Date introduced: 19 March 1986
House: House of Representatives
Presented by: Hon. Barry Cohen, M.P., Minister for Arts, Heritage and Environment

Purpose

To amend the administrative and substantive provisions of the Wildlife Protection (Regulation of Exports and Imports) Act 1982 (the Principal Act).

Background

The Principal Act came into operation in May 1984 and implements Australia's obligations under the Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES). The aim of the Principal Act is to protect Australia's wildlife and contribute to the protection of the world's wildlife.

Since its implementation in May 1984 a number of problems concerning the operation of the Principal Act have become evident. These problems fall into four major areas:

1. the inappropriateness of some of the controls on the import and export of certain wildlife;

2. unnecessarily complex administrative procedures;

3. the ineffectiveness of some enforcement provisions; and

4. the lack of protection afforded to those giving information leading to the institution of proceedings.
Main Provisions

Provisions designed to make controls on imports and exports more appropriate include:

- allowing for the export of budgerigars, galahs and cockatoos which are household pets in certain circumstances (clause 6 which will amend section 16 of the Principal Act);

- easing the requirements relating to the export of native Australian invertebrates (a native Australian invertebrate need only satisfy the requirement of having been bred in captivity, this opens the way, for example, for the export of giant clams to Indonesia to replenish deleted wild populations (clauses 9, 10 and 11 which will amend sections 28, 29 and 31 of the Principal Act); and

- allowing, under certain circumstances, permits to be granted to individuals to import pre-CITES specimens that are personal or household effects, gifts or inheritances (clauses 14 and 15 will amend sections 36 and 37 of the Principal Act).

Provisions designed to simplify administrative procedures include:

- widening the provisions relating to transfers of specimens, to include transfers to approved institutions (clause 5 will amend section 13 of the Principal Act);

- adding a new provision which will allow the Minister to issue an export authority to a scientific institution for a 'multiple shipment' of specimens (at present, the institution has to make separate applications for each individual shipment (clause 16 which will insert a new section 42A into the Principal Act)); and

- enabling the exchange of specimens between Australia and overseas for the purposes of comparative identification, education and
training of inspectors and facilitating investigation by Australian or overseas authorities of wildlife offences (clause 17 which will insert a new section 43A into the Principal Act).

Provisions for tightening enforcement proceedings include:

. extending the operation of the Principal Act to cover circumstances where there is a deliberate attempt to illegally import a specimen as a part of household goods or personal effects by a visitor, intending resident or actual resident of Australia, who then avoids the operation of the Principal Act by surrendering that specimen (clauses 20, 21 and 22 amending sections 54, 55 and 56 of the Principal Act);

. providing that where a visitor, intending resident or actual resident surrenders a specimen that person may apply for an import permit as if the specimen had not been imported (once the Minister has been advised that a number of requirements have been satisfied, the Minister may grant a permit. Subject to the visitor, intending resident or resident paying the Commonwealth's costs for keeping the specimen, the specimen will be released to the holder of the permit. The specimen will then be deemed to have been properly imported. Where a permit is not applied for or not granted the specimen is to be forfeited to the Commonwealth and may be disposed of in a way that will not result in the specimen becoming an object of trade (clause 23 which will insert a new section 56A into the Principal Act));

. expanding the baggage search power of inspectors to allow the searching of any goods that are to be, are being or have been taken on or off a vessel (clause 24 which will amend sub-section 67(1) of the Principal Act);
allowing for circumstances in which a specimen is separated from the article in which it was contained, so that the specimen attracts the operation of the Principal Act and not the article (clause 26 which will insert a new section 69A into the Principal Act); clarifying an inspector's power to seize goods, including documents which the inspector believes will afford evidence of an offence having been committed (clause 27 which will substitute a new sub-section 71(4) into the Principal Act); and adding a new offence of rescuing seized goods or breaking or destroying any goods, including documents, in order to prevent the seizure of goods or the proof of an offence (clause 28 which will insert a new section 71A into the Principal Act).

Provision is made for the protection of witnesses giving evidence for the prosecution, (clause 31 adds new section 75A). The new section provides that a witness shall not be compelled to disclose the fact that the witness received any information, the nature of any information received or the name of the person who gave the witness the information.

For further information, if required, contact the Law and Government Group.

10 April 1986

Bills Digest Service

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