EXPLANATORY STATEMENT

Export Market Development Grants (Change in Ownership of Business) Guidelines 2016

Authority

The Export Market Development Grants (Change in Ownership of Business) Guidelines 2016 is made by the Minister for Trade and Investment under paragraph 101(1)(d) of the Export Market Development Grants Act 1997 (the EMDG Act).

Purpose

This Legislative Instrument details guidelines to be complied with by the Chief Executive Officer (CEO) of Austrade in determining, for the purposes of subparagraph 94(1)(b)(ii) of the EMDG Act, whether a business or a part of a business that was carried on by a person is similar to a business being carried on by another person to such an extent that the new business should be treated as a continuation of the old business.

Background

The EMDG Act provides for grants to eligible Australian businesses which have incurred eligible expenses promoting the export of their Australian goods, services, intellectual property rights and know-how. The grant is a partial reimbursement of the expenses incurred.

Entitlement to a grant depends on (among other things) whether the business has been the recipient of a previous EMDG grant, or whether the business is part of a business that has been the recipient of an EMDG grant.

Section 94 ‘Change in ownership of business etc.’ of the EMDG Act allows the CEO of Austrade to ensure that a business does not become eligible for grants above the normal limit of seven simply because the business changes ownership. The section provides that if the business of the new owner is similar to the business of the previous owner, then Austrade may attach the grants history of the previous owner (including grants already paid) to the new owner.

Decisions under these guidelines are reviewable in the Administrative Appeals Tribunal.

Commencement

The Guidelines are made to repeal and replace the Export Market Development Grants (Change in Ownership of Business) Guidelines 2006, which is due to sunset on 1 October 2016.

The Guidelines are the same in substance as the Export Market Development Grants (Change in Ownership of Business) Guidelines 2006.

The Guidelines apply when working entitlement to a grant in respect a grant made on or after 1 July 2016.

Consultation

Austrade conducted extensive stakeholder consultations before remaking this instrument. All stakeholder responses supported this instrument being remade, unchanged.
Regulation Impact Statement

The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required (reference: OBPR 20848).

This Guideline is a Legislative Instrument for the purposes of the Legislation Act 2003.

This Guideline is compatible with human rights and freedoms recognised or declared under section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011. A full statement of compatibility is set out in Attachment A.
Statement of Compatibility with Human Rights


Export Market Development Grants (Change in Ownership of Business) Guidelines 2016

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2001.

Overview of the Legislative Instrument

The Legislative Instrument provides Guidelines for the Chief Executive Officer of Austrade to use in determining if the applicant for an EMDG grant has been the recipient of a previous EMDG grant, or whether the business is part of a business that has been the recipient of an EMDG grant.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.