

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

GREAT BARRIER REEF MARINE PARK (ENVIRONMENTAL MANAGEMENT CHARGE -
GENERAL) BILL 1993

GREAT BARRIER REEF MARINE PARK (ENVIRONMENTAL MANAGEMENT CHARGE -
EXCISE) BILL 1993

GREAT BARRIER REEF MARINE PARK AMENDMENT BILL 1993

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for
the Environment, Sport and Territories,
The Hon Ros Kelly, MP)



GREAT BARRIER REEF MARINE PARK (ENVIRONMENTAL MANAGEMENT CHARGE - GENERAL) BILL 1993

GREAT BARRIER REEF MARINE PARK (ENVIRONMENTAL MANAGEMENT CHARGE - EXCISE) BILL 1993

GREAT BARRIER REEF MARINE PARK AMENDMENT BILL 1993

OUTLINE

The purpose of these Bills is to introduce environmental management charges on commercial users of the Great Barrier Reef Marine Park to meet current and projected demands for management of the Marine Park, particularly arising from tourism, to ensure protection of World Heritage Area characteristics of the Park and of its tourism and fishing resource bases. The Great Barrier Reef Marine Park (Environmental Management Charge - General) Bill 1993 (General Charge Bill) and the Great Barrier Reef Marine Park (Environmental Management Charge - Excise) Bill 1993 (Excise Bill) are being introduced separately to comply with Section 55 of the Constitution. The Great Barrier Reef Marine Park Amendment Bill 1993 amends certain parts of the Great Barrier Reef Marine Park Act 1975 (GBRMP Act) to include provisions with respect to liability to, and collection of charge imposed by, the Charge Bills.

Under the Great Barrier Reef Marine Park Act 1975 as currently drafted, the Great Barrier Reef Marine Park Authority (the Authority) may collect permit assessment fees only, on activities including tourist operations, construction of facilities, and mariculture. These Bills will enable the Authority to collect permission charges of amounts which will reflect the cost of management of the Great Barrier Reef Marine Park.

The main features of these Bills are as follows:

1. The Bills are based on the principle that persons benefiting from the continued protection and management of the Great Barrier Reef should contribute to the cost of its protection and management.
2. The charge will be applicable to all commercial operators within the Great Barrier Reef Marine Park who presently need a permit from the Authority. Commercial fishing, recreational fishing and private recreational activities will not be charged.
3. The revenue collected will be used by the Authority for management including research and education aspects of management and other aspects of management which will benefit the operators and ensure the continued conservation of the Great Barrier Reef.

4. The amount of charge will be indexed annually.
5. The charge will be imposed starting on 1 July 1993.
6. The level of charge and other details will be fixed by regulations and will vary greatly according to the nature and size of the business and the management demands created by it.

FINANCIAL IMPLICATIONS

These Bills do not place additional financial burdens on the Commonwealth. The charges are expected to raise at least \$1 million in 1993-94.

NOTES ON CLAUSES

GREAT BARRIER REEF MARINE PARK (ENVIRONMENTAL MANAGEMENT CHARGE -
GENERAL) BILL 1993

Clause 1 - Short title

1. This clause provides for the Bill to be cited as the Great Barrier Reef Marine Park (Environmental Management Charge - General) Act 1993.

Clause 2 - Commencement

2. This clause provides that the Bill will commence on the commencement of Part VA of the Great Barrier Reef Marine Park Act 1975 (GBRMP Act), being 1 July 1993.

Clause 3 - Application of Great Barrier Reef Marine Park Act

3. This clause provides that this Act binds the Crown in the same way as the GBRMP Act.

Clause 4 - Imposition of charge

4. This clause imposes a charge which is payable in accordance with the new section 39B of the GBRMP Act, which states that any person to whom a permission is granted or transferred is liable to pay a charge on the grant or transfer. The clause imposes the charge to the extent that it is not a duty of customs or of excise within the meaning of Section 55 of the Constitution.

GREAT BARRIER REEF MARINE PARK (ENVIRONMENTAL MANAGEMENT CHARGE -
EXCISE) BILL 1993

Clause 1 - Short title

5. This clause provides for the Bill to be cited as the Great Barrier Reef Marine Park (Environmental Management Charge - Excise) Act 1993.

Clause 2 - Commencement

6. This clause provides that the Bill will commence on the commencement of Part VA of the GBRMP Act, being 1 July 1993.

Clause 3 - Application of Great Barrier Reef Marine Park Act

7. This clause provides that this Act binds the Crown in the same way as the GBRMP Act.

Clause 4 - Imposition of charge

8. This clause imposes the charge which is payable in accordance with the new section 39B of the GBRMP Act, which states that any person to whom a permission is granted or transferred is liable to pay a charge on the grant or transfer. The clause imposes the charge to the extent that it is a duty of excise within the meaning of section 55 of the Constitution.

GREAT BARRIER REEF MARINE PARK AMENDMENT BILL 1993

Clause 1 - Short title etc.

9. This clause provides for the Act to be cited as the Great Barrier Reef Marine Park Amendment Act 1993. It also provides that in this Act, "Principal Act" means the Great Barrier Reef Marine Park Act 1975 (GBRMP Act).

Clause 2 - Commencement

10. This clause provides that the Act will commence on 1 July 1993 - the date on which collection of charge is intended to take effect.

Clause 3 - Interpretation

11. This clause inserts into section 3 of the Principal Act definitions of some words used in this Bill.

Clause 4 - Functions of the Committee

12. This clause amends Section 21 of the Principal Act relating to the functions of the Consultative Committee to include providing advice relating to the operations of the General Charge Act and Excise Act and the regulations made under those Acts, among the functions of the Consultative Committee.

Clause 5 - Insertion of new Part VA into the Principal Act

13. This clause inserts a new Part VA of the Principal Act titled 'Collection of Environmental Management Charge'.

PART VA - COLLECTION OF ENVIRONMENTAL MANAGEMENT CHARGE

Division 1 - Object

Section 39A - Object

14. This section describes the object of the new part, which is to provide for liability to, and collection of charge imposed by, the Charge Acts.

Division 2 - Liability to charge

Section 39B (1) - Liability to charge

15. Provides that persons to whom a chargeable permission is granted or transferred are liable to pay a charge.

Section 39B (2) - Grant or transfer before commencement date

16. Provides that a grant or transfer that occurs before the date of the commencement of this section shall be covered by this section where the chargeable permission is still in force and held by the person on or after this section takes effect.

Section 39C (1) - Amount of Charge

17. Provides that the amount of charge is the amount ascertained in accordance with the regulations. The amount of charge will vary greatly according to the nature and size of the business. For this reason the Bill does not deal with the amount of charge in detail. The regulations will be subject to tabling and disallowance in both Houses of Parliament (Section 48, Acts Interpretation Act 1901).

Section 39D - Chargeable permission held jointly - joint and several liability of holders

18. This section provides that if 2 or more persons together hold a permission, each one of them individually may be held liable to pay the charge.

Section 39E - When charge is due for payment

19. This section provides for the regulations to determine when charge is due and payable. A charge may be broken down into different components payable at different times.

Section 39F - Payment of charge by instalments

20. This section provides for the regulations to determine whether payment of charge may be collected by instalments.

Division 3 - Recovery of charge etc.

Section 39G - Late payment penalty

21. Sub-section (1) provides for a late payment penalty calculated at 20% per annum of the amount unpaid. Sub-sections (2) and (3) enable the Authority to remit the whole or part of the late payment penalty on its own initiative or at the request of the person liable.

22. Sub-sections (4) and (5) require the Authority to give written notice of its decision in relation to late payment penalty.

23. Sub-section (6) provides that if 2 or more persons holding a permission together are liable to pay a late payment penalty, each of them is liable to pay the late payment penalty.

24. Notwithstanding the existence of late payment penalty, the Authority may revoke a permission or refuse to grant a new permission for reason of non-payment of a permission charge, if the regulations so provide.

Section 39H - Payment of charge and late payment penalty

25. This section enables the Authority to receive charge and the late payment penalty on behalf of the Commonwealth.

Section 39I - Authority to be paid amounts equal to amounts of charge

26. This section provides that charge and late payment penalty must be paid to the Consolidated Revenue Fund (CRF). There must be paid to the Authority an amount equal to that paid to the CRF under this section.

27. If the Commonwealth Government becomes liable to refund the whole or part of the CRF amount, the Authority must pay to the Commonwealth an amount equal to the amount that the Commonwealth is liable to refund.

Section 39J - Recovery of charge and late payment penalty

28. The Authority may, on behalf of the Commonwealth, recover as a debt due to the Commonwealth a charge or late payment penalty that is due and payable.

Section 39K - Regulations relating to recovery of charge etc.

29. This section provides that the regulations may make provisions for the following: methods by which charge and late payment penalty may be collected; discounts for early payment of charge; refund or overpayment of charge; crediting an amount against the liability of a person for payment of charge or late payment penalty as an alternative to refund.

30. This section also provides that the regulations may make provision for the making of payments using any of the following: collection agents, electronic funds transfer systems, credit cards, and debit cards. The amounts credited in accordance with paragraph 1(c) are to be credited by the Authority as agent of the Commonwealth. The refund in accordance with paragraph 1(c) is to be paid out of the Consolidated Revenue Fund, which is appropriated for the purpose.

Division 4 - Review of decisions relating to remission of late payment penalty

Section 39L - Reconsideration of decision relating to remission of late payment penalty

31. This section provides for the procedure for internal review of the Authority's decision relating to remission of late payment penalty.

Section 39M - Review of decisions by the Administrative Appeals Tribunal

32. This section ensures that a decision on remission of penalty made by the Authority under section 39L is subject to review under the provisions of the Administrative Appeals Tribunal Act 1975.

Section 39N - Statement to accompany notification of decisions

33. This section provides that any notification of a decision to the person affected by the decision, whether in the first instance or on reconsideration, must be accompanied by a statement that the person affected may, if dissatisfied, seek a reconsideration or apply to the Tribunal for review of the decision, as the case may be. Failure to comply with the notification requirement does not affect the validity of the decision.

Division 5 - Record-keeping and returns, etc.

Section 39P - Record keeping and returns etc.

34. This section allows regulations to be made relating to keeping records relevant to liability to charge, and provision of information and returns to the Authority.

Section 39Q - Failure to give information or returns

35. This section provides for a penalty of 40 penalty units (currently \$4,000) for refusal or failure to give information or returns to the Authority or an inspector. This section abrogates the privilege against self-incrimination but only to the extent necessary to ensure effective collection of the charge. The section operates in a similar manner to Section 24 (1) - (3) of the Primary Industries Levies and Charges Collection Act 1991.

Section 39R - False information or returns

36. This section provides for a penalty of 80 penalty units (currently \$8,000) for knowingly giving information or returns that are false or misleading.

Section 39S - Power to search aircraft and vessels

37. This section gives an inspector the power to stop, detain and search an aircraft or vessel, and also provides for other related powers for the purpose of ascertaining a person's liability to charge. This section also provides for a penalty of 10 penalty units (currently \$1,000) for failure of a person in charge of an aircraft or vessel to provide the inspector with all reasonable facilities and assistance for the exercise of the powers under this section.

Section 39T - Power of inspector in relation to premises

38. This section gives an inspector the power to search premises in accordance with a warrant and other related powers for the purpose of ascertaining a person's liability to charge. This section also provides for a penalty of 10 penalty units (currently \$1,000) for failure of the occupier of premises entered to provide the inspector with all reasonable facilities and assistance for the exercise of the powers under this section.

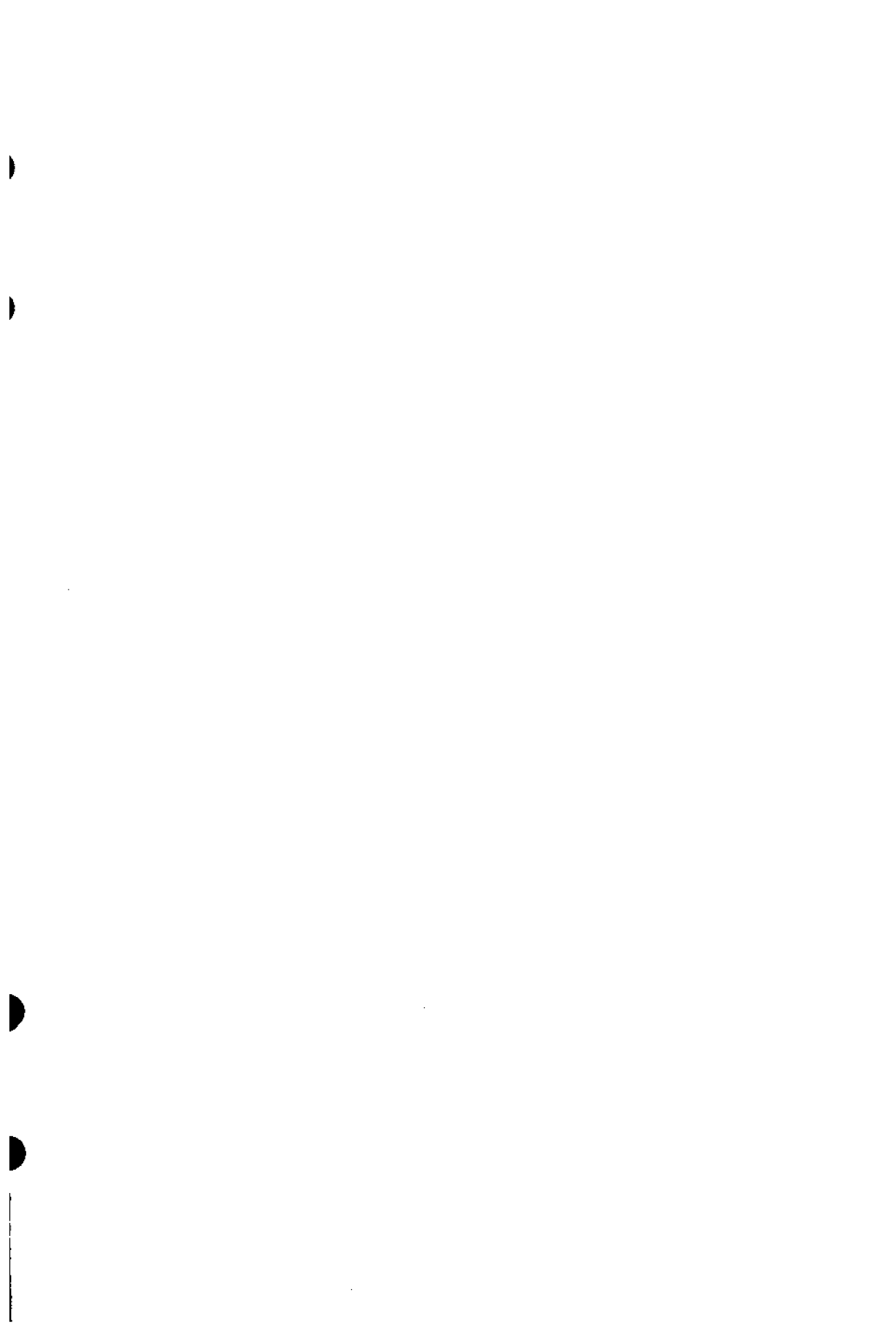
Section 39U - Warrant to enter premises

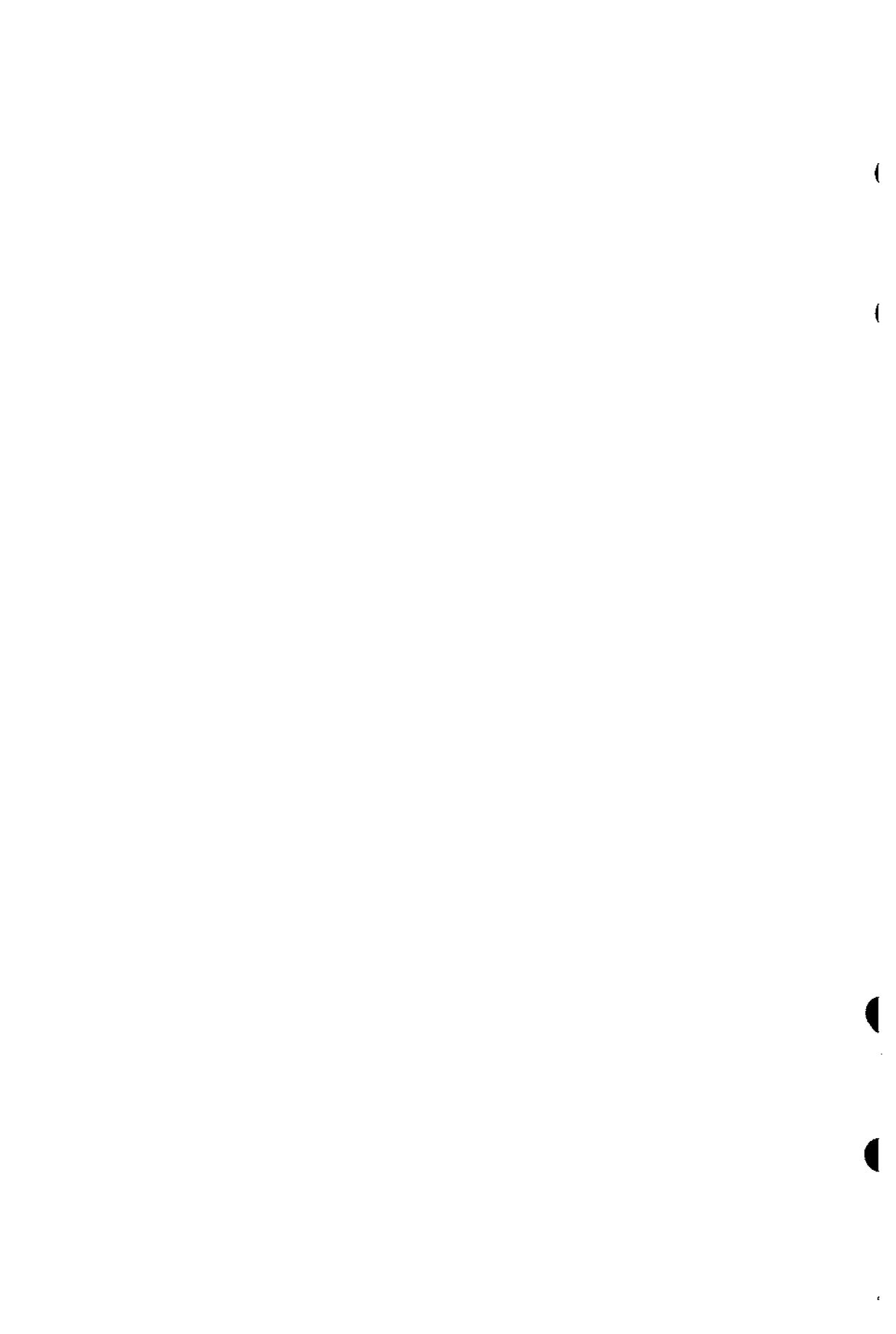
39. This section provides for the conditions on which a warrant may be issued, the authority of the inspector under the warrant, and a time limit of not more than 14 days after issue.

▶

▶







1

2

