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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Fair Work Amendment Bill 2013

(Amendment to be moved by Mr Bandt)

(1) Schedule 1, page 14, at the end of the Schedule (after proposed Part 9), add:

Part 10—Orders terminating protected industrial action: limits

Fair Work Act 2009

39 After section 424

Insert:

424A When the FWC must not terminate industrial action

Despite subsections 423(1) and 424(1), the FWC must not make an order terminating protected industrial action if either or both of the following apply in relation to any employer response action concerned:

(a) a purpose of the action is to make any application under section 423 or 424 more likely to succeed;

(b) the action is not a proportionate response in the circumstances.

40 After paragraph 426(5)(a)

Insert:

(ab) in the case of employer response action—whether the industrial action is being engaged in for the purposes of making any application more likely to succeed;

[limits for orders terminating protected industrial action]