Date introduced: 17 April 1986
House: House of Representatives
Presented by: Hon. Barry Cohen, M.P.,
Minister for Arts, Heritage
and Environment

DIGEST OF BILL

Purpose

To amend the Environment Protection (Impact of Proposals) Act 1974 (the Principal Act) to clarify the Minister's power to require certain information and to introduce public environment reports.

Background

The Principal Act is modelled largely on the US National Environmental Policy Act 1970[1] and contains relatively few provisions, with the bulk of procedural matters being prescribed by regulation. Section 5 of the Principal Act sets out the instances of when the Principal Act will apply, that is, in the formulation of proposals, carrying out of works, negotiation of agreements, the making of decisions and the incurring of expenditure by the Australian Government. State government projects funded by the Commonwealth also come within the Principal Act. Some States have enacted their own legislation, for example, the NSW Environmental Planning and Assessment Act 1979 and the Victorian Environment Effects Act 1978, to consider the impact on the environment of certain projects. In practice then the Commonwealth legislation only applies to Commonwealth projects, Commonwealth funded State projects and Commonwealth approvals which would effect State projects; the Principal Act does not apply to projects initiated by companies.

The onus for ensuring that the impact on the environment will be taken into account is on the Minister
proposing the development (section 8 of the Principal Act). In May 1985 the House of Representatives Standing Committee on Environment and Conservation recommended that the Minister for Arts, Heritage and Environment be given the power to instigate the application of the Principal Act.[2] The Committee was concerned that there was a lack of consistency in the approach of Commonwealth government departments to the legislation, that some departments seemed unwilling to comply with the intention of the legislation and that as a consequence there was a risk that environmentally significant proposals would escape environmental assessment.

On 17 April 1986 a Government response was tabled in the House of Representatives.[3] The response endorsed a number of the recommendations made by the Committee. However, the recommendation to give the Minister for Arts, Heritage and Environment power to initiate action under the Principal Act was rejected. The recommendation was rejected on the basis that memoranda of understanding would be agreed between departments providing clear grounds for identifying proposals that are environmentally significant and disagreements between Ministers on what constituted environmental significance would be referred to the Prime Minister.

Main Provisions

Section 6 of the Principal Act allows the Governor-General to approve certain administrative procedures which must be followed when the Principal Act is to be applied. Sub-section 6(2) lists the type of procedures which the Governor-General may approve. Clause 3 will amend sub-section 6(2) to include a specific power to enable the Minister to require information for the purpose of considering whether an environmental impact statement or public environment report is necessary. A second amendment to sub-section 6(2) of the Principal Act will be made by clause 3, to enable the Minister to direct the preparation of public environment reports.

Section 10 will be amended to require the Minister to answer requests on what action has or is proposed to be taken, within three months (clause 4).

The Minister has the power to have inquiries conducted into proposals coming under section 5 of the Principal Act and having an environmental impact, whether an environmental impact statement has been made or not. The
Minister appoints a Commission to conduct the inquiry. Clause 5 will amend section 11 of the Principal Act to allow the Minister to require a Commission to report its findings and recommendations within a specified time.

Clause 6 sets out a schedule of amendments to the Principal Act which are of a minor or consequential nature, the majority of which relate to the introduction of gender neutral language.

For further information, if required, contact the Science, Technology and Environment Group.

References

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