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COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TRADE PRACTICES AMENDMENT BILL (NO. 2) 1978

EXPLANATORY MEMORANDUM

(Circulated by the Minister for Business and
Consumer Affairs, The Honourable Wal. Fife, M.P.)

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Trade Practices Act 1974 to provide a specific prohibition on a person, in concert with another person, engaging in conduct for the purpose and having or likely to have the effect of preventing or substantially hindering a third person (not an employer of the first person) from engaging in interstate, territorial or overseas trade or commerce (clause 4).

The Bill also provides for defences to the provision and for a number of associated technical amendments.

Boycotts

Clause 4 inserts, by a new sub-section (1A), a prohibition into the Act as an amendment to section 45D. It will be a contravention for a person to engage in concerted conduct with another person for the purpose and the effect of preventing or substantially hindering a third person (not the employer of the first mentioned person) from engaging in interstate, territorial or overseas trade or commerce. New sub-section (1B) provides defences where the conduct did not constitute a contravention of the other restrictive trade practices provisions of the Act or where the dominant purpose for which the defendant engaged in the conduct was to preserve or further a business carried on by him. The clause also proposes amendments of a technical nature.

Pecuniary Penalties

Clause 5 ensures that a person is not liable to more than one pecuniary penalty should his conduct contravene two or more of the restrictive trade practices provisions of the Act.

Authorisations

Clause 6 redrafts the present provision of the Act which permits the Trade Practices Commission to grant authorisation to persons to engage in conduct to which section 45D would, or might, apply.