

1990

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 22 August 1990

(Minister for the Arts, Sport, the Environment, Tourism and Territories)

A BILL

FOR

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

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

Short title etc.

5 **1. (1)** This Act may be cited as the *Wildlife Protection (Regulation of Exports and Imports) Amendment Act 1990*.

(2) In this Act, “**Principal Act**” means the *Wildlife Protection (Regulation of Exports and Imports) Act 1982*¹.

Commencement

10 **2.** This Act commences on the day on which it receives the Royal Assent.

Interpretation

3. Section 4 of the Principal Act is amended by inserting in subsection (1) the following definition:

“‘**program exempt specimen**’ means a specimen that is a program exempt specimen because of a declaration in force under section 10A;”.

Act not to apply to certain specimens

4. Section 8 of the Principal Act is amended by inserting after subsection (5) the following subsections:

“(5A) For the purposes of subsection (1), a specimen is to be taken to be brought into Australia for the purpose of transshipment to another country if, and only if: 10

- (a) the specimen is brought into Australia in the course of being transported to an identified person in the other country; and
- (b) any delay in its leaving Australia will be due solely to the arrangements for its transport; and 15
- (c) it will be under the control of the Customs all the time that it is in Australia.

“(5B) For the purposes of subsection (2), a specimen is to be taken to be brought into an external Territory for the purpose of transshipment to another country if, and only if: 20

- (a) the specimen is brought into that Territory in the course of being transported to an identified person in the other country; and
- (b) any delay in its leaving that Territory will be due solely to the arrangements for its transport; and 25
- (c) it will be under the control of an inspector all the time that it is in that Territory.”.

Approved management programs

5. Section 10 of the Principal Act is amended by adding at the end the following subsection: 30

“(3) The Minister may make a declaration about a management program even though he or she considers that the program should be an approved management program only:

- (a) during a particular period; or 35
- (b) while certain circumstances exist; or
- (c) while a certain condition is complied with;

but:

- (d) in such a case, the instrument of declaration is to specify the period, circumstances or condition; and 40

- (e) where paragraph (b) or (c) applies—the Minister is to revoke the declaration if he or she becomes satisfied that:
 - (i) those circumstances have ceased to exist; or
 - (ii) that condition has been contravened.”.

5 **6.** After section 10 of the Principal Act the following section is inserted:

Program exempt specimens

“10A. (1) In this section:

10 ‘**ordinary Australian specimen**’ means a specimen that is, or is derived from, a native Australian animal or a native Australian plant other than:

- (a) a live native Australian animal of a species included in the sub-phylum vertebrata, not being a fish; or
- (b) a specimen specified in Part I of Schedule 1; or
- 15 (c) a specimen specified in Part I of Schedule 3;

‘**ordinary specimen**’ means a specimen other than:

- (a) a live animal; or
- (b) a specimen specified in Part I of Schedule 1; or
- (c) a specimen specified in Part I of Schedule 3.

20 “(2) Where the Minister decides that it would be consistent with the object of this Act for ordinary Australian specimens of a particular kind to be taken from a particular place in Australia or an external Territory otherwise than in accordance with an approved management program and exported, he or she may, by signed instrument published in the *Gazette*, declare those specimens so taken to be program exempt specimens for the purposes of this Act.

30 “(3) Where the Minister decides that it would be consistent with the object of this Act for ordinary specimens of a particular kind to be taken in a particular place in a foreign country otherwise than in accordance with an approved management program and imported, he or she may, by signed instrument published in the *Gazette*, declare those specimens so taken to be program exempt specimens for the purposes of this Act.

35 “(4) The Minister may make a decision under subsection (2) or (3) about specimens of a particular kind even though the decision is:

- (a) limited to specimens taken during a particular period; or
- (b) limited to a particular number or other quantity of the specimens; or
- (c) subject to the existence of particular circumstances; or
- 40 (d) subject to compliance with a particular condition;

but:

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- (e) in such a case, the instrument of declaration is to specify the period, quantity, circumstances or condition; and
- (f) where paragraph (c) or (d) applies—the Minister is to revoke the declaration that the specimens are program exempt specimens if he or she becomes satisfied that:
 - (i) those circumstances have ceased to exist; or
 - (ii) that condition has been contravened.

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“(5) The Minister, in making a decision about specimens for the purposes of subsection (2) or (3), is to take into account advice from the Designated Authority on:

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- (a) the size of the populations of the animals or plants from which the specimens would be taken; and
- (b) the potential impact on those populations of taking the specimens; and
- (c) any management program relating to those animals or plants; and
- (d) the extent of controls over the taking, possession and disposal of the specimens; and
- (e) the extent of any proposed or potential export or import, as the case requires, of the specimens for commercial purposes; and
- (f) any other prescribed matter.

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“(6) The Designated Authority must maintain a register containing descriptions of the program exempt specimens.

“(7) The register is to set out opposite to each description of program exempt specimens the date of the declaration of the specimens.”

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Export of household pets—native Australian animals

7. Section 16 of the Principal Act is amended:

- (a) by omitting from paragraph (1) (d) “and”;
- (b) by adding at the end of subsection (1) the following word and paragraph:

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“; and (f) it is not proposed to export (whether by virtue of this subsection or otherwise) more than 6 animals (including the animal referred to in paragraph (a) or the animal and one other animal of that species) of species specified in Schedule 7 that have been kept as household pets by the exporter or the members of the household of the exporter.”

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Certain exports prohibited

8. Section 21 of the Principal Act is amended by omitting “5 years” and substituting “10 years, or both”.

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Certain imports prohibited

9. Section 22 of the Principal Act is amended by omitting “5 years” and substituting “10 years, or both”.

Permit or authority to be produced

5 10. Section 45 of the Principal Act is amended:

(a) by omitting from subsection (1) all words from and including “he or she produced” and substituting:

“he or she:

10 (a) produced the permit or authority, or caused the permit or authority to be produced, to:

(i) where the export is from Australia—an officer of Customs; or

(ii) where the export is from an external Territory—an inspector;

15 doing duty in relation to the export of the specimen; or

(b) received written notice from the Designated Authority authorising the export of the specimen without the production of the permit or authority.”;

20 (b) by inserting after subsection (1) the following subsection:

“(1A) The Designated Authority must not give the notice referred to in paragraph (1) (b) unless he or she:

(a) is satisfied that the production of the permit or authority is impracticable; and

25 (b) endorses a copy of the permit or authority to show that the notice is being given; and

(c) makes that copy available to an officer of Customs, or an inspector, doing duty in relation to the export of the specimen.”.

30 **Boarding of vessels etc. by inspectors**

11. Section 62 of the Principal Act is amended:

(a) by omitting from paragraph (2) (b) “matter or thing” and substituting “goods”;

(b) by inserting in subsection (10) the following definition:

35 “‘goods’ includes documents but does not include any specimen or any article to which subsection 4 (2) applies.”.

Access to premises

12. Section 63 of the Principal Act is amended:

40 (a) by omitting from paragraph (2) (b) “matter or thing” and substituting “goods”;

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(b) by omitting from subparagraph (3) (a) (ii) “matter or thing” and substituting “goods”;

(c) by adding at the end the following subsection:

“(6) In this section:

‘goods’ includes documents but does not include any specimen or any article to which subsection 4 (2) applies.”. 5

Review on decisions

13. Section 80 of the Principal Act is amended by inserting after paragraph (1) (a) the following paragraphs:

“(aa) the revocation by the Minister under paragraph 10 (3) (e) of a declaration; 10

(ab) a declaration by the Minister under subsection 10A (2) or (3);

(ac) the revocation by the Minister under paragraph 10A (4) (f) of a declaration;”.

Amendments relating to program exempt specimens 15

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

SCHEDULE

Section 14

AMENDMENTS RELATING TO PROGRAM EXEMPT SPECIMENS

Subparagraph 29 (d) (iii):

Omit “or” (last occurring).

Subparagraph 29 (d) (iv):

Omit “and”, substitute “or”.

After subparagraph 29 (d) (iv):

Insert the following subparagraph:

“(v) in the case of a specimen that is, or is derived from, a native Australian animal, the specimen is, or is derived from, a program exempt specimen; and”.

Subparagraph 29 (e) (ii):

Omit “or” (last occurring).

After subparagraph 29 (e) (iii):

Insert the following word and subparagraph:

“; or (iv) the specimen is, or is derived from, a plant specimen that is a program exempt specimen.”.

Subparagraph 31 (b) (i):

Omit “or” (last occurring).

After subparagraph 31 (b) (ii):

Insert the following word and subparagraph:

“; or (iii) the specimen is, or is derived from, an animal specimen that is a program exempt specimen.”.

Subparagraph 31 (c) (iii):

Omit “or”.

After subparagraph 31 (c) (iv):

Insert the following subparagraph:

“(v) the specimen is, or is derived from, an animal specimen that is a program exempt specimen; or”.

Subparagraph 31 (d) (ii):

Omit “or” (last occurring).

After subparagraph 31 (d) (iii):

Insert the following word and subparagraph:

SCHEDULE—continued

“; or (iv) the specimen is, or is derived from, a plant specimen that is a program exempt specimen.”.

Subparagraph 37 (1) (c) (iii):

Omit “or” (last occurring).

Subparagraph 37 (1) (c) (iv):

Omit “and”, substitute “or”.

After subparagraph 37 (1) (c) (iv):

Insert the following subparagraph:

“(v) the specimen is, or is derived from, an animal specimen that is a program exempt specimen; and”.

Subparagraph 37 (1) (d) (ii):

Omit “or” (last occurring).

After subparagraph 37 (1) (d) (iii):

Insert the following word and subparagraph:

“; or (iv) the specimen is, or is derived from, a plant specimen, that is a program exempt specimen.”.

Subparagraph 42A (7) (a) (i):

Omit “or” (last occurring).

After subparagraph 42A (7) (a) (ii):

Insert the following subparagraph:

“(iii) specimens that are, or are derived from, animal specimens that are program exempt specimens; or”.

Subparagraph 42A (7) (b) (i):

Omit “or” (last occurring).

After subparagraph 42A (7) (b) (ii):

Insert the following word and subparagraph:

“; or (iii) specimens that are, or are derived from, plant specimens that are program exempt specimens.”.

NOTE

1. No. 149, 1982, as amended. For previous amendments, see No. 22, 1984; No. 120, 1986 (as amended by No. 141, 1987); and No. 99, 1988.

