

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

AMENDMENTS TO THE WILDLIFE PROTECTION
(REGULATION OF EXPORTS AND IMPORTS) BILL 1982

EXPLANATORY MEMORANDUM

(Circulated by the Minister for Home Affairs
and Environment, the Hon. D.T. McVeigh, MP)

AMENDMENTS TO THE WILDLIFE PROTECTION
(REGULATION OF EXPORTS AND IMPORTS) BILL 1982

GENERAL OUTLINE

These amendments to the Wildlife Protection (Regulation of Exports and Imports) Bill 1982 are designed to overcome several minor problems which were discovered after the Bill was introduced into the House of Representatives on 6 May 1982.

The proposed amendments -

- . insert 2 new definitions into the Bill to ensure its effective operation;
- . empower the Administrative Appeals Tribunal to review decisions of the Minister with respect to the duration of permits and management programs;
- . improve the seizure provisions and provide for forfeiture of specimens used in the commission of an offence;
- . empower the Minister in certain circumstances to dispose of live animals and live plants which have been seized; and
- . correct a number of technical and typographical errors in the Schedules to the Bill.

WILDLIFE PROTECTION (REGULATION OF EXPORTS AND IMPORTS) BILL 1982

NOTES ON AMENDMENTS AND NEW CLAUSES

- Number 1 Provides for 2 new definitions for the purposes of the Bill. The definition of "prescribed scientific organisation" will allow the regulations to declare classes of scientific organisations which are to be prescribed scientific organisations for the purposes of the Bill. The definition of "prescribed scientific research" provides that scientific research undertaken by a prescribed scientific organisation is to be prescribed scientific research. These 2 new definitions will allow scientific research to be defined by reference to the nature of the organisations conducting research rather than by specifying particular kinds of research. These 2 new definitions necessitate numerous consequential changes to the Bill. The relevant changes are set out in amendment numbers 2 and 5-21.
- Number 2 Consequential on Number 1.
- Number 3 Amends sub-clause 8(5) of the Bill to ensure that the exemption provided by that sub-section applies only to quarantine officers exercising powers under the Quarantine Act 1908 or related Territory legislation.
- Number 4 Provides that the Minister's declaration approving a management program is to be published in the Gazette. This is consequential on Number 24 which makes such declarations reviewable by the Administrative Appeals Tribunal.
- Numbers 5-21 Consequential on Number 1.
- Number 22 Technical drafting change.
- Number 23 Omits clause 69 of the Bill and inserts new clauses 69, 69A and 69B. New clause 69 provides for the seizure and forfeiture of specimens that have been used or involved in the commission of an offence against the Bill. The clause enables an inspector to seize such specimens and retain them for 60 days. As soon as practicable

after a specimen is seized a notice must be served on the owner identifying the specimen, specifying the reason for seizure and advising the person that he may bring an action for the recovery of the specimen on the ground that it was not involved in the commission of an offence. Where the owner brings an action and the court finds that the specimen was involved in an offence the court is to order the specimen forfeited to the Commonwealth. Where the owner discontinues his action or does not bring an action the specimen is likewise forfeited to the Commonwealth. This provision is in line with recent amendments to the Customs Act 1901.

New clause 69A is complementary to new clause 69 but is restricted to live animals and live plants. The clause provides that where it is not appropriate to retain a live plant or a live animal seized under new clause 69 the Minister may cause the animal or plant to be returned to its natural habitat, to be destroyed or to be otherwise dealt with. Where the Minister takes such action he must notify the owner of the animal or plant and advise him that he may bring an action for the recovery of the market value of the specimen on the ground that it was not involved in the commission of an offence.

New clause 69B repeats the provisions of the original clause 69 in relation to goods only.

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| Number 24 | Provides that declarations by the Minister approving management programs are to be reviewable by the Administrative Appeals Tribunal. |
| Number 25 | Provides that decisions to grant permits for a period less than the statutory maximum are to be reviewable by the AAT. |
| Number 26 | Provides that decisions to grant authorities for a period less than the statutory maximum are to be reviewable by the AAT. |
| Numbers 27-42 | Correct a number of technical and typographical errors discovered in the Schedules to the Bill. |