

1981

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Antarctic Marine Living Resources Conservation Bill 1981

EXPLANATORY MEMORANDUM

(Circulated by authority of the Acting Minister
for Science and Technology the Hon. D.T. McVeigh, M.P.)

OUTLINE

The purpose of this Bill is to provide the legislative basis which will enable Australia to implement its obligations under the Convention on the Conservation of Antarctic Marine Living Resources.

The Convention, which appears as a schedule to the Bill, was developed within the Antarctic Treaty forum as a means of ensuring the conservation of the Southern Ocean ecosystem. Unlike traditional fisheries agreements the Convention seeks to conserve all marine organisms rather than only those of present economic interest.

The Convention will come into force after eight of the original signatories have advised the Depository Government (Australia) of formal acceptance.

The original signatories of the Convention are:

- | | |
|----------------------------------|----------------------------|
| . Argentina | . New Zealand |
| . Australia | . Norway |
| . Belgium | . Poland |
| . Chile | . Republic of South Africa |
| . Federal Republic of Germany | . U.S.S.R. |
| . France | . U.K. |
| . German Democratic Republic | . U.S.A. |
| . Japan | |

The European Community and a number of other countries are expected to accede to the Convention in the near future.

An international Commission is to be established to implement the conservation standard on which the Convention is based. The Commission Headquarters is to be based in Hobart.

One of the Commission's major functions will be the development of conservation measures, such as catch limits, reserved areas, protected species and closed seasons, which will take the form of recommendations made to member countries.

This Bill establishes a permit system and provides for the making of regulations through which these conservation measures would be implemented. All activities associated with the harvesting of, or research relating to, marine living organisms within the Convention area are to be prohibited except under the authority of a permit.

NOTES ON CLAUSES

Clause 1 - Short Title

The short title reflects the main purpose of the Bill which is the implementation of the Convention on the Conservation of Antarctic Marine Living Resources.

Clause 2 - Commencement

The operational provisions of the Bill, such as those relating to the issuing of permits and the appointment of inspectors, will not come into force until the Convention is in force for Australia. This occurs after eight of the original signatories lodge articles of acceptance or ratification with the depositary Government; in this case Australia.

Clause 3 - Interpretation

Sub-clause (1): "Convention Area" - The Convention applies in the area south of the Antarctic Convergence, a boundary at which the colder water of the Southern Ocean meets the warmer temperate oceans. The existence of the Convergence means that the Antarctic marine ecosystem is in many ways isolated.

Clause 5 - Application of Act

Sub-clause (2): Like the Antarctic Treaty (Environment Protection) Act 1980 it is intended that this Bill apply to Australians anywhere within the Convention Area and to all foreigners in Australia or in the Australian Fishing Zone.

Sub-clause (3): Nothing contained in this Bill will detract from Australia's obligations under the International Whaling Convention and the Convention on the Conservation of Antarctic Seals.

Clause 8 - Harvesting, and Research with Respect to, Marine Organisms Prohibited

Sub-clause (1): The broad prohibition on all harvesting and research is partly a result of difficulties in arriving at a strict legal definition of those activities and partly of our obligations under the Convention to provide scientific data, and catch and effort statistics to the Commission. It is not the intention of the Bill to place undue controls on scientific research or on fishing enterprises operating under conservation measures recommended by the Commission.

Clause 9 - Permits

It is expected that a permit will be issued in the form of an approval to undertake an activity (such as the harvesting of krill) subject to relevant Regulations made under the Bill. The Regulations will reflect Conservation Measures brought down by the Commission and subsequently accepted by the Government.

Clause 13 - Inspectors and Special Inspectors

Sub-clause (1)(a): Administrative arrangements will ensure that, where possible, responsible officers and inspectors under the Fisheries Act will be aware of and have appropriate powers under this Section.

Sub-clause (1)(b): A special inspector is a person nominated by the Commission to act on its behalf by observing the application of Conservation Measures on ships under national jurisdiction.

Clause 22 - Delegation

Sub-clause (1): It is envisaged that the Minister's powers to issue, suspend and vary the conditions of permits will be delegated to appropriate officials including the Director of the Antarctic Division, Department of Science and Technology.

Clause 24 - Regulations

Conservation Measures brought down by the Commission will be implemented through the Regulations. Conservation measures may relate to restrictions on the harvesting of protected species or in certain areas. Closed seasons may be declared and certain types of scientific information may be required as part of a Conservation Measure.