Trade Practices Amendment Bill 1988

Date Introduced: 24 February 1988
House: House of Representatives
Presented by: The Hon. Clyde Holding, M.P., Minister for Immigration, Local Government and Ethnic Affairs

Digest of Bill

Purpose
The Bill will clarify the meaning of 'misleading statement' following a recent Federal Court decision; remove the sunset clause dealing with the banning and recall of food for human consumption; and make a minor administrative amendment to the Trade Practices Act 1974 (the Principal Act).

Background
Section 53 of the Principal Act deals with misleading statements. The section makes it an offence to falsely represent that goods are of a particular standard, quality or grade. In a recent case, the Federal Court considered this provision. The case centered on oriental rugs being advertised as for sale at a great reduction on the 'usual price'. On the certificate of authenticity that accompanied each rug, the current value was listed. For the rug in question, the current value was listed as $1675, while it was sold for approximately $600. The summons against the seller alleged that this amounted to a misrepresentation as to quality. While the judge hearing the case agreed that the stating of the current value could go to the question of quality, he stressed that this must be determined on the facts of each case. In this case, he concluded that there was insufficient evidence to establish that there was a link between the value and any particular standard.

The other major amendment relates to the sunset clause dealing with food and drink for human consumption. A new division, titled Product Safety and Product Recall, was inserted into the Principal Act in 1986. The Division provides for the banning of dangerous goods and also for the compulsory recall of products. Section 65U provides that the Division will cease to have effect in relation to food and drink intended for human consumption, two years after the Division came into operation (i.e. 1 July 1988). It was intended that by this time there would be uniform State legislation in this area. This has not occurred and only two States, Queensland and Western Australia, have recall provisions in place, and they are not uniform. As a result, this Bill will repeal the sunset clause.
Main Provisions

Section 53 of the Principal Act will be amended by clause 3 to insert the word 'value' into the section. As a result, there will be no doubt that misleading statements as to value will breach the Act.

Clause 4 will repeal section 65U of the Principal Act, which contains the sunset clause referred to above. This amendment will apply from 1 July 1988 (clause 2).

Section 163 of the Principal Act will be amended so that the Ministers approval is not required before certain people may commence prosecutions under the Principal Act. It will be sufficient if the Secretary of the relevant Department has authorised the person concerned to commence prosecutions.

Reference

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

30 March 1988
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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