

EXPORT MARKET DEVELOPMENT GRANTS ACT 1997

Export Market Development Grants (Significant Net Benefit) Amendment Guidelines 2010

Explanatory Statement

Guidelines to be complied with by Austrade in determining, for paragraph 24(b) of the Export Market Development Grants Act 1997, whether Australia will derive a significant net benefit from the sale of goods outside Australia.

The *Export Market Development Grants Act 1997* (EMDG Act) provides for grants to specified Australian businesses which have incurred specified 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.

Among other amendments, the *Export Market Development Grants Amendment Act 2006* amended the Export Market Development Grants (EMDG) scheme's rules, set out at section 24 of the EMDG Act, for determining the eligibility of goods.

The amended section 24 provided that, to be eligible:

- (a) goods must be made in Australia; or
- (b) Austrade must be satisfied that Australia will derive a significant net benefit from the sale of the goods outside Australia.

Paragraph 101(1)(baa) of the amended EMDG Act provided for ministerial guidelines to be complied with by Austrade in determining whether Australia will derive a significant net benefit from the sale of goods outside Australia.

The *Export Market Development Grants (Significant Net Benefit) Guidelines) 2006* (the 2006 Determination) was prepared to assist applicants to clarify whether their goods are likely to be eligible and to increase the transparency and accountability of Austrade's decision-making about the eligibility of goods. The 2006 Determination has been applied to EMDG claims for the 2006-07 to 2008-09 grant years inclusive.

Based on Austrade's experience applying the 2006 Determination, this instrument amends the 2006 Determination in one minor respect. This amendment requires that the generation of any substantial economic benefits for Australia, referred to at paragraph 4(2)(d) of the instrument, should be assessed having regard to whether the economic benefits are reasonably commensurate with the amount of grant claimed by the applicant.

This instrument is a machinery measure and does not substantially change the law, Austrade has not consulted with other Government Departments in the course of its preparation. It has not consulted directly with industry because to do so would have provided undue commercial advantage to a limited number of individuals and organisations.

This instrument commences on the day after it is registered and it applies to applications made for the 2009-10 and following grant years.

Austrade's decisions in relation to whether a person meets the Australian net benefit requirements are subject to review in the Administrative Appeals Tribunal.

This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* and is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.