

FAIR TRADING (AMENDMENT) BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Fair Trading Act 1987 with respect to trading stamp schemes and similar schemes. The Bill provides for the repeal of the Trading Stamps Act 1972, the provisions of which are superseded by those contained in the Bill.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a proclaimed day or proclaimed days.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Principal Act.

Clause 4 repeals the Trading Stamps Act 1972.

SCHEDULE 1 - AMENDMENTS

Trading stamp schemes and similar schemes

Schedule 1 (1) inserts a new Part 5A into the Principal Act. The new provisions may be summarised as follows:

Proposed section 60A provides definitions of "stamp" and "trading stamp scheme". The meanings are essentially the same as in the Trading Stamps Act 1972.

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Proposed section 60B provides that (with the exceptions mentioned in subsection (2)) a trading stamp scheme is unlawful unless the person who redeems the stamps is carrying on a genuine business of providing the kinds of goods or services for which the stamps may be redeemed.

Proposed section 60C allows regulations to be made under the Principal Act declaring schemes that are similar in operation to trading stamp schemes to be unlawful. A regulation of this kind can only be made if the Commissioner for Consumer Affairs is satisfied that the scheme concerned is inflationary, or unfair to traders, or otherwise contrary to fair trading or the public interest.

Proposed section 60D creates certain offences in relation to the promotion, operation and advertisement of unlawful trading stamp schemes and the supply of equipment for use in such schemes. By the operation of proposed section 60C (5), the same offences are created in respect of a scheme declared unlawful by the regulations.

Injunctions

Schedule 1 (2) and (3) amend sections 62 and 65 of the Principal Act to enable a contravention, or an apprehended contravention, of the new Part 5A to be restrained by injunction in the Supreme Court. The amendment made by Schedule 1 (4) is consequential.

Disclosure of information

Schedule 1 (5) amends section 67 of the Principal Act. The effect is to enable the Supreme Court to order a person who has contravened the provisions of the new Part 5A to make certain public or private disclosures of information in relation to the person's activities.

Defences

Schedule 1 (6) amends section 71 of the Principal Act to afford miscellaneous defences to a person charged with an offence arising from a contravention of the new Part 5A.
