

Export Payments Insurance Corporation

No. 74 of 1965

An Act to amend the *Export Payments Insurance Corporation Act 1956–1964*.

[Assented to 25 November, 1965]

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 1965*.

(2.) The *Export Payments Insurance Corporation Act 1956–1964** 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 1956–1965*.

Commence-
ment.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

* Act No. 32, 1956, as amended by Nos. 1 and 101, 1959; No. 14, 1961; and No. 104, 1964.

3. The title of the Principal Act is repealed and the following title inserted in its stead:—

“ An Act to establish a Corporation by the name of the Export Payments Insurance Corporation, and to make provision for and in relation to the Business to be carried on by the Corporation.”

4. Section 2 of the Principal Act is amended by omitting the words and figures—

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

and inserting in their stead the words and figures—

“ Division 2.—Export Payments Insurance (Sections 13–16B).

“ Division 2A.—Overseas Investment Insurance (Sections 16C–16J).”

5. Section 3 of the Principal Act is amended by inserting after the definition of “ national interest guarantee ” the following definition:—

“ ‘ overseas investment insurance contract ’ means a contract of insurance entered into by the Corporation under section sixteen H of this Act;”

6. After section 10 of the Principal Act the following section is inserted:—

“ 10A.—(1.) The Corporation shall, subject to this Act, carry on the business of insurance, being insurance under contracts which the Corporation is empowered to enter into under this Act.

“ (2.) The Corporation has power to do (whether in Australia or elsewhere) all things necessary or convenient to be done for or in connexion with, or as incidental to, the carrying on of its business and, in particular, power—

- (a) to acquire, hold and dispose of land, goods or other property;
- (b) to make contracts;
- (c) to appoint agents and attorneys;
- (d) to institute and defend legal proceedings;
- (e) to advertise its services; and
- (f) to obtain and pay for information necessary for its business.”

7. Section 11 of the Principal Act is amended by adding at the end thereof the following sub-section:—

“ (5.) A reference in this section to a contract of insurance shall be read as not including a reference to a contract into which the Corporation is empowered to enter under section sixteen H of this Act.”

Heading to
Division.

8. The heading to Division 2 of Part II. of the Principal Act is omitted and the following heading inserted in its stead:—

“ *Division 2.—Export Payments Insurance.*”.

Corporation
may enter
into export
payments
insurance
contracts.

9. Section 13 of the Principal Act is amended—

- (a) by omitting sub-section (1.); and
- (b) by omitting from sub-section (2.) the words “ The contracts of insurance which the Corporation may enter into under this section are ” and inserting in their stead the words “ The Corporation may enter into ”.

Guarantees.

10. Section 13A of the Principal Act is amended by omitting from paragraph (c) of sub-section (2.) the words “ One hundred thousand pounds ” and inserting in their stead the words “ such amount as is prescribed for the purposes of this paragraph ”.

Duties of
Corporation.

11. Section 14 of the Principal Act is amended—

- (a) by inserting in paragraph (a), after the word “ business ”, the words “ under this Division ”; and
- (b) by inserting in paragraph (b), after the word “ policy ”, the words “ in relation to its business under this Division ”.

Powers of
Corporation.

12. Section 15 of the Principal Act is repealed.

Percentage
of loss that
may be
covered.

13. Section 16 of the Principal Act is amended by inserting in sub-section (1.), after the word “ Corporation ”, the words “ under section thirteen of this Act ”.

Contracts in
national
interest.

14. Section 16A of the Principal Act is amended by inserting in paragraph (a) of sub-section (1.), after the word “ Corpora- tion ”, the words “ under this Division ”.

15. After Division 2 of Part II. of the Principal Act the following Division is inserted:—

“ *Division 2A —Overseas Investment Insurance.*

Definitions.

“ 16c. In this Part, unless the contrary intention appears—
‘ overseas investment transaction ’ means—

- (a) the acquisition of shares or stock, or any other interest, in a corporation incorporated in a country outside Australia, being a corporation that, either alone or with other persons, carries on or proposes to carry on a business in that country;
- (b) the acquisition of a right to share in the income or assets, or the income and assets, of a business carried on, or proposed to be carried on, in a country outside Australia, whether under a partnership or otherwise;

- (c) the lending of moneys to a person for use by him in or in connexion with a business carried on, or proposed to be carried on, by him in a country outside Australia; or
- (d) the transferring of moneys to, or the importing of equipment or other goods into, a country outside Australia for use in or in connexion with a business carried on, or proposed to be carried on, in that country by the person transferring the moneys or importing the equipment or other goods;

‘ war-like operation ’ includes any operation in the course of any war (including civil war), riot, civil commotion, revolution, insurrection, rebellion or any similar happening.

“ 16D. For the purposes of this Part, each of the following is an approved cause of loss:— Approved cause of loss.

- (a) expropriation of property;
- (b) damage to or destruction of property caused by a war-like operation;
- (c) inability to transfer money to Australia from another country.

“ 16E. Where a person carrying on business in Australia has, on or after the first day of January, One thousand nine hundred and sixty-five, and before the commencement of this Division, entered upon, or, after the commencement of this Division, proposes to enter upon, an overseas investment transaction, he may, by application in writing made to the Corporation in such form and containing such particulars as the Corporation directs, request the Corporation to enter into a contract of insurance insuring him against monetary loss or other monetary detriment in respect of the transaction, being loss or detriment resulting from such approved cause of loss as is, or such approved causes of loss as are, specified in the application. Applications for insurance.

“ 16F.—(1.) Subject to the next succeeding sub-section, where the Corporation receives an application under the last preceding section, the Corporation shall refer the application to the Minister for consideration under this section. Reference of applications to Minister.

“ (2.) The Minister may give directions to the Corporation with respect to the circumstances or cases in which applications are, or are not, to be referred to him under this section, and the Corporation shall comply with any such direction.

“ (3.) Where—

(a) an application has been referred to the Minister under this section; and

(b) the Minister is of opinion that—

(i) the overseas investment transaction to which the application relates was entered upon, or is being entered upon, for the purpose of assisting in the production or marketing of goods in a country outside Australia and will have the effect of creating, preserving or expanding in that country a market for goods produced in Australia; and

(ii) it is in the national interest that the Corporation should enter into a contract of insurance of the kind referred to in the application,

the Minister may, by writing under his hand, approve the entering into by the Corporation of such a contract.

Minister may give directions with respect to insurance to be provided under insurance contracts.

“ 16G.—(1.) An approval under the last preceding section may contain conditions or directions in relation to the proposed contract of insurance (including conditions or directions with respect to the amount of the premium to be charged or the percentage of the amount of the loss to which the indemnity is to extend).

“ (2.) Without limiting the generality of the last preceding sub-section, the Minister, in an approval given under sub-section (3.) of the last preceding section in relation to a contract of insurance insuring a person against monetary loss or other monetary detriment resulting from expropriation of property—

(a) may direct that the insurance shall apply only in relation to expropriation of such kind or kinds, or expropriation of such property or property of such kind or kinds, or expropriation occurring in or as a result of such circumstances, as is or are specified in the approval; and

(b) may direct that the insurance shall extend to monetary loss or other monetary detriment resulting from—

(i) such acts similar to expropriation as are specified in the approval; or

(ii) any substantial interference with the rights of the owner of the business to which the contract relates to control or carry on the business or to dispose of the business or any of its assets, being interference of such kind, or interference occurring in or as a result of such circumstances, as is or are specified in the approval.

“(3.) Without limiting the generality of sub-section (1.) of this section, the Minister, in an approval given under sub-section (3.) of the last preceding section in relation to a contract of insurance insuring a person against monetary loss or other monetary detriment resulting from damage to or destruction of property caused by a war-like operation, may direct that the insurance shall apply only in relation to damage or destruction of such kind or kinds, or damage to or destruction of such property or property of such kind or kinds, or damage or destruction occurring in or as a result of such circumstances, as is or are specified in the approval.

“(4.) Without limiting the generality of sub-section (1.) of this section, the Minister, in an approval given under sub-section (3.) of the last preceding section in relation to a contract of insurance insuring a person against monetary loss or other monetary detriment resulting from inability to transfer money to Australia from another country—

- (a) may direct that the insurance shall apply only where the inability is of such a kind, or occurs in or as a result of such circumstances, as is or are specified in the approval; and
- (b) may direct that the insurance shall extend to monetary loss or other monetary detriment resulting from such other causes related to the transfer of moneys as are specified in the approval.

“16H.—(1.) Where, under this Division, the Minister approves the Corporation entering into a contract of insurance, the Corporation is empowered to enter into a contract in accordance with the approval and, unless the approval is revoked, shall not decline to do so.

Corporation to enter into contracts of insurance in accordance with Minister's approval.

“(2.) Where a contract of insurance is entered into in accordance with an approval under this Division, the Minister shall notify the fact in the *Gazette* (without reference to the names of the parties to the overseas investment transaction to which the contract relates), together with particulars of the nature and extent of the liability under the contract.

“16J. The Minister shall not approve the entering into by the Corporation of a contract of insurance under this Division under which a person is insured—

Insurance to be restricted to non-commercial risks, &c.

- (a) in respect of risks that are normally insured with commercial insurers or, in the opinion of the Minister, are normal commercial risks; or
- (b) against loss or other detriment attributable to circumstances within the control of that person.”.

16. Section 23 of the Principal Act is amended by omitting from sub-section (1.) the words “One million pounds” and inserting in their stead the words “Two million pounds”.

Capital of Corporation.

Maximum
contingent
liability.

17. Section 28 of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(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 entered into under section thirteen of this Act, and under guarantees, does not at any time exceed One hundred million pounds and the contingent liability of the Corporation under overseas investment insurance contracts does not at any time exceed Twenty million pounds.”.

18. After section 29A of the Principal Act the following section is inserted:—

Overseas
investment
insurance
contracts.

“29B.—(1.) The Corporation shall keep a separate account of its receipts and disbursements arising out of overseas investment insurance contracts.

“(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 overseas investment insurance contracts.

“(3.) 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 an overseas investment insurance contract.

“(4.) 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.”.

Annual report
of Corporation.

19. Section 32 of the Principal Act is amended by omitting sub-section (1A.) and inserting in its stead the following sub-section:—

“(1A.) The financial statements in respect of a year shall show separately—

- (a) the total contingent liability of the Corporation at the end of the year under national interest contracts; and
- (b) the total contingent liability of the Corporation at the end of the year under overseas investment insurance contracts.”.

Delegation
of powers
of Minister.

20. Section 35 of the Principal Act is amended by inserting in sub-section (1.), after the words “ section sixteen A ”, the words “, sixteen F or sixteen G ”.