

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

(As read a first time)

**WILDLIFE PROTECTION (REGULATION OF EXPORTS AND
IMPORTS) AMENDMENT BILL 1986**

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SCHEDULE

AMENDMENTS RELATING TO SEXIST LANGUAGE

1985-86

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 12 March 1986

(Minister for Arts, Heritage and Environment)

A BILL

FOR

An Act to amend the *Wildlife Protection (Regulation of Exports and Imports) Act 1982*, and for related purposes

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

5 **1.** (1) This Act may be cited as the *Wildlife Protection (Regulation of Exports and Imports) Amendment Act 1986*.

(2) The *Wildlife Protection (Regulation of Exports and Imports) Act 1982*¹ is in this Act referred to as the Principal Act.

Commencement

10 **2.** This Act shall come into operation on a day to be fixed by Proclamation.

Interpretation

3. Section 4 of the Principal Act is amended—

- (a) by inserting “or of the class Agnatha” after “Pisces” in the definition of “fish” in sub-section (1);
- (b) by omitting “and” from paragraph (c) of the definition of “plant specimen” in sub-section (1) and substituting “or”; 5
- (c) by omitting “and” from paragraph (a) of the definition of “prescribed Territory” in sub-section (1) and substituting “or”; and
- (d) by omitting sub-section (2) and substituting the following sub-section: 10

“(2) In any other provision of this Act, other than sub-section 69A (1), references to a specimen shall be read as including references to an article that consists of, or is derived from—

- (a) a specimen and material other than a specimen;
- (b) 2 or more specimens; or 15
- (c) 2 or more specimens and material other than a specimen.

“(2A) Where an article consists of, or is derived from 2 or more specimens, either with or without any material other than a specimen, then this Act applies to and in relation to that article separately in so far as it consists of, or is derived from, each of those specimens.”. 20

Act not to apply to certain specimens

4. Section 8 of the Principal Act is amended by omitting sub-section (5) and substituting the following sub-section:

“(5) Subject to sub-sections (1), (2), (3) and (4), where, in accordance with the *Quarantine Act 1908* or a law of an external Territory relating to quarantine, a person exercising powers under that Act or law imports a specimen that is subject to quarantine, then, for the purposes of this Act, that specimen shall be deemed to have been imported by— 25

- (a) where a person holds a permit or an authority to import that specimen—the holder of that permit or authority; or 30
- (b) in any other case—a person whose identity is not known,

but this sub-section shall not affect the commission of any offence committed before the importation of that specimen.”.

Inter zoological gardens transfer 35

5. Section 13 of the Principal Act is amended—

- (a) by inserting in paragraph (a) “, or a relevant approved institution,” after “organization”;
- (b) by omitting from paragraph (b) “or exhibition” and substituting “, exhibition or research”; 40
- (c) by omitting paragraph (d) and substituting the following paragraph:

“(d) the recipient is—

(i) where the exporter or the sender is an approved zoological organisation, either—

(A) an approved zoological organisation; or

(B) a relevant approved institution; or

(ii) where the exporter or the sender is a relevant approved institution—an approved zoological organisation,

in relation to a class of specimens that includes that specimen.”; and

(d) by adding at the end the following sub-section:

“(2) In this section, ‘relevant approved institution’ means an approved institution that is also a prescribed scientific organisation.”.

Export of household pets—native Australian animals

6. Section 16 of the Principal Act is amended—

(a) by inserting in paragraph (e) “(whether by virtue of this sub-section or otherwise)” after “export”; and

(b) by adding at the end the following sub-sections:

“(2) The export of a live native Australian animal of the species *Melopsittacus undulatus* (common name budgerigar) from Australia or from an external Territory is an export of a household pet in accordance with this section if—

(a) the animal was bred in captivity;

(b) the exporter has owned and kept the animal as a household pet;

(c) the exporter is leaving Australia or that Territory, as the case may be, with the intention of taking up permanent residence in another country; and

(d) it is not proposed to export (whether by virtue of this sub-section or otherwise) any animal of that species that has been kept as a household pet by the exporter or the members of the household of the exporter other than that animal or that animal and one other animal of that species.

“(3) The export before 1 May 1987 of a live native Australian animal from Australia or from an external Territory is an export of a household pet in accordance with this section if—

(a) the animal is an animal of a species specified in Schedule 7;

(b) the exporter has owned and kept the animal as a household pet—

(i) for not less than 2 years immediately preceding the export; and

(ii) since a day on or before 1 May 1984;

- (c) the exporter has been ordinarily resident in Australia or that Territory, as the case may be—
 - (i) for not less than 3 years immediately preceding the export; and
 - (ii) since a day on or before 1 May 1984; and
- (d) it is not proposed to export (whether by virtue of this subsection or otherwise) any animal of that species that has been kept as a household pet by the exporter or the members of the household of the exporter other than that animal or that animal and one other animal of that species.”.

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7. After section 16 of the Principal Act the following section is inserted:

Export of household pets—other animals

“16A. The export of a live animal, other than a native Australian animal, from Australia or from an external Territory is an export of a household pet in accordance with this section if—

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- (a) the exporter has owned and kept the animal as a household pet; and
- (b) the exporter is leaving Australia or that Territory, as the case may be, with the intention of taking up residence in another country.”.

8. Section 27 of the Principal Act is repealed and the following section is substituted:

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Requirements for permits to export live animals and live plants

“27. (1) The Minister shall not grant a permit to export a live animal unless the Designated Authority has advised the Minister that the Designated Authority is satisfied that—

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- (a) the proposed recipient of the animal is equipped to provide, and will provide, suitable care for the animal; and
- (b) the animal will be prepared and shipped so that the risk of—
 - (i) injury to the animal;
 - (ii) adverse effect on the health of the animal; and
 - (iii) cruel treatment of the animal,
 is minimised.

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“(2) The Minister shall not grant a permit to export a live plant unless the Designated Authority has advised the Minister that the Designated Authority is satisfied that the plant will be prepared and shipped so that the risk of—

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- (a) injury to the plant; and
 - (b) adverse effect on the health of the plant,
- is minimised.”.

Requirements for permits to export—Schedule 1

9. Section 28 of the Principal Act is amended—

(a) by omitting paragraph (b) and substituting the following paragraph:

“(b) where the specimen is a live animal, that—

(i) the proposed exporter and the proposed recipient are approved institutions in relation to a class of specimens that includes that live animal;

(ii) the proposed export would be an inter zoological gardens transfer; or

(iii) in the case of a live animal, other than a native Australian animal, the proposed export would be an export of a household pet in accordance with section 16A;”;

(b) by inserting in paragraph (c) “of a species included in the sub-phylum VERTEBRATA” after “animal”; and

(c) by inserting in paragraph (d) “of a species included in the sub-phylum VERTEBRATA” after “animal” (second occurring).

Requirements for permits to export—Schedule 2

10. Section 29 of the Principal Act is amended—

(a) by omitting paragraph (a);

(b) by omitting from sub-paragraph (b) (i) “or”;

(c) by inserting after sub-paragraph (b) (i) the following sub-paragraph:

“(ia) the proposed export would be an inter zoological gardens transfer;”;

(d) by adding at the end of paragraph (b) the following word and sub-paragraph:

“; or (iii) in the case of a live animal, other than a live native Australian animal, the proposed export would be an export of a household pet in accordance with section 16A;”;

(e) by inserting in paragraph (c) “of a species included in the sub-phylum VERTEBRATA” after “animal”;

(f) by inserting in paragraph (d) “of a species included in the sub-phylum VERTEBRATA” after “animal” (second occurring).

Requirements for permits to export—native Australian animals and plants

11. Section 31 of the Principal Act is amended by inserting in paragraph (b) “or from an animal of a species which is not included in the sub-phylum VERTEBRATA” after “fish”.

Permits to re-export

12. Section 32 of the Principal Act is amended—

- (a) by inserting in paragraph (2) (b) “, in the case of a specimen specified in Part I of Schedule 1 or Part I of Schedule 3” after “that” (first occurring); and 5
- (b) in inserting in paragraph (3) (b) “, in the case of a specimen specified in Part I of Schedule 1 or Part I of Schedule 3” after “that” (first occurring).

Requirements for permits to import certain live animals and live plants

13. Section 35 of the Principal Act is amended by omitting paragraph (1) (a) and substituting the following paragraph: 10

“(a) that—

- (i) the proposed recipient is an approved institution in relation to a class of specimens that includes that live animal; or
- (ii) the proposed import would be an inter zoological gardens transfer; and” 15

Requirements for permits to import—Schedule 1

14. Section 36 of the Principal Act is amended—

(a) by omitting “The Minister” and substituting “Subject to sub-section (2), the Minister”; 20

(b) by omitting paragraph (b) and substituting the following paragraph:

“(b) where the specimen is a live animal, that—

- (i) the proposed sender is an approved institution in relation to a class of specimens that includes that live animal; or 25
- (ii) the proposed import would be an inter zoological gardens transfer;”; and

(c) by adding at the end the following sub-section:

“(2) The Minister may grant a permit to import a specimen specified in Part I of Schedule 1, other than a live animal, if the Designated Authority has advised the Minister that the Designated Authority is satisfied that— 30

- (a) the country from which the specimen is proposed to be imported has a relevant authority;
- (b) a relevant authority of that country has issued a certificate under paragraph 2 of Article VII of the Convention in respect of the specimen; and 35
- (c) the specimen is not an object of trade.”.

Requirements for permits to import—Schedule 2

15. Section 37 of the Principal Act is amended—

(a) by omitting “The Minister” and substituting “Subject to sub-section (2), the Minister”;

5 (b) by omitting paragraph (b) and substituting the following paragraph:

“(b) where the specimen is a live animal, that—

(i) the proposed sender is an approved institution in relation to a class of specimens that includes that live animal; or

10 (ii) the proposed import would be an inter zoological gardens transfer;”;

(c) by adding at the end the following sub-section:

“(2) The Minister may grant a permit to import a specimen specified in Part I of Schedule 2, other than a live animal, if the Designated Authority has advised the Minister that the Designated Authority is satisfied that—

(a) the country from which the specimen is proposed to be imported has a relevant authority;

20 (b) a relevant authority of the country from which the specimen is proposed to be imported has issued a certificate under paragraph 2 of Article VII of the Convention in respect of the specimen; and

(c) the specimen is not an object of trade.”.

25 16. After section 42 of the Principal Act the following sections are inserted:

Authority to export certain specimens

“42A. (1) In this section, ‘prescribed class’ means a class of specimens the description of which is entered in the register maintained under sub-section (3).

30 “(2) The Minister may, on the recommendation of the Designated Authority, give the Designated Authority notice, in writing, that a class of specimens described in the notice, not being a class of—

(a) specimens specified in Part I of Schedule 1;

35 (b) specimens specified in Part I of Schedule 2 that are not, or are not derived from, live plants that were artificially propagated; or

(c) specimens specified in Part I of Schedule 3,

is to be a prescribed class for the purposes of this section.

40 “(3) The Designated Authority shall maintain a register containing a description of each class of specimens described in a notice which has been given to the Designated Authority under sub-section (2).

“(4) A person may make an application to the Minister for an authority under this section to export specimens included in a specified prescribed class.

“(5) An application under sub-section (4) shall be made in accordance with the prescribed form, or, if no form is prescribed, a form approved by the Minister. 5

“(6) Subject to sub-section (7), the Minister may, in the discretion of the Minister, give or refuse to give, an authority under this section to export specimens included in a particular prescribed class to a person who has made an application for the authority under sub-section (4). 10

“(7) The Minister shall not give an authority under sub-section (6) to export specimens unless the Designated Authority has advised the Minister that the Designated Authority is satisfied that the specimens that would be exported by virtue of the authority would be—

(a) in the case of animal specimens— 15

(i) specimens that are, or are derived from, live animals that were bred in captivity; or

(ii) specimens that are, or are derived from, animal specimens that were taken in accordance with an approved management program; or 20

(b) in the case of plant specimens—

(i) specimens that are, or are derived from, live plants that were artificially propagated; or

(ii) specimens that are, or are derived from, plant specimens that were taken in accordance with an approved management program. 25

“(8) An authority under this section—

(a) shall be in writing;

(b) comes into force on the day on which it is given; and

(c) subject to section 46, remains in force for a period of 12 months commencing on the day on which it is given or, if a lesser period is specified in the authority, that lesser period. 30

“(9) A person who has been given an authority under this section shall, when the authority is produced to an officer of Customs or an inspector in accordance with sub-section 45 (1) in relation to the export of specimens to which the authority applies, give the officer or inspector, or cause the officer or inspector to be given, particulars in writing of those specimens in accordance with a form approved by the Designated Authority. 35

Authority to import certain specimens

“42B. (1) In this section—

‘prescribed class’ means a class of specimens the description of which is entered in the register maintained under sub-section (3);

5 ‘prescribed research’ means scientific research the description of which is entered in the register maintained under sub-section (5).

10 “(2) The Minister may, on the recommendation of the Designated Authority, give the Designated Authority notice, in writing, that a class of specimens described in the notice, not being a class of specimens in Part I of Schedule 1, Part I of Schedule 2 or Part I of Schedule 3, is to be a prescribed class for the purposes of this section.

“(3) The Designated Authority shall maintain a register containing a description of each class of specimens described in a notice which has been given to the Designated Authority under sub-section (2).

15 “(4) The Minister may inform the Designated Authority, by notice in writing, that scientific research described in the notice is to be prescribed research for the purposes of this section.

20 “(5) The Designated Authority shall maintain a register containing descriptions of the scientific research notice of which has been given to the Designated Authority under sub-section (4).

“(6) A person may make an application to the Minister for an authority under this section to import specimens included in a specified prescribed class.

25 “(7) An application under sub-section (6) shall be made in accordance with the prescribed form, or, if no form is prescribed, a form approved by the Minister.

30 “(8) Subject to sub-section (9), the Minister may, in the discretion of the Minister, give or refuse to give, an authority under this section to import specimens included in a particular prescribed class to a person who has made an application for the authority under sub-section (6).

“(9) The Minister shall not give an authority under sub-section (8) to import specimens unless the Designated Authority has advised the Minister that the Designated Authority is satisfied that—

35 (a) the recipient of any specimens imported in accordance with the authority will be an approved institution in relation to a class of specimens that includes those specimens; and

(b) the specimens will be used for the purpose of prescribed research.

“(10) An authority under this section—

(a) shall be in writing;

40 (b) comes into force on the day on which it is given; and

- (c) subject to section 46, remains in force for a period of 12 months commencing on the day on which it is given or, if a lesser period is specified in the authority, that lesser period.

“(11) Where a specimen to which an authority under this section applies is imported, the holder of the authority shall, within 7 days after the importation of the specimen, give the Designated Authority, or cause to be given to the Designated Authority, particulars in writing of that specimen.”. 5

17. After section 43 of the Principal Act the following section is inserted:

Authority for Designated Authority to export or import specimens

“43A. (1) The Designated Authority may make an application, in writing, to the Minister for an authority under this section to export or import a specimen. 10

“(2) Subject to sub-sections (3) and (4), the Minister may give an authority under this section to the Designated Authority to export or import a specimen when the Designated Authority has made an application for the authority under sub-section (1). 15

“(3) The Minister shall not give an authority under this section to export a specimen unless the Minister is satisfied—

(a) that—

(i) the recipient of the specimen will be a relevant authority of a country; and 20

(ii) the specimen will be used by that relevant authority for the purpose of—

(A) the identification of a specimen; or

(B) education or training; or 25

(b) that—

(i) the specimen has been seized under this Act; and

(ii) the specimen will be used to facilitate investigations outside Australia in relation to trade relating to wildlife.

“(4) The Minister shall not give an authority under this section to import a specimen unless the Minister is satisfied that— 30

(a) the specimen will be used by the Designated Authority for the purposes of the identification of a specimen;

(b) that—

(i) the sender of the specimen will be a relevant authority of a country; and 35

(ii) the specimen will be used for the purpose of education or training;

(c) that the specimen was exported from Australia in contravention of this Act; or 40

(d) that the specimen will be used to facilitate investigations in Australia in relation to trade relating to wildlife.

“(5) An authority under this section—

- (a) shall be in writing;
- 5 (b) comes into force on the day on which it is given; and
- (c) subject to section 46, remains in force for a period of 12 months commencing on the day on which it is given or, if a lesser period is specified in the authority, that lesser period.”.

Permit or authority to be produced

10 **18.** Section 45 of the Principal Act is amended by omitting from sub-section (2) “For” and substituting “Subject to section 56A, for”.

Matters published in Gazette

19. Section 52 of the Principal Act is amended—

- (a) by omitting paragraph (1) (a); and
- 15 (b) by omitting sub-section (4).

Specimens in personal effects of visitors to Australia

20. Section 54 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “arrives” and substituting “has arrived”;
- 20 (b) by omitting from paragraph (1) (a) “and”;
- (c) by inserting after paragraph (1) (b) the following word and paragraph:
 - “; and (ba) the person disclosed the existence of the specimen to
an inspector before, or as soon as practicable after,
25 arriving in Australia.”;
- (d) by omitting from sub-section (1) “, if he does so as soon as practicable after the specimen arrives in Australia.”;
- (e) by inserting in sub-paragraph (2) (a) (v) “of this section and of section 56A” after “(inclusive)”;
- 30 (f) by inserting in sub-section (4) “of this section and to section 56A” after “(8)”;
- (g) by inserting in sub-section (5) “of this section and to section 56A” after “(8)”;
- (h) by omitting from sub-section (7) “Where” and substituting “Subject to section 56A, where”;
- 35 (j) by inserting in sub-section (8) “, being costs” before “particulars”;
- (k) by omitting from sub-section (9) “would” and substituting “could”;
- and
- (m) by omitting sub-section (10).

Specimens in personal effects of intending residents of Australia

21. Section 55 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “arrives” and substituting “has arrived”;
- (b) by omitting from paragraph (1) (a) “and”; 5
- (c) by inserting after paragraph (1) (b) the following word and paragraph:
 - “; and (ba) the person disclosed the existence of the specimen to an inspector before, or as soon as practicable after, arriving in Australia,”; 10
- (d) by omitting from sub-section (1) “, if he does so as soon as practicable after the specimen arrives in Australia,”;
- (e) by inserting in sub-paragraph (2) (a) (iv) “of this section and of section 56A” after “(6)”;
- (f) by inserting in sub-section (3) “of this section and to section 56A” after “(6)”;
- (g) by omitting from sub-section (5) “Where” and substituting “Subject to section 56A, where”;
- (h) by inserting in sub-section (6) “, being costs” before “particulars”;
- (j) by omitting from sub-section (7) “would” and substituting “could”; 20
and
- (k) by omitting sub-section (8).

Specimens in personal effects of residents of Australia

22. Section 56 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “arrives” and substituting “has arrived”; 25
- (b) by omitting from paragraph (1) (a) “and”;
- (c) by inserting after paragraph (1) (b) the following word and paragraph:
 - “; and (ba) the person disclosed the existence of the specimen to an inspector before, or as soon as practicable after, arriving in Australia,”; 30
- (d) by omitting from sub-section (1) “, if he does so as soon as practicable after the specimen arrives in Australia,”;
- (e) by inserting after sub-section (1) the following sub-section: 35
 - “(1A) Where a person complies with sub-section (1) in relation to a specimen, the inspector shall—
 - (a) give that person a notice in writing—
 - (i) setting out the name of, and the address given by, that person; 40
 - (ii) identifying the specimen;

- (iii) specifying the date on which, and the port or airport at which, the specimen was surrendered; and
- (iv) setting out adequate particulars of the provisions of sub-section (2) of this section and of section 56A; and
- 5 (b) take the specimen, or cause the specimen to be taken, to a place approved by the Minister for the storage of specimens surrendered under sub-section (1).”;
- (f) by omitting from sub-section (2) “a specimen” and substituting “subject to section 56A, a specimen”;
- 10 (g) by inserting in sub-section (2) “, at the expiration of the period of one month commencing on the day of the surrender of the specimen,” after “is”;
- (h) by omitting from sub-section (3) “would” and substituting “could”; and
- 15 (j) by omitting sub-section (4).

23. After section 56 of the Principal Act the following section is inserted:

Release of surrendered specimens

20 “56A. (1) Subject to this section, where a specimen, other than a live animal, is in the custody of the Commonwealth because it has been surrendered by a person under section 54, 55 or 56, not being a specimen that has been forfeited to the Commonwealth, an application may be made by that person under section 23 for the grant of a permit to import the specimen.

25 “(2) An application by virtue of sub-section (1) in respect of a specimen may be made and dealt with, and a permit to import the specimen may be granted because of the application, as if—

- (a) the specimen had not been imported; and
- (b) the specimen were proposed to be imported from the country from which it was imported.

30 “(3) The Minister shall not grant a permit pursuant to an application made by virtue of sub-section (1) in respect of a specimen unless the Designated Authority has advised the Minister that the Designated Authority is satisfied—

- (a) where the specimen is an animal specimen, that—
 - 35 (i) the specimen—
 - (A) is derived from a live animal that was bred in captivity; or
 - (B) ~~is, or is derived from,~~ an animal specimen that was taken in accordance with an approved management program;
 - 40 (ii) the country from which the specimen was imported has a relevant authority; and

- (iii) a permit or certificate authorising the export of the specimen from that country was given by a relevant authority of that country before the export;
- (b) where the specimen is a plant specimen, that—
 - (i) the specimen is, or is derived from—
 - (A) a live plant that was artificially propagated; or
 - (B) a plant specimen that was taken in accordance with an approved management program;
 - (ii) the country from which the specimen was imported has a relevant authority; and
 - (iii) a permit or certificate authorising the export of the specimen from that country was given by a relevant authority of that country before the export;
- (c) that—
 - (i) the country from which the specimen was imported has a relevant authority; and
 - (ii) a relevant authority of the country issued a certificate under paragraph 2 of Article VII of the Convention in respect of the specimen before the export of the specimen from that country; or
- (d) that—
 - (i) the country from which the specimen was imported is a country for which the Convention has entered into force;
 - (ii) the export of the specimen from that country was not contrary to the laws of that country or of any part of that country; and
 - (iii) the specimen was acquired by the applicant—
 - (A) where the specimen is of a species that was included in an Appendix to the Convention when the Convention entered into force—before the Convention entered into force;
 - (B) where the specimen is of a species that was first included in an Appendix to the Convention after the Convention came into force and before the commencement of this Act—before the species was so included;
 - (C) where a preceding provision of this sub-paragraph does not apply to the specimen and the specimen is of a kind to which section 22 applied on the commencement of this Act—before that commencement; or
 - (D) in any other case—before section 22 commenced to apply to specimens of the kind of which the specimen is a kind.

“(4) Subject to sub-sections 54 (8) and 55 (6) and to sub-section (6), where—

(a) a permit to import a specimen has been granted because of an application made by virtue of sub-section (1); and

5 (b) the holder of the permit produces the permit to an inspector doing duty in relation to the custody of the specimen,
an inspector shall release the specimen to the holder of the permit.

“(5) Where a specimen is released to a person in accordance with sub-section (4), the specimen shall, for the purposes of this Act, be deemed to have been imported by the person in accordance with the permit at the time at which it was released.

“(6) A specimen surrendered under section 56 shall not be released in accordance with sub-section (4) unless and until the person who surrendered the specimen has paid all costs incurred by the Commonwealth in relation to the custody of the specimen (including any costs of transporting the specimen), being costs particulars of which have been given to the person in a prescribed manner, or if no manner is prescribed, a manner approved by the Minister.

“(7) Where—

20 (a) an application has been made by virtue of sub-section (1) in respect of a specimen; and

(b) the period specified in sub-section 54 (7), 55 (5) or 56 (2), as the case requires, at the end of which, but for this sub-section, the specimen would be forfeited to the Commonwealth expires while the application is under consideration or after a permit to import the specimen has been granted,

the specimen is not forfeited to the Commonwealth because of sub-section 54 (7), 55 (5) or 56 (2), as the case requires.

“(8) Where—

30 (a) an application made by virtue of sub-section (1) in respect of a specimen is withdrawn or finally disposed of without the issue of a permit to import the specimen; and

(b) but for sub-section (7), the specimen would have been forfeited to the Commonwealth,

35 the specimen is forfeited to the Commonwealth and, subject to sub-section (10), may be disposed of in accordance with the directions of the Designated Authority.

“(9) Where—

40 (a) a permit to import a specimen has been granted because of an application made by virtue of sub-section (1);

(b) but for sub-section (7), the specimen would have been forfeited to the Commonwealth; and

(c) the specimen is not released in accordance with sub-section (4) within one month after the grant of the permit, the specimen is forfeited to the Commonwealth and, subject to sub-section (10), may be disposed of in accordance with the directions of the Designated Authority.

5

“(10) A specimen shall not be disposed of under sub-section (8) or (9) in any way that could result in the specimen becoming an object of trade.”.

Power to search baggage, &c.

24. Section 67 of the Principal Act is amended—

(a) by omitting sub-sections (1) and (2) and substituting the following sub-sections: 10

“(1) An inspector may examine any goods that are to be, are being, or have been, taken on or off a prescribed vessel or any goods that the inspector believes, on reasonable grounds, to be such goods.

“(2) An inspector may ask a person who owns, is carrying or is otherwise associated with, or appears to the inspector to be associated with, goods that the inspector is examining or entitled to examine under sub-section (1) any question in respect of the goods.”; and 15

(b) by inserting after the definition of “baggage” in sub-section (4) the following definitions: 20

“‘examine’ includes—

(a) in relation to goods that are baggage, open and search the baggage; and

(b) in relation to goods in a container, open and search the container; 25

‘goods’ includes a specimen and baggage;”.

Seizure and forfeiture of specimens

25. Section 69 of the Principal Act is amended—

(a) by omitting from sub-section (8) “would” and substituting “could”; and 30

(b) by omitting sub-section (13).

26. After section 69 of the Principal Act the following section is inserted:

Separation of certain articles

“69A. (1) Where—

(a) an article that— 35

(i) has been surrendered under section 54, 55 or 56; or

(ii) has been seized by an inspector under section 69,

consists of—

(iii) a specimen and other material;

- (iv) 2 or more specimens; or
- (v) 2 or more specimens and other material;

5 (b) a person whom the inspector is satisfied is the owner of the article, or is authorised by that owner to make a request under this section in relation to the article, requests an inspector, in writing, to allow the article to be separated by a person into 2 or more articles at least one of which will be an article that, if it were outside Australia, could be imported without a permit or authority; and

10 (c) it is practicable to comply with that request without the article leaving the control of an inspector,
then an inspector shall comply with that request.

“(2) Where, in accordance with sub-section (1), an article (in this sub-section referred to as the ‘original article’) is separated into 2 or more articles (in this sub-section referred to as the ‘new articles’), then—

15 (a) an inspector shall, if it is practicable to do so without significant cost to the Commonwealth, cause either or any of the new articles that—

(i) consists of material other than a specimen; or

20 (ii) is a specimen, or consists of specimens, that, if it were outside Australia, could be imported without a permit or an authority, to be returned to the person who made the request under sub-section (1) in relation to the original article;

25 (b) where the original article was surrendered under a section of this Act—the new article, or new articles, that cannot be returned to the owner of the original article under paragraph (a) shall be taken to have been surrendered under that section when the original article was surrendered under that section;

30 (c) where the original article was seized under section 69—the new article, or new articles, that cannot be returned to the owner of the original article under paragraph (a) shall be taken to have been seized under that section when the original article was seized under that section; and

(d) the separation of the original article shall not affect the commission of any offence.

35 “(3) No action or other proceeding shall be instituted in any court to recover damages in respect of any loss alleged to have been incurred, or any damage alleged to have been suffered, because of any action taken by an inspector under this section.”.

Seizure and forfeiture of goods involved in offences

40 **27. (1)** Section 71 of the Principal Act is amended—

(a) by omitting sub-section (4) and substituting the following sub-section:

“(4) An inspector may seize any goods (not being goods to which sub-section (2) applies) that the inspector believes on reasonable grounds will afford evidence of the commission of an offence against this Act or the regulations and may retain them until the expiration of a period of 60 days after the seizure or, if proceedings for an offence against this Act or the regulations of the commission of which they may afford evidence are instituted within that period, until the proceedings (including any appeal to a court in relation to those proceedings) are terminated.”; and

- (b) by omitting “and platforms” from the definition of “goods” in sub-section (6) and substituting “, platforms and documents”.

(2) Notwithstanding the amendments made by sub-section (1), sub-section 71 (4) of the Principal Act continues to apply in relation to any matter or thing seized under it before the commencement of this section.

28. After section 71 of the Principal Act the following section is inserted:

Rescuing goods

“71A. (1) A person who—

- (a) rescues any goods that have been, or are about to be, seized under this Act; or
- (b) staves, breaks or destroys any goods, or destroys any documents relating to, any goods to prevent the seizure of goods, the securing of goods, or the proof of any offence under this Act,

is guilty of an offence punishable upon conviction by a fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years.

“(2) In this section, ‘goods’ includes vehicles, vessels, aircraft, platforms, specimens and documents.”.

Indictable offences

29. Section 73 of the Principal Act is amended—

- (a) by omitting “or 53” and substituting “, 53 or 71A”; and
- (b) by inserting in sub-section (5) “section 71A or” after “against”.

Evidence of examiner

30. (1) Section 75 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-section:

“(1) The Minister may appoint appropriately qualified persons to be examiners for the purposes of this Act.”;

- (b) by omitting from sub-section (2) “analyst” and substituting “examiner”; and

- (c) by inserting in sub-section (2) “, or any matter or thing” after “substance”.

(2) Notwithstanding the amendments made by sub-section (1)—

- (a) a person who immediately before the commencement of this Act was an analyst appointed under sub-section 75 (1) of the Principal Act shall, after the commencement of this Act, be deemed to be a person appointed under sub-section 75 (1) of the Principal Act as amended by this Act; and
- (b) section 75 of the Principal Act continues to apply in relation to a certificate of an analyst appointed under sub-section 75 (1) of the Principal Act.

31. After section 75 of the Principal Act the following section is inserted:

Protection of witness

“75A. (1) A witness for the prosecution in any proceedings for an offence against this Act shall not be compelled to disclose—

- (a) the fact that the witness received any information;
- (b) the nature of any information received by the witness; or
- (c) the name of the person who gave the witness any information.

“(2) An inspector who is a witness in any proceedings for an offence against this Act shall not be compelled to produce any report—

- (a) that was made or received by the inspector in confidence in his or her capacity of an inspector; or
- (b) that contains information received by the inspector in confidence.”.

Delegation by Minister

32. Section 76 of the Principal Act is amended by inserting after paragraph (1) (c) the following paragraph:

“(ca) the powers of the Minister under section 43A;”.

33. After section 76 of the Principal Act the following section is inserted:

Delegation by Designated Authority

“76A. (1) The Designated Authority, with the approval, in writing, of the Minister, may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Designated Authority, delegate to an officer or employee of the Australian National Parks and Wildlife Service all or any of the powers of the Designated Authority under this Act, other than this power of delegation.

“(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Designated Authority.

“(3) A delegation under this section does not prevent the exercise of the power by the Designated Authority.”.

Review of decisions

34. Section 80 of the Principal Act is amended—

(a) by omitting from paragraph (1) (k) “, 42, 43 or 44” and substituting “or 42, sub-section 42A (7) or 42B (9), section 43 or 44 or sub-section 56A (3)”;

5

(b) by inserting in paragraph (1) (l) “, 42A, 42B” after “42”; and

(c) by inserting after paragraph (m) the following paragraphs:

“(ma) a determination by the Minister for the purposes of paragraph 42A (8) (c) of the period for which an authority under section 42A is to remain in force;

10

(mb) a determination by the Minister for the purposes of paragraph 42B (10) (c) of the period for which an authority under section 42B is to remain in force.”.

Amendments relating to sexist language

35. The Principal Act is amended as set out in the Schedule.

15

SCHEDULE

Section 35

AMENDMENTS RELATING TO SEXIST LANGUAGE

Sub-section 9 (1)—

Omit “his”, substitute “the Minister’s”.

Sub-section 10 (1)—

Omit “his”, substitute “the Minister’s”.

Paragraph 10 (2) (a)—

Omit “he”, substitute “the Minister”.

Paragraph 10 (2) (b)—

Omit “he”, substitute “the Minister”.

Sub-section 11 (1)—

Omit “his”, substitute “the Designated Authority’s”.

Paragraph 11 (2) (a)—

Omit “he”, substitute “the Designated Authority”.

Paragraph 11 (2) (b)—

Omit “he”, substitute “the Designated Authority”.

Sub-section 12 (1)—

Omit “his”, substitute “the Designated Authority’s”.

Paragraph 12 (2) (a)—

Omit “he”, substitute “the Designated Authority”.

Paragraph 12 (2) (b)—

Omit “he”, substitute “the Designated Authority”.

Sub-section 18 (3)—

(a) Omit “he”, substitute “the person”.

(b) Omit “him”, substitute “the person”.

Sub-section 18 (5)—

(a) Insert “or her” after “his”.

(b) Omit “him”, substitute “the Designated Authority”.

Sub-section 19 (1)—

Omit “he”, substitute “the Designated Authority”.

Paragraph 20 (1) (b)—

Omit “his”, substitute “the”.

SCHEDULE—continued**Sub-section 20 (5)—**

- (a) Omit “he”, substitute “the person”.
- (b) Omit “his”, substitute “the”.
- (c) Omit “him”, substitute “the person”.

Sub-section 20 (6)—

Omit “he”, substitute “the person”.

Sub-section 20 (7)—

- (a) Omit “his” (wherever occurring), substitute “the”.
- (b) Omit “him”, substitute “the person”.

Sub-section 23 (4)—

Omit “him” (wherever occurring), substitute “the Minister”.

Sub-section 23 (5)—

Omit “him” (wherever occurring), substitute “the Minister”.

Sub-section 24 (1)—

Omit “his”, substitute “the Minister’s”.

Sub-section 24 (3)—

Insert “or her” after “him”.

Section 25—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Section 26—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Section 28—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Section 29—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Section 30—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

SCHEDULE—continued

Section 31—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Sub-section 32 (2)—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Sub-section 32 (3)—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Section 33—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Section 34—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Sub-section 35 (1)—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Sub-section 35 (2)—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Sub-section 35 (3)—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Section 36—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Section 37—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Section 38—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Sub-section 40 (3)—

Omit “his”, substitute “the Designated Authority’s”.

Paragraph 40 (4) (a)—

Omit “he”, substitute “the Designated Authority”.

SCHEDULE—continued**Paragraph 40 (4) (b)—**

Omit “he”, substitute “the Designated Authority”.

Sub-section 40 (7)—

Omit “his”, substitute “the Designated Authority’s”.

Paragraph 40 (8) (a)—

Omit “he”, substitute “the Designated Authority”.

Paragraph 40 (8) (b)—

Omit “he”, substitute “the Designated Authority”.

Sub-section 41 (4)—

(a) Omit “him”, substitute “the Minister”.

(b) Omit “he”, substitute “the Designated Authority”.

Sub-section 42 (3)—

Omit “his”, substitute “the Minister’s”.

Sub-section 42 (4)—

(a) Omit “him”, substitute “the Minister”.

(b) Omit “he”, substitute “the Designated Authority”.

Sub-section 42 (5)—

(a) Omit “him”, substitute “the Minister”.

(b) Omit “he”, substitute “the Designated Authority”.

Sub-section 43 (5)—

Omit “his”, substitute “the Minister’s”.

Sub-section 43 (6)—

(a) Omit “him”, substitute “the Minister”.

(b) Omit “he”, substitute “the Designated Authority”.

Paragraph 44 (1) (b)—

(a) Omit “him”, substitute “the Minister”.

(b) Omit “he”, substitute “the Designated Authority”.

Paragraph 44 (1) (c)—

Omit “he” (wherever occurring), substitute “the Designated Authority”.

Sub-section 44 (1)—

Omit “his”, substitute “the Minister’s”.

Paragraph 44 (1) (d)—

Omit “he”, substitute “the Minister”.

Paragraph 44 (1) (e)—

Omit “he”, substitute “the Minister”.

SCHEDULE—continued

Paragraph 44 (2) (a)—

Omit “he”, substitute “the Minister”.

Sub-section 44 (2)—

Omit “his”, substitute “the Minister’s”.

Sub-section 45 (1)—

Insert “or she” after “he” (wherever occurring).

Sub-section 45 (2)—

Insert “or she” after “he” (wherever occurring).

Sub-section 46 (1)—

Omit “he”, substitute “the Minister”.

Sub-section 46 (2)—

Omit “he”, substitute “the Minister”.

Paragraph 49 (3) (a)—

Omit “he”, substitute “the Minister”.

Paragraph 49 (3) (b)—

Omit “he”, substitute “the Minister”.

Paragraph 53 (1) (a)—

- (a) Omit “him”, substitute “the person”.
- (b) Insert “or her” after “his”.

Paragraph 53 (1) (b)—

- (a) Omit “him”, substitute “the person”.
- (b) Insert “or her” after “his”.

Sub-section 53 (2)—

- (a) Insert “or she” after “he”.
- (b) Omit “his”, substitute “the person’s”.

Sub-section 53 (6)—

Omit “he”, substitute “the person”.

Paragraph 54 (1) (d)—

- (a) Insert “or her” after “his” (wherever occurring).
- (b) Insert “or she” after “he”.

Paragraph 54 (1) (e)—

Insert “or she” after “he”.

Sub-section 54 (1)—

Omit “he” (last occurring), substitute “the person”.

Sub-paragraph 54 (2) (a) (i)—

Omit “he”, substitute “that person”.

SCHEDULE—continued**Sub-section 54 (3)—**

Insert “or she” after “he” (wherever occurring).

Sub-section 54 (4)—

- (a) Insert “or her” after “him” (first occurring).
- (b) Omit “he” (wherever occurring), substitute “that person”.
- (c) Omit “him” (last occurring), substitute “that person”.

Paragraph 55 (1) (d)—

- (a) Insert “or her” after “his”.
- (b) Insert “or she” after “he”.

Sub-section 55 (1)—

Omit “he”, substitute “that person”.

Sub-section 56 (1)—

Omit “he”, substitute “that person”.

Paragraph 57 (3) (e)—

Omit “he”, substitute “the Designated Authority”.

Sub-section 57 (4)—

Omit “he”, substitute “the inspector”.

Sub-section 57 (5)—

- (a) Omit “he”, substitute “the Designated Authority”.
- (b) Omit “him”, substitute “the Minister”.

Sub-section 61 (2)—

- (a) Insert “or her” after “him”.
- (b) Omit “he”, substitute “that person”.

Sub-section 62 (2)—

Insert “or she” after “he” (wherever occurring).

Sub-section 62 (3)—

- (a) Omit “he” (wherever occurring), substitute “the inspector”.
- (b) Omit “his”, substitute “that person’s”.

Sub-section 62 (4)—

Insert “or she” after “he”.

Sub-section 62 (5)—

Insert “or she” after “he”.

Sub-section 62 (7)—

- (a) Omit “he” (wherever occurring), substitute “the inspector”.
- (b) Omit “him”, substitute “the inspector”.

SCHEDULE—continued

Paragraph 62 (7) (a)—

Insert “or she” after “he”.

Paragraph 62 (7) (b)—

Insert “or she” after “he”.

Paragraph 62 (7) (c)—

Insert “or her” after “his”.

Paragraph 62 (8) (a)—

Insert “or she” after “he”.

Paragraph 62 (8) (b)—

Insert “or she” after “he”.

Paragraph 62 (8) (c)—

Insert “or her” after “his”.

Sub-section 62 (8)—

Omit “he”, substitute “the inspector”.

Sub-section 62 (9)—

Omit “him”, substitute “the person”.

Sub-section 63 (3)—

Omit “he”, substitute “the inspector”.

Sub-section 63 (5)—

Insert “or she” after “he”.

Sub-section 64 (2)—

Omit “his”, substitute “any”.

Paragraph 65 (2) (a)—

Insert “or she” after “he”.

Paragraph 65 (2) (b)—

Insert “or she” after “he”.

Paragraph 65 (2) (c)—

Insert “or her” after “his”.

Sub-section 65 (3)—

Omit “him”, substitute “the person”.

Paragraph 66 (2) (a)—

Insert “or she” after “he”.

Paragraph 66 (2) (b)—

Insert “or she” after “he”.

SCHEDULE—continued**Paragraph 66 (2) (c)—**

Insert “or her” after “his”.

Sub-section 66 (2)—

Omit “he”, substitute “the inspector”.

Sub-section 67 (3)—

Omit “him”, substitute “the person”.

Sub-section 67 (4) (definition of “baggage”)—

Insert “or her” after “him”.

Section 68—

Omit “his”, substitute “the inspector’s”.

Sub-section 69 (2)—

Omit “he”, substitute “the inspector”.

Sub-section 69 (3)—

Omit “he”, substitute “the inspector”.

Paragraph 69 (4) (a)—

(a) Omit “he” (wherever occurring), substitute “the inspector”.

(b) Insert “or her” after “him”.

Sub-section 69 (5)—

Insert “or her” after “him”.

Sub-paragraph 69 (5) (a) (ii)—

Insert “or her” after “him”.

Sub-section 69 (11)—

Omit “he”, substitute “the inspector”.

Sub-section 70 (1)—

Omit “he”, substitute “the Minister”.

Sub-section 70 (3)—

(a) Omit “he” (wherever occurring), substitute “the Minister”.

(b) Omit “him”, substitute “the Minister”.

Sub-section 71 (2)—

Omit “he”, substitute “the inspector”.

Sub-section 71 (3)—

Omit “he”, substitute “the Minister”.

SCHEDULE—continued

Paragraph 72 (1) (a)—

Omit “his”, substitute “the person’s”.

Sub-section 75 (2)—

- (a) Insert “or she” after “he”.
- (b) Insert “or her” after “his”.

Sub-section 76 (1)—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “his”, substitute “the Minister’s”.

Paragraph 76 (1) (a)—

Omit “his”, substitute “the Minister’s”.

Paragraph 76 (1) (b)—

Omit “his”, substitute “the Minister’s”.

Paragraph 76 (1) (c)—

Omit “his”, substitute “the Minister’s”.

Paragraph 76 (1) (d)—

Omit “his”, substitute “the Minister’s”.

Paragraph 76 (4) (b)—

- (a) Omit “him”, substitute “the Minister”.
- (b) Omit “he”, substitute “the Designated Authority”.

Sub-section 76 (4)—

Omit “he”, substitute “the Designated Authority”.

Paragraph 80 (1) (e)—

Omit “he”, substitute “the Designated Authority”.

Paragraph 80 (1) (k)—

Omit “he”, substitute “the Designated Authority”.

Sub-section 80 (2)—

Omit “he”, substitute “the Designated Authority”.

NOTE

1. No. 149, 1982, as amended. For previous amendment, see No. 22, 1984.

