

EXTRACT

AUSTRALIAN TRADE AND INVESTMENT COMMISSION ACT NO. 186, 1985

AUGUST 2018

10 Power of Minister to give directions

- (1) The Minister may give to the CEO, in writing, such directions with respect to the performance of his or her functions, and the exercise of his or her powers, under this Act, as appear to the Minister to be necessary.

Note: A direction under this section is included in the annual report: see section 92.

- (3) Nothing in subsection (1) shall be construed as empowering the Minister to determine that the CEO should deal in a particular manner with a particular person, or with a particular claim or application for a grant or other benefit, under the *Export Market Development Grants Act 1997*.
- (4) A direction of the Minister under this section shall not operate so as to affect prejudicially an application under the *Export Market Development Grants Act 1997* in relation to a grant year (within the meaning of that Act) that commenced before the day on which the direction was given.
- (5) This section does not affect the operation of any other provision of this Act or of any other Act that confers a power upon the Minister to give directions to the CEO.
- (6) A direction under this section is not a legislative instrument.

94 Secrecy

- (1) This section applies to a person who is or has been:
 - (a) the CEO; or
 - (b) a member of the staff of the Commission referred to in section 60; or
 - (c) a consultant engaged under section 62.
- (2) Subject to this section, a person to whom this section applies shall not, either directly or indirectly, except for the purposes of this Act:

- (a) make a record of, or divulge or communicate to any person, any information concerning the affairs of another person acquired by the first-mentioned person by reason of his or her employment; or
- (b) produce to any person a document relating to the affairs of another person furnished for the purposes of this Act.

Penalty: Imprisonment for 12 months or 20 penalty units, or both.

- (3) Subsection (2) does not apply to the disclosure of information, or the production of a document, to the Minister, to the Secretary of the Department, or to an officer of the Department designated by the Secretary.
- (4) Subsection (2) does not prevent a person to whom this section applies from communicating, or making available to another person:
 - (b) the following information relating to payments of grants authorised by the CEO under the *Export Market Development Grants Act 1997* or the *Export Market Development Grants Act 1974*:
 - (i) the name and address of a person to whom the CEO has authorised a payment;
 - (ii) the amount of a grant to a person;
 - (iii) the industry to which a grant relates; and
 - (c) any information of a statistical nature relating to the making of grants under the *Export Market Development Grants Act 1974* or the *Export Market Development Grants Act 1997*.
- (5) A person to whom this section applies shall not be required to divulge or communicate to a court any information referred to in subsection (2) or to produce in a court any document referred to in that subsection, except when it is necessary to do so for the purposes of, or of a prosecution for an offence against, this Act, the *Export Market Development Grants Act 1974* or the *Export Market Development Grants Act 1997*.
- (6) A person to whom information is communicated under subsection (3) and an employee or other person under that person's control are, in respect of that information, entitled to rights and privileges, and subject to obligations and liabilities, under subsections (2) and (5) as if they were persons referred to in subsection (1).
- (7) In this section:

court includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

produce includes to permit access to.