the amended Act is expressed to commence at one time; and
    - (c) at the time when the *Public Service Act 1999* commences, the amended Act:
      - (i) has not yet been enacted; or
      - (ii) has been enacted but has not yet commenced;
 then the amending item commences immediately after the commencement of the amended Act.
- (b) Subsection 2(1) (item 58) of the *Statute Law Revision Act 2002* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
58. Schedule 2, item 29	Immediately after the time specified in the <i>Public Employment (Consequential and Transitional) Amendment Act 1999</i> for the commencement of item 935 of Schedule 1 to that Act	22 December 1999

- (c) Subsection 2(1) (item 2) of the *Textile, Clothing and Footwear Strategic Investment Program Amendment (Post-2005 Scheme) Act 2004* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
2. Schedule 1	Immediately after the commencement of the <i>Customs Tariff Amendment (Textile, Clothing and Footwear Post-2005 Arrangements) Act 2004</i> .	14 December 2004

## Table of Amendments

### Table of Amendments

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
Title .....	am. No. 43, 2010
<b>Part 1</b>	
S. 1 .....	am. No. 43, 2010
S. 3 .....	am. No. 146, 2004 rs. No. 43, 2010
S. 4 .....	am. No. 146, 2004; No. 43, 2010; No. 5, 2011
Part 2 .....	rep. No. 43, 2010
Div. 1A of Part 2 .....	ad. No. 146, 2004 rep. No. 43, 2010
Ss. 7A, 7B .....	ad. No. 146, 2004 rep. No. 43, 2010
Ss. 8, 9 .....	rep. No. 43, 2010
S. 10 .....	am. No. 36, 2004 rep. No. 43, 2010
Ss. 11–14 .....	rep. No. 43, 2010
S. 14A .....	ad. No. 36, 2004 rep. No. 43, 2010
Ss. 15–18 .....	rep. No. 43, 2010
Div. 4A of Part 2 .....	ad. No. 146, 2004 rep. No. 43, 2010
Ss. 18A–18F .....	ad. No. 146, 2004 rep. No. 43, 2010
Ss. 19–36 .....	rep. No. 43, 2010
Part 3 .....	rep. No. 43, 2010
S. 37 .....	rep. No. 43, 2010
<b>Part 3A</b>	
Part 3A .....	ad. No. 146, 2004
<b>Division 1</b>	
Ss. 37A, 37B .....	ad. No. 146, 2004 am. No. 43, 2010
<b>Division 2</b>	
S. 37C .....	ad. No. 146, 2004
Subhead. to s. 37D(1) .....	rep. No. 43, 2010
S. 37D .....	ad. No. 146, 2004 am. No. 43, 2010
<b>Division 3</b>	
Ss. 37E, 37F .....	ad. No. 146, 2004
S. 37G .....	ad. No. 146, 2004 am. No. 43, 2010
Note to s. 37G(2) .....	rep. No. 43, 2010

## Table of Amendments

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
Note to s. 37G(4).....	rep. No. 43, 2010
Note to s. 37G(5).....	am. No. 43, 2010
S. 37H.....	ad. No. 146, 2004 am. No. 43, 2010
Note to s. 37H(1).....	rep. No. 43, 2010
Ss. 37J, 37K.....	ad. No. 146, 2004
<b>Division 4</b>	
S. 37L.....	ad. No. 146, 2004
<b>Division 5</b>	
Ss. 37M, 37N.....	ad. No. 146, 2004
<b>Division 6</b>	
S. 37P.....	ad. No. 146, 2004 am. No. 43, 2010
Ss. 37Q–37U.....	ad. No. 146, 2004
<b>Division 7</b>	
Ss. 37V, 37W.....	ad. No. 146, 2004
S. 37X.....	ad. No. 146, 2004 am. No. 43, 2010
Ss. 37Y, 37Z.....	ad. No. 146, 2004
Ss. 37ZA–37ZF.....	ad. No. 146, 2004
Heading to s. 37ZG.....	am. No. 43, 2010
S. 37ZG.....	ad. No. 146, 2004 am. No. 43, 2010
S. 37ZH.....	ad. No. 146, 2004
S. 37ZI.....	ad. No. 146, 2004 am. No. 43, 2010
<b>Part 3B</b>	
S. 37ZJ.....	ad. No. 146, 2004
<b>Part 3C</b>	
Part 3C.....	ad. No. 43, 2010
<b>Division 1</b>	
Ss. 37ZK, 37ZL.....	ad. No. 43, 2010
<b>Division 2</b>	
S. 37ZM.....	ad. No. 43, 2010
S. 37ZMA.....	ad. No. 43, 2010
Ss. 37ZN, 37ZO.....	ad. No. 43, 2010
<b>Division 3</b>	
Ss. 37ZP, 37ZQ.....	ad. No. 43, 2010
Ss. 37ZQA, 37ZQB.....	ad. No. 43, 2010
Ss. 37ZR–37ZT.....	ad. No. 43, 2010
<b>Division 4</b>	
S. 37ZU.....	ad. No. 43, 2010

## Table of Amendments

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
<b>Division 5</b>	
Ss. 37ZV, 37ZW .....	ad. No. 43, 2010
<b>Division 6</b>	
Ss. 37ZX, 37ZY .....	ad. No. 43, 2010
<b>Division 7</b>	
S. 37ZZ .....	ad. No. 43, 2010
Ss. 37ZZA–37ZZD .....	ad. No. 43, 2010
<b>Division 8</b>	
Ss. 37ZZE–37ZZM .....	ad. No. 43, 2010
<b>Division 9</b>	
S. 37ZZN .....	ad. No. 43, 2010
<b>Part 4</b>	
S. 38 .....	am. No. 146, 2004; No. 43, 2010
<b>Part 5</b>	
S. 43 .....	rs. No. 146, 2004 am. No. 43, 2010
S. 46 .....	am. No. 146, 2004 rs. No. 43, 2010
Note to s. 46 .....	ad. No. 146, 2004 rep. No. 43, 2010
<b>Part 6</b>	
S. 49 .....	am. No. 146, 2004; No. 43, 2010
<b>Part 7</b>	
S. 52 .....	am. No. 146, 1999 (as am. by No. 63, 2002); No. 146, 2004; No. 43, 2010
S. 53 .....	am. No. 146, 2004; No. 43, 2010
S. 54 .....	rep. No. 43, 2010
S. 55 .....	am. No. 146, 2004; No. 43, 2010
S. 55A .....	ad. No. 43, 2010

---

**Table A**

**Table A**

**Application, saving or transitional provisions**

*Textile, Clothing and Footwear Strategic Investment Program Amendment Act 2004* (No. 36, 2004)

**4 Application**

The amendments made by Schedule 1 to this Act apply in respect of grants made both before and after the commencement of this Act.

---

*Textile, Clothing and Footwear Strategic Investment Program Amendment (Post-2005 Scheme) Act 2004* (No. 146, 2004)

**Schedule 1**

**11 Application—conditional grants**

The amendment made by item 10 applies in relation to grants paid on or after the commencement of this item.

---

*Textile, Clothing and Footwear Strategic Investment Program Amendment (Building Innovative Capability) Act 2010* (No. 43, 2010)

**Schedule 1**

**46 Transitional provision—section 37X**

- (1) This item applies if, immediately before the commencement of this Schedule, the TCF Post-2005 (SIP) scheme (the ***scheme***) in force under section 37C of the *Textile, Clothing and Footwear Strategic Investment Program Act 1999* contains a provision that has the effect described in subsection 37X(2A) (as inserted by this Schedule).
- (2) At and after the commencement of this Schedule, the provision has effect for the purposes of the scheme.

---

**Table A**

- (3) To avoid doubt, the insertion of subsection 37X(2A) by this Schedule does not affect the validity of the scheme before the commencement of this Schedule.

**47 Savings provision—repeal of Parts 2 and 3**

The repeal of Parts 2 and 3 of the *Textile, Clothing and Footwear Strategic Investment Program Act 1999* by item 13 of this Schedule does not affect the operation of Parts 5 and 6 of that Act in respect of the TCF (SIP) scheme (as in force under section 8 of that Act immediately before the commencement of this Schedule).