

1981

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

Foreign Fishing Boats Levy Bill 1981

Fisheries Agreements (Payments) Bill 1981

Fisheries Amendment Bill 1981

Continental Shelf (Living Natural Resources)  
Amendment Bill 1981

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister  
for Primary Industry, the Hon. Peter Nixon, M.P.)

OUTLINE

1. Foreign Fishing Boats Levy Bill 1981

The purpose of this Bill is to impose a tax to be known as 'levy' on the grant of a licence in respect of a foreign fishing boat except, first, where the boat is temporarily imported for certain purposes or, secondly, where the boats are licensed pursuant to an agreement with the Government of another country.

The amount of levy for each licence will be specified in the regulations. The regulations may also specify the circumstances in which a temporarily imported boat may be exempted from levy.

2. Fisheries Agreements (Payments) Bill 1981

This Bill provides that where Australia has entered into an agreement with another country under which it is agreed that licences will be granted if an amount is paid, licences are to be granted in accordance with the agreement, and may be suspended if the amount is not paid.

The amount payable in respect of the grant of the licences is the amount set out in the agreement.

3. Fisheries Amendment Bill 1981

This Bill sets out how levy imposed by the Foreign Fishing Boats Levy Bill is to be collected. Also, the Bill will authorize the Minister for Primary Industry to enter into agreements in which he promises to grant licences in respect of foreign fishing boats. If such an agreement is in force, he need not consider anything other than the terms of the agreement when deciding whether or not to grant a licence. The Bill specifically authorizes him to make such agreements with Australian companies proposing to engage in joint fishing arrangements, and, by the agreement, reduce or waive levy in consideration of other benefits being provided to Australia. If levy is not paid on time, or promised benefits are not provided, the Bill imposes a monetary penalty proportional to the levy and authorizes the suspension of licences.

The Bill provides that if there is an agreement with a foreign Government by which an amount is to be paid for the grant of licences, the Minister may suspend the licences granted under the agreement if the amount is not paid.

The provisions of this Bill relating to agreements with foreign governments do not deal with the imposition of taxation. Mirror provisions, which do deal with the imposition of taxation, are in the Fisheries Agreements (Payments) Bill 1981.

Schedules to the Bill contain a number of formal amendments to the Fisheries Act 1952.

3. Continental Shelf (Living Natural Resources) Amendment Bill 1981

This Bill amends the Continental Shelf (Living Natural Resources) Act 1968 in the same manner that the Fisheries Amendment Bill 1981 amends the Fisheries Act 1952.

Foreign Fishing Boats Levy Bill 1981

<u>No of Clause</u>	<u>Explanation</u>
1	Citation.
2	The Bill will commence operation on a date to be fixed by proclamation.
3	The definition of "foreign fishing boat" brings temporarily imported foreign boats declared to be 'Australian boats' for certain purposes under the <u>Fisheries Act 1952</u> , within the ambit of the Bill.
4	Levy is imposed on the grant of a licence for a foreign fishing boat except where the licence is in respect of a boat which has been temporarily imported in certain prescribed circumstances. Licences granted pursuant to an agreement with a foreign Government are exempt from levy. The amount, if any, payable in respect of those licences is the amount specified in the agreement.
5	The amount of levy payable is the amount prescribed in the regulations.
6	Levy is payable by the licensee.
7	This clause authorizes the making of regulations setting out the amount of levy payable. The amount may be based on any matter or matters relating to the boat or its operations, including the terms of any agreement relating to the boat, the dimensions of the boat, licence conditions, etc.

Fisheries Agreements (Payments) Bill 1981

<u>No of Clause</u>	<u>Explanation</u>
1	Citation.
2	The Bill will commence operation on the same date as the Foreign Fishing Boats Levy Bill 1981.
3	Clause 4 (the only substantive provision of the Bill) is to apply only to the extent that it relates to the imposition of taxation. This satisfies a Constitutional requirement concerning laws dealing with the imposition of taxation. To the extent that it does not relate to taxation, the provision is incorporated in the Fisheries and Continental Shelf (Living Natural Resources) Amendment Bills.
4	Where there is an agreement between Australia and the government of another country under which licences are agreed to be granted if an amount is or amounts are paid to Australia, the Minister is to grant licences in accordance with the agreement. The Minister may suspend any licence granted pursuant to the agreement for the period in which any amount is not paid in accordance with the agreement.

Fisheries Amendment Bill 1981

<u>No of Clause</u>	<u>Explanation</u>
1	Citation.
2	The Bill will commence operation on the same date as the Foreign Fishing Boats Levy Bill 1981 except for the formal provisions, which commence as appropriate.
3	The powers of the Minister and the Secretary of his Department in relation to the administration of the levy provisions and entering into agreements may not be delegated.
4	<p>Inserts a new section 9B into the <u>Fisheries Act 1952</u> which authorizes the Minister to agree to grant licences in respect of foreign fishing boats, and permits him to give effect to the agreement by disregarding any matter other than the terms of the agreement when deciding whether or not to grant a licence to which the agreement relates. Any such agreement or variation of it is required to be tabled in Parliament. The section only applies to the extent that it does not deal with the imposition of taxation. Provisions relating to agreements with foreign governments which do deal with the imposition of taxation are in the Fisheries Agreements (Payments) Bill 1981.</p> <p>Inserts a new section 9C into the <u>Fisheries Act 1952</u> which provides for the manner in which levy may be paid, authorizes the Minister to enter into agreements whereby levy may be waived or reduced in consideration of other promised benefits and provides for the suspension of licences and the imposition of a penalty:</p> <p style="padding-left: 40px;">Sub-section 9C(2) provides that arrangements may be made relating to when and how levy is to be paid.</p>

4 (cont'd)

Sub-section 9C(3) authorizes the Minister to enter into agreements with companies incorporated in Australia whereby he agrees to waive or reduce levy in consideration of benefits promised to be provided under the agreement.

Sub-section 9C(4) provides that the terms of the agreement may be varied from time to time.

Sub-section 9C(5) requires all such agreements, as varied from time to time, to be tabled in both Houses of Parliament.

Sub-sections 9C(6) and (7) provide that if the promised benefit is not provided, levy becomes payable and the licences granted in pursuance of the agreement may be suspended until the benefits are provided or the levy, together with any penalty attaching to it under sub-section 9C(11), is paid.

Sub-sections 9C(8), (9) and (10) provide that where levy is not paid within 30 days of the grant of the licence, or as otherwise arranged under sub-section 9C(2), the licence may be suspended until such time as the levy, together with any penalty attaching to it under sub-section 9C(11), is paid.

Sub-sections 9C(11) and (12) provide for a penalty of 10% of the value of the levy for each month that it remains unpaid until the expiry date of the licence. Unpaid levy and penalties are a debt due to and recoverable by the Commonwealth.

Inserts a new section 9D into the Fisheries Act 1952 which provides that where there is an agreement between Australia the government of another country under which licences are agreed to be granted if an amount is or amounts are paid to Australia, and the amount promised under the agreement is not paid, the Minister may

- 4 (cont'd) suspend any licences granted in pursuance of the agreement until the amount is paid. Such agreements, as well as agreements that do not require amounts to be paid, are to be tabled in both Houses of Parliament. To the extent that the exercise of these powers relates to the imposition of taxation, it is authorized by the Fisheries Agreements (Payments) Bill 1981.
- 5 An officer is empowered to measure boats for the purpose of ascertaining the levy payable (where the levy is based on the dimensions of the boat) and may obtain the assistance of another person who, while so engaged, has the powers and rights of an officer.
- 6 Makes it an offence to hinder a person taking measurements of a boat.
- 7 Formal drafting alterations to the Fisheries Act 1952.
- 8 Formal drafting alterations to the Fisheries Act 1952 as amended by the Fisheries Amendment (Whale Protection) Act 1980.



Continental Shelf (Living Natural Resources) Amendment Bill 1981

<u>No of Clause</u>	<u>Explanation</u>
1	Citation.
2	The Bill will commence operation on the same date as the Foreign Fishing Boats Levy Bill 1981 except for the formal provisions, which commence as appropriate.
3	The powers of the Minister and the Secretary in relation to the administration of the levy provisions and entering into agreements may not be delegated.
4	<p>Inserts a new section 13B into the <u>Continental Shelf (Living Natural Resources) Act 1968</u> which authorizes the Minister to agree to grant licences in respect of foreign ships, and permits him to give effect to the agreement by disregarding any matter other than the terms of the agreement when deciding whether or not to grant a licence to which the agreement relates. Any such agreement or variation of it is required to be tabled in Parliament. This section only applies to the extent that it does not deal with the imposition of taxation. Provisions relating to agreements with foreign governments which do deal with the imposition of taxation are in the Fisheries Agreements (Payments) Bill 1981.</p> <p>Inserts a new section 13C into the <u>Continental Shelf (Living Natural Resources) Act 1968</u> which provides for the manner in which levy may be paid, authorizes the Minister to enter into agreements whereby levy may be waived or reduced in consideration of other promised benefits and provides for the suspension of licences and the imposition of a penalty:</p> <p style="padding-left: 40px;">Sub-section 13C(2) provides that arrangements may be made relating to when and how levy is to be paid.</p>

4 (cont'd)

Sub-section 13C(3) authorizes the Minister to enter into agreements with companies incorporated in Australia whereby he agrees to waive or reduce levy in consideration of benefits promised to be provided under the agreement. Sub-section 13C(4) provides that the terms of the agreement may be varied from time to time.

Sub-section 13C(5) requires all such agreements, as varied from time to time, to be tabled in both Houses of Parliament.

Sub-sections 13C(6) and (7) provide that if the promised benefit is not provided, levy becomes payable and the licences granted in pursuance of the agreement may be suspended until the benefits are provided or the levy, together with any penalty attaching to it under sub-section 13C(11), is paid.

Sub-sections 13C(8), (9) and (10) provide that where levy is not paid within 30 days of the grant of the licence, or as otherwise arranged under sub-section 13C(2), the licence may be suspended until such time as the levy, together with any penalty attaching to it under sub-section 13C(11), is paid.

Sub-sections 13C(11) and (12) provide for a penalty of 10% of the value of the levy for each month that it remains unpaid until the expiry date of the licence. Unpaid levy and penalties are a debt due to and recoverable by the Commonwealth.

Inserts a new section 13D into the Continental Shelf (Living Natural Resources) Act 1968 which provides that where there is an agreement between Australia and the government of another country under which licences are agreed to be granted if an amount is or amounts are paid to

- 4 (cont'd) Australia and the amount promised under the agreement is not paid, the Minister may suspend any licences granted in pursuance of the agreement until the amount is paid. Such agreements, as well as agreements which do not require amounts to be paid, are to be tabled in both Houses of Parliament. To the extent that the exercise of these powers relates to the imposition of taxation, it is authorized by the Fisheries Agreements (Payments) Bill 1981.
- 5 An officer is empowered to measure ships for the purpose of ascertaining the levy payable (where the levy is based on the dimensions of the ship) and may obtain the assistance of another person who, while so engaged, has the powers and rights of an officer.
- 6 Makes it an offence to hinder a person taking measurements of a ship.
- 7 Formal drafting alterations to the Continental Shelf (Living Natural Resources) Act 1968.
- 8 Formal drafting alterations to the Continental Shelf (Living Natural Resources) Act 1968 as amended by the Continental Shelf (Living Natural Resources) Amendment Act 1980.