

EXPORT PAYMENTS INSURANCE CORPORATION.

No. 104 of 1964.

An Act to amend the *Export Payments Insurance Corporation Act 1956–1961*.

[Assented to 20th November, 1964.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title
and citation.

1.—(1.) This Act may be cited as the *Export Payments Insurance Corporation Act 1964*.

(2.) The *Export Payments Insurance Corporation Act 1956–1961** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Export Payments Insurance Corporation Act 1956–1964*.

Commence-
ment.

2.—(1.) Subject to the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2.) Section nine of this Act shall come into operation on a date to be fixed by Proclamation.

* Act No. 32, 1956, as amended by Nos. 1 and 101, 1959; and No. 14, 1961.

3. The title of the Principal Act is amended by adding at the end thereof the words “and to give certain Guarantees in connexion with that Trade”.

Title.

4. Section two of the Principal Act is amended by omitting the words and figures—

Parts.

“Division 2.—Powers and Duties of the Corporation
(Sections 13–16A).”

and inserting in their stead the words and figures—

“Division 2.—Powers and Duties of the Corporation
(Sections 13–16B).”

5. Section three of the Principal Act is amended—

Definitions.

(a) by inserting before the definition of “Australia” the following definition:—

“‘approved bank’ means the Reserve Bank of Australia or a bank approved by the Treasurer for the purposes of the provision in which the expression occurs;”;

(b) by inserting after the definition of “Australia” the following definition:—

“‘guarantee’ means a guarantee given by the Corporation under section thirteen A of this Act;”;

(c) by inserting after the definition of “national interest contract” the following definition:—

“‘national interest guarantee’ means a guarantee given by the Corporation in accordance with an approval given for the purposes of section sixteen B of this Act;”;

(d) by omitting the definition of “trade with countries outside Australia”.

6. Section eleven of the Principal Act is amended—

Relations of
Corporation
with Minister.

(a) by omitting from paragraph (b) of sub-section (2.) the word “and”;

(b) by inserting after paragraph (c) of sub-section (2.) the following word and paragraph:—

“; and (d) the giving of guarantees;”;

(c) by omitting from sub-section (3.) the words “paragraph (a), (b) or (c)” and inserting in their stead the words “paragraph (a), (b), (c) or (d)”;

(d) by omitting sub-section (4.) and inserting in its stead the following sub-section:—

“(4.) Nothing in this section shall be construed—

(a) as requiring the approval of the Minister to the Corporation entering into a particular contract of insurance or to the Corporation giving a particular guarantee; or

(b) as empowering the Minister to determine that the Corporation shall or shall not enter into a particular contract of insurance or give a particular guarantee,

but the Corporation shall not enter into a particular contract of insurance or give a particular guarantee contrary to a policy approved or determined by the Minister under this section.”.

Corporation
to carry on
certain
insurance
business.

7. Section thirteen of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(4.) In this section, ‘trade with countries outside Australia’ includes any transaction (including a transaction for the rendering of a service) involving a consideration in money or money’s worth accruing from a person in the course of carrying on business or other activities outside Australia to a person carrying on business or other activities in Australia.”.

8. After section thirteen of the Principal Act the following section is inserted:—

Guarantees.

“13A.—(1.) The business of the Corporation extends to the giving of guarantees under this section.

“(2.) Where—

(a) the Corporation has entered into, or proposes to enter into, a contract of insurance under the last preceding section with, or for the benefit of, any person;

(b) the contract of insurance is against risk of monetary loss or other monetary detriment resulting from failure to receive payment in connexion with, or otherwise arising out of, acts or transactions in the course of, or for the purpose of, trade or commerce with a country outside Australia;

(c) the Corporation is satisfied that the value of the consideration payable to that person in respect of the acts or transactions is not less than One hundred thousand pounds; and

- (d) another person has advanced, or proposes to advance, moneys to that first-mentioned person for the purpose of financing, in whole or in part, those acts or transactions,

the Corporation may, subject to the next succeeding sub-section, guarantee to that other person the repayment of the whole or any part of the moneys advanced or to be advanced by him and the payment of the whole or any part of any interest or other charges that may become payable to him in respect of those moneys.

“(3.) The regulations may make provision for limiting the extent to which a guarantee may be given under this section to a specified percentage of the moneys advanced.”.

9. Section sixteen of the Principal Act is amended by omitting sub-sections (3.), (4.) and (5.) and inserting in their stead the following sub-sections:—

Percentage of
loss that may
be covered.

“(3.) The regulations may prescribe a percentage as the maximum percentage that may be specified, in pursuance of this section, in a contract of insurance in relation to a cause of loss.

“(4.) Regulations so made may prescribe different percentages for different classes of contracts and for different causes of loss, and according to different times of occurrence of a cause of loss.

“(5.) The Minister may, if so requested by the Corporation in a particular case and if he thinks it appropriate so to do having regard to special circumstances applicable in the case, direct, by instrument in writing, that, in lieu of the percentage that is the maximum percentage applicable in that case under the regulations, such greater percentage as is specified in the instrument shall apply.”.

10. Section sixteen A of the Principal Act is amended—

Contracts
in national
interest.

- (a) by omitting from sub-section (5.) the words and figures “sub-section (3.) or (4.) of” and inserting in their stead the word “in”; and

- (b) by inserting after sub-section (5.) the following sub-section:—

“(5A.) The Corporation may, before it enters into a contract of insurance in accordance with an approval given under sub-section (3.) of this section, inform the Minister, by notice in writing, that the Corporation proposes to bear such proportion of the liability of the Corporation under the contract as is specified in the notice.”.

11. After section sixteen A of the Principal Act the following section is inserted in Division 2 of Part II. :—

Guarantees in
relation to
national
interest
contracts.

“ 16B.—(1.) The Corporation shall not give a guarantee in relation to a national interest contract except under the authority of, and in accordance with, the approval in writing of the Minister.

“ (2.) An approval of the Minister for the purposes of the last preceding sub-section may contain conditions or directions in relation to the proposed guarantee (including conditions or directions with respect to the amount to be charged by the Corporation for the giving of the guarantee or the percentage of the moneys advanced to which the guarantee is to extend).

“ (3.) The Corporation may, before it gives a national interest guarantee, inform the Minister, by notice in writing, that the Corporation proposes to bear such proportion of the liability of the Corporation under the guarantee as is specified in the notice.

“ (4.) For the purposes of this section, a guarantee shall be deemed to relate to a national interest contract if it is given in respect of moneys advanced for the purpose of financing the acts or transactions to which the national interest contract relates.”.

Terms and
conditions of
employment.

12. Section eighteen of the Principal Act is amended by omitting from sub-section (2.) the words “ Two thousand five hundred pounds ” and inserting in their stead the words “ Three thousand five hundred pounds ”.

Bank accounts.

13. Section twenty-five of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“ (1.) The Corporation may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.”.

Application
of moneys.

14. Section twenty-six of the Principal Act is amended by omitting paragraph (a) of sub-section (2.) and inserting in its stead the following paragraph:—

“ (a) on fixed deposit with an approved bank; ”.

15. Section twenty-eight of the Principal Act is repealed and the following section inserted in its stead:—

Maximum
contingent
liability.

“ 28.—(1.) Subject to the next succeeding sub-section, the Corporation shall so carry on its business that the contingent liability of the Corporation under contracts of insurance and under guarantees does not at any time exceed Seventy-five million pounds.

- “(2.) For the purposes of the last preceding sub-section—
- (a) where the Corporation has not given a notice under sub-section (5A.) of section sixteen A of this Act in respect of a national interest contract—the contingent liability of the Corporation under the contract shall not be taken into account;
 - (b) where the Corporation has given a notice under that sub-section in respect of a national interest contract—only such proportion of the contingent liability of the Corporation under the contract as corresponds to the proportion specified in the notice shall be taken into account;
 - (c) where the Corporation has not given a notice under sub-section (3.) of section sixteen B of this Act in respect of a national interest guarantee—the contingent liability of the Corporation under the guarantee shall not be taken into account; and
 - (d) where the Corporation has given a notice under that sub-section in respect of a national interest guarantee—only such proportion of the contingent liability of the Corporation under the guarantee as corresponds to the proportion specified in the notice shall be taken into account.”.

16. Section twenty-nine A of the Principal Act is repealed and the following section inserted in its stead:—

“ 29A.—(1.) The Corporation shall keep a separate account of its receipts and disbursements arising out of national interest contracts and national interest guarantees. National interest contracts and guarantees.

“(2.) Subject to this section, the Corporation shall pay to the Commonwealth from time to time, as directed by the Treasurer, the receipts of the Corporation arising out of national interest contracts and national interest guarantees.

“(3.) Subject to this section, the Commonwealth shall pay to the Corporation, out of moneys lawfully available for the purpose, the amount needed to discharge any liability of the Corporation under a national interest contract or under a national interest guarantee.

“(4.) Where the Corporation informs the Minister by notice under sub-section (5A.) of section sixteen A, or under sub-section (3.) of section sixteen B, of this Act that the Corporation proposes to bear a proportion of the liability of the Corporation under a national interest contract or under a national interest guarantee—

- (a) the Corporation may, if the amount of any receipts that it is required to pay to the Commonwealth under sub-section (2.) of this section includes receipts arising out of that contract or that guarantee, deduct

from that amount such proportion of the receipts of the Corporation arising out of that contract or that guarantee as corresponds to the proportion specified in the notice; and

- (b) there shall be deducted from an amount required under the last preceding sub-section to be paid by the Commonwealth to the Corporation in respect of that contract or that guarantee such proportion of that amount as corresponds to the proportion so specified.

“(5.) The Corporation may deduct from the amount of any receipts that it is required to pay to the Commonwealth under sub-section (2.) of this section a reasonable amount, to be ascertained in such manner as the Treasurer directs, in respect of the expenses of the Corporation, other than payments in discharge of liabilities of the Corporation under contracts of insurance or guarantees.”.

Quarterly
return of
liabilities.

17. Section thirty-three of the Principal Act is amended by omitting paragraphs (a) and (b) and inserting in their stead the following paragraphs:—

- “(a) contracts of insurance entered into, and guarantees given, by the Corporation in that period of three months; and
- (b) contracts of insurance entered into, and guarantees given, by the Corporation and in force at the end of that period of three months.”.

Validity of
insurance
contracts and
guarantees.

18. Section thirty-four of the Principal Act is amended—

- (a) by inserting after the words “entered into” the words “, or a guarantee given,”; and
- (b) by inserting after the word “contract” (second occurring) the words “or guarantee”.

False
statements.

19. Section thirty-seven of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) A person who wilfully makes a false or misleading statement in or in connexion with—

- (a) an application or proposal for insurance, or an application for a guarantee, under this Act; or
 - (b) a claim under a contract of insurance, or under a guarantee, under this Act,
- is guilty of an offence.”.