

1987-88-89

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

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*(Presented and read a first time, 16 August 1989)*

(SENATOR CHANEY)

A BILL  
FOR

An Act to amend the Industrial Relations Act 1988 to empower the Australian Industrial Relations Commission to give directions to stop industrial action, and for related purposes

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title

- 5 1. This Act may be cited as the Industrial Relations (Directions to Stop Industrial Action) Amendment Act 1989.

**Commencement**

2. This Act commences on the day on which it receives the Royal Assent.

**Directions to stop industrial action**

3. After section 187 of the Principal Act the following Division is inserted in Part VIII:

"Division 4 - Directions

**Directions to stop industrial action**

"187A. (1) Where it appears to the Commission that industrial action is occurring, or is threatened, impending or probable, in connection with an industrial dispute, the Commission may give, in connection with the exercise of conciliation powers or arbitration powers in relation to the industrial dispute, such directions as it thinks necessary or desirable to prevent or stop the industrial action or to prevent further industrial action.

"(2) A direction under subsection (1) may be given to:

- (a) a party to the industrial dispute;
- (b) a member, officer or employee of an organisation that is a party to the industrial dispute; or
- (c) any other person engaged in industrial action in connection with the industrial dispute.

"(3) The Commission may give a direction to a person not to engage in conduct that hinders, prevents or discourages:

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- (a) the observance of an award;
  - (b) the performance of work in accordance with an award; or
  - (c) the acceptance of, or offering for, work in accordance with an award.

**Injunction to stop industrial action**

10 "187B. (1) Where, on the application of the Minister, or of a person who is a party to the industrial dispute or is bound by the award concerned, the Court is satisfied that a person has engaged, or is proposing to engage, in conduct that constitutes, or would constitute:

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- (a) a breach of a direction under section 187A;
  - (b) an attempt to breach such a direction;
  - (c) aiding, counselling or procuring a person to breach such a direction;
  - (d) inducing or attempting to induce a person to breach such a direction;
  - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, a breach of such a direction; or
  - 20 (f) conspiring with others to breach such a direction;

the Court may grant an injunction in such terms as the Court considers to be appropriate.

25 "(2) Where in the opinion of the Court it is desirable to do so, the Court may grant an interim injunction pending determination of an application under subsection (1).

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"(3) The Court may revoke or vary an injunction granted under subsection (1) or (2).

**Damages for conduct in breach of direction**

"187C. (1) A person who suffers loss or damage by the conduct of another person that was done in breach of a direction under section 187A may recover the amount of the loss or damage by action against that other person in the Court. 5

"(2) An action under subsection (1) may be commenced at any time within 3 years after the date on which the cause of action accrued. 10

**Other actions not affected**

"187D. Nothing in this Division limits a right to bring an action otherwise than under this Act.

**Conduct by officers, employees, members or agents** 15

"187E. For the purposes of sections 187B and 187C, action taken in breach of a direction under section 187A by an officer, employee, member or agent of an organisation shall be deemed to have been taken by the organisation, unless the organisation establishes that it took all reasonable steps to prevent the person from taking the action." 20