

1991

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

FISHERIES LEGISLATION (CONSEQUENTIAL PROVISIONS) BILL 1991

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Primary
Industries and Energy the Honourable John Kerin MP)

FISHERIES LEGISLATION (CONSEQUENTIAL PROVISIONS) BILL 1991

GENERAL OUTLINE

This Bill provides the consequential provisions arising out of the introduction of the Fisheries Administration Bill 1990 and the Fisheries Management Bill 1991 and the replacement of the Fisheries Act 1952 and the Continental Shelf (Living Natural Resources) Act 1968.

The Bill also amends the Primary Industries and Energy Research and Development Act 1989 to establish a research and development corporation in respect to the fishing industry under that Act.

FINANCIAL IMPACT STATEMENT

This Bill will have limited direct impact on revenue or expenditure. The new arrangements for research will require the Commonwealth to match industry contributions to research up to a limit equal to the present research funding arrangements. To that extent that total industry contributions were less than the Commonwealth was prepared to match, the amount of Commonwealth funding for fisheries research would be reduced.

NOTES ON CLAUSES**PART 1 - PRELIMINARY**Clause 1 - Short title

1. This clause provides for the Bill to be cited as the Fisheries Legislation (Consequential Provisions) Act 1991.

Clause 2 - Commencement

2. This clause provides for clauses 1 and 2 of this Bill to commence on the day the Bill receives Royal Assent. The remainder of the Bill commences on a date fixed by Proclamation or six months after receiving Royal Assent, whichever occurs sooner.

Clause 3 - Repeals

3. This clause repeals the Continental Shelf (Living Natural Resources) Act 1968, the Fisheries Agreements (Payments) Act 1981 and all except for part IVA of the Fisheries Act 1952.

Clause 4 - Interpretation

4. This clause provides that AFMA means the Australian Fisheries Management Authority.

PART 2 - SAVING AND TRANSITIONAL PROVISIONSClause 5 - Saving - permits for scientific purposes

5. This clause continues any scientific permit issued under section 6B of the Fisheries Act 1952 which is in force at the time that Act (other than part IVA) is repealed until its date of expiry or until it is revoked.

Clause 6 - Saving of licences

6. This clause continues licences issued under section 9 of the Fisheries Act 1952 which is in force at the time that Act (other than part IVA) is repealed until its date of expiry or until it is revoked.

Clause 7 - Saving and transitional - arrangements etc. with States and Territories

7. This clause retains all instruments made under the Fisheries Act 1952 necessary to support any existing arrangements with the States and Northern Territory under part IVA of that Act implementing the fisheries component of the Offshore Constitutional Settlement.
8. The clause further provides that part IVA of the Fisheries Act 1952 will cease to have effect two years after this Bill comes into effect. It will then be replaced by the provisions of part 5 of the Fisheries Management Bill 1991.
9. The retention of these provisions has been necessary because the various State fisheries acts refer specifically to provisions in part IVA of the Fisheries Act 1952. Delaying the repeal of this part for 2 years will allow the necessary changes to be made to State and Territory legislation.

Clause 8 - Officers

10. Under this clause an 'officer' appointed under sub-section 4(1) of the Fisheries Act 1952 is taken to be appointed as an 'officer' under clause 78 of the Fisheries Management Bill 1991.

Clause 9 - Transitional arrangements - staff of AFMA

11. This clause provides that staff currently employed under the Public Service Act 1922 who transfer to the Australian Fisheries Management Authority (AFMA) will continue to be employed on the same terms and conditions and be subject to the same industrial award until AFMA determines its own terms and conditions under sub-clause 68(2) of the Fisheries Administration Bill 1990.

Clause 10 - Transfers of certain assets to AFMA

12. This clause allows the Minister to transfer to AFMA any assets held by the Commonwealth that he or she considers appropriate for its function or the exercise of its powers. The transfer may include any debt, liability or obligation attaching to the assets so transferred.

Clause 11 - Arrangements etc. - Minister may make arrangements

13. This clause allows the Minister to declare with respect to any agreement or instrument relating to fisheries to which the Commonwealth is a party that after the commencement of the Fisheries Administration Bill 1990 AFMA may be substituted for the Commonwealth in that agreement or instrument.

PART 3 - AMENDMENT OF THE PRIMARY INDUSTRIES AND ENERGY RESEARCH AND DEVELOPMENT ACT 1989

Clause 12 - Principal Act

14. This clause defines the 'Principal Act' as the Primary Industries and Energy Research and Development Act 1989.

Clause 13 - Definitions

15. This clause amends definitions used in the Principal Act.

Clause 14 - Annual operational plans

16. This clause amends the section of the Principal Act relating to annual operational plans.

Clause 15 - Payments to R&D Corporations - general

17. This clause excludes the fishing industry from the general provisions for research funding under section 30 of the Principal Act.

Clause 16 - Payments to an R&D Corporation established in respect of the fishing industry

18. This clause inserts a new section 30A into the Principal Act. This clause specifies the payments that are to be made to the fisheries R&D Corporation.
19. These payments are to include levies paid for research purposes by fishermen operating in Commonwealth managed fisheries; payments made to the research and development corporation by a State or Territory in respect to fisheries for which that State or Territory has responsibility; and amounts paid by the Commonwealth.

20. The Commonwealth shall pay an amount equal to 0.5% of the gross value of fisheries production (GVP) as an unmatched grant and an amount equal to research levy payments made by fishermen in Commonwealth managed fisheries or made by a State or Territory up to an additional 0.25% GVP.
21. The amount the Commonwealth is liable to pay to the corporation is however limited to that spent or required to be spent by the corporation. Where the total amount spent or required to be spent by the corporation is less than 0.5% GVP, the amount paid by the Commonwealth shall not exceed the total amount spent, or required to be spent. Where the amount spent or required to be spent by the corporation is between 0.5% and 1.0% GVP, the amount paid by the Commonwealth shall not exceed an amount equal to 0.5% GVP plus one half of the amount by which the amount spent, or required to be spent, exceeds 0.5% GVP.
22. Total Commonwealth expenditure cannot therefore exceed 0.75% GVP.

Clause 17 - Commonwealth to be paid levy expenses from R&D Corporations

23. This clause amends the Principal Act to allow the Commonwealth to recover from the R&D corporation any costs it incurs in levy collections.

Clause 18 - Payment of amounts of levy where levies redirected

24. This clause amends section 37 of the Principal Act. It is a machinery amendment to cover the transfer of levy funds when one R&D corporation replaces another.

Clause 19 - Payment of matching contributions where levies redirected

25. This is another machinery clause amending section 38 of the Principal Act. This provision covers any Commonwealth contribution matching industry levies transferred to another R&D fund under section 37 of the Principal Act.

Clause 20 - Payments of amounts of levy where levies redirected

26. This is a machinery clause amending section 116 of the Principal Act and covers the transfer of levies where an R&D corporation or fund is replaced by another R&D fund.

PART 4 - AMENDMENTS OF OTHER ACTS**Clause 21 - Amendments of other Acts**

27. This clause amends other Acts either to remove references to the Fisheries Act 1952 or the Continental Shelf (Living Natural Resources) Act 1968 or to insert references to the Fisheries Management Bill 1991. The following Acts are affected by these provisions, the Antarctic Marine Living Resources Conservation Act 1981; the Crimes at Sea Act 1979; the Navigation Act 1912; the Radiocommunications Act 1983; the Sea Installations Act 1987; the Torres Strait Fisheries Act 1984; and the Whale Protection Act 1980.



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