

2016-2017-2018-2019

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Export Finance and Insurance
Corporation Amendment (Support for
Infrastructure Financing) Bill 2019**

No. , 2019

(Foreign Affairs and Trade)

**A Bill for an Act to amend the *Export Finance and
Insurance Corporation Act 1991*, and for related
purposes**

Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedules.....	2
Schedule 1—Amendments		3
	<i>Export Finance and Insurance Corporation Act 1991</i>	3

1 **A Bill for an Act to amend the *Export Finance and***
2 ***Insurance Corporation Act 1991*, and for related**
3 **purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act is the *Export Finance and Insurance Corporation*
7 *Amendment (Support for Infrastructure Financing) Act 2019*.

8 **2 Commencement**

9 (1) Each provision of this Act specified in column 1 of the table
10 commences, or is taken to have commenced, in accordance with
11 column 2 of the table. Any other statement in column 2 has effect
12 according to its terms.

1

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	

2

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

3

4

5

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

6

7

8

3 Schedules

9

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

10

11

12

2

Schedule 1—Amendments

Export Finance and Insurance Corporation Act 1991

1 Title

Omit “by the provision of insurance and financial services and products”, substitute “and overseas infrastructure development”.

2 Subsection 3(1)

Insert:

ADI has the same meaning as in the *Banking Act 1959*.

Note: ADI is short for authorised deposit-taking institution.

Australian benefit means a benefit that flows (whether directly or indirectly) from overseas to:

(a) Australia; or

(b) a person carrying on business or other activities in Australia.

EFIC’s overseas infrastructure financing functions means the functions set out in paragraphs 7(1)(dd) and (de).

overseas infrastructure development means the development or enhancement of infrastructure that will be, or is, located or used wholly or substantially outside Australia.

overseas infrastructure financing means lending money to support overseas infrastructure development, if EFIC reasonably believes that lending the money is likely to result in an Australian benefit.

Note: Lending money includes providing finance, or providing a financial accommodation, in any form: see subsection (2).

3 Paragraph 7(1)(b)

Omit “banks”, substitute “ADIs”.

4 After paragraph 7(1)(dc)

Insert:

- 1 (dd) to engage in overseas infrastructure financing under
2 section 23A;
- 3 (de) to encourage and facilitate overseas infrastructure financing
4 by:
- 5 (i) giving guarantees under section 18A; and
6 (ii) encouraging ADIs, and other financial institutions,
7 carrying on business in Australia to engage in, or assist
8 in, overseas infrastructure financing; and
9 (iii) providing information and advice to any person
10 regarding overseas infrastructure financing;

11 **5 At the end of section 8**

12 Add:

13 *EFIC's overseas infrastructure financing functions*

- 14 (4) EFIC is to perform EFIC's overseas infrastructure financing
15 functions in such a manner as EFIC reasonably believes is likely to
16 result in the maximum Australian benefits.
- 17 (5) Subsection (1) and subparagraph (2)(b)(i) do not apply in relation
18 to EFIC's overseas infrastructure financing functions.

19 **6 After section 18**

20 Insert:

21 **18A Guarantees to co-lenders in relation to overseas infrastructure**
22 **development**

23 If, for the purpose of supporting overseas infrastructure
24 development:

- 25 (a) EFIC has lent, or proposes to lend, money under section 23A
26 to a person; and
27 (b) another person (the *co-lender*), by arrangement with EFIC,
28 has also lent, or proposes to lend, money to that person, or to
29 another person;

30 EFIC may guarantee to the co-lender the repayment of the whole
31 or any part of the money lent, or to be lent, by the co-lender and
32 the payment of the whole or a part of any interest or other charges

1 that may become payable to the co-lender in respect of the money
2 lent, or to be lent, by the co-lender.

3 **7 At the end of subsection 23(1)**

4 Add:

5 Note: EFIC's power under subsection (1) to lend money includes the power
6 to provide finance, or to provide a financial accommodation, in any
7 form: see subsection 3(2).

8 **8 At the end of Part 4**

9 Add:

10 **23A Loans to support overseas infrastructure development**

11 (1) EFIC may lend money for the purpose of supporting overseas
12 infrastructure development.

13 Note: EFIC's power under subsection (1) to lend money includes the power
14 to provide finance, or to provide a financial accommodation, in any
15 form: see subsection 3(2).

16 (2) The money may be lent to such person or persons as EFIC thinks
17 appropriate.

18 (3) However, EFIC must not lend money under this section unless
19 EFIC reasonably believes that lending the money is likely to result
20 in an Australian benefit.

21 Note: See also subsection 8(4).

22 **9 After subsection 27(4)**

23 Insert:

24 (4A) The Minister may approve of EFIC making a loan under
25 section 23A in respect of overseas infrastructure development if
26 the Minister is satisfied that it is in the national interest that EFIC
27 make the loan in respect of the development.

28 **10 Paragraph 54(8)(a)**

29 Omit "\$200,000,000", substitute "\$1,200,000,000".

1 **11 At the end of subsection 67(1)**

2 Add “or in relation to overseas infrastructure development”.

3 **12 Subsection 67(2)**

4 After “eligible export transaction”, insert “or in connection with
5 overseas infrastructure development”.

6 **13 Subsection 81(1)**

7 Omit “or under the acronym EFIC”, substitute “, under the acronym
8 EFIC or under the name “Export Finance Australia””.

9 **14 Subsection 81(2)**

10 Omit “or the acronym EFIC” (first occurring), substitute “, the acronym
11 EFIC, the name “Export Finance Australia””.

12 **15 Subsection 81(2)**

13 Omit “or the acronym EFIC” (second occurring), substitute “, the
14 acronym EFIC or the name “Export Finance Australia””.

15 **16 Subsections 81(3) and (4)**

16 Repeal the subsections, substitute:

17 (3) Nothing in subsection (2) applies to the use of a name or acronym
18 (the *protected name or acronym*) by a person in a particular
19 manner if:

20 (a) to the extent that subsection (2) applies in relation to the
21 name of EFIC or the acronym EFIC—immediately before the
22 commencement of this Act, the person was using the
23 protected name or acronym in good faith in that manner; or

24 (b) to the extent that subsection (2) applies in relation to the
25 name “Export Finance Australia”—immediately before the
26 commencement of this paragraph, the person was using the
27 protected name or acronym in good faith in that manner.

28 (4) Nothing in subsection (2) affects rights conferred by law in relation
29 to the use of a name or acronym, or the use of the name or acronym
30 in pursuance of such a right, if:

31 (a) to the extent that subsection (2) applies in relation to the
32 name of EFIC or the acronym EFIC—the rights were in

1 existence immediately before the commencement of this Act;
2 or
3 (b) to the extent that subsection (2) applies in relation to the
4 name “Export Finance Australia”—the rights were in
5 existence immediately before the commencement of this
6 paragraph.