Industrial Relations (Directions to Stop Industrial Action) Amendment Bill 1989 (Private Senator's Bill)

Date Introduced: 16 August 1989
House: Senate
Presented by: Senator the Hon. Fred Chaney

Digest of Bill

Purpose
To allow the Industrial Relations Commission (the Commission) to issue directions to stop industrial action and to issue injunctions to prevent the breach of such directions.

Background
In 1987 a Bill was introduced to replace the Conciliation and Arbitration Commission as the principle federal industrial body. The Industrial Relations Bill 1987 also contained provisions similar to those sought to be inserted by this Bill. The Bill provided for maximum penalties for breaches of directions and also for the proposed Labour Court to have jurisdiction over hearings arising under the secondary boycott provisions of the Trade Practices Act 1974. However, prior to the passage of that Bill Parliament was dissolved for an election.

The Industrial Relations Bill was subject to controversy both before and during the election campaign. In June 1987 the Minister announced that as the compliance package had been rejected by both employer and employee organisations, these provisions would not be included in the new Industrial Relations Bill which it was proposed to introduce. The Bill introduced in 1988 therefore deleted the provisions relating to breaches of directions, but still contained fines for breaches of awards or orders.

A major instrument in relation to penalties has proved to be sections 45D and 45E of the Trade Practices Act 1974 as they relate to secondary boycotts. This was best highlighted by the Mudginberri and Dollar Sweets disputes which led to actions for damages being pursued by employers. In both cases the employers were successful, with substantial damages either being awarded or negotiated.
Main Provisions

Clause 3 will insert a new section 187 into the *Industrial Relations Act 1988* (the Principal Act). Where industrial action is occurring, is threatening or probable in relation to an industrial dispute for which the Commonwealth has power, the Court may issue such directions as necessary to prevent or stop the action. The direction may include to not engage in conduct that prevents the observance of an award, the performance of work in accordance with an award or the offering of work in accordance with an award.

Where the court is satisfied that a person will breach a direction, aid or procure such a breach, or knowingly be concerned in such a breach, the court may grant an injunction to direct the person not to perform those actions (proposed section 187B).

Proposed section 187C provides that where a person has suffered loss as a result of a breach of a direction issued under proposed section 187A, they may recover the losses from the party that caused them by a breach of the direction.

Nothing in this Bill is to be taken to reduce a person's existing rights (proposed section 187D).

For further information, if required, contact the Law and Government Group.

29 August 1989

Bills Digest Service

Legislative Research Service

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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