Industry, Technology and Commerce Legislation Amendment Bill (No. 2) 1989

Date Introduced: 4 October 1989
House: House of Representatives
Portfolio: Industry, Technology and Commerce

Digest of Bill

Purpose
This is an omnibus Bill that makes a number of largely non-contentious amendments to the legislation administered by this portfolio. The major changes relate to the Australian Industry Development Corporation (AIDC), the taking of action to prevent unjustified threats in relation to designs registered under the Design Act 1906, and increasing the size of vessels eligible for subsidy under the Bounty (Ships) Act 1989.

Background
The AIDC was established in 1970 as a statutory corporation to provide finance for, and to make equity investments in, Australian industries. The activities have centered on promoting structural change in the economy. The AIDC's activities involve the provision of finance, underwriting, venture capital and financial advice. The AIDC is currently involved with companies in the food processing, manufacturing, clothing and footwear, transport and construction industries.

In 1988 the AIDC faced a capital shortage which threatened its expansion and a recommendation was made to the government that finance be raised from the capital market by the creation of a subsidiary company which would be listed on the stock exchange and have a certain percentage of its shares sold on the market. This was accomplished by the Australian Industry Development Corporation Amendment Act 1988, which established the subsidiary, AIDC Ltd. A maximum of 30% of its capital may be sold on the market. That Act also dealt with the transition from the former to current situation, including the transfer of business, assets and liabilities to the subsidiary. However, now that the subsidiary is operational a number of difficulties have arisen, such as unintended taxation results. This Bill will address the problems that have arisen.
Another area dealt with in the Bill is the bounty payable on the construction of certain ships in Australia. (The bounty is also payable on some modifications but this is not affected by this Bill.) The bounty is payable in respect of vessels that are between 150 and 10,000 gross construction tons, and the scheme was extended until 1995 by the Bounty (Ships) Act 1989, which was passed in June this year. It is estimated that the scheme will cost $25.5 million in 1989–90. This Bill will increase the maximum tonnage of vessels eligible for the bounty to 20,000 gross construction tons. The explanatory memorandum states that there is expected to be no financial impact from the Bill.

Main Provisions

Australian Industry Development Act 1970
Clause 6 will create a category of special non-transferring assets. After the re-organisation day, the AIDC is to pay to the subsidiary any amounts received under such an asset (proposed section 29LA). Amounts that will be subject to proposed section 29LA will not be taxable income for the AIDC (clause 9 which will amend section 292B of this Act). These amendments will be deemed to have commenced from 1 July 1989 (sub-clause 2(2)).

Under the current structure, the AIDC borrows on behalf of the subsidiary. Clause 11 will amend section 35 of this Act to provide that the Commonwealth guarantee for borrowings by the AIDC will be subject to any agreement entered into by the AIDC before 1 July 1994.

Bounty (Ships) Act 1989
Clause 13 will amend section 4 of this Act to alter the maximum limit in the definition of bountiable vessel from 10,000 to 20,000 gross construction tons.

Designs Act 1906
Clause 2 will insert a Division 2, titled unjustified threats of infringement proceedings, into this Act. Where a person, through an advertisement or otherwise, threatens another with an action for an infringement of the Act, the latter may apply for a declaration that the threat is unjustified, for an injunction to stop the threats and to recover any damages suffered (proposed section 32C). A court may grant such relief unless the person making the threats satisfies the court that the design is registered and that the acts of the other would infringe the monopoly in the design (proposed section 32D). Proposed section 32E provides for counter-claims, while proposed section 32G provides that a legal practitioner or patent attorney will not be liable under proposed section 32C for an act done in their professional capacity on behalf of a client.

Section 33 of this Act will be amended to allow the register of designs to be kept on computer.
A new section 45A will be substituted into this Act by clause 32. The proposed section contains the standard provisions relating to determining the intention of a corporation through the intention of directors, agents or servants of the corporation.

For further information, if required, contact the Economics and Commerce Group.

24 October 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.

© Commonwealth of Australia 1989

Except to the extent of the uses permitted under the Copyright Act 1968, no part of this publication may be reproduced or transmitted in any form or by any means, including information storage and retrieval system, without the prior written consent of the Department of the Parliamentary Library. Reproduction is permitted by Members of the Parliament of the Commonwealth in the course of their official duties.