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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

A Fair Go for Australians in Trade Bill 2018

No. , 2018

(Mr Clare)

**A Bill for an Act to give Australian workers a fair
go in trade agreements and to fix the way the
Commonwealth negotiates them, and for related
purposes**

Contents

1	Short title	1
2	Commencement	2
3	Prohibiting labour market testing waivers in trade agreements	2
4	Prohibiting the inclusion of investor-state dispute settlement provisions in trade agreements	2
5	Prohibiting the privatisation of public services	3
6	Prohibiting the undermining of the PBS	3
7	Prohibiting the undermining of anti-dumping laws	3
8	Prohibiting limits on right of Commonwealth to regulate	3
9	Prohibiting restrictions on government procurement	3
10	Enforceable labour obligations	4
11	Mandatory skills testing	4
12	Independent national interest assessments	5
13	Accredited trade advisers	5
14	Executive power of the Commonwealth not otherwise limited	5
15	Regulations	5

2 **A Bill for an Act to give Australian workers a fair**
3 **go in trade agreements and to fix the way the**
4 **Commonwealth negotiates them, and for related**
5 **purposes**

6 The Parliament of Australia enacts:
7

8 **1 Short title**

9 This Act is the *A Fair Go for Australians in Trade Act 2018*.

Section 2

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Prohibiting labour market testing waivers in trade agreements

- (1) The Commonwealth must not, on or after the commencement of this Act, enter into a trade agreement with one or more other countries that waives labour market testing requirements for workers from those countries.
- (2) The Minister administering the *Migration Act 1958* must not, on or after the commencement of this Act, determine under subsection 140GBA(2) of the *Migration Act 1958* an obligation of Australia that arises under a trade agreement between Australia and one or more other countries.

4 Prohibiting the inclusion of investor-state dispute settlement provisions in trade agreements

The Commonwealth must not, on or after the commencement of this Act, enter into a trade agreement with one or more other

1 countries or a bilateral investment treaty that includes an
2 investor-state dispute settlement provision.

3 **5 Prohibiting the privatisation of public services**

4 The Commonwealth must not, on or after the commencement of
5 this Act, enter into a trade agreement with one or more other
6 countries that includes provisions requiring the privatisation of any
7 public services.

8 **6 Prohibiting the undermining of the PBS**

9 The Commonwealth must not, on or after the commencement of
10 this Act, enter into a trade agreement with one or more other
11 countries that includes provisions that undermine the scheme for
12 the supply of pharmaceutical benefits established under Part VII of
13 the *National Health Act 1953*.

14 **7 Prohibiting the undermining of anti-dumping laws**

15 The Commonwealth must not, on or after the commencement of
16 this Act, enter into a trade agreement with one or more other
17 countries that includes provisions that undermine any law of the
18 Commonwealth, a State or a Territory relating to anti-dumping.

19 **8 Prohibiting limits on right of Commonwealth to regulate**

20 The Commonwealth must not, on or after the commencement of
21 this Act, enter into a trade agreement with one or more other
22 countries that limits the right of the Commonwealth to regulate:
23 (a) in the interests of public welfare; or
24 (b) in relation to safe products.

25 **9 Prohibiting restrictions on government procurement**

26 The Commonwealth must not, on or after the commencement of
27 this Act, enter into a trade agreement with one or more other
28 countries that includes provisions relating to government
29 procurement which have the effect of restricting the

- 1 Commonwealth's procurement arrangements from any form of
2 preference for the purpose of:
- 3 (a) protecting Australia's essential security interests; or
 - 4 (b) benefiting local small and medium enterprises; or
 - 5 (c) protecting national treasures; or
 - 6 (d) implementing measures for the health, welfare and economic
7 and social advancement of Indigenous people; or
 - 8 (e) promoting ethical standards and sustainable development
9 though ethical procurement; or
 - 10 (f) providing for the full, fair and reasonable participation of
11 local enterprises in government contracts as outlined in
12 Commonwealth, State and Territory industry participation
13 policies and successor programs and policies; or
 - 14 (g) maintaining the Australian industry capability programs and
15 its successor programs and policies.

16 **10 Enforceable labour obligations**

- 17 (1) Any bilateral trade agreement signed by the Commonwealth on or
18 after the commencement of this Act must include a labour chapter
19 with internationally recognised labour principles.
- 20 (2) The Commonwealth should seek to include a labour chapter with
21 internationally recognised labour principles in any regional or
22 multilateral trade agreement signed by the Commonwealth on or
23 after the commencement of this Act.

24 **11 Mandatory skills testing**

25 The Commonwealth must not, on or after the commencement of
26 this Act, enter into a trade agreement with one or more other
27 countries unless the agreement requires skills assessments
28 (including practical and theoretical testing) to be undertaken in
29 Australia.

12 Independent national interest assessments

The Commonwealth must not, on or after the commencement of this Act, enter into a trade agreement with one or more other countries unless:

- (a) the Minister has caused an independent national interest assessment of the economic, strategic and social impacts of the proposed trade agreement to be undertaken; and
- (b) a copy of the assessment has been tabled in each House of the Parliament.

13 Accredited trade advisers

The regulations may provide for the establishment of a program (the *accredited trade advisers program*) that allows industry, unions and civil society groups to give real time feedback on any draft trade agreements between Australia and one or more other countries.

14 Executive power of the Commonwealth not otherwise limited

This Act limits the executive power of the Commonwealth to the extent set out in sections 3 to 12, and does not, by implication, limit that power to any other extent.

15 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed by the regulations; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.