

EXPORT MARKET DEVELOPMENT GRANTS ACT 1997

Determination (1/1997 GCB)

Guidelines for forming an opinion whether an applicant is genuinely carrying on business in Australia.

I, Tim Fischer, Minister for Trade, pursuant to paragraph 101(1)(a) of the *Export Market Development Grants Act 1901*, determine the following guidelines.

1. In forming an opinion whether a person is genuinely carrying on business in Australia, Austrade shall give weight to the following considerations:
 - (i) what activities the person claims constitute the activities of the business
 - (ii) where each of those activities is conducted, and whether those activities are conducted substantially in Australia
 - (iii) whether any income is earned by the applicant and if so where that earning of income takes place, and whether that earning of income takes place substantially in Australia
 - (iv) the length of time the activities of the business have been carried on
 - (v) any intention that those activities should be profitable
 - (vi) the degree of repetition of the activities said to constitute the activities of the business
 - (vii) the continuity of those activities
 - (viii) whether there is a possible commercial return from those activities
 - (ix) the nature and size of the assets of the business and whether those assets are located substantially in Australia
 - (x) the terms of any business or marketing strategy which relates to those activities
 - (xi) the extent of which those activities are the independent activities of the applicant or whether they are instead activities of a person associated with the applicant.
2. In taking into account each of the matters listed in 1 above Austrade shall consider the substance and not merely the form of each matter.

Signed:

Tim Fischer, Minister of Trade

Dated:

1/7/97