

## HOUSE OF REPRESENTATIVES

## Supplementary Order Paper

Tuesday, the 5th Day of November 1974

## COMMERCE BILL

*Proposed Amendments*

Hon. Mr FREER, in Committee, to move the following amendments:

*Title:* To omit the Title (all the words in lines 2 to 7 on page 3), and substitute the following Title:

**An Act to establish the Commerce Commission and to regulate pyramid selling schemes**

*Clause 1:* (a) To omit from line 9 on page 3 the word "Commerce", and substitute the words "Trade Practices (Commerce Commission and Pyramid Selling)".

(b) To insert, before the words "This Act" in line 10 on page 3, the words "Except as provided in section 30 (4) of this Act,".

*Clause 2:* To omit this clause, and substitute the following clause:

**2. Interpretation—**(1) In this Act, unless the context otherwise requires,—

"Books or documents" include—

(a) Accounts, balance sheets, vouchers, records, minutes of meetings, contracts, files, and other instruments:

(b) Any information recorded or stored by means of any computer or other device whatsoever; and any material subsequently derived from information so recorded or stored:

"Commission" means the Commerce Commission constituted by this Act:

"Department" means the Department of Trade and Industry:

"Examiner" means the Examiner of Trade Practices and Prices appointed under the Trade Practices Act 1958:

"Minister" means the Minister of Trade and Industry:

"Performance of services" includes, but without limiting the generality of that expression, the doing of any thing pursuant to a contract or agreement with any person (not being a contract or agreement of service between master and servant) which confers any right or benefit on that person or any other person:

“Price”, in relation to the sale of goods or to the performance of services, includes every valuable consideration whatsoever, whether direct or indirect; and includes any consideration which in effect relates to the sale of the goods or to the performance of the services, although ostensibly relating to any other matter or thing:

“Sale” includes barter and every other disposition for valuable consideration:

“Secretary” means the Secretary of Trade and Industry appointed under the State Services Act 1962:

“Supplier”, in relation to services, includes a person who performs services and a person who arranges the performance of services:

“Supply”, in relation to the supply of goods, includes supply or resupply by way of sale, exchange, lease, hire, or hire purchase:

“Trade” means any trade, business, industry, profession, occupation, or undertaking relating to the sale of land or goods or the performance of services.

*Clause 6:* To omit the proviso to subclause (5) (all the words in lines 33 to 36 on page 8).

*Clause 7:* To omit this clause.

*Clause 11:* To omit this clause, and substitute the following clause:

**11. Functions of the Commission**—The Commission shall have the following functions—

(a) The function of inquiring into any aspect of trade and industry involving the manufacture and distribution of goods or the supply of goods or the supply of services (including matters in the field of consumer protection or information) referred to it by the Minister:

(b) Such other functions as are imposed on it by this Act or by any other Act.

*Clause 13A:* To omit this clause.

*Clause 14:* To omit subclause (1), and substitute the following subclause:

(1) There shall from time to time be appointed under the State Services Act 1962 such officers of the Department as may be required for the administration of this Act.

*Clauses 16 to 24:* To omit these clauses and the words “TRADE PRACTICES” in line 34 on page 14.

*Clause 26:* (a) To omit from line 2 on page 35 the word “January”, and substitute the word “February”.

(b) To omit subclause (2), and substitute the following subclause:

(2) Every person who contravenes subsection (1) of this section commits an offence and is liable—

(a) In the case of an individual, to a fine not less than \$100 but not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months, or to both such fine and such imprisonment, and, if the offence is a continuing one, to a further fine not exceeding \$500 for every day or part of a day during which the offence has continued:

- (b) In the case of a body corporate, to a fine not less than \$200 but not exceeding \$50,000, and, if the offence is a continuing one, to a further fine not exceeding \$2,500 for every day or part of a day during which the offence has continued.

*Clause 28:* (a) To omit from line 32 on page 35 the words “section 17 of this Act”, and substitute the words “section 20 of the Trade Practices Act 1958”.

- (b) To insert, after subclause (2), the following subclause:

(2A) Section 20 of the Trade Practices Act 1958 shall, for the purposes of subsection (1) (a) of this section, be read as if there were substituted for the word “Commission” wherever it occurs, the words “Commerce Commission”.

*Clause 30:* To omit the word “other” in the first place where it appears in line 15 on page 38.

*Clauses 31 to 35:* To omit these clauses.

*Clause 37:* To omit subclauses (1) and (2), and substitute the following subclause:

(1) Subject to subsection (4) of this section, any person who is dissatisfied with any decision of the Commission on the ground that the decision is erroneous in point of law may appeal to the Administrative Division of the Supreme Court by way of case stated for the opinion of the Court on a question of law only if,—

(a) He is an applicant for the approval of a pyramid selling scheme under section 28 of this Act or the Examiner and the decision is one approving (with or without conditions) or refusing to approve the pyramid selling scheme or the proposed pyramid selling scheme; or

(b) He is the promoter of or a participant in any pyramid selling scheme in respect of which approval has been granted under section 28 of this Act or the Examiner and the decision is one—

(i) Revoking, or refusing to revoke, the approval; or

(ii) Altering, or refusing to alter, any conditions subject to which the approval was granted; or

(iii) Imposing, or refusing to impose, any new or additional conditions of the approval.

*Clauses 41 to 110A:* To omit these clauses.

*Clause 112:* To omit this clause.

*Clauses 115 and 116:* To omit these clauses.

*Clauses 120A and 121:* To omit these clauses.

*Clause 123:* (a) To omit from lines 22 and 23 on page 119 the words “the Secretary or the Examiner”.

(b) To omit paragraph (b) (all the words in lines 24 to 28 on page 119).

(c) To omit paragraphs (e) to (g) (all the words in lines 36 to 42 on page 119 and in lines 1 to 6 on page 120).

*Clauses 124 and 125:* To omit these clauses.

*First Schedule, Second Schedule, Third Schedule and Fourth Schedule:* To omit these Schedules.

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EXPLANATORY NOTE

The proposed amendments reduce the scope of the Bill. In substance it will now relate only to the establishment of the Commerce Commission and to the regulation of pyramid selling schemes.

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