

EXPORT MARKET DEVELOPMENT GRANTS ACT 1997

Export Market Development Grants (Information and Document Requirements) **Amendment Determination 2010 (No. 1)**

Explanatory Statement

A Determination to be complied with by Austrade in assessing whether a person meets the information and document requirements of paragraphs 70(2C)(f) and (g) of the Export Market Development Grants Act.

Background

Among other amendments, the *Export Market Development Grants Act 2008* amended the EMDG scheme rules to introduce a performance measure for applicants other than approved bodies and approved trading houses that have already received two grants. These applicants must choose between two options under section 70 of the EMDG Act. These two options (grants options A and B) provide alternative ways for these applicants to show that they meet the scheme's performance requirements. The choice is mandatory and must be made at the time an applicant applies for a grant.

Under section 9 of the EMDG Act, the CEO of Austrade must decide whether applicants selecting grants option B meet the Australian net benefit requirements.

Section 10 of the EMDG Act provides for the making of a legislative instrument to be complied with by Austrade in determining whether applicants meet the Australian net benefit requirements.

The *Export Market Development Grants (Australian Net Benefit Requirements) Determination 2008* (the 2008 Australian Net Benefit Requirements Determination) was introduced in 2008 and has been applied to 2008-09 grant year applications.

Section 73A of the EMDG Act provides that the CEO of Austrade may make a legislative instrument specifying information or documents that are required to be submitted by applicants that have selected grants option B in order for these applications to be assessed as validly made under the amended EMDG Act.

The *Export Market Development Grants (Information and Document Requirements) Determination 2008* (the 2008 Information and Document Requirements Determination) was made under section 73A of the EMDG Act to provide the rules for EMDG applicants subject to the requirements of paragraphs 70(2C)(f) and (g) of the EMDG Act.

The 2008 Information and Document Requirements Determination has been applied to 2008-09 grant year applications.

Based on Austrade's experience applying the 2008 Australian Net Benefit Requirements Determination, the *Export Market Development Grants (Australian Net Benefit Requirements) Amendment Determination 2010 (No. 1)* (the 2010 Australian Net Benefit Requirements Determination) was made in order to make the Australian net benefit requirements simpler and more objective

This legislative instrument aligns the Information and Document requirements with the 2010 Australian Net Benefit requirements Determination rules.

Section 73(3) of the EMDG Act provides that the CEO of Austrade must not consider an application that does not meet this instrument's specified information and document requirements in terms of paragraphs 70(2C) (f) and (g) of the EMDG Act.

Consultation arrangements carried out in relation to this legislative instrument

This legislative instrument is a machinery measure and does not substantially change the law. Austrade has not consulted with other entities in the course of preparing this amendment because it implements the policy implicit in the 2010 Australian Net Benefit Requirements Determination.

Commencement provisions for this legislative instrument

This instrument commences on the day after it is registered.

Application provisions for this legislative instrument

The changed rule in this instrument does not apply to EMDG applications made in respect of the 2008-09 grant year.

Review rights for decisions made under the legislative instrument

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

Other provisions

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*.