



Textile, Clothing and Footwear Post-2005 Strategic Investment Program Scheme 2005

as amended

made under sections 37C and 37ZB of the

*Textile, Clothing and Footwear Strategic Investment Program Act
1999*

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Section 1.1

Part 1 Introductory

1.1 Name of Scheme

This Scheme is the *Textile, Clothing and Footwear Post-2005 Strategic Investment Program Scheme 2005* (also known as the ***TCF Post-2005 (SIP) Scheme***).

1.2 Commencement

The TCF Post-2005 (SIP) Scheme commences on the day after it is registered.

1.3 Object

The object of the TCF Post-2005 (SIP) Scheme is, under the Act, to provide a detailed legislative framework for fostering the development of a sustainable and internationally competitive TCF manufacturing industry and TCF design industry in Australia by providing incentives which will promote investment and innovation.

1.4 Definitions

In the TCF Post-2005 (SIP) Scheme, unless the contrary intention appears: ***ABN*** (short for “Australian Business Number”) has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

ACN (short for “Australian Company Number”) has the meaning given by section 9 of the *Corporations Act 2001*.

acquisition includes acquisition by purchase or lease.

Act means the *Textile, Clothing and Footwear Strategic Investment Program Act 1999*.

advance, of a grant, has the meaning given by section 5.2.

ANZSIC means the 1993 edition of the Australian and New Zealand Standard Industrial Classification published by the Australian Bureau of Statistics in 1993.

auditor means an independent auditor registered under Division 2 of Part 9.2 of Chapter 9 of the *Corporations Act 2001*.

Australian-based, for an activity, for expenditure and for innovation, has the meaning given by section 1.5.

clothing and finished textile entity means an entity carrying on an eligible TCF activity mentioned in paragraph 1.6(1)(a) or 1.6(1)(b) in relation to an eligible clothing activity or an eligible finished textile activity.

deferred grant eligibility amount has the meaning given in subsection 6.21(1).

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eligible clothing activity means one of the eligible TCF activities mentioned Part B or C of Schedule 1.

eligible expenditure, for a type of grant, means:

- (a) for a Type 1 grant — eligible expenditure within the meaning of section 2.4; or
- (b) for a Type 2 grant — eligible expenditure within the meaning of section 2.11.

eligible finished textile activity means one of the eligible TCF activities mentioned Part A of Schedule 2.

eligible leather activity means one of the eligible TCF activities mentioned in Part C of Schedule 2.

eligible start-up investment amount has the meaning given by subsection 6.24 (7).

eligible start-up period has the meaning given by subsection 6.24 (7).

eligible TCF activity has the meaning given by section 1.6.

eligible TCF product means a product resulting directly and predominantly from an eligible TCF activity mentioned in paragraph 1.6 (1) (a) (other than an activity carried on in relation to a prescribed product within the meaning of section 1.6) or paragraph 1.6 (1) (e).

eligible technical textile activity means one of the eligible TCF activities mentioned Part B of Schedule 2.

employee means any individual for whom the registered entity is required to withhold an amount under section 12-35 or 12-40 of Schedule 1 to the *Taxation Administration Act 1953*.

equipment means tools or apparatus of a capital nature used exclusively for the operation of plant.

financial owner, for plant, equipment or another asset, means the person who is financially responsible for, and has control of, the plant, equipment or other asset.

grant includes Type 1 grant and Type 2 grant.

grant eligibility amount, for an entity for a program year, means a grant eligibility amount worked out in accordance with section 6.19 for that program year.

GST has the meaning given by section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

industrial property rights has the meaning given by section 2.10.

ITAA 1936 means the *Income Tax Assessment Act 1936*.

ITAA 1997 means the *Income Tax Assessment Act 1997*.

pilot plant has the meaning given by subsection 73B (1) of the ITAA 1936.

plant does not include a building or structure.

product development activity has the meaning given by section 2.5.

program period, for an entity, means the period commencing at the beginning of the 2005/2006 program year and ending at the end of the

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2009/2010 program year or, for an entity for clothing/finished textile expenditure, ending at the end of the 2014/2015 program year.

program year has the meaning given by section 1.7.

registered Australian research agency means a research agency registered under section 39F of the *Industry Research and Development Act 1986*.

relevant financial year, in relation to a program year, means:

- (a) for the 2005/2006 program year — the 2006/2007 financial year; and
- (b) for the 2006/2007 program year — the 2007/2008 financial year; and
- (c) for the 2007/2008 program year — the 2008/2009 financial year; and
- (d) for the 2008/2009 program year — the 2009/2010 financial year; and
- (e) for the 2009/2010 program year — the 2010/2011 financial year;

and, for clothing/finished textile expenditure, also means:

- (f) for the 2010/2011 program year — the 2011/2012 financial year; and
- (g) for the 2011/2012 program year — the 2012/2013 financial year; and
- (h) for the 2012/2013 program year — the 2013/2014 financial year; and
- (i) for the 2013/2014 program year — the 2014/2015 financial year; and
- (j) for the 2014/2015 program year — the 2015/2016 financial year.

relevant program year, in relation to a financial year, means:

- (a) for the 2006/2007 financial year — the 2005/2006 program year; and
- (b) for the 2007/2008 financial year — the 2006/2007 program year; and
- (c) for the 2008/2009 financial year — the 2007/2008 program year; and
- (d) for the 2009/2010 financial year — the 2008/2009 program year; and
- (e) for the 2010/2011 financial year — the 2009/2010 program year;

and, for clothing/finished textile expenditure, also means:

- (f) for the 2011/2012 financial year — the 2010/2011 program year; and
- (g) for the 2012/2013 financial year — the 2011/2012 program year; and
- (h) for the 2013/2014 financial year — the 2012/2013 program year; and
- (i) for the 2014/2015 financial year — the 2013/2014 program year; and
- (j) for the 2015/2016 financial year — the 2014/2015 program year.

research and development activity has the meaning given by section 73B of the ITAA 1936.

Note Only certain kinds of research and development activity give rise to eligible expenditure under the TCF Post-2005 (SIP) Scheme — see section 2.6.

salary, in relation to an employee, means those amounts specified on the employee's payment summary issued by the registered entity under section 16-155 of Schedule 1 to the *Taxation Administration Act 1953*, to the extent that the amounts represent withholding payments covered by section 12-35 or 12-40 of Schedule 1 to that Act.

sample production has the meaning given by section 1.8.

Scheme means the TCF Post-2005 (SIP) Scheme.

TCF plant or equipment means plant or equipment used in an eligible TCF activity.

total eligible revenue has the meaning given by section 1.9.

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Type 1 grant and *Type 2 grant* have the same respective meanings as they have in sections 2.2 and 2.5.

Note The following terms used in the TCF Post-2005 (SIP) Scheme are defined in the Act:

- *Australia*
- *claim*
- *clothing/finished textile expenditure*
- *entity*
- *grant*
- *income year*
- *leather/technical textile expenditure*
- *manufacture*
- *scheme debt*
- *Secretary*
- *strategic business plan.*

1.5 Meaning of *Australian-based*

For the TCF Post-2005 (SIP) Scheme:

- (a) an activity is *Australian-based* only if it is carried on in Australia; and
- (b) expenditure is *Australian-based* only if it is incurred in Australia; and
- (c) innovation is *Australian-based* only if it occurs in Australia.

1.6 Meaning of *eligible TCF activity*

- (1) For the TCF Post-2005 (SIP) Scheme, each of the following activities is an *eligible TCF activity*:
 - (a) a manufacturing activity carried on in Australia by an entity, being a manufacturing activity of a kind mentioned in Parts A to E of Schedule 1;
 - (b) an activity carried on in Australia by an entity in respect of the design in Australia for manufacture in Australia of eligible TCF products, some or all of which are intended to be sold in Australia;
 - (c) an ancillary activity carried on in Australia by an entity in respect of a manufacturing activity mentioned in paragraph (a) (the *manufacturing activity*) carried on in Australia by an entity if, and only to the extent that, operations in respect of the ancillary activity and the manufacturing activity are wholly and mutually interdependent;
 - (d) an ancillary activity carried on in Australia by an entity in respect of a design activity mentioned in paragraph (b) (the *design activity*) carried on by an entity if, and only to the extent that, operations in respect of the ancillary activity and the design activity are wholly and mutually interdependent;
 - (e) an activity of a kind mentioned in Part G of Schedule 1 carried on in Australia by an entity using an eligible TCF product resulting from a manufacturing activity mentioned in paragraph (a) carried on in Australia by the entity.
- (2) However, an activity mentioned in subsection (1) that is carried on by an entity both in Australia and elsewhere, is an eligible TCF activity only to the extent that it is carried on in Australia.

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- (3) Also, despite subsection (1), each of the following activities is not an eligible TCF activity:
- (a) the manufacture of hides or leather used, or intended to be used, in motor vehicles;
 - (b) an activity carried on in connection with, or incidental to, the design for manufacture of hides or leather used, or intended to be used, in motor vehicles;
 - (c) an ancillary activity carried on in connection with, or incidental to, a manufacturing activity mentioned in paragraph (a);
 - (d) an ancillary activity carried on in connection with, or incidental to, a design activity mentioned in paragraph (b);
 - (e) the manufacture of a prescribed product;
 - (f) an activity that is carried on in respect of the design for manufacture of a prescribed product;
 - (g) an ancillary activity carried on in respect of a manufacturing activity to which paragraph (e) applies;
 - (h) an ancillary activity carried on in respect of a design activity to which paragraph (f) applies.
- (4) Despite anything else in this section, a manufacturing activity of a kind referred to in Subdivision 21 or any of Subdivisions 23 to 29 of Division C of ANZSIC, and not mentioned in subsection (1), is not an eligible TCF activity.
- (5) For paragraph (1) (a), a manufacturing activity of a kind mentioned in item 4 of Part A, or in Part B or C, of Schedule 1 may be carried on by the entity on a fee or commission basis, using client-supplied materials or materials purchased or transferred in from other entities.
- (6) In this section:
- ancillary activity** means:
- (a) an early-stage processing activity of a kind mentioned in Part F of Schedule 1; or
 - (b) a warehousing and distribution activity.
- prescribed product** means any of the following:
- (a) disposable baby napkins;
 - (b) sanitary napkins;
 - (c) panty liners;
 - (d) disposable bed protectors;
 - (e) disposable incontinence products.

1.7 Meaning of *program year*

- (1) Each of the following periods is, for an entity, a **program year**:
- (a) the period commencing on 1 July 2005 and ending at the end of 30 June 2006 (the **2005/2006 program year**);
 - (b) the period commencing on 1 July 2006 and ending at the end of 30 June 2007 (the **2006/2007 program year**);

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- (c) the period commencing on 1 July 2007 and ending at the end of 30 June 2008 (the **2007/2008 program year**);
 - (d) the period commencing on 1 July 2008 and ending at the end of 30 June 2009 (the **2008/2009 program year**);
 - (e) the period commencing on 1 July 2009 and ending at the end of 30 June 2010 (the **2009/2010 program year**);
- and, for a clothing and finished textile entity, each of the following periods is also a **program year**:
- (f) the period commencing on 1 July 2010 and ending at the end of 30 June 2011 (the **2010/2011 program year**);
 - (g) the period commencing on 1 July 2011 and ending at the end of 30 June 2012 (the **2011/2012 program year**);
 - (h) the period commencing on 1 July 2012 and ending at the end of 30 June 2013 (the **2012/2013 program year**);
 - (i) the period commencing on 1 July 2013 and ending at the end of 30 June 2014 (the **2013/2014 program year**);
 - (j) the period commencing on 1 July 2014 and ending at the end of 30 June 2015 (the **2014/2015 program year**).
- (2) However, if an entity adopts, under section 18 of the ITAA 1936, a 12 month accounting period ending on a date other than 30 June, a reference in the TCF Post-2005 (SIP) Scheme to a program year, for that entity, is a reference to the equivalent 12 month accounting period for that entity.

Examples

1. For an entity whose adopted accounting period ends on 31 October 2006, the 2005/2006 program year is the period commencing on 1 November 2005 and ending at the end of 31 October 2006.
 2. For an entity whose adopted accounting period ends on 31 March 2006, the 2005/2006 program year is the period commencing on 1 April 2005 and ending at the end of 31 March 2006.
- (3) If, as a result of the operation of section 18 of the ITAA 1936, the program period for an entity would, apart from this subsection, exceed 5 years (or for clothing/finished textile expenditure, 10 years), after the last program year of the program period is taken to end:
- (a) for an entity to which paragraph (b) does not apply, at the end of the period of 5 years commencing on the first day of the program period for the entity; and
 - (b) for an entity claiming clothing/finished textile expenditure, at the end of the period of 10 years commencing on the first day of the program period for the entity.

1.8 Meaning of *sample production*

- (1) For the TCF Post-2005 (SIP) Scheme, ***sample production***, for an eligible TCF product, means production of the product otherwise than in commercial quantities.
- (2) The production of an eligible TCF product for stockpiling is taken to be production in commercial quantities.

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1.9 Meaning of *total eligible revenue*

- (1) For the TCF Post-2005 (SIP) Scheme, *total eligible revenue*, for an entity (other than an entity mentioned in subsection (3)) and for a period, means the total revenue derived by the entity from sales, except sales to New Zealand, of the entity's eligible TCF products during the period, excluding:
 - (a) any GST, excise or sales tax; and
 - (b) any subsidy given during the period by the Commonwealth, or a State or Territory.
- (2) In subsection (1), a reference to the entity's eligible TCF products is a reference:
 - (a) if the entity is carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (a) — to eligible TCF products manufactured by the entity; or
 - (b) if the entity is not carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (a), but is carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (b) in accordance with paragraphs 6.2 (3) (a) and (b) — to eligible TCF products manufactured on behalf of the entity by another entity; or
 - (c) if the entity is not carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (a), but is carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (c) — to eligible TCF products manufactured by the entity that carries on the manufacturing activity mentioned in paragraph 1.6 (1) (c); or
 - (d) if the entity is not carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (a), but is carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (d) — to eligible TCF products manufactured, on behalf of the entity that carries on the design activity mentioned in paragraph 1.6 (1) (d), by another entity; or
 - (e) if the entity is carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (e) — to eligible TCF products produced by the entity as a result of that activity.
- (3) If an entity is carrying on an eligible TCF activity of a kind mentioned in item 4 of Part A, or in Part B or C, of Schedule 1 on a fee or commission basis, the *total eligible revenue* for the entity and for a period is the total of the fees and commissions earned by the entity during the period for that activity, excluding:
 - (a) any GST; and
 - (b) any subsidy given during the period by the Commonwealth, or a State or Territory.

1.10 References to an entity

In the TCF Post-2005 (SIP) Scheme, unless the contrary intention appears, a reference to an *entity*, in relation to the doing of anything by the entity for the purposes of the TCF Post-2005 (SIP) Scheme, does not include a reference to an agent of the entity, except where:

- (a) the entity is a body corporate; and

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- (b) the agent is a director or other officer of the body corporate, or an employee of the body corporate having management responsibility.

1.11 References to a grant for a program year

In the TCF Post-2005 (SIP) Scheme, a reference to a *grant* to or for an entity for a program year is a reference to a grant to the entity relating to eligible expenditure incurred by the entity in the program year.

1.12 References to the cost or price of plant, equipment etc

In the TCF Post-2005 (SIP) Scheme, a reference to the *cost* or *price* of land, buildings, plant, equipment, materials or anything else is a reference to the cost or price excluding any GST, excise or sales tax.

1.13 Brand support

For subsection 37G (4) of the Act, *trade showings and in-store promotions* are taken to be brand support for TCF products expenditure.

Part 2 Types of grant

Division 2.1 Introductory

2.1 Types of grant

There are to be 2 types of grant for the TCF Post-2005 (SIP) Scheme, as follows:

- (a) grants in respect of TCF capital investment expenditure, being grants for new TCF plant/building expenditure, brand support and, for clothing and finished textile entities only, grants in respect of non-production related information technology (*Type 1 grants*);
- (b) grants in respect of TCF research and development expenditure (except leather/technical textile expenditure) (*Type 2 grants*).

Note Each grant and *advance* of a grant under the TCF Post-2005 (SIP) Scheme is subject to the conditions set out in section 37P of the Act and to compliance by the entity with all relevant provisions of the Act and the TCF Post-2005 (SIP) Scheme: *see* section 7.5.]

Division 2.2 Type 1 grants

2.2 What is a Type 1 grant

- (1) A Type 1 grant, for an entity for a program year, is a grant payable in relation to eligible expenditure by the entity in that year that is directly attributable to an activity:
 - (a) mentioned in subsection (2); and
 - (b) carried on by the entity in respect of an eligible TCF activity.
- (2) For paragraph (1) (a), each of the following is an activity:
 - (a) the acquisition or construction of new TCF plant or equipment, of which the entity is the financial owner, for use exclusively in Australia;
 - (b) the acquisition or construction of a new building or structure, or alterations to an existing building or structure, of which the entity is the financial owner, to house and operate TCF plant or equipment, as a consequence of the acquisition or construction of new TCF plant and equipment mentioned in paragraph (a);
 - (c) the upgrading of existing TCF plant or equipment, of which the entity is the financial owner, in relation to environmental requirements of the Commonwealth, a State or a Territory;
 - (d) the acquisition of new computer hardware or software, or development of new computer software, that is:
 - (i) for carrying on the activity; and
 - (ii) capitalised in the entity's accounts;
 - (e) for a clothing and finished textile entity non-production related information technology expenditure for subsection 37G (5) of the Act,

being the acquisition of new computer hardware or software, or development of new computer software:

- (i) to which paragraph (d) does not apply; and
 - (ii) that is capitalised in the entity's accounts;
- (f) participation in trade showings and in-store promotions mentioned in section 1.13.
- (3) A Type 1 grant to an entity for a program year may be made:
- (a) in relation to more than 1 eligible TCF activity; and
 - (b) in addition to a Type 2 grant under the Scheme.

2.3 Trade showings and in-store promotions

- (1) For paragraph 2.2 (2) (f), *trade showings and in-store promotions* are comprised of participation by an entity (otherwise than as a retailer) in trade showings and in-store promotions of an eligible TCF product:
- (a) for which the entity:
 - (i) has applied to register a trade mark in Australia; or
 - (ii) is the registered owner of a trade mark in Australia; and
 - (b) that is marketed, or is to be marketed, under that trade mark.

Note The *Trade Marks Act 1995* sets out the requirements for registering a trade mark, and for identifying who is the registered owner of a trade mark.

- (2) However, trade showings and in-store promotions does not include:
- (a) media advertising; or
 - (b) sponsorship; or
 - (c) other media-related activities.

Note There is a limit on the amount of eligible expenditure permitted in a program year in relation to trade showings and in-store promotions: *see* item 8 in the table in subsection 2.4 (3).

2.4 What is eligible expenditure for a Type 1 grant

- (1) Expenditure is eligible expenditure for a Type 1 grant to an entity for a program year only if:
- (a) the expenditure is of a kind mentioned in this section; and
 - (b) the expenditure is incurred by the entity in accordance with this section.
- (2) The expenditure must be on 1 or more of the activities mentioned in paragraphs 2.2 (2) (a) to (f).
- (3) Expenditure in relation to an activity mentioned in an item of the following table must comply with the conditions in the item.

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Item	Activity	Conditions
1	Acquisition of new TCF plant or equipment	<p>The expenditure:</p> <ul style="list-style-type: none">(a) must represent the value of the plant or equipment capitalised in the entity's accounts, less the amount, if any:<ul style="list-style-type: none">(i) recovered from any trade-in; or(ii) received under an insurance claim made in relation to any damaged plant or equipment replaced by the acquisition; or(iii) received from the sale of any scrapped or damaged plant or equipment replaced by the acquisition; or(iv) received from the sale of any plant or equipment decommissioned as a result of the acquisition; and(b) is taken to have been incurred only when the plant or equipment has been paid for and commissioned.
2	Acquisition of new TCF plant or equipment purchased under a hire purchase agreement or financed through a finance lease	<p>The expenditure:</p> <ul style="list-style-type: none">(a) must represent the value of the plant or equipment shown in the hire purchase agreement or finance lease and capitalised in the entity's accounts, less the amount, if any:<ul style="list-style-type: none">(i) recovered from any trade-in; or(ii) received under an insurance claim made in relation to any damaged plant or equipment replaced by the acquisition; or(iii) received from the sale of any scrapped or damaged plant or equipment replaced by the acquisition; or(iv) received from the sale of any plant or equipment decommissioned as a result of the acquisition; and(b) is taken to have been incurred only when the first instalment under the agreement or lease has been paid and the plant or equipment has been commissioned.

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Item	Activity	Conditions
3	Construction of TCF plant or equipment	The expenditure: <ul style="list-style-type: none">(a) is limited to the sum of:<ul style="list-style-type: none">(i) the costs of materials; and(ii) salary costs; and(iii) associated costs (including on-costs, administrative support costs and overheads) set at 110% of salary costs; and(iv) establishment and commissioning costs; and(b) must be capitalised in the entity's accounts; and(c) is taken to have been incurred only when the plant or equipment is commissioned or, if commissioning is not required, when the plant or equipment is fully operational.
4	Acquisition of a new building or structure, or the making of alterations to an existing building or structure	The expenditure: <ul style="list-style-type: none">(a) subject to paragraph (b), is taken to be the value of the building or structure capitalised in the entity's accounts; and(b) is limited to expenditure necessary for the efficient housing and operation of new TCF plant or equipment mentioned in paragraph 2.2 (2) (a); and(c) is taken to have been incurred only when:<ul style="list-style-type: none">(i) payment has been made; and(ii) if a certificate of occupancy is required — the certificate has been issued.
5	Acquisition of a new building or structure purchased under a hire purchase agreement or financed through a finance lease	The expenditure: <ul style="list-style-type: none">(a) subject to paragraph (b), is taken to be the value of the building or structure shown in the hire purchase agreement or finance lease and capitalised in the entity's accounts; and(b) is limited to expenditure necessary for the efficient housing and operation of new TCF plant or equipment mentioned in paragraph 2.2 (1) (a); and(c) is taken to have been incurred only when:<ul style="list-style-type: none">(i) the first instalment under the agreement or lease has been paid; and(ii) if a certificate of occupancy is required — the certificate has been issued.
6	Upgrading of existing TCF plant or equipment	The expenditure is limited to the actual costs of the upgrade.

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Item	Activity	Conditions
7	Acquisition or development of new computer hardware or software or development of new computer software mentioned in paragraph 2.2 (2) (e)	The expenditure is limited to: (a) expenditure necessary to support the particular eligible clothing or finished textile activity; and (b) a maximum eligible expenditure amount of \$2 000 000 per annum.
8	Trade showings and in-store promotions	1. The expenditure must relate to: (a) salaries and materials costs that are incurred in Australia in carrying on the activity; or (b) a trade showing or in-store promotion activity mentioned in paragraph 2.2 (f) carried out on behalf of the entity by another entity under a written contract or in accordance with a detailed written and binding arrangement. 2. For expenditure on salaries for employees of the entity primarily and directly engaged on core elements of the activity, being: (a) salary costs; and (b) associated costs (including on-costs administrative support costs and overheads) set at 110% of salary costs. 3. Expenditure in relation to trade showings and in-store promotions that exceeds a maximum eligible expenditure amount of \$3 000 000 per program year is taken not to be eligible expenditure. Also, expenditure on travel is not eligible expenditure in relation to trade showings and in-store promotions.

- (4) Expenditure mentioned in this section must reflect costs based on normal commercial values and arms length transactions.
- (5) For this section, an amount recovered from a trade-in, or received from the sale of decommissioned plant or equipment, must be based on normal commercial values and an arms length transaction.

Division 2.3 Type 2 grants

Subdivision 2.3.1 Activities for Type 2 grants

2.5 What is a Type 2 grant

- (1) A Type 2 grant, for an entity for a program year, is a grant payable in relation to eligible expenditure by the entity that is directly attributable to any of the following activities carried on by, or on behalf of, the entity in respect of an eligible TCF activity:
 - (a) a research and development activity of a kind mentioned in section 2.6;
 - (b) a research and development activity being a product development activity of a kind mentioned in subsection (2).
- (2) For paragraph (1) (b), a product development activity must be:
 - (a) innovative product design within the meaning of section 2.7; or
 - (b) innovative process improvement within the meaning of section 2.8; or
 - (c) market research within the meaning of section 2.9; or
 - (d) obtaining industrial property rights within the meaning of section 2.10.
- (3) For paragraph (1) (b), if a product development activity is carried out on behalf of the entity by another entity, the activity must be carried on under a written contract or in accordance with detailed written and binding arrangements.
- (4) A Type 2 grant may be made:
 - (a) in relation to more than 1 eligible TCF activity; and
 - (b) in addition to a Type 1 grant under the TCF Post-2005 (SIP) Scheme.

Note The application of s 73C (Recouped expenditure on research and development activities) of the ITAA 1936, and Subdivision 20-A (Insurance, indemnity or other recoupment for deductible expenses) of Division 20 of Part 2-1 of Chapter 2 of the ITAA 1997, is relevant to a Type 2 grant.

2.6 Research and development activities

- (1) For paragraph 2.5 (1) (a), a research and development activity must be directed at a product or process.
- (2) If the activity is not Australian-based, the activity must be necessary:
 - (a) to carry on an Australian-based research and development activity (for example, product testing at a facility that is not available in Australia); or
 - (b) to tailor an Australian-based research and development activity to the requirements of a particular market.
- (3) If the activity is carried out by an entity on behalf of another entity:
 - (a) if the activity is Australian-based, the entity carrying out the activity must be a registered Australian research agency; and

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- (b) the activity must be carried on under a written contract or in accordance with detailed written and binding arrangements.

2.7 Innovative product design

- (1) For paragraph 2.5(2) (a), an innovative product design activity must be:
 - (a) Australian-based; and
 - (b) an activity directly concerned with:
 - (i) the design, testing, trial and sample production of a particular innovative eligible TCF product; or
 - (ii) innovation in the design, testing, trial and sample production of a particular eligible TCF product.
- (2) However, an activity ceases to be an innovative product design activity if it is routinely undertaken or is directed solely at achieving visual product differentiation.

2.8 Innovative process improvement

- (1) For paragraph 2.5(2) (b), an innovative process improvement activity must be:
 - (a) Australian-based; and
 - (b) directed at innovative improvement of a production process for an eligible TCF product.

Example An innovative process improvement activity must be an improvement leading to a point of difference from, or a change of a technical nature to, the original production process.

- (2) However, an activity ceases to be an innovative process improvement activity if it is routinely undertaken.

2.9 Market research

- (1) For paragraph 2.5 (2) (c), market research comprises market testing, market development or sales promotion (including consumer surveys) that is not routine, is not related to brand support and that has as its main purpose the introduction of an innovative eligible TCF product.
- (2) Market testing, market development or sales promotion for a purpose mentioned in subsection (1) must be carried on before production (other than sample production) of the product.

2.10 Obtaining industrial property rights

- (1) For paragraph 2.5 (2) (d), obtaining industrial property rights in respect of an innovative eligible TCF product comprises:
 - (a) the preparation and lodging of applications and other documents that are required to be lodged, in Australia or elsewhere, for the initial grant, registration or certification of the rights; and
 - (b) the initial grant or registration of the rights, in Australia or elsewhere.

(2) In subsection (1):

industrial property rights means:

- (a) the rights (including equitable rights) possessed by a person under a law of Australia as:
 - (i) the patentee of a patent in force for an invention; or
 - (ii) the patentee of an innovation patent in force for an invention; or
 - (iii) the owner of a registered trade mark; or
 - (iv) the owner of a registered design; or
- (b) rights possessed by a person under a law of a foreign country that are equivalent to the rights mentioned in paragraph (a).

Subdivision 2.3.2 Eligible expenditure for Type 2 grants

2.11 What is eligible expenditure for a Type 2 grant

Expenditure is eligible expenditure for a Type 2 grant to an entity for a program year only if it:

- (a) is of a kind mentioned in, and is incurred in accordance with, sections 2.13 and 2.14; and
- (b) reflects costs based on normal commercial values and arms length transactions.

2.12 What is not eligible expenditure for a Type 2 grant

- (1) The following expenditure referred to in subsection 2.5 (1) is not eligible expenditure for the purpose of a Type 2 grant under the TCF Post-2005 (SIP) Scheme, namely:
 - (a) expenditure in relation to an eligible leather activity that results in the manufacture of a product listed in Part C of Schedule 2 (being a product that is sold by the entity);
 - (b) expenditure in relation to an eligible technical textile activity that results in the manufacture of a product listed in Part B of Schedule 2 (being a product that is sold by the entity).
- (2) Expenditure is not eligible expenditure for this Subdivision if it relates to travel costs.

2.13 Expenditure on research and development activities

- (1) Expenditure on a research and development activity must relate to 1 or more of the following:
 - (a) salaries;
 - (b) a contract or other arrangement mentioned in subsection 2.5 (3) or 2.6 (3);
 - (c) the acquisition or construction of TCF plant or equipment that is pilot plant or a plant prototype;

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- (d) non-capitalised prototype expenditure;
 - (e) costs of materials for the activity.
- (2) Expenditure relating to salaries is limited to the sum of salary costs of employees of the entity engaged primarily and directly on core elements of the activity comprising:
- (a) salary costs; and
 - (b) associated costs (including on-costs, administrative support costs and overhead costs) set at 110% of salary costs.
- (3) Expenditure on the acquisition or construction of pilot plant or plant prototypes must comply with, and be incurred in accordance with, items 1 to 3 in the table in subsection 2.4(3), as if the expenditure related to new TCF plant or equipment mentioned in section 2.2.
- (4) Non-capitalised prototype expenditure:
- (a) must relate to the making of an initial model, mock-up or similar thing for an innovative eligible TCF product, or an innovative process for an eligible TCF product, including expenditure on dies, jigs and testing materials, but not including expenditure on general sales samples; and
 - (b) is taken to be the net expenditure after deduction of the proceeds (if any) of the sale of materials acquired for the purpose of paragraph (a).

Note Amounts and percentages mentioned in subsection (2) may be reviewed during the period of the TCF Post-2005 (SIP) Scheme, and may be changed by amendment of the TCF Post-2005 (SIP) Scheme.

2.14 Expenditure on product development activities

- (1) If a product development activity mentioned in section 2.7, 2.8, 2.9, or 2.10 is carried on by the entity, the expenditure must relate to salaries and materials costs incurred in Australia in carrying on the activity.
- (2) Expenditure on salaries is to be treated in the same manner as salaries relating to research and development activities, and subsection 2.13 (2) applies accordingly.
- (3) Expenditure on a product development activity mentioned in section 2.10 is limited to costs and fees directly related to the matters mentioned in that section.
- (4) If a product development activity mentioned in paragraph 2.5 (1) (b) is carried on on behalf of the entity by another entity, the expenditure may also relate to a contract or other arrangement mentioned in subsection 2.5 (3).

Part 3 Registration of entities for grants

3.1 Application for registration for grants

- (1) An entity that intends to make a claim for eligibility for a grant must apply to the Secretary to be registered for the TCF Post-2005 (SIP) Scheme.
- (2) An entity is not eligible to apply for registration unless the entity carries on, or proposes to carry on, an eligible TCF activity.
- (3) An application for registration must be in respect of a program year:
- (4) The application:
 - (a) must be in writing in a form approved by the Secretary; and
 - (b) must include the information mentioned in subsection (5); and
 - (c) must be signed in the manner indicated in the form.

Note Applications and other documents under the TCF Post-2005 (SIP) Scheme may be sent electronically — *see* section 7.12.

- (5) For subsection (4), the application must contain the following:
 - (a) the name of the applicant entity;
 - (b) the entity's ABN or ACN, and date of formation or incorporation, if applicable;
 - (c) if the applicant entity is a trust — the type of trust and details of the beneficiaries;
 - (d) contact addresses (both street and postal);
 - (e) the names of directors and major shareholders (if applicable), and of key management personnel;
 - (f) details of the size of the entity (including current employment levels and the employment levels for the 2 income years of the entity before the income year in which the application is made), as well as annual turnover and a general description of the entity's activities;
 - (g) details of any other entity if information about it is required to be consolidated with a report or statement of the applicant under the *Corporations Act 2001*, including the other entity's ACN, the names of directors and major shareholders, and an organisation chart for the consolidated operations.
- (6) The applicant entity must give to the Secretary:
 - (a) the documents and information mentioned in section 3.2; and
 - (b) together with the application for registration, the documents and information mentioned in sections 3.3 and 3.4.

3.2 Financial statements etc

- (1) For subsection 3.1 (6) and 3.10 (4), the applicant entity must give the Secretary the financial information required by this section.

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- (2) The entity must give the Secretary the financial information mentioned in subsection (3) for the last income year of the entity, before the income year in which the application is made, in which it carried on business operations.
- (3) For subsection (2), the financial information is:
 - (a) if the entity is required, under section 296 of the *Corporations Act 2001*, to prepare financial reports in accordance with accounting standards:
 - (i) financial reports prepared in accordance with those standards; and
 - (ii) if the entity is required, under section 301 of the *Corporations Act 2001*, to have an annual audit of the financial report — a copy of the auditor's report; or
 - (b) in any other case — financial statements comprising a balance sheet and a profit and loss statement, together with notes to the statements and underlying assumptions made in their preparation.

3.3 Description of activities and estimates of expenditure

For subsection 3.1 (6), the applicant entity must give:

- (a) a detailed description of eligible TCF activities and eligible TCF products in relation to which claims are likely to be made for the next 2 program years under the TCF Post-2005 (SIP) Scheme; and
- (b) the estimated total eligible expenditure in respect of which claims are likely to be made for the next 2 program years under the TCF Post-2005 (SIP) Scheme.

3.4 Strategic business intent

For subsection 3.1 (6) the applicant entity must give a statement of strategic business intent that:

- (a) is drawn from the strategic business plan mentioned in section 3.5; and
- (b) includes the business, operational and financial strategies that will guide the entity to sustainable operations for eligible TCF activities beyond the end of the program period.

3.5 Strategic business plan

- (1) The applicant entity must have a strategic business plan for the entity that complies with this section.

Note A strategic business plan means a strategic business plan that incorporates a strategic investment plan — see section 4 of the Act.

- (2) The strategic business plan must relate to:
 - (a) the program year in respect of which the application for registration is made; and
 - (b) the remaining program years (if any) of the program period.

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- (3) However, if, for an entity, there are less than 2 remaining program years in the program period, the strategic business plan must relate, in addition to the program years mentioned in paragraphs (2) (a) and (b), to 1 or more income years of the entity after the end of the program period, so that the strategic business plan relates to at least 3 income years of the entity.
- (4) The strategic business plan must indicate the entity's strategic direction for the whole of the program period.
- (5) The strategic business plan must:
 - (a) give details of the strategies (including financial plans) that will enable the entity to carry on sustainable operations for eligible TCF activities beyond the end of the program period; and
 - (b) include appropriate operational plans, details of financial commitment and controls, financial projections and assumptions on which forecasts are based.
- (6) If the Secretary, in writing, requests the entity to make available a copy of the entity's strategic business plan, the entity must comply with the request within a reasonable period specified by the Secretary in the request.

3.6 Additional information

- (1) If it appears to the Secretary that an application by an entity, or information submitted with the application, is incomplete or insufficient for the purpose of registration, the Secretary, in writing, may request the entity to do either or both of the following:
 - (a) make a further application in such form as is specified in the request;
 - (b) give further information mentioned in the request.
- (2) The entity must comply with a request under subsection (1) within a reasonable period specified by the Secretary in the request.
- (3) The Secretary is not required to make a decision on the application until the entity complies the request.

3.7 Time limits for registration

An entity wishing to make a claim for eligibility for a grant for a program year must apply to be registered before 1 July of the relevant program year.

Note 1 If, for example, an entity wishes to make a claim for eligibility for a grant for the 2005/2006 program year, the entity must apply before 1 July 2005 to be registered.

Note 2 Section 3.12 provides for extension of time limits for registration.

3.8 Registration of entity

- (1) The Secretary must notify an entity of the receipt of the entity's application for registration.
- (2) The Secretary must register the entity if the Secretary is satisfied, on consideration of the application, that the entity:
 - (a) is eligible to apply for registration; and

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- (b) has complied with the requirements of this Part for registration.
- (3) If the Secretary is not satisfied as to a matter mentioned in paragraph (2) (a) or (b), the Secretary must refuse to register the entity.
- (4) For subsections (2) and (3), the Secretary is not to take the eligibility of the entity for a grant under the TCF Post-2005 (SIP) Scheme into account.

3.9 Effects of registration

- (1) If the Secretary registers an entity, the registration is taken to have effect from the day on which the Secretary receives the initial application, whether or not a further application is made under section 3.6.
- (2) Registration of an entity has effect for the program year for which registration was sought.
- (3) Registration of an entity does not, of itself, give rise to an entitlement to a grant.

Note Part 4 deals with the transfer of registration.

3.10 Application for renewal of registration

- (1) Subject to this section, an entity that is registered, or has been registered, for a program year, may apply for a renewal of registration for a later program year (whether or not the entity intends to make a claim for that program year).
- (2) An entity is not eligible to apply for a renewal of registration if it no longer carries on, or no longer proposes to carry on, an eligible TCF activity.
- (3) An application for renewal must:
 - (a) be in a form approved by the Secretary; and
 - (b) include:
 - (i) details of any variation or updating of the information given to the Secretary under section 3.3, 3.4 or 3.6 in relation to an activity in respect of which the entity proposes to make a claim (including any change in the estimated total eligible expenditure in respect of which claims are likely to be made); and

Example If an entity wishes, in the 2005/2006 program year, to renew its registration for participation in the TCF Post-2005 (SIP) Scheme in the 2006/2007 program year, the entity must include with its application for the renewal an estimate of its total eligible expenditure for the 2005/2006 program year if that estimate differs from the estimate provided under section 3.3.

- (ii) if the entity has disposed of any assets in respect of which a grant has been made to the entity under the TCF Post-2005 (SIP) Scheme — details of the disposal; and
- (iii) a detailed description of eligible TCF activities and eligible TCF products in relation to which claims are likely to be made for the next 2 program years under the TCF Post-2005 (SIP) Scheme; and

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- (iv) the estimated total eligible expenditure in respect of which claims are likely to be made for the next 2 program years under the TCF Post-2005 (SIP) Scheme.
- (4) Also, the applicant entity must give to the Secretary the documents and information mentioned in section 3.2.
- (5) Sections 3.6 and 3.7 apply to an application for renewal of registration in the same way as they apply to an application for registration under section 3.1.

Note Section 3.6 provides that the Secretary may request additional information. Section 3.7 imposes time limits for an application for registration.

3.11 Renewal of registration

- (1) The Secretary must notify an entity of the receipt of an entity's application for renewal of registration.
- (2) The Secretary must renew the registration if the Secretary is satisfied that the entity:
 - (a) is eligible to apply for a renewal of registration; and
 - (b) has complied with the requirements of section 3.10.
- (3) If the Secretary is not satisfied as to any of the matters mentioned in paragraph (2) (a) or (b), the Secretary must refuse to renew the registration.
- (4) For subsections (2) and (3), the Secretary is not to take the eligibility of the entity for a grant under the TCF Post-2005 (SIP) Scheme into account.
- (5) Section 3.9 applies to an application for renewal and to the renewal of registration in the same way as it applies to an application for registration under section 3.1 and to registration.

Note Section 4.2 deals with the effect and transferability of registration.

3.12 Extension of time for registration or renewal

- (1) The Secretary, on the written application of an entity, may extend the period within which the entity may apply for registration, or renewal of registration, for a program year.
 - (2) The Secretary must not extend the period unless the Secretary is satisfied that, because of exceptional circumstances affecting the entity, there is good reason to do so.
- (2A) If:
- (a) the Secretary extends the period within which an entity may apply for registration, or renewal of registration, for a program year; and
 - (b) the extended period ends after the commencement of the program year for which the entity is seeking registration or renewal of registration;
- the financial statements that the entity must, under section 3.2, give to the Secretary with the application are the financial statements that would have

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been applicable if the entity had applied for registration within the time limits set out in section 3.7.

- (3) Also, the Secretary must not extend the period beyond the end of the program year for which registration or renewal of registration is sought.
- (4) To avoid doubt, failure to apply for registration or renewal of registration before 1 July of the relevant program year due to oversight or ignorance is not to be regarded as an exceptional circumstance for the purpose of subsection 3.12(2).

3.13 Notice of registration or refusal to register etc

- (1) The Secretary must give written notice to an entity of:
 - (a) the entity's registration or renewal of registration; and
 - (b) if the period within which an application for registration or renewal is made is extended under section 3.12 — details of the extension.
- (2) If the Secretary refuses an application for registration or renewal of registration, or for an extension of the period for registration or renewal, the Secretary must give written notice of:
 - (a) the refusal; and
 - (b) the reasons for the refusal.

Note Section 7.3 requires the notice to be accompanied by a statement about the entity's right to have the decision reconsidered or reviewed.

- (3) If the Secretary has not decided the application within the decision period, the entity may, at any time, give the Secretary written notice that the entity wishes to treat the application as having been refused.
- (4) For section 7.1, if the entity gives notice under subsection (3), the Secretary is taken to have refused the application, and to have notified the entity of the decision, on the day on which the entity gives notice.
- (5) In subsection (3):

decision period, in relation to an application, means:

 - (a) if, within the period of 30 days commencing on the day when the application is received, the Secretary requests further information, or a further application, under section 3.6 — the period of 30 days commencing on the day when the further information or application is received; or
 - (b) in any other case — the period of 30 days commencing on the day when the application is received.

3.14 Effect of non-registration

An entity that is not registered for a program year is not eligible for a grant for that year.

Section 3.16**3.15 Register of entities**

- (1) The Secretary must maintain a register of entities that are registered for the TCF Post-2005 (SIP) Scheme.
- (2) In any proceedings relating to the TCF Post-2005 (SIP) Scheme, a document that appears to a court or tribunal to be a certificate by the Secretary, in accordance with subsection (3), certifying a statement to the effect mentioned in subsection (4):
 - (a) is evidence of the truth of the statement; and
 - (b) may be received in evidence without being proved.
- (3) The certificate must be signed by the Secretary and be expressed to be in accordance with the register.
- (4) The statement must be to the effect that, on a specified date, or during a specified period, a specified entity was, or was not, registered for a particular program year.

3.16 Notice of likely change in eligible expenditure

- (1) An entity that is registered for a program year must give written notice to the Secretary of:
 - (a) any likely significant change in eligible expenditure to be incurred by the entity in the program year in respect of which the entity proposes to make a claim; and
 - (b) any likely implications of the change on the estimated total eligible expenditure in respect of which claims are likely to be made for the next 2 program years under the TCF Post-2005 (SIP) Scheme.
- (2) The entity must give the notice as soon as the entity becomes aware of the likely change.

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Part 4 Transfer of registration**4.1 Interpretation for Part 4**

In this Part, unless the contrary intention appears:

business, of an entity, includes a part of the business of the entity.

4.2 Transfer of registration generally

Registration of an entity is not transferable (whether by way of or in consequence of sale, assignment, charge, execution, bankruptcy, insolvency or otherwise) except with the approval, in writing, of the Secretary.

4.3 Transfer of registration on transfer of business

- (1) This section applies if an entity (the *transferor entity*) that is registered for a program year transfers the business of the entity to another entity (the *transferee entity*).
- (2) The transferee entity may apply to the Secretary for a transfer of registration for the program year.
- (3) An application must:
 - (a) be in a form approved by the Secretary; and
 - (b) be signed in a manner indicated in the form; and
 - (c) include the following:
 - (i) details of the relationship (if any) between the transferor entity and the transferee entity;
 - (ii) a business case for the transfer of the business;
 - (iii) a statement of strategic business intent of the transferee entity, of the kind mentioned in section 3.4, incorporating the transferred business;
 - (iv) the date, or proposed date, of effect of the transfer of the business.
- (4) The Secretary may:
 - (a) approve the transfer of registration, with or without conditions; or
 - (b) refuse to approve the transfer of registration.
- (5) However, the Secretary must not approve a transfer of registration if:
 - (a) the business transferred does not include the whole of the eligible TCF activity or activities carried on by the transferor entity; or
 - (b) there are reasonable grounds for believing that the primary purpose of the transfer of the business is to obtain an entitlement to a grant under the TCF Post-2005 (SIP) Scheme; or
 - (c) the amount of a grant to which the transferee entity would be entitled in respect of eligible expenditure incurred by the transferor entity before

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- the transfer would be more than the amount of the grant to which the transferor entity would have been entitled if the business had not been transferred; or
- (d) the transferee entity does not carry on, or does not propose to carry on, the eligible TCF activity or activities of the transferor entity; or
 - (e) the transferee entity does not propose to incur eligible expenditure in a subsequent program year; or
 - (f) the business transferred includes a product development activity in respect of which the transferor entity has incurred eligible expenditure in obtaining industrial property rights, and those industrial property rights are not transferred to the transferee entity.
- (6) Subsection (5) does not limit the discretion of the Secretary under subsection (4) to refuse to approve a transfer of registration on other grounds.
- (7) If the Secretary refuses to approve a transfer of registration, or approves the transfer of registration subject to conditions, the Secretary must give written notice to the transferee entity of:
- (a) the decision; and
 - (b) the reasons for the decision.
- (8) If the Secretary approves the transfer of registration, the Secretary must notify the transferee entity of the approval and amend the register maintained under section 3.15 accordingly.

4.4 Additional information

- (1) If it appears to the Secretary that an application for a transfer of registration by an entity, or information submitted with the application, is incomplete or insufficient for the purpose of the application, the Secretary, in writing, may request the entity to do either or both of the following:
- (a) make a further application in such form as is specified in the request;
 - (b) give further information mentioned in the request.
- (2) The entity must comply with a request under subsection (1) within a reasonable period specified by the Secretary in the request.

4.5 Effect of transfer of registration

- (1) This section applies, subject to sections 4.6, and 4.7, if a transfer of registration for a program year is approved under section 4.3.
- (2) On approval of the transfer of registration, the transferor entity ceases to have any right or entitlement under the TCF Post-2005 (SIP) Scheme in respect of eligible expenditure incurred in the program year.
- (3) For the purposes of the TCF Post-2005 (SIP) Scheme:
- (a) any eligible TCF activity carried on by the transferor entity before the transfer of the business in the program year is taken to have been carried on by the transferee entity; and

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- (b) any eligible expenditure incurred by the transferor entity before the transfer of the business in the program year in relation to an eligible TCF activity mentioned in paragraph (a) is taken to have been incurred by the transferee entity; and
 - (c) anything done by the transferor entity before the transfer of registration for the purposes of the TCF Post-2005 (SIP) Scheme (including any step taken for the renewal of registration, for making a claim for eligibility for a grant, for the determination of an entitlement to a grant or for making a request for an advance of a grant) is taken to have been done by the transferee entity; and
 - (d) anything:
 - (i) that has not been done before the transfer of registration by the transferor entity for the purpose of making a claim for eligibility for a grant for the program year to which the registration applies, or for the determination of an entitlement to a grant; and
 - (ii) that could, but for the transfer of registration, have been done by the transferor entity on or after the day on which registration was transferred;may be done by the transferee entity.
- (4) If the transferor entity has made a claim in respect of eligible expenditure incurred in the program year to which the transferred registration applies, the transferee entity is taken, for the purposes of Division 6.3, to be the claimant entity.

4.6 Status of activities and expenditure unchanged

- (1) An activity that, if carried on by a transferor entity in the program year to which the transferred registration applies, is not an eligible TCF activity:
 - (a) does not, by reason of the transfer of the business, become an eligible TCF activity for the program year; and
 - (b) if carried on in the program year by the transferee entity, is taken not to be an eligible TCF activity for the program year.
- (2) Expenditure that, if incurred by a transferor entity in the program year to which the transferred registration applies, is not eligible expenditure:
 - (a) does not, by reason of the transfer of the business, become eligible expenditure for the program year; and
 - (b) if incurred in the program year by a transferee entity, is taken not to be eligible expenditure for the program year.
- (3) An activity that, if carried on by a transferee entity before the transfer of the business in the program year to which the transferred registration applies, is not an eligible TCF activity, does not, by reason of the transfer of the business, become an eligible TCF activity for the program year.
- (4) Expenditure that, if incurred by a transferee entity in the program year to which the transferred registration applies, is not eligible expenditure does not, by reason of the transfer of the business, become eligible expenditure for the program year.

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- (5) To avoid doubt, consideration paid by the transferee entity for the transfer of the business, or for any right or entitlement under the TCF Post-2005 (SIP) Scheme, is not eligible expenditure.

4.7 Treatment of total eligible revenue and total eligible start-up investment amounts

- (1) For subsection 6.24 (1), the total eligible revenue for a transferee entity for an income year in respect of which the registration is transferred is taken to be the sum of:
- (a) the total eligible revenue of the transferor entity for the income year or, if the transfer of the business occurred during the income year, for that part of the income year during which the business was owned by the transferor entity; and
 - (b) the total eligible revenue (if any) of the transferee entity for the income year.
- (2) For subsection 6.24 (2), the total of the eligible start-up investment amounts for a transferee entity for an income year in respect of which the registration is transferred is taken to be the sum of:
- (a) the eligible start-up investment amounts of the transferor entity for the income year or, if the transfer of the business occurred during the income year, for that part of the income year during which the business was owned by the transferor entity; and
 - (b) the eligible start-up investment amounts (if any) of the transferee entity for the income year.

Part 5 Advances of grants

Division 5.1 Introductory

5.1 Effect of Part

This Part has effect despite anything else in the TCF Post-2005 (SIP) Scheme.

5.2 What is an advance of a grant

- (1) An *advance of a grant*, for an entity, is an amount that may become payable to the entity under this Part by way of an advance on account of the grant.
- (2) An advance of a type of grant may be made to an entity in addition to an advance of another type of grant under the TCF Post-2005 (SIP) Scheme.
- (3) An advance of a grant may be made in relation to more than 1 eligible TCF activity.

5.3 Effect of non-registration

An entity that is not registered for a program year is not eligible for an advance of a grant for that year.

5.4 References to an advance of a grant for a program year

In this Part, a reference to an *advance of a grant* to an entity for a program year is a reference to an advance of a grant to the entity relating to eligible expenditure incurred by the entity in the program year.

Division 5.2 Advances of grants

Subdivision 5.2.1 Requests for advances of grants

5.5 Requests for advances of grants

- (1) If an entity intends to make a claim for eligibility for a grant for a program year, the entity may request the Secretary, in accordance with this Subdivision, for an advance of the grant.

Note An entity is not eligible for an advance of a grant if, when the request for an advance is made, the entity is no longer carrying on an eligible TCF activity: *see* section 7.6.

- (2) An entity may not make a request for an advance of a grant if the entity has previously been paid an advance of a grant for a program year but has not made a claim, under Part 6, for the grant or, if the entity has made a claim, the claim is not paid under that Part.

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- (3) Sections 6.2 applies in relation to a request for an advance of a grant in the same way as it applies to a claim for the grant.
- (4) A request for an advance of a Type 2 grant relating to eligible expenditure by an entity (the *contracting entity*) in respect of a research and development activity or product development activity carried out, on behalf of the contracting entity, by another entity must be made by the contracting entity.
- (5) A request must:
 - (a) be in a form approved by the Secretary; and
 - (b) be signed in the manner indicated in the form; and
 - (c) be accompanied by the documents and information mentioned in section 5.6.

Note 1 A request may be made for 2 or more advances of grants of any type in the same form.

Note 2 Requests and other documents under the TCF Post-2005 (SIP) Scheme may be sent electronically — *see* section 7.12.

5.6 Information in support of requests for advances of grants

- (1) For paragraph 5.5 (5) (c), the documents and information are the following:
 - (a) a detailed description of eligible TCF activities:
 - (i) carried on in the program year; and
 - (ii) in respect of which the request is made;
 - (b) a statement of eligible expenditure incurred by the entity in the program year in respect of which the request is made;
 - (c) a written statement by the entity to the effect that, in the entity's opinion, the total of advances of a grant for which the entity is applying would not represent an overpayment of the grant entitlements of the entity when section 6.24 is applied in determining those entitlements.

5.7 Additional information

- (1) If it appears to the Secretary that an application for an advance of a grant by an entity, or information submitted with the application, is incomplete or insufficient for the purpose of the application, the Secretary, in writing, may request the entity to do either or both of the following:
 - (a) make a further application in such form as is specified in the request;
 - (b) give further information mentioned in the request.
- (2) The entity must comply with a request under subsection (1) within a reasonable period specified by the Secretary in the request.
- (3) The Secretary is not required to make a decision on the application until the entity complies with the request.

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5.8 Threshold expenditure for advances of grants

- (1) An entity is not eligible for an advance of a grant for a program year unless the sum of the amounts mentioned in subsection (2) and (3) exceeds \$200 000 (the *threshold amount*).
- (2) For subsection (1), the amounts are:
 - (a) the total amount of eligible expenditure for advances of grants incurred by the entity in the program year in respect of which the request is made; and
 - (b) the total amount of eligible expenditure:
 - (i) incurred by the entity in previous program years; and
 - (ii) in respect of which the entity has made a claim.
- (3) If an entity incurred eligible expenditure in the 2004/05 program year of the TCF (SIP) Scheme, the entity may include, as an amount for subsection (1), the total of Type 1 and Type 2 eligible expenditure incurred in that program year.
- (4) However:
 - (a) if the entity was not registered under the TCF (SIP) Scheme for the 2004/05 program year for that Scheme, the expenditure referred to in subsection (3) is to be assessed as it would have been if a claim in relation to that expenditure had been made under that Scheme; and
 - (b) if the entity was registered under the TCF (SIP) Scheme for the 2004/05 program year for that Scheme, the expenditure referred to in subsection (3) may be included only if the entity also made a claim under the TCF (SIP) Scheme in relation to that expenditure.

Note Expenditure incurred in the 2004/05 program year of the TCF (SIP) Scheme may be included in the threshold amount for this section, but may not be the subject of a claim under the TCF Post-2005 (SIP) Scheme.

- (5) If, for an entity, the sum of the amounts mentioned in subsection (2) and (3) exceeds the threshold amount, the entity becomes eligible for an advance of a grant in respect of eligible expenditure in each program year if, apart from this section, the entity would be eligible for the advance in that year.

5.9 When requests for advances of grants must be made

- (1) An entity must make a request for an advance of a grant for a program year on or before the first working day in January of the relevant financial year.

Example A request for an advance of a grant for the 2006/07 program year must be made before the first working day of January 2008.

- (2) Subsection (1) applies to an advance of a grant to an entity for a program year, whether or not the entity applies for renewal of registration for the next following program year.
- (3) An entity that fails to comply with subsection (1) for a program year is not eligible for an advance of a grant for the program year.

Subdivision 5.2.2 Assessment of eligibility for advances of grants

5.10 Request for assessment of eligibility for advance

- (1) A request by an entity for an advance of a grant must contain:
 - (a) information sufficient to establish the entity's eligibility for an advance of a grant of an amount; and
 - (b) information sufficient to fulfil the applicable requirements set out in subsections (2) to (4); and
 - (c) information sufficient to establish that it is registered for the TCF Post-2005 (SIP) Scheme for the program year concerned.
- (2) The entity must establish that it has carried on, in the program year, the eligible TCF activity in respect of which the request is made, in accordance with the documents and information given to the Secretary under sections 3.3, 3.4 and 3.6.
- (3) The entity must provide information sufficient to enable the calculation of:
 - (a) if the request is for an advance of a Type 1 grant — the amount of expenditure that is eligible expenditure within the meaning of section 2.4, incurred by the entity within the program year; and
 - (b) if the request is for an advance of a Type 2 grant — the amount of expenditure that is eligible expenditure within the meaning of sections 2.11 to 2.14, incurred by the entity within the program year.
- (4) The request must be made in accordance with sections 5.5 to 5.9, 5.14 and 5.16.

5.11 Assessment of eligibility for advance

- (1) The Secretary may assess the request and decide whether the entity is eligible for an advance of a grant of an amount.
- (2) Without limiting the application of other provisions in the TCF Post-2005 (SIP) Scheme, in deciding the amount of an advance, as far as applicable sections 5.7, 5.8 and 5.14 to 5.16, must be taken into account.
- (3) However, an object of this section is to permit self-assessment of requests and nothing in this section is to operate to require the Secretary to assess a particular request, or any request.
- (4) The Secretary is not to be taken to have assessed an entity's request for an advance for a program year unless the Secretary has issued a notice under subsection 5.17 (2) in relation to the request.

5.12 Provision of strategic business plans etc

An entity is not eligible for an advance of a grant unless the entity has complied with the requirements of Part 3 in relation to the content and submission of strategic business plans and variations of strategic business plans.

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5.13 Pre-payment assessment, post-payment monitoring

An entity that has requested an advance may be selected for pre-payment assessment or post-payment compliance monitoring.

5.14 Arms length expenditure — advances of grants

In working out the amount of eligible expenditure for an advance of a grant, if expenditure has been incurred in a transaction that was not at arms length, the amount of the expenditure is to be taken to be the amount that would reasonably have been expected to have been incurred if the transaction had been at arms length.

5.15 Cap for advances of Type 1 grants

The amount of an advance of a Type 1 grant made to an entity in respect of eligible expenditure incurred by the entity during a particular program year must not exceed 20% of that eligible expenditure.

5.16 Cap for advances of Type 2 grants

The amount of an advance of a Type 2 grant made to an entity in respect of eligible expenditure incurred by the entity during a particular program year must not exceed 40% of that eligible expenditure.

Subdivision 5.2.3 Notice of decisions, payment of advances etc

5.17 Assessment periods, notice of decisions — advances

- (1) This section applies in relation to a request for an advance for a grant for a program year in respect of which the Secretary has made an assessment, or is to make an assessment, under subsection 5.11 (1).
- (2) If the Secretary decides under subsection 5.11 (1) to make an assessment in relation to a request by an entity, the Secretary must give notice, in writing, to the entity accordingly.
- (3) The Secretary must give notice, in writing, to an entity making a request for an advance of a grant, within 60 days after receipt of the request:
 - (a) of the Secretary's decision as to the entity's eligibility for the advance and the amount of the advance; or
 - (b) if the decision cannot be made within 60 days after receipt of the request — of the period within which the decision is to be made, giving reasons for the delay in making the decision.
- (4) The Secretary must give notice, in writing, to the entity of a decision to which paragraph (3) (b) applies within 7 days after the decision is made.
- (5) If the Secretary decides that the entity is not eligible for an advance of a grant, the notice must include reasons for the decision.

Note Section 7.3 requires the notice to be accompanied by a statement about the entity's right to have the decision reconsidered or reviewed.

- (6) If the Secretary has not given notice to the entity of the Secretary's decision as to eligibility for an advance of a grant:
- (a) within the period of 60 days mentioned in subsection (1); or
 - (b) if the decision is one to which paragraph (3) (b) applies — within 7 days after the end of the period notified by the Secretary under that paragraph,
- the entity may, at any time, give the Secretary written notice that the entity wishes to treat the request as having been refused.
- (7) For section 7.1, if the entity gives notice under subsection (6), the Secretary is taken to have refused the request, and to have notified the entity of the decision, on the day on which the entity gives notice.

5.18 Resolution of requests for advances of grants

- (1) This section applies to a request for an advance of a grant in relation to a program year in respect of which the Secretary does not intend to make an assessment under subsection 5.11 (1).
- (2) If the entity has, in its request, satisfied the requirements of sections 5.10 and 7.6, the entity is to be regarded as being eligible for an advance in accordance with the terms of the request.

5.19 Payment of advances of grants

- (1) If an entity is eligible for an advance of a grant of an amount, the Secretary must pay that amount to the entity
- (2) The advance must be paid as soon as practicable after 1 July of the relevant financial year.

Example

A request for an advance in relation to the 2005-06 program year must be paid as soon as practicable after 1 July 2006.

Section 6.1

Part 6 Claims for grants

Division 6.1 Making a claim

Subdivision 6.1.1 Claims for eligibility for a grant for a program year

6.1 Claim for grant — general

- (1) An entity may make a claim to the Secretary, in accordance with this Subdivision, for eligibility for a grant for a program year.

Note An entity is not eligible for a grant if, when the claim for a grant is made, the entity is no longer carrying on an eligible TCF activity: *see* section 7.6.

- (2) A claim under this Subdivision must:
 - (a) be in a form approved by the Secretary; and
 - (b) be signed in a manner indicated in the form; and
 - (c) subject to subsection 6.4 (2), be accompanied by the documents and information mentioned in section 6.4.

Note Claims and other documents under the TCF Post-2005 (SIP) Scheme may be sent electronically — *see* section 7.12.

6.2 Who may claim for grant — application of subsection 1.6 (1)

- (1) An entity that is carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (a) may make a claim for eligibility for a grant relating to eligible expenditure by the entity in respect of an eligible TCF activity mentioned in paragraph 1.6 (1) (c) for a program year only if the entity also makes a claim relating to eligible expenditure by the entity in respect of the eligible TCF activity mentioned in paragraph 1.6 (1) (a) for the program year.
- (2) An entity that is carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (b) may make a claim for eligibility for a grant relating to eligible expenditure by the entity in respect of an eligible TCF activity mentioned in paragraph 1.6 (1) (d) for a program year only if the entity also makes a claim relating to eligible expenditure by the entity in respect of the eligible TCF activity mentioned in paragraph 1.6 (1) (b) for program year.
- (3) An entity that is not carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (a) may make a claim for eligibility for a grant relating to eligible expenditure by the entity in respect of an eligible TCF activity mentioned in paragraph 1.6 (1) (b) only if:
 - (a) the entity's primary business is the carrying on of an eligible TCF activity mentioned in paragraph 1.6 (1) (b); and
 - (b) the activity represents the whole of the design activity for eligible TCF products to which the claim relates; and
 - (c) the manufacture of the eligible TCF products is carried on in Australia on behalf of the entity by another entity.

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Example for paragraph 6.2 (3) (b)

For a claim in respect of the design of footwear, both the upper and the sole must be designed in Australia by the entity. If the sole or upper is designed by another entity, or overseas, the claim may not be made.

- (4) An entity that is not carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (a) may make a claim for eligibility for a grant relating to eligible expenditure by the entity in respect of an eligible TCF activity mentioned in paragraph 1.6 (1) (c) for a program year only if the entity that carries on the manufacturing activity mentioned in paragraph 1.6 (1) (c) makes a claim relating to eligible expenditure by the entity in respect of that manufacturing activity for the program year.
- (5) An entity that is not carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (b) may make a claim for eligibility for a grant relating to eligible expenditure by the entity in respect of an eligible TCF activity mentioned in paragraph 1.6 (1) (d) for a program year only if the entity that carries on the design activity mentioned in paragraph 1.6 (1) (d) makes a claim relating to eligible expenditure by the entity in respect of that design activity for the program year.
- (6) An entity that is carrying on an eligible TCF activity mentioned in paragraph 1.6 (1) (e) may make a claim for eligibility for a grant relating to eligible expenditure by the entity in respect of that activity for a program year only if the entity also makes a claim relating to eligible expenditure by the entity in respect of an eligible TCF activity mentioned in paragraph 1.6 (1) (a) for the program year.

6.3 Contracting entity

A claim for a Type 2 grant relating to eligible expenditure by an entity (the *contracting entity*) in respect of a research and development activity or product development activity carried on, on behalf of the contracting entity, by another entity must be made by the contracting entity.

6.4 Information in support of a claim for grant

- (1) For paragraph 6.1 (2) (c), the documents and information are the following:
 - (a) a detailed description of eligible TCF activities:
 - (i) carried on in the program year; and
 - (ii) in respect of which the claim is made;
 - (b) a statement of eligible expenditure incurred by the entity in the program year in respect of which the claim is made, together with an auditor's report verifying the eligible expenditure.
- (2) However, a claim need not be accompanied by a particular document or information referred to in subsection (1) if:
 - (a) the claimant entity has made a request for an advance of the grant under Part 5; and

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- (b) the information is the same as the information, or the document is the same as the document, that the entity has given to the Secretary in support of the entity's request for the advance; and
- (c) the claim is accompanied by a written statement to that effect by the entity.

Note To ensure that a claim is sufficient and complete, applicants are encouraged to take into account guidelines prepared by and available from AusIndustry whose Internet address is <http://www.ausindustry.gov.au>.

- (3) If it appears to the Secretary that a claim by an entity, or information submitted with the claim, is incomplete or insufficient for the purpose of assessing the claim, the Secretary, in writing, may request the entity to do either or both of the following:
 - (a) make a further claim in such form as is specified in the request;
 - (b) give further information mentioned in the request.
- (4) The entity must comply with a request under subsection (3) within a reasonable period specified by the Secretary in the request.
- (5) The Secretary is not required to assess the claim until the entity complies with the request.

6.5 When claim for grant must be made

- (1) An entity must make a claim for eligibility for a grant after the end of the program year in respect of which the claim is made but before 1 March of the relevant financial year.

Example: A claim for eligibility for a grant for the 2006/2007 program year must be made before 1 March 2008.

- (2) An entity that fails to comply with subsection (1) for a program year is not eligible for a grant for the program year unless the period for making a claim is extended under section 6.6 and the claim is made within the extended period.

Note Section 6.6 provides that the period for making a claim may be extended by the Secretary in exceptional circumstances.

Subdivision 6.1.2 Extension of time for making claim

6.6 Extension of time for making claim

- (1) The Secretary, on the written application of an entity, may extend the period within which the entity may make a claim for eligibility for a grant for a particular program year.
- (2) The Secretary must not extend the period unless the Secretary is satisfied that, because of exceptional circumstances affecting the entity, there is good reason to do so.
- (3) However, an application to which subsection (2) applies in relation to a claim for a particular program year must be made before 1 April in the relevant financial year.

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Example For subsection 6.6(3) to apply to an application for an extension of time to lodge a claim under subsection 6.6(1) for eligibility for a grant for the 2006/2007 program year, the application must be made before 1 April 2008. If the application is made after that date, subsections 6.6(4) and (5) apply in relation to the application.

- (4) Further, after 31 March in a financial year and before the end of 30 June in that financial year, the Secretary must not extend the period unless the Secretary is satisfied that, because of most exceptional circumstances affecting the entity, there are overwhelming reasons to do so.
- (5) An application to which subsection (4) applies in relation to a particular program year must be made before 30 June in the relevant financial year.

Example Subsection 6.6(4) applies to an application for an extension of time to lodge a claim for eligibility for a grant in relation to the 2007/2008 program year made after 31 March 2009. This application must be made before 30 June 2009.

- (6) However, the Secretary must not agree to extend the period for lodging a claim if the application is made after the end of the relevant financial year.

Example The Secretary must not agree to extend the period for lodging a claim for the 2006/2007 program year if the request for extension is made on or after 1 July 2008.

- (7) Also, regardless of the circumstances, the Secretary must not grant an extension of time for an entity in relation to a claim for a program year for which the entity has already made a claim under the TCF Post-2005 (SIP) Scheme.
- (8) To avoid doubt, failure to lodge a claim within the period set out in section 6.5 due to oversight or ignorance is not to be regarded as an exceptional circumstance for the purpose of subsection (2) or (4).

6.7 Effect of extension of time

- (1) If an extension of time is granted to an entity to enable it to lodge a claim after the date when lodgement would otherwise be due, the payment for that claim must be made in the relevant financial year if:
 - (a) in relation to the claim, the modulation factor mentioned in section 6.20 is not less than 1; and
 - (b) there is sufficient surplus in the amount available for payments under the TCF Post-2005 (SIP) Scheme in that financial year to pay the claim in respect of which the extension was granted; and
 - (c) payment can be made within the period specified in section 6.29 for that program year, or before the end of 30 June for the relevant financial year.
- (2) However, if:
 - (a) an extension of time is granted to an entity to enable it to lodge a claim after the date when lodgement would otherwise be due; and
 - (b) assessment of the claim is completed before the modulation factor is calculated and payment is due (regardless of the modulation factor),any payment of the claim must be made in the relevant financial year.

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- (3) If an extension of time is granted to an entity to enable it to lodge a claim after the date when lodgement would otherwise be due but the requirements of paragraphs (1) (a) to (c) or subsection (2) cannot be met:
 - (a) the claim is not to be assessed or paid until the next financial year; and
 - (b) the claim is to be treated as a claim being made for a relevant program year in that financial year.
- (4) However, an extension of time must not be granted to an entity to enable it to lodge a claim after the date when lodgement would otherwise be due for the 2009/2010 or 2014/2015 program years unless the requirements of paragraphs (1) (a) to (c) or subsection (2) are met.

6.8 Notice of decision about extending claim period

- (1) The Secretary must give written notice to the entity of a decision of the Secretary on an application under section 6.6.
- (2) If the Secretary refuses the application, the Secretary must give written notice of:
 - (a) the refusal; and
 - (b) the reasons for the refusal.

Note Section 7.3 requires the notice to be accompanied by a statement about the entity's right to have the decision reconsidered or reviewed.

- (3) If the Secretary has not decided an application within 30 days after the application is made, the entity may, at any time, give the Secretary written notice that the entity wishes to treat the application as having been refused.
- (4) For section 7.1, if the entity gives notice under subsection (3), the Secretary is taken to have refused the application, and to have notified the entity of the decision, on the day on which the entity gives notice.

Division 6.2 Assessment of claims

Subdivision 6.2.1: Assessment — general

6.9 Content of application for grant

- (1) An entity's claim for eligibility for a grant must contain information:
 - (a) sufficient to establish the entity's eligibility for a grant of an amount; and
 - (b) sufficient to fulfil the applicable requirements set out in subsections (3) to (5); and
 - (c) sufficient to establish that it is registered for the TCF Post-2005 (SIP) Scheme for the program year concerned.

Note An entity is not eligible for a grant if, when the claim for a grant is made, the entity is no longer carrying on an eligible TCF activity: *see* section 7.6.

- (2) The amount of a grant mentioned in subsection (1) is the amount that, apart from the operation of Subdivision 6.2.2 and Division 6.3, would be the amount of the grant.
- (3) The entity must establish that it has carried on, in the program year, the eligible TCF activity in respect of which the claim is made, in accordance with the documents and information given to the Secretary under sections 3.3, 3.4 and 3.6.
- (4) The entity must provide information sufficient to enable the calculation of:
 - (a) if the claim is for eligibility for a Type 1 grant — the amount of expenditure that is eligible expenditure within the meaning of section 2.4, incurred by the entity within the program year; and
 - (b) if the claim is for eligibility for a Type 2 grant — the amount of expenditure that is eligible expenditure within the meaning of sections 2.11 to 2.14, incurred by the entity within the program year.
- (5) The claim must be made in accordance with the requirements of sections 6.1 to 6.5.

6.10 Assessment of claim

- (1) The Secretary may assess an entity's claim.
- (2) Without limiting the application of other provisions in the TCF Post-2005 (SIP) Scheme, sections 6.12 to 6.14, as far as applicable, must be taken into account in working out the amount of an entity's claim.
- (3) However, an object of this section is to permit self-assessment of claims and nothing in this section is to operate to require the Secretary to assess a particular claim, or any claim.
- (4) The Secretary is not to be taken to have decided to assess an entity's claim unless the Secretary has issued a notice under subsection 6.15 (2) in relation to the claim.

6.11 Provision of strategic business plans etc

An entity is not eligible for a grant unless the entity has complied with the requirements of Part 3 in relation to the content and submission of strategic business plans.

6.12 Arms length expenditure

In working out the amount of eligible expenditure for a grant, if the expenditure has been incurred in a transaction that was not at arms length, the amount of the expenditure is to be taken to be the amount that would reasonably have been expected to have been incurred if the transaction had been at arms length.

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6.13 Cap for Type 1 grants

The grant eligibility amount for a Type 1 grant for an entity in respect of eligible expenditure incurred by the entity during a particular program year must not exceed 40% of that eligible expenditure.

Note Section 2.4 sets out what is eligible expenditure for a Type 1 grant.

6.14 Cap for Type 2 grants

The grant eligibility amount for a Type 2 grant for an entity in respect of eligible expenditure incurred by the entity during a particular program year must not exceed 80% of that eligible expenditure.

Note Subdivision 2.3.2 sets out what is eligible expenditure for a Type 2 grant.

6.15 Period for assessment and notice of decisions — grants

- (1) This section applies in relation to a claim for eligibility for a grant in relation to which the Secretary has made an assessment, or is to make an assessment, under subsection 6.10 (1).
- (2) If the Secretary decides under subsection 6.10 (1) to assess a claim by an entity, the Secretary must give notice, in writing, to the entity accordingly.
- (3) The Secretary must give notice, in writing, to an entity making a claim for eligibility for a grant within 60 days after receipt of the claim:
 - (a) of the Secretary's decision as to the entity's eligibility for a grant; or
 - (b) if the decision cannot be made within 60 days after receipt of the claim — of the period within which the decision is to be made, giving reasons for the delay in making the decision.
- (4) The Secretary must give notice, in writing, to a claimant entity of a decision to which paragraph (3) (b) applies within 7 days after the decision is made.
- (5) If the Secretary decides that an entity is not eligible for a grant, the notice must include reasons for the decision.

Note Section 7.3 requires the notice to be accompanied by a statement about the entity's right to have the decision reconsidered or reviewed.

- (6) If the Secretary has not given notice to the entity of the Secretary's decision as to eligibility for a grant:
 - (a) within the period of 60 days mentioned in subsection (3); or
 - (b) if the decision is one to which paragraph (3) (b) applies — within 7 days after the end of the period notified by the Secretary under that paragraph,the entity may, at any time, give the Secretary written notice that the entity wishes to treat the claim as having been refused.
- (7) For section 7.1, if the entity gives notice under subsection (6), the Secretary is taken to have refused the claim, and to have notified the entity of the decision, on the day on which the entity gives notice.

6.16 Resolution of claims — eligibility for grants

- (1) This section applies to a claim for eligibility for a grant in respect of which the Secretary does not intend to make an assessment under subsection 6.10 (1).
- (2) If the entity has, in its claim, satisfied the requirements of sections 6.9 and 7.6, the entity is to be regarded as being eligible for a grant in accordance with the terms of the claim.

6.17 Effect of decision as to eligibility for grants

If, under this Subdivision, a claimant entity is eligible for a grant, the entity's eligibility does not, of itself, give rise to an entitlement to the grant.

Note Subdivision 6.3.2 provides for limits on amounts available for payment.

6.18 Pre-payment assessment, post-payment monitoring

An entity to which this Part applies may be selected for pre-payment assessment or post-payment compliance monitoring.

Subdivision 6.2.2: Grant eligibility amounts

6.19 Grant eligibility amount

- (1) The grant eligibility amount for an entity for a program year is to be worked out in accordance with this section.
- (2) If, for amounts incurred otherwise than during an eligible start-up period for the entity within the meaning of subsection 6.24 (2):
 - (a) the entity is eligible to be paid a grant for the program year; and
 - (b) the sum of:
 - (i) the amount of the entity's claim worked out under section 6.10; and
 - (ii) any excess amount worked out under subsection 6.24 (5) from the previous program year for the entity;does not exceed the amount of the entity's sales based cap worked out under subsection 6.24 (1);then, subject to subsection (6), the entity's grant eligibility amount is the sum of:
 - (c) the amount of the entity's claim worked out under section 6.10; and
 - (d) any excess amount worked out under subsection 6.24 (5) from the previous program year for the entity.
- (3) If, for amounts incurred otherwise than during an eligible start-up period for the entity within the meaning of subsection 6.24 (2):
 - (a) the entity is eligible to be paid a grant for the program year; and
 - (b) the sum of:

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(i) the amount of the entity's claim worked out under section 6.10;
and

(ii) any excess amount worked out under subsection 6.24 (5) from
the previous program year for the entity;

exceeds the amount of the entity's sales based cap worked out under
subsection 6.24 (1);

then, subject to subsection (6), the entity's grant eligibility amount is the
amount of the entity's sales based cap.

(4) However, in spite of subsections (2) and (3), if:

(a) the entity is eligible to be paid a grant for the program year; and

(b) the amount of the entity's claim worked out under section 6.10 includes
eligible expenditure incurred by the entity during an eligible start-up
period for the entity within the meaning of subsection 6.24 (2);

then, subject to subsection (6), the entity's grant eligibility amount must not
exceed 15% of its eligible start-up investment amount within the meaning
of subsection 6.24 (2).

(5) If, because of the operation of section 6.23, the entity is not eligible to be
paid a grant for the program year, the entity's grant eligibility amount for
the program year is, subject to subsection (6), the amount of the entity's
claim worked out under section 6.10.

(6) The grant eligibility amount for an entity for a program year is:

(a) if the modulation factor for the program year is less than one, the
amount worked out under subsection (2), (3), (4) or (5), as the case
requires, multiplied by the modulation factor; and

(b) if the modulation factor for that year is not less than one, the amount
worked out under subsection (2), (3), (4) or (5), as the case requires.

Note 1 The total of the grant eligibility amounts determined under subsections 6.19 (2) to
(5) before the application of subsection 6.19 (6) for all entities is the total for **T6.19** in
section 6.20.

Note 2 If an entity has incurred and not repaid a scheme debt in a previous program year,
the grant eligibility amount for the program year may be reduced by the amount of the TCF
Post-2005 (SIP) Scheme debt (*see* section 46 of the Act (Recovery by set-off)).

6.20 Modulation of grants

The modulation factor for a program year determined in the relevant financial year is the lesser of 1 and the factor worked out in accordance with the formula:

$$MF = \frac{PA + TUPA - TURA}{T6.19}$$

T6.19

where:

MF is the modulation factor;

PA, (or *prescribed amount*) for a program year, payable in the relevant financial year, is:

- (a) for each of the 2005/2006 to 2009/2010 program years — \$97 500 000; and
- (b) for each of the 2010/2011 to 2014/2015 program years — \$17 500 000.

T6.19 is the total of the grant eligibility amounts determined under subsections 6.19 (2) to (5) before the application of subsection 6.19 (6) for all entities for the program year.

TUPA is the prescribed amount from a previous program year less the total of:

- (a) any amounts paid under section 5.19 for that year and for which no claim under Part 6 was made for that program year; and
- (b) any deferred grant eligibility amounts set aside under subsection 6.21 (2) for that program year; and
- (c) any amounts paid under section 6.28 for that program year (excluding any amount previously set aside for an earlier program year under subsection 6.21 (2)).

TURA is the total of any advance amounts paid under section 5.19 for the program year and for which no claim under Part 6 has been made for the program year.

6.21 Deferred grant eligibility amount

- (1) If an entity would otherwise be eligible for a grant for a program year, but the sum of the amounts mentioned in subsection 6.23 (2) fails to meet the threshold amount under subsection 6.23 (1), the entity's grant eligibility amount for that program year must be deferred until the threshold amount is reached (a *deferred grant eligibility amount*).

Note A deferred amount that has not been paid before 10 June 2011 (or 10 June 2017 for clothing/finished textile expenditure) is no longer payable under the TCF Post-2005 (SIP) Scheme – see subsection 6.29 (10).

- (2) Any deferred grant eligibility amount for an entity arising from a claim for eligibility for a grant for a program year is to be set aside to satisfy that claim if it is paid in the future.

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Division 6.3 Determination and payment of claims

Subdivision 6.3.1 Determination and payment of claims — grants

6.22 Meaning of determination

In this Division, *determination*, in relation to an entity in relation to a claim for eligibility for a grant for a program year, means a determination that the entity is entitled to be paid as a grant the entity's grant eligibility amount for the program year together with any deferred grant eligibility amount to be paid to the entity in that program year.

Note Subdivision 6.3.2 provides for limits on amounts available for payment.

6.23 Threshold expenditure for grants

- (1) An entity is not entitled to be paid a grant for a program year unless the sum of the amounts mentioned in subsection (2) and (3) exceeds \$200 000 (the *threshold amount*).
- (2) For subsection (1), the amounts are:
 - (a) the total amount of eligible expenditure for grants incurred by the entity in the program year in respect of which the claim is made; and
 - (b) the total amount of eligible expenditure for grants:
 - (i) incurred by the entity in previous program years; and
 - (ii) in respect of which a claim was made.

Note To take advantage of paragraph 6.23 (2) (b), an entity must make a claim for eligibility for a grant in respect of eligible expenditure incurred in a program year, even if the eligible expenditure, together with previously accumulated eligible expenditure (if any), does not exceed the threshold of \$200 000.

- (3) If an entity incurred eligible expenditure in the 2004/05 program year of the TCF (SIP) Scheme, the entity may include, as part of the threshold amount for the 2005/06 program year of the TCF Post-2005 (SIP) Scheme, the total of Type 1 and Type 2 eligible expenditure incurred in the 2004/05 program year for the TCF (SIP) Scheme.
- (4) However:
 - (a) if the entity was not registered under the TCF (SIP) Scheme for the 2004/05 program year for that Scheme, the expenditure referred to in subsection (3) is to be assessed as it would have been if a claim in relation to that expenditure had been made under that Scheme; and
 - (b) if the entity was registered under the TCF (SIP) Scheme for the 2004/05 program year for that Scheme, the expenditure referred to in subsection (3) may be included only if the entity also made a claim under the TCF (SIP) Scheme in relation to that expenditure.

Note Expenditure incurred in the 2004/05 program year of the TCF (SIP) Scheme may be included in the threshold amount for this section, but may not be the subject of a claim under the TCF Post-2005 (SIP) Scheme.

- (5) If, for an entity, the sum of the amounts mentioned in subsection (2) exceeds the threshold amount, the entity is eligible to be paid a grant in respect of eligible expenditure in a program year if, apart from this section, the entity would be eligible to be paid the grant in that year.

6.24 Sales-based cap for grants

- (1) The total grants that become payable to an entity during a particular income year of the entity (the *claim year*), in respect of eligible expenditure incurred by the entity otherwise than during an eligible start-up period of the entity, must not exceed 5% of the total eligible revenue for the entity for the income year of the entity preceding the claim year.
- (2) The total of the grants that become payable to an entity during a particular income year of the entity (the *claim year*) and any income years of the entity that are earlier than the claim year, in respect of eligible expenditure incurred by the entity during an eligible start-up period of the entity, must not exceed 15% of the total of the eligible start-up investment amounts of the entity for each of the income years of the entity that are earlier than the claim year.
- (3) If, in an income year of an entity (the *claim year*), the total of the grants that become payable to the entity in respect of eligible expenditure incurred by the entity would, but for the operation of subsection (1), exceed 5% of the total eligible revenue for the entity for the income year of the entity preceding the claim year, the entity is eligible to include the amount of that excess (the *excess amount*) modified, if required under subsection (5), in the grant eligibility amount for the following program year.
- (4) An excess amount under subsection (3) must be included in the grant eligibility amount for the next program year for which the entity makes a claim, even if the only claim made is for that excess amount

Example If, for the 2005/06 program year, an entity has a total grant eligibility amount of \$100 000, and 5% of the entity's total eligible revenue is \$90 000, the grant paid is \$90 000, the excess amount of \$10 000 is to be added to any grant eligibility amount for the 2006/07 program year.

- (5) The amount to be included in the grant eligibility amount under subsection 6.19 (2) or (3) for a following program year is:
- (a) if the modulation factor, worked out in accordance with section 6.20 for the program year for which the claim is made, is less than one, the excess amount multiplied by the modulation factor; or
- (b) if the modulation factor, worked out in accordance with section 6.20 for the program year for which the claim is made, is not less than one, the excess amount.
- (6) However, subsection (1) applies to any excess amount claimed under subsection (3) in the year in which it is claimed.
- (7) In subsection (2):
- eligible start-up investment amount*, for an entity and for an income year of the entity, means the total expenditure incurred by the entity during the

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income year on the acquisition of any land, building, structure, plant, equipment, materials or other asset for the carrying on of an eligible TCF activity for the first time.

eligible start-up period, for an entity, means the period:

- (a) starting on the day when the entity first enters into a financial commitment to carry on an eligible TCF activity, not having previously carried on an eligible TCF activity; and
 - (b) ending 12 months after the day when the entity first begins production (other than sample production) of an eligible TCF product.
- (8) For the definition of *eligible start-up investment amount* in subsection (7), items 1 to 5 and item 7 in the table in subsection 2.4 (3) apply to expenditure on any building, structure, plant, equipment, materials or other asset mentioned in the definition as they apply to expenditure on any building, structure, plant, equipment, materials or other asset mentioned in section 2.4.
- (9) For the definition of *eligible start-up period* in subsection (7), an entity that has not previously carried on an eligible TCF activity, but that purchases or takes over a business with existing TCF activity is not, immediately after that purchase or takeover, in an eligible start-up period for the purposes of subsection (2).

6.25 Request for determination and payment of grant

- (1) If an entity is eligible to be paid a grant, the entity must, at the time of making a claim for eligibility for a grant, request a determination and payment of the claim, including any deferred grant eligibility amount set aside under subsection 6.21 (2).
- (2) A request under subsection (1) must be:
 - (a) in writing in a form approved by the Secretary; and
 - (b) signed in a manner indicated by the form.

Note Requests in writing and other documents under the TCF Post-2005 (SIP) Scheme may be sent electronically — see section 7.12.

- (3) The request must be accompanied by a statement of the total eligible revenue for the entity for the income year of the entity preceding the income year during which the entity expects that the grant will become payable.
- (4) However, if the claim relates to eligible expenditure by the entity during an eligible start-up period of the entity, the request must be accompanied by a statement of the total of the eligible start-up investment amounts of the entity for each of the income years of the entity preceding the income year during which the entity expects that the grant will become payable.

6.26 Deadline for lodging auditors reports

- (1) An entity is not entitled to be paid a grant unless the entity has given to the Secretary:

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- (a) an auditor's report verifying the total eligible revenue required under subsection 6.25 (3); and
 - (b) if the claim relates to eligible expenditure by the entity during an eligible start-up period, an auditor's report verifying the total of the eligible start-up investment amount.
- (2) The auditor's reports must be given to the Secretary before 1 March of the relevant financial year.
 - (3) The period for providing the auditor's reports may not be extended, however, if an extension of time to lodge a claim is granted to the entity under section 6.6, the auditor's reports may be provided within the extended period.

6.27 Reduction on account of advance

- (1) Subsection (2) applies to an entity that has, in accordance with Part 5, already received an amount by way of an advance on account of the grant.
- (2) In working out the amount of the grant that the entity is entitled to be paid, the amount that, but for this section, would be payable to the entity must be reduced by the amount of the advance of the grant that has been paid to the entity on account of the grant.

Note If an entity receives an amount by way of an advance on account of a grant that may become payable to the entity and that amount is greater than the amount of the grant, the entity is liable to pay to the Commonwealth the amount of the excess. The Commonwealth may recover the excess as a scheme debt. The TCF Post-2005 (SIP) Scheme debt may be recovered by court action or by deduction from other grants payable to the entity — see sections 20 and 44 to 47 of the Act.

6.28 Determination of entitlement

- (1) If:
 - (a) an entity requests the determination of a claim for eligibility for a grant for a program year; and
 - (b) the entity is eligible for a grant of the entity's grant eligibility amount, worked out under section 6.19, for the program year together with any deferred grant eligibility amount set aside for the entity under subsection 6.21 (2);

the entity is entitled to a determination and is eligible to be paid that grant eligibility amount together with the deferred grant eligibility amount, if any.

Note Section 6.30 provides for the circumstances in which a determination may be revoked and, if appropriate, remade and Subdivision 6.3.2 provides for limits on amounts available for payment.

- (2) Before any deferred grant eligibility amount set aside under subsection 6.21 (2) is paid under subsection (1), section 6.24 must be taken into account.

Note An entity is not entitled to be paid a grant if, when the request is made, the entity is no longer carrying on an eligible TCF activity: see section 7.6.

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6.29 Determination and payment of grants

- (1) The Secretary must give notice, in writing, of a determination made under section 6.28 to the entity requesting the determination.
- (2) The notice must be given as soon as practicable after the determination is made.
- (3) If the Secretary determines that the claimant entity is not entitled to be paid a grant, the notice must include reasons for the decision.

Note Section 7.3 requires the notice to be accompanied by a statement about the entity's right to have the decision reconsidered or reviewed.

- (4) If the Secretary determines that an entity is entitled to be paid a grant of an amount, the Secretary must pay the amount to the entity.
- (5) However, if a claimant entity has breached a condition in relation to an advance of a grant, the Secretary may reduce the amount of the grant payable to the entity by the amount (if any) to which, because of the breach, the entity would not otherwise have been entitled as part of the advance.
- (6) A determination under subsection (4) is revocable under section 6.30 and may be remade under that section.

Note: Section 6.30 provides for the circumstances in which a determination may be revoked and, if appropriate, remade.

- (7) The grant must be paid as soon as practicable:
 - (a) within the period commencing on 1 June and ending at the end of 10 June in the relevant financial year in which the Secretary has made the determination; or
 - (b) at an earlier time in the relevant financial year in which the Secretary has made the determination if, and only if, the grant eligibility amount for all entities has been worked out under subsection 6.19 (6).
- (8) If a determination that an applicant entity is to be paid a grant is not made in response to a claim for eligibility for a grant, because the entity has not satisfied a provision of the TCF Post-2005 (SIP) Scheme, the Secretary must, as soon as practicable, give notice in writing to the entity setting out the reason for not making the determination.

Note Section 7.3 requires the notice to be accompanied by a statement about the entity's right to have the decision reconsidered or reviewed.

- (9) If a claimant is not eligible, in accordance with Division 6.2, for a grant of an amount for a program year, the Secretary must not:
 - (a) determine that the claimant is entitled to be paid the amount for the program year; or
 - (b) pay a grant to the claimant of the amount for the program year.
- (10) An amount deferred and set aside under subsection 6.21 (2) that has not been paid before 10 June 2011 (or 10 June 2016 for clothing/finished textile expenditure) is not payable under the TCF Post-2005 (SIP) Scheme.

6.30 Revocation and remaking determinations etc.

- (1) If:
- (a) a determination is made in relation to an entity; and
 - (b) the amount determined, or paid to the entity under the determination, is not the amount (if any) to which the entity is entitled under the TCF Post-2005 (SIP) Scheme;
- then, in any of the circumstances mentioned in subsection (2), the Secretary may revoke the determination and, if appropriate, make a revised determination in its place.
- (2) For subsection (1), the circumstances are as follows:
- (a) the determination or payment contains or relies on a clerical error;
 - (b) the determination or payment was based wholly or in part on incorrect information;
 - (c) the determination or payment was based wholly or in part on a misinterpretation of a provision of the Act or Scheme by a self-assessing entity;
 - (d) the determination or payment is contrary to a provision of the Act or Scheme.
- (3) If the Secretary revokes a determination in relation to which a grant has been paid:
- (a) in a case in which a revised determination is not made under subsection (1)—the amount of the grant (the *original grant*); and
 - (b) in a case in which a revised determination is made under subsection (1) and the amount of the grant under the revised determination (the *revised grant*) is less than the original grant—the difference between the original grant and the revised grant;

must be repaid by the entity and may be recovered as a scheme debt.

Note 1 Sections 45, 46 and 47 of the Act deal with recovery of a scheme debt by legal proceedings (section 45), by set-off against a grant payable to the entity concerned (section 46) and for recovery from a person other than the entity in certain cases (section 47).

Note 2 See sections 7.1 to 7.4 in relation to reconsideration and review of decisions.

Subdivision 6.3.2 Limits on payments

6.31 Annual limit on payments

- (1) Nothing in this Part authorises the expenditure for grants (including advances on account of grants) paid under the TCF Post-2005 (SIP) Scheme of an amount that exceeds:
- (a) for expenditure incurred in each of the 2005/2006 to 2009/2010 program years — \$97 500 000 together with any unspent amount from the 2005/2006 to 2008/2009 program years or deferred eligible amount from any previous program year; and
 - (b) for expenditure incurred in each of the 2011/2012 to 2014/2015 program years — \$17 500 000 together with any unspent amount from

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the 2010/2011 to 2013/2014 program years or deferred eligible amount from any previous program year;

6.32 Expenditure limit on Scheme

- (1) For section 37D (1) of the Act, the total of grants (including advances on account of grants) paid under the TCF Post-2005 (SIP) Scheme must not exceed \$575 000 000.
- (2) For section 37D (2) of the Act, the total of grants (including advances on account of grants) paid under the TCF Post-2005 (SIP) Scheme for expenditure incurred in the 2005-2006 to 2009-2010 income years must not exceed \$487 500 000.
- (3) For section 37D (3) of the Act, the total of grants (including advances on account of grants) paid under the TCF Post-2005 (SIP) Scheme for expenditure incurred in the 2010-2011 to 2014-2015 income years must not exceed \$87 500 000.

Part 7 Miscellaneous

7.1 Request for reconsideration of decision by Secretary

- (1) If an entity affected by a decision of the Secretary under the TCF Post-2005 (SIP) Scheme is dissatisfied with the decision, the entity may request the Secretary to reconsider the decision.
- (2) However, subsection (1) does not apply to a decision of the Secretary arising from the application, in relation to:
 - (a) the entitlement to be paid a grant, or to the amount of a grant, of section 6.13, 6.14, 6.20, 6.23 or 6.24; or
 - (b) the eligibility for an advance of a grant, or to the amount of an advance, of section 5.8, 5.15 or 5.16.
- (3) A request must:
 - (a) be in writing; and
 - (b) set out the reasons for the request; and
 - (c) be given to the Secretary within 30 days after the entity is notified of the decision or within such further period as the Secretary allows.

Note If a request is made under this section, s 41 of the *Administrative Appeals Tribunal Act 1975* (which deals with the operation and implementation of a decision that is subject to review) applies as if the making of the request were the making of an application to the Administrative Appeals Tribunal for a review of that decision — see subsection 22 (4) of the Act.

7.2 Reconsideration by Secretary

- (1) On receiving a request under section 7.1, the Secretary must reconsider the decision.
- (2) The Secretary may:
 - (a) confirm or revoke the decision; or
 - (b) vary the decision in such manner as the Secretary thinks fit.
- (3) If the Secretary does not confirm, revoke or vary the decision before the end of the period of 30 days after the day on which the Secretary receives the request, the Secretary is taken, at the end of that period, to have confirmed the decision.
- (4) If the Secretary confirms, revokes or varies the decision before the end of the period mentioned in subsection (3), the Secretary, by notice in writing given to the applicant, must inform the applicant of the result of the reconsideration of the decision and the reasons for confirming, revoking or varying the decision.

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- (5) The confirmation, revocation or variation under subsection (2) of a decision is not invalid merely because it is done after the end of the period referred to in subsection (3) unless, before it is done, the applicant makes an application to the Administrative Appeals Tribunal under subsection (6) for review of the decision.
- (6) An application may be made to the Administrative Appeals Tribunal for a review of a decision that is, or is taken to be, confirmed or varied under this section.
- (7) If, under subsection (3), a decision is taken to be confirmed, s 29 of the *Administrative Appeals Tribunal Act 1975* applies as if the prescribed time for making application for review of the decision were the period commencing on the day on which the decision is taken to have been confirmed and ending at the expiration of the 28th day after that day .

7.3 Statement to accompany notification of decisions

- (1) This section applies if:
 - (a) written notice is given to an entity affected by a decision of the Secretary under the TCF Post-2005 (SIP) Scheme; and
 - (b) the notice is to the effect that the decision has been made.
- (2) The notice must include a statement to the effect that:
 - (a) if the entity is dissatisfied with the decision, the entity may request a reconsideration of the decision by the Secretary; and
 - (b) if the entity is dissatisfied with a decision made by the Secretary on that reconsideration confirming or varying the first-mentioned decision, the entity, subject to the *Administrative Appeals Tribunal Act 1975*, may apply to the Administrative Appeals Tribunal for a review of the decision.

7.4 Statement to accompany notice of decision on reconsideration

- (1) This section applies if:
 - (a) the Secretary confirms or varies a decision as mentioned in subsection 7.2 (2), or is taken to have confirmed a decision as mentioned in subsection 7.2 (3); and
 - (b) gives to the entity written notice of the confirmation or variation of the decision.
- (2) The notice must include a statement to the effect that if the entity is dissatisfied with the decision so confirmed or varied, the entity, subject to the *Administrative Appeals Tribunal Act 1975*, may apply to the Administrative Appeals Tribunal for a review of the decision.

7.5 Statutory conditions

- (1) Each grant and advance of a grant under the TCF Post-2005 (SIP) Scheme is subject to the conditions set out in section 37P of the Act.

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- (2) The payment of a grant, or advance of a grant, to an entity is subject also to the condition that the entity complies, or has complied, with all relevant provisions of the Act and the TCF Post-2005 (SIP) Scheme.

Note If a condition to which a grant (or advance of a grant) is subject is not fulfilled, the whole or part of the grant (or advance) may be recovered from the entity as a scheme debt under Part 5 of the Act.

7.6 Condition — eligible TCF activity

For an entity to be eligible to request an advance, be paid an advance, make a claim for a grant or be paid a grant, it is a condition that, at the time of doing so, it is undertaking an eligible TCF activity.

7.7 Condition — disposal of plant and equipment — Type 1 grant

- (1) It is a condition of a Type 1 grant to an entity that any plant or equipment (the *original plant or equipment*) in relation to which the grant is made is not to be disposed of (whether by sale, as scrap, or otherwise):
- (a) before the end of the program period; or
 - (b) after the end of the program period, if the value of the plant or equipment at the time of disposal is not less than 70% of the economic life of the plant or equipment when new.
- (2) However, an entity does not fail to fulfil the condition if:
- (a) the entity acquires similar new plant or equipment with improved performance to replace the original plant or equipment, and uses the original plant or equipment as a trade-in on the new plant or equipment; or
 - (b) the entity disposes of the plant or equipment by private sale and acquires similar new plant or equipment with improved performance to replace the original plant or equipment; or
 - (c) the entity disposes of the plant or equipment as a result of a sale and lease back arrangement financed through a financial lease, and the plant or equipment is capitalised in the entity's accounts; or
 - (d) the entity or its insurer disposes of damaged plant or equipment; or
 - (e) the entity disposes of plant or equipment as a consequence of the entity's participation in an approved restructuring initiative under the Scheme known as the Textile, Clothing and Footwear Restructuring Initiative Grant Scheme.

Note If an entity does not fulfil a condition of a grant, the Commonwealth may recover the whole, or part, of the grant as a scheme debt. A scheme debt may be recovered by court action or by deduction from other grants payable to the entity — *see* Part 5 of the Act.

7.8 Condition — document retention

- (1) The payment of a grant, or advance of a grant, to an entity is subject to the condition that the entity retain each of the documents mentioned in subsection (2) for not less than 5 years from the date on which the grant, or advance of a grant, is paid to the entity.

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- (2) For subsection (1), the documents are:
- (a) each document that the entity is, under the TCF Post-2005 (SIP) Scheme, required to prepare or obtain in relation to the grant, or advance of a grant, including (but not limited to) each such document prepared or obtained in relation to:
 - (i) the registration of the entity under the TCF Post-2005 (SIP) Scheme; and
 - (ii) a claim for eligibility for a grant or a request for an advance of a grant; and
 - (iii) a request for a determination and payment of a claim; and
 - (b) any record relied upon to prepare such a document.

Note If this condition is not fulfilled, the whole or part of the grant (or advance of a grant) may be recovered from the entity as a scheme debt under Part 5 of the Act.

7.9 Grants not transferable

A grant, or an entitlement to a grant, is absolutely inalienable (whether by way of, or in consequence of sale, assignment, charge, execution, bankruptcy, insolvency or otherwise) except with the approval, in writing, of the Secretary.

7.10 Giving of notices etc by Secretary

For the TCF Post-2005 (SIP) Scheme, unless the contrary intention appears, a notice or other document required or permitted to be given by the Secretary to an entity is taken to be given:

- (a) in the case of service otherwise than by post on an individual — on the day on which the notice or other document is:
 - (i) delivered to the individual in person; or
 - (ii) delivered to the individual's address for service or last address known to the Secretary; or
- (b) in the case of service otherwise than by post on a body corporate — on the day on which the notice or other document is delivered to the registered office, or the address for service, of the body corporate; or
- (c) in the case of service by post on an entity — on the day on which the notice or other document would ordinarily be delivered in the due course of post or, if the entity establishes that it was delivered on a later day, on that later day.

7.11 Post-payment compliance monitoring

If an entity receives a grant, the entity may be subject to post-grant payment compliance monitoring.

Note Subsection 37P (4) of the Act provides that it is a condition of a grant that entry to certain premises be permitted to authorised officers and employee to monitor compliance with other conditions. Subsections 37P (6) & (7) of the Act provide for the appointment of authorised officers and employees and section 37U of the Act provides for identity cards to be carried and produced by authorised officers.

Section 7.12**7.12 Electronic lodgement**

- (1) A document required to be given or sent to the Secretary may be sent electronically.
- (2) For subsection (1), a document is to be regarded as being sent electronically if it is transmitted to the Secretary at an address, and in an electronic format, approved by the Secretary.

Schedule 1 Eligible TCF activities

(sections 1.4 and 1.6)

Note The activities listed in this Schedule are based on Division C, Subdivision 22 of the Australian and New Zealand Standard Industrial Classification (ANZSIC).

Part A Textile Fibre, Yarn and Fabric Manufacturing

1 Man-Made Fibre Textile Manufacturing (including blends)

This category consists of manufacturing continuous fibre filament, fibre staple or yarns, tyre cord yarn or fabrics woven, non-woven, felted, tufted, crocheted or knitted from those yarns, or mixed yarns, wholly or predominantly of man-made fibres. Manufacturing of elastic or elastomeric yarns or threads or fabrics are also included.

- Fibres, manufacturing
- Filament, manufacturing
- Yarns, manufacturing
- Yarns, elastic or elastomeric, manufacturing
- Tyre cord yarns or fabrics, manufacturing
- Fabrics or other textiles, manufacturing
- Fabrics, elastic or elastomeric, manufacturing
- Lacing, woven, manufacturing

2 Cotton Textile Manufacturing (including blends)

This category consists of manufacturing of yarns, fabrics woven, non-woven, felted, tufted, crocheted or knitted, wholly or predominantly of cotton or similar fibres including flax, jute, hemp or kapok.

- Yarns, manufacturing
- Tyre cord yarns or fabrics, manufacturing
- Fabrics or other textiles, manufacturing

3 Wool Textile Manufacturing (including blends)

This category consists of the manufacturing of yarns, fabrics woven, non-woven, felted, tufted, crocheted or knitted, wholly or predominantly of wool or other animal fibre including mohair, angora, cashmere, alpaca or silk.

- Fellmongered, slipe or skin wool, manufacturing
- Yarns, woollen or other animal fibre, manufacturing
- Fabrics or other textiles, from woollen or worsted manufacturing processes, derived from animal fibres

4 Textile Finishing

This category consists of any activities involved in the processes of dyeing, printing, and finishing, including any process of impregnation, coating or lamination for imparting particular end use properties to yarns, fabrics or other textiles except wool tops.

- Textile dyeing, including textile pigmentation
- Textile printing, including flock printing
- Label, printed cloth, manufacturing
- Impregnation, coating or lamination

5 Textile Floor Covering Manufacturing

This category consists of manufacturing of carpets, rugs or other textile floor coverings and includes manufacturing of felt or felt products, mats or matting of jute or twisted rags.

- Felt, manufacturing
- Floor coverings, textile, manufacturing
- Floor rugs, textile, manufacturing
- Underfelt, manufacturing

The manufacturing of felt clothing, grass, sisal or coir mats or matting, rubber underlay and rubber floor coverings is excluded from this category.

6 Textile Product Manufacturing n.e.c.

This category consists of textile product manufacturing n.e.c.

- Cleaning cloth, manufacturing
- Embroidered fabrics, manufacturing
- Fabrics, manufacturing n.e.c.
- Flock, manufacturing
- Hemp product, manufacturing n.e.c.
- Hessian goods, manufacturing n.e.c.
- Kapok, manufacturing
- Labels or badges, woven cloth, manufacturing

Part B Knitting Mills Manufacturing

1 Hosiery Manufacturing

This category consists of manufacturing of hosiery.

- Panty hose, manufacturing
- Socks, manufacturing
- Stockings, manufacturing
- Tights, manufacturing

2 Cardigan and Pullover Manufacturing

This category consists of the manufacturing of knitted cardigans, pullovers or similar garments.

- Custom knitting, of pullovers or cardigans
- Jackets, knitted, manufacturing
- Sweaters, knitted, manufacturing
- Twin sets, knitted, manufacturing
- Waistcoats, knitted, manufacturing

3 Knitting Mill Clothing Manufacturing n.e.c.

This category consists of the manufacturing of knitted or crocheted clothing n.e.c.

- Outerwear, knitted, manufacturing (except hosiery, cardigans or pullovers)
- Sleepwear, knitted, manufacturing
- Swimwear, knitted, manufacturing
- Underwear, knitted, manufacturing (except hosiery)

Part C Clothing Manufacturing

1 Men's and Boys' Wear Manufacturing

This category consists of the manufacturing of men's or boys' outerwear from purchased or transferred in materials.

- Coats or jackets, men's or boys', manufacturing (except from fur or leather)
- Dust coats, manufacturing
- Jeans, men's or boys', manufacturing
- Overalls, manufacturing
- Shirts, men's or boys', manufacturing
- Shorts, men's or boys', manufacturing
- Suits, men's or boys', manufacturing (except from leather)
- Trousers, men's or boys', manufacturing
- Uniforms, men's or boys', manufacturing

The manufacturing of men's or boys' headwear, footwear, or garments made from leather or fur, is excluded from this category.

2 Women's and Girls' Wear Manufacturing

This category consists of the manufacturing of women's or girls' outerwear from purchased or transferred in materials.

- Blouses, manufacturing

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- Coats or jackets, manufacturing (except from fur, leather, plastic or rubber)
 - Jeans, women's or girls', manufacturing
 - Outerwear, women's or girls', manufacturing (except from fur, leather, plastic or rubber)
 - Suits, women's or girls', manufacturing (except from leather or plastic)
 - Tunics, women's or girls', manufacturing
 - Uniforms, women's or girls', manufacturing

The manufacturing of women's or girls' waterproof clothing or clothing made from fur, leather, plastic or rubber, is excluded from this category.

3 Sleepwear, Underwear and Infant Clothing Manufacturing

This category consists of the manufacturing of foundation garments, underwear, sleepwear or infants' clothing from purchased or transferred in materials.

- Brassieres, manufacturing
- Corsets, manufacturing
- Foundation garments, manufacturing
- Girdles, manufacturing
- Infants' clothing, manufacturing
- Sleepwear, manufacturing
- Underwear, manufacturing

4 Clothing Manufacturing n.e.c.

This category consists of manufacturing of headwear, fur or leather clothing, clothing or clothing accessories n.e.c.

- Belts, manufacturing (for clothing)
- Clothing accessories, manufacturing n.e.c.
- Clothing, fur, manufacturing n.e.c.
- Clothing, leather or leather substitute, manufacturing n.e.c.
- Clothing manufacturing n.e.c., including clothing for protective or safety purposes
- Gloves, manufacturing (except plastic or rubber gloves)
- Handkerchiefs, manufacturing
- Hats* or headwear,* manufacturing
- Laces, manufacturing (for footwear)
- Leather or leather substitute suit, coat or uniforms, manufacturing n.e.c.
- Recreational clothing, manufacturing n.e.c.#
- Swimwear, manufacturing (except rubber bathing caps)
- Ties, manufacturing

- Waterproof clothing, manufacturing (except headwear, footwear or leather clothing) n.e.c.

Part D Footwear Manufacturing

This category consists of the manufacturing of footwear, or footwear components.

- Boots,* manufacturing
- Footwear component, manufacturing
- Footwear,* manufacturing
- Industrial footwear, including safety or protective footwear
- Sandals,* manufacturing
- Shoes,* manufacturing
- Slippers,* manufacturing
- Thongs, manufacturing

Part E Leather and Leather Product Manufacturing

Leather Tanning and Fur Dressing

This category consists of post full substance activities including sammying, splitting, shaving, tanning, currying, dressing, dyeing, embossing or japanning leather, animal skins or fur.

- Fur dressing or dyeing
- Hide and skin tanning, currying, dressing, crusting, dyeing or finishing
- Leather manufacturing
- Leather tanning

Part F Early-stage Processing

1 Natural Fibre Processing

This category consists of natural fibre processing.

- (a) **Wool or other animal fibres** — all processing activities up to and including top making, including:
- Scouring
 - Tops, unspun, manufacturing
 - Carding or combing
- (b) **Cotton** — all processing activities up to and including sliver production, including the following:
- Ginning, cleaning, baling and classing of cotton
 - Doubling and drawing of cotton
 - Carding, slivering and combing of cotton

- (c) **Others, including flax, hemp, jute or silk** — all processing activities up to and including:
- Tow, manufacturing

2 **Man-made Fibres**

This category consists of man-made fibre processing.

Early-stage processing activities relating to man-made fibres — all processing activities up to and including man-made tows and tops, including:

- Synthetic fibre tops, unspun, manufacturing
- Tow, manufacturing

3 **Leather**

This category consists of early-stage leather processing.

Early-stage leather processing — all processing activities up to and including wet blueing or equivalent stage, including:

- Fleshing, de-hairing, fellmongering, skin pickling, wet blueing and wet whitening of hides and skins

Part G Made-up Textile and Leather Product Manufacturing

This category consists of manufacturing of made-up textile and leather products including household textile goods, blinds, tents, awnings, sails, or goods of canvas or related materials.

- Animal rugs, manufacturing
- Awnings, textile, manufacturing
- Bags or sacks, textile or canvas, manufacturing for packaging
- Bags, leather or leather substitute, manufacturing
- Binding, textile, (including plastic coated) manufacturing
- Blinds, textile, manufacturing (including plastic coated blinds and woven slats for fabric blinds)
- Canvas goods, manufacturing n.e.c.
- Curtains manufacturing
- Filters, manufacturing, if produced by a manufacturing process made predominantly from yarns, fabrics or other textiles of a kind listed in item 1, 2, 3, or 6 of Part A, or fabrics of a kind listed in item 3 of Part B
- Flags or banners, manufacturing
- Harness, manufacturing
- Helmet*, manufacturing
- Hose, canvas or other textile, manufacturing
- Household textile goods, manufacturing

- Leather or leather substitute goods, manufacturing n.e.c.
- Machine belting, leather or leather substitute, manufacturing
- Motor vehicle covers, textile, manufacturing
- Nets, including fish nets, manufacturing
- Parachutes, manufacturing
- Pillow manufacturing (except rubber)
- Ropes, twine, cord or cordage, strings (except paper string), braids or cable, manufacturing (except wire rope or wire cable)
- Saddles, manufacturing
- Sails, manufacturing
- Seat covers, manufacturing
- Sleeping bags, manufacturing
- Soft furnishings
- Suitcases, textile, manufacturing
- Tents, manufacturing (except oxygen tents or toy tents)
- Waterbags, textile, manufacturing

Definitions

In this Schedule:

n.e.c. means not elsewhere classified.

man-made fibres include cellulose and synthetics.

Symbols

If made predominantly from the products of activities listed in items 1, 2, 3 and 6 of Part A, or in item 3 of Part B.

* If made predominantly from leather or the products of activities listed in items 1, 2, 3 and 6 of Part A or in item 3 of Part B.

Schedule 2 Eligible finished textile, technical textile and leather activities

(section 1.4)

Part A Finished Textile Manufacturing

This category consists of eligible TCF activities of a kind mentioned in Schedule 1 resulting directly and predominately in the manufacture of a product to which any of following subheadings of Chapter 63 of Schedule 3, of the *Customs Tariff Act 1995* apply:

- 6302.10.00 - Bed linen, knitted or crocheted;
- 6302.21.00 - Other bed linen printed, of cotton;
- 6302.22.00 - Other bed linen printed, of man-made fibres;
- 6302.29.00 - Other bed linen printed, of other textile material;
- 6302.31.00 - Other bed linen, of cotton;
- 6302.32.00 - Other bed linen, of man-made fibres;
- 6302.39.00 - Other bed linen, of other textile material;
- 6302.60.00 - toilet linen and kitchen linen, of terry towelling or similar terry fabric of cotton;
- 6302.91.20 - Goods, NSA, as follows (a) face washers; (b) towels;
- 6303.11.10 - Knitted or crocheted, cotton curtains;
- 6303.12.10 - Synthetic fibre curtains;
- 6303.19.10 - Other textile material curtains;
- 6303.91.10 - Cotton goods as follows (a) bed valances [ruffles]; (b) curtains;
- 6303.92.10 - Synthetic fibre goods as follows (a) bed valances [ruffles]; (b) curtains;
- 6303.99.10 - Other textile material goods as follows (a) bed valances [ruffles]; (b) curtains.

Part B: Technical Textile Manufacturing

This category consists of eligible TCF activities of a kind mentioned in Schedule 1 resulting directly and predominately in the manufacture of a product to which any of the following headings of Chapters 56 and 59 of Schedule 3, of the *Customs Tariff Act 1995* apply:

- 5601 - Wadding of textile materials and articles thereof; textile fibres, not exceeding 5mm in length (flock), textile dust and mill neps;
- 5602 - Felt, whether or not impregnated, coated, covered or laminated;
- 5603 - Nonwovens, whether or not impregnated, coated, covered or laminated;
- 5911 - Textile products and articles, for technical uses, specified in Note 7 to Chapter 59.

Part C: Leather Manufacturing

This category consists of eligible TCF activities of a kind mentioned in Schedule 1 resulting directly and predominately in the manufacture of a product to which Chapter 41 and any of the following heading of Chapters 42 and 43 of Schedule 3, of the *Customs Tariff Act 1995* apply:

- 4201 - saddlery and harness for any animal;
- 4202 - trunks, suit-cases, vanity-cases, executive-cases, brief-cases, school satchels, spectacle case, binocular bags, insulated food or beverage bags, toilet bags, rucksacks, handbags, shopping bags, wallets, purses, map-cases, cigarette-cases, tobacco-pouches, tool bags, jewellery boxes, powder-boxes, cutlery cases and similar containers, of leather or of composition leather;
- 4204 - articles of leather or of composition leather of a kind used in machinery or mechanical appliances or for other technical uses;
- 4206 - articles of gut (other than silk-worm gut), of goldbeater's skin, of bladders or of tendons;
- 4301 - raw furskins;
- 4302 - tanned or dressed furskins.

Notes to the *Textile, Clothing and Footwear Post-2005 Strategic Investment Program Scheme 2005*

Note 1

The *Textile, Clothing and Footwear Post-2005 Strategic Investment Program Scheme 2005* (in force under sections 37C and 37ZB of the *Textile, Clothing and Footwear Strategic Investment Program Act 1999*) as shown in this compilation is amended as indicated in the Tables below.

Table of Instruments

Title	Date of notification in Gazette or FRLI registration	Date of commencement	Application, saving or transitional provisions
<i>Textile, Clothing and Footwear Post-2005 Strategic Investment Program Scheme 2005</i>	22 Apr 2005 (see F2005L00963)	23 Apr 2005	
<i>Textile, Clothing and Footwear Post-2005 Strategic Investment Program Scheme Amendment 2007 (No. 1)</i>	29 Mar 2007 (see F2007L00874)	30 Mar 2007	—

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
S. 1.7.....	am. 2007 No. 1
Part 2	
Division 2.2	
S. 2.2.....	am. 2007 No. 1
S. 2.3.....	am. 2007 No. 1
Note to s. 2.3.....	ad. 2007 No. 1
S. 2.4.....	am. 2007 No. 1
Division 2.3	
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S. 6.23.....	am. 2007 No. 1
S. 6.29.....	am. 2007 No. 1
Schedule 1	
Schedule 1	am. 2007 No. 1
Schedule 2	
Heading to Schedule 2.....	rs. 2007 No. 1