EXPLANATORY STATEMENT


Authority


Purpose

This Legislative Instrument details guidelines to be complied with by the Chief Executive Officer (CEO) of Austrade in forming an opinion, for Division 2 of Part 5 of the Export Market Development Grants Act 1997, as to whether an entity is, or is not, closely related to another entity.

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 an entity is closely related to another. This determination provides the CEO of Austrade with guidance on determining the relationship between entities.

The Determination allows the CEO of Austrade to determine the relationship between entities so as to not make a payment to a party that is connected to or has an influence over the applicant.

Decisions under this Determination are subject to review in the Administrative Appeals Tribunal.

Commencement

The Determination is made to repeal and replace the Export Market Development Grants (Close Relationships – General) Determination 2002, which is due to sunset on 1 October 2016.

The Determination is the same in substance as the Export Market Development Grants (Close relationships – General) Determination 2002.

The Determination applies 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 Determination is a Legislative Instrument for the purposes of the Legislation Act 2003.

This Determination 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

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 allows the Chief Executive Officer of Austrade to determine the relationship between entities so as to not make a payment to a part that is connected to or has an influence over the applicant.

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.