

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**WILDLIFE PROTECTION (REGULATION OF EXPORTS AND IMPORTS)
AMENDMENT BILL, 1990**

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for the
Arts, Sport, the Environment, Tourism and Territories,
the Honourable Ros Kelly MP)



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OUTLINE

1. The main purpose of this Bill is to give effect to the Government's decision to provide a more flexible approach to the requirements for management programs which govern the export and import of wildlife. This is associated with a more general examination, by the Export Review Committee, of export controls. The amendments give the Minister the power to decide whether a harvesting operation warrants a management program, and to impose conditions in relation to the proposal.

Other amendments simplify administrative procedures, bring penalties into line with other legislation and set a maximum number of household pet birds that may be exported.

FINANCIAL IMPACT STATEMENT

2. The proposed Bill will impose no financial constraints on the Government. The Wildlife Protection (Regulation of Exports and Imports) Act provides for the charging of fees for permits to import and export wildlife and wildlife products, with a view to recovery of the costs to the Commonwealth of administering the legislation.

NOTES ON CLAUSES

Clause 1 - Short Title

3. This clause provides for the Act to be cited as the Wildlife Protection (Regulation of Exports and Imports) Amendment Act 1990.

Clause 2 - Commencement

4. This clause provides for the Act to commence on the day it receives Royal Assent.

Clause 3 - Interpretation

5. This clause defines the term "program exempt specimen" which is referred to in later amendments.

Clause 4 - Act not to apply to certain specimens

6. This clause contains an interpretation of the word "transshipment" which mirrors the definition of CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora), in order to close a possible loophole in the Principal Act.

Clause 5 - Approved management programs

7. This clause provides for the Minister, in approving a management program, to determine the duration of the program and impose other conditions. Such an amendment would clarify the Minister's powers, enabling a management program to contain, for example, an upper limit on the level of take.

Clause 6 - Specimens

8. This clause gives the Minister the power to declare, after having taken into account advice from the Designated Authority on certain matters, certain specimens to be exempt from the requirements for approved management programs under the Act, and allows for this declaration to specify conditions and circumstances. This provides the Minister with some flexibility when considering, for example, proposals to export common species derived from salvage operations. Such an amendment would relate to imports as well as exports.

Clause 7 - Export of household pets - native Australian animals

9. This clause has the effect of limiting the total number of animals which may be exported to six, for example, a maximum of two animals of each of three species. Currently a person permanently departing Australia who has fulfilled certain residency and ownership requirements may export, as household pets, two animals of each species listed on Schedule 7 to the Act. As changes to Schedule 7 tend to increase the number of species (ie Australian native birds) available, it is desirable to impose an upper limit on the quantity that may be exported in order to uphold the objective of section 16 (to ensure that permits are only issued for genuine household pets).

Clause 8 - Certain exports prohibited

10. This clause increases the maximum penalty for illegal export by a natural person from \$100,000 or imprisonment for 5 years to \$100,000 or imprisonment for 10 years, or both. The purpose of this clause is to bring penalties into line with relevant legislation, such as the

Quarantine Act 1908, which parallels the Principal Act in concerns on health matters, as opposed to environmental matters.

Clause 9 - Certain imports prohibited

11. This clause increases the maximum penalty for illegal imports by a natural person in the same manner, and for the same reason, as Clause 8 does for exports.

Clause 10 - Permit or authority to be produced

12. This clause will allow the Designated Authority to authorise an export without the original of the permit being produced to a Customs officer. Current procedures requiring prior production of an export permit to a Customs officer are difficult or impossible to observe in some cases, especially where there is a large physical distance between the exporter and the nearest Customs office.

Clause 11 - Boarding of vessels etc by inspectors

13. This clause regularises previous amendments to the Principal Act by replacing in section 62 the words "matter or thing" with the word "goods" which is defined to include documents but not any specimen or article to which sub-section 4(2) refers.

Clause 12 - Access to premises

14. This clause replaces the words "matter or thing" in section 63 with the word "goods", for the same reason as Clause 11.

Clause 13 - Review of decisions

15. This clause provides for an application to be made to the Administrative Appeals Tribunal for a review of the Minister's decision under any of the proposed new paragraphs 10(3)(e), 10A(2), 10A(3) and 10A(4)(f), which relate to proposed powers of the Minister, as outlined in clauses 5 and 6, to determine whether management programs are necessary, and to attach conditions to the approval of management programs.

Clause 14 - Amendments relating to program exempt specimens

16. This clause effectively provides for export or import permits or authorities to be granted in respect of program exempt specimens, which are defined in Clause 3. It provides the mechanism for allowing trade in species about which the Minister has made a declaration in the terms outlined in Clause 6.