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PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CUSTOMS UNDERTAKINGS (PENALTIES) BILL 1981

EXPLANATORY MEMORANDUM

(Circulated by the Authority of the
Minister for Business and Consumer Affairs
the Honourable John Moore, M.P.)

CUSTOMS UNDERTAKINGS (PENALTIES) BILL 1981

Purpose of the Bill

The purpose of this Bill is to provide for the imposition of penalties for breaches of undertakings required to be given under the proposed Customs Amendment (Tenders) Act 1981.

This Bill forms part of a package of Bills designed to give effect to the Government's decision to allocate by tender a proportion of the tariff "quota" available on a range of textile, clothing and footwear products. This decision follows the Government's consideration of the Industries Assistance Commission's recommendations contained in its 1980 Textiles, Clothing and Footwear report.

This Bill provides the support legislation for the Customs Amendment (Tenders) Bill 1981 which authorises the Minister for Business and Consumer Affairs to formulate a scheme for the calling for and dealing with tenders.

An essential element of the tender scheme is to encourage full utilisation of the "quota" allocated by tender. Under-utilisation of tender "quota" could increase the scarcity value of quota by withdrawing imports at a quota price from the market place and could also cause shortages in the local market.

The Bill provides for the payment of a penalty if a successful tenderer fails to comply with an undertaking given under the Customs Amendment (Tenders) Bill 1981, that he will import the quantity or value of tender quota allocated to him. The penalty that is payable is proportionate to the quantity or value of tender quota not utilised.

Customs Undertakings (Penalties) Bill 1981

- Clause 1 - Short title
- Clause 2 - Commencement date to be the day on which the Customs Amendment (Tenders) Act 1981 receives the Royal assent.
- Clause 3 - Defines a number of expressions for the purposes of the legislation.
- Clause 4 - Sets out the penalties to be applied where an undertaking required by the proposed sub-sections 267(1) and 268(2) of the Customs Act 1901 has been breached.
- (i) Sub-clause (1) provides that if a person who has given such an undertaking fails to import any of the goods concerned, the penalty shall be an amount of money equal to the prescribed percentage of the value of the goods to which the undertaking relates; and
- (ii) Sub-clause (2) provides that if a person has partially complied with the undertaking by importing a lesser quantity of the goods than that set out in the undertaking, the penalty applying under sub-clause (1) shall be reduced by the proportion the quantity or value of the imported goods bears to the quantity or value shown in the undertaking.