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## AUSTRALIAN INDUSTRIES PRESERVATION.

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No. 26 of 1909.

An Act to amend the Australian Industries  
Preservation Acts 1906-1907.

[Assented to 13th December, 1909.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate,  
and the House of Representatives of the Commonwealth of  
Australia, as follows :—

Short title.

1.—(1.) This Act may be cited as the *Australian Industries Preserva-  
tion Act 1909.*

(2.) The *Australian Industries Preservation Act* 1906, as amended by the *Australian Industries Preservation Act* 1907, is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Australian Industries Preservation Act* 1906-1909.

2. This Act shall commence on a day to be fixed by Proclamation.\* Commencement.

## PART II.—REPRESSION OF MONOPOLIES.

3. Section five of the Principal Act is repealed.

Repeal of s. 5 of  
Principal Act.

4. Section six of the Principal Act is amended by omitting the words “the last two preceding sections,” and inserting in lieu thereof the words “section four of this Act”.

Amendment of  
s. 6 of Principal  
Act.

5. After section seven of the Principal Act the following sections are inserted:—

“7A.—(1.) Any person who, in relation to trade or commerce with other countries or among the States, either as principal or agent, in respect of dealings in any goods or services gives offers or promises to any other person any rebate, refund, discount, concession or reward, for the reason, or upon the condition express or implied, that the latter person—

Unfair  
concessions by  
persons.

(a) deals, or has dealt, or will deal, or intends to deal, exclusively with any person, either in relation to any particular goods or services or generally; or

(b) deals, or has dealt, or will deal, or intends to deal, exclusively with members of a Commercial Trust, either in relation to any particular goods or services or generally; or

(c) does not deal, or has not dealt, or will not deal, or does not intend to deal, with certain persons, either in relation to any particular goods or services or generally; or

(d) is or becomes a member of a Commercial Trust,

is guilty of an offence.

Penalty: Five hundred pounds.

“(2.) Every contract made or entered into in contravention of this section shall be absolutely illegal and void.

“(3.) It shall be a defence to a prosecution under this section, and an answer to an allegation that a contract was made or entered into in contravention of this section, if the party alleged to have contravened this section proves that the matter or thing alleged to have been done in contravention of this section was not to the detriment of the public, and did not constitute competition which was unfair in the circumstances.

“7B. Any person who, in relation to trade and commerce with other countries or among the States, either as principal or agent, refuses either absolutely or except upon disadvantageous conditions

Improper  
refusals to sell  
by persons.

\* Proclaimed to commence 1st March, 1910. See *Gazette*, 5th March, 1910, p. 669.

to sell or supply to any other person any goods or services for the reason that the latter person—

(a) deals, or has dealt, or will deal, or intends to deal, with any person ; or

(b) deals, or has dealt, or will deal, or intends to deal, with persons who are not members of a Commercial Trust ; or

(c) is not a member of a Commercial Trust,  
is guilty of an offence.

Penalty : Five hundred pounds.”

Repeal of s. 8 of  
Principal Act.

6. Section eight of the Principal Act is repealed.

7. After section ten of the Principal Act the following section is inserted :—

Disobedience to  
injunction.

“ 10A.—(1.) Any person who does any act or thing in disobedience of an injunction granted under this part of this Act shall be guilty of an offence.

Penalty : Five hundred pounds for each day during which the offence continues.

“(2.) This section shall not be deemed to derogate from the power of the High Court, apart from this section, to enforce obedience to the injunction.”

Amendment of s.  
10 of Principal  
Act.

8. Section ten of the Principal Act is amended by omitting the words “except in the case of foreign corporations, or trading or financial corporations formed within the Commonwealth.”

9. Sub-section (1.) of section thirteen of the Principal Act is repealed and the following sub-section substituted in lieu thereof :—

Civil  
proceedings  
for the recovery  
of penalties.

“(1.) Proceedings for the recovery of pecuniary penalties for offences against this Part of this Act (other than indictable offences or offences against section fifteen B. section fifteen C, or section fifteen E) shall be instituted in the High Court by way of civil action and shall be tried before a Justice of that Court without a jury.”

10. Section fourteen of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “criminal proceeding” and inserting in lieu thereof the words “proceeding for an indictable offence or for the recovery of penalties” ; and

(b) by omitting from sub-section (2.) the word “civil” and inserting in lieu thereof the word “other”.

Amendment of  
s. 15 of Principal  
Act.

11. Section fifteen of the Principal Act is amended by omitting the words “or section five.”

Amendment of  
s. 15A of  
Principal Act.

12. Section fifteen A of the Principal Act is amended—

(a) by omitting the word “five” and the word “eight” ; and

(b) by inserting after the word “seven” the words “seven A, seven B,”.