



Industrial Research and Development Incentives Amendment Act 1983

No. 121 of 1983

An Act to amend the *Industrial Research and Development Incentives Act 1976*

[Assented to 21 December 1983]

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

Short title, &c.

1. (1) This Act may be cited as the *Industrial Research and Development Incentives Amendment Act 1983*.

(2) The *Industrial Research and Development Incentives Act 1976*¹ is in this Act referred to as the Principal Act.

Commencement

2. This Act shall come into operation on a date to be fixed by Proclamation.

Interpretation

3. Section 4 of the Principal Act is amended—

- (a) by omitting from the definition of “eligible expenditure” in sub-section (1) “ineligible software research and development” and substituting

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“software research and development other than eligible software research and development”;

- (b) by omitting from the definition of “eligible software research and development” in sub-section (1) “industrial research and development by the company that relates to the production, or proposed production, of software” and substituting “software research and development by the company, where the software is”;
- (c) by omitting from sub-section (1) the definition of “ineligible software research and development”; and
- (d) by inserting after the definition of “software production” in sub-section (1) the following definition:

“ ‘software research and development’ means industrial research and development relating to software production or proposed software production;”.

Approval of research organizations, &c.

4. Section 6 of the Principal Act is amended by inserting after sub-section (1) the following sub-section:

“(1A) The Board may, in making a declaration under paragraph 6 (1) (a), specify a field of expertise or an activity in respect of which a specified research organization is an approved research organization, and, in that event, any industrial research and development carried out by the research organization in any field of expertise or activity not specified under this sub-section shall be deemed, for the purpose of the definition of ‘eligible contract expenditure’ in sub-section 4 (1), not to be industrial research and development.”.

Approved employees

5. Section 7 of the Principal Act is amended by inserting after sub-section (1) the following sub-section:

“(1A) A recommendation under sub-section (1) may include a recommendation that an employee be approved as an approved employee only in respect of a specified field of expertise or a specified activity, and, if the Board then gives its approval under sub-section (1), the employee shall be deemed, for the purposes of the definition of ‘professional or technical research and development work’ in sub-section 4 (1), not to be an approved employee in respect of work he performs in any field of expertise or activity not specified under this sub-section.”.

Functions and powers of Board

6. Section 8A of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “bodies” and substituting “companies”;

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- (b) by inserting after paragraph (1) (a) the following paragraph:
 - “(aa) at the request of persons or companies expressing interest in entering into financial transactions with applicants for grants, to provide to those persons or companies technical advice concerning the industrial research and development to which the applications relate;”;
- (c) by inserting after sub-section (1) the following sub-section:
 - “(1A) The functions conferred on the Board by paragraphs (1) (a) and (aa) do not empower the Board to communicate or provide, without the consent of a particular company, any information concerning industrial research and development undertaken by or for the company or otherwise concerning the affairs of the company.”.

Commencement grants

- 7. Section 23 of the Principal Act is amended by omitting sub-section (4).

Agreements with respect to projects

- 8. Section 30 of the Principal Act is amended—
 - (a) by omitting from the end of paragraph (1) (a) “or”;
 - (b) by inserting after that paragraph the following paragraph:
 - “(aa) a company (other than an eligible company) is carrying out, or proposes to carry out, a project for industrial research and development on behalf of 2 or more bodies corporate, where—
 - (i) at least one of those bodies corporate is an eligible company; and
 - (ii) of those bodies corporate, at least one is not deemed to be related to any other; or”;
 - (c) by inserting in paragraph (1) (c) “or (aa)” after “(a)”.

- 9. Section 31 of the Principal Act is repealed and the following section is inserted:

Total amounts allocated and committed under this Division in respect of a year

- “31. (1) The Minister shall, as soon as practicable after each 1 July, by notice in writing to the Chairman—
 - (a) specify the total amount allocated for project grants during the year commencing on that date; and
 - (b) if the year is a grant year, specify the total amount of the commitments the Board may incur during the year.

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“(2) The Minister may, during any year commencing on 1 July, by notice in writing to the Chairman—

- (a) specify an amount as an additional amount allocated for project grants during the year; and
- (b) if the year is a grant year, specify an amount as an additional amount of commitments the Board may incur during the year.

“(3) In entering into agreements under section 30, the Board shall ensure that—

- (a) the total amount of project grants payable during a year do not exceed the sum of the amounts specified under paragraphs (1) (a) and (2) (a) in respect of that year; and
- (b) if the year is a grant year, the total amount of commitments it incurs in respect of the year does not exceed the sum of the amounts specified under paragraphs (1) (b) and (2) (b) in respect of that year.

“(4) In this section—

- (a) a reference to the Chairman shall, if there is an acting Chairman, be read as a reference to the acting Chairman; and
- (b) a reference to commitments, in relation to a year, shall be read as a reference to the amounts that will become payable at any time as a result of the Board entering into agreements under section 30 during that grant year.”.

10. Section 32A of the Principal Act is repealed and the following sub-section is inserted:

Results of projects to be exploited

“32A. The Board shall not enter into an agreement under sub-section 30 (1) with a company in relation to the making of a grant of financial assistance in respect of expenditure in respect of a project for industrial research and development unless it is satisfied that the results of that industrial research and development will be exploited on normal commercial terms and otherwise in a manner that will be for the benefit of the Australian economy.”.

Applications

11. Section 34 of the Principal Act is amended—

- (a) by omitting from sub-section (3A) “1982” and substituting “1983”;
- (b) by omitting from paragraphs (3A) (a) and (b) “before 30 September” and substituting “before the first relevant date”;
- (c) by omitting from paragraph (3A) (b) “that 30 September” and substituting “that date”;
- (d) by omitting from paragraph (3A) (b) “30 November” and substituting “the second relevant date”; and

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

“(7) In sub-section (3A)—

‘first relevant date’ means 30 September or such later date as is prescribed;

‘second relevant date’ means 30 November or such later date as is prescribed;

“(8) Regulations prescribing a date for the purposes of sub-section (7)—

(a) shall specify the grant year in respect of which they apply; and

(b) may be made before, on or after that date.”.

12. After section 41 of the Principal Act the following section is inserted:

Statements to accompany notification of decisions

“41A. (1) Where notice in writing is given to a company affected by a decision of the Board that the decision has been made, the notice shall include a statement to the effect that—

(a) the company, as the case may be, if dissatisfied with the decision, may seek a reconsideration of the decision by the Board in accordance with sub-section 41 (2); and

(b) a company whose interests are affected by the decision may, subject to the *Administrative Appeals Tribunal Act 1975*, if dissatisfied with a decision of the Board upon that reconsideration confirming or varying that first-mentioned decision, make application to the Administrative Appeals Tribunal for review of the decision as so confirmed or varied.

“(2) Where the Board confirms or varies a decision of the Board under sub-section 41 (4) and gives to a company notice in writing of the confirmation or variation of the decision, the notice shall include a statement to the effect that a company whose interests are affected by the decision may, subject to the *Administrative Appeals Tribunal Act 1975*, if dissatisfied with the decision as so confirmed or varied, make application to the Administrative Appeals Tribunal for review of the decision.

“(3) Any failure to comply with the requirements of sub-section (1) or (2) in relation to a decision of the Board (including a decision under sub-section 41 (4)) does not affect the validity of that decision.

“(4) In this section, ‘decision’ and ‘decision of the Board’ have the same respective meanings as in sub-section 41 (1).”.

Formal Amendments

13. The Principal Act is amended as set out in the Schedule.

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SCHEDULE

Section 13

Provision	How amended
Sub-section 4 (1) (definition of "previous Act")	Omit "1967 or that Act as amended and in force from time to time", substitute "1967".
Sub-section 17 (4)	Omit "1901-1973", substitute "1901".
Section 20	Omit "1922-1975", substitute "1922".
Sub-section 21 (8)	Omit "1973-1975", substitute "1973".

NOTE

1. No. 85 of 1976. For previous amendments, see Nos. 36 and 211, 1978; No. 92, 1981; No. 80, 1982; No. 39, 1983.