

Arrest of
deportees.

9. An officer may, without warrant, arrest a person reasonably supposed to be a deportee and a person shall not resist or prevent any such arrest.

Penalty : One hundred pounds or imprisonment for six months.

Concealing
deportees or
assisting
deportees to
evade
deportation.

10. A person shall not—

- (a) conceal, receive or harbour a person whom he knows to be a deportee ;
- (b) aid or assist a person whom he knows to be a deportee in concealing himself ; or
- (c) assist a person whom he knows to be a deportee to evade deportation under this Act.

Penalty : One hundred pounds or imprisonment for six months.

Regulations.

11. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for prescribing penalties not exceeding Fifty pounds or imprisonment not exceeding three months, or both, for any offence against the regulations.

WHALING INDUSTRY.

No. 33 of 1949.

An Act to provide for the Establishment of an Australian Whaling Commission and for the carrying on by the Commission of Whaling Activities in certain Waters, and of Activities incidental thereto.

[Assented to 12th July, 1949.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the *Whaling Industry Act 1949*.

Commencement.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Parts.

3. This Act is divided into Parts, as follows :—

Part I.—Preliminary.

Part II.—The Australian Whaling Commission.

Division 1.—Establishment and Constitution of the Commission.

Division 2.—Functions and Powers of the Commission.

Division 3.—Staff.

Division 4.—Finances of the Commission.

Division 5.—Reports.

Part III.—Miscellaneous.

4. In this Act, unless the contrary intention appears—

“ Australian waters ” means—

(a) Australian waters beyond territorial limits, being the waters referred to in placitum (x.) of section fifty-one of the Constitution; and

(b) the territorial waters of any Territory under the authority of the Commonwealth;

“ the Commission ” means the Australian Whaling Commission constituted under this Act.

Definitions.

5. This Act shall extend to every Territory under the authority of the Commonwealth.

Extension to Territories.

PART II.—THE AUSTRALIAN WHALING COMMISSION.

Division 1.—*Establishment and Constitution of the Commission.*

6.—(1.) For the purposes of this Act there shall be a Commission, to be known as the Australian Whaling Commission.

Australian Whaling Commission.

(2.) The Commission shall be a body corporate with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.

(3.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to any document and shall presume that it was duly affixed.

(4.) The performance or exercise of the functions, powers, rights, authorities, duties or obligations of the Commission shall not be affected by reason only of there being a vacancy in the office of a member of the Commission.

7.—(1.) The Commission shall consist of a Chairman, a Deputy Chairman and one other member.

Constitution of Commission.

(2.) The members of the Commission shall be appointed by the Governor-General.

(3.) The Chairman of the Commission shall, subject to this Act, hold office—

(a) in the case of the first appointment—for a period of five years; and

(b) in every other case—for a period specified by the Governor-General.

(4.) The members of the Commission, other than the Chairman, shall, subject to this Act, hold office during the pleasure of the Governor-General.

(5.) Where the period of appointment of the Chairman of the Commission has expired he shall be eligible for re-appointment.

Deputies of members of Commission.

8.—(1.) The Governor-General may appoint a person to be the deputy of a member of the Commission during the pleasure of the Governor-General.

(2.) A person so appointed shall, in the event of the absence from a meeting of the Commission of the member of whom he is the deputy, be entitled to attend that meeting and, when so attending, shall be deemed to be a member of the Commission.

(3.) Any act done by a deputy as such shall not, in any proceedings, be questioned on the ground that the occasion for the exercise of his powers or functions had not arisen or had ceased.

(4.) A reference in this Act to the Chairman or to the Deputy Chairman of the Commission shall not be construed as including a reference to the deputy of the Chairman or of the Deputy Chairman.

Remuneration, &c., of members and deputies.

9.—(1.) The members of the Commission, and the deputies of members of the Commission, shall be paid remuneration and travelling allowance at such rates (if any) as the Governor-General determines.

(2.) Where a member of the Commission was, immediately prior to his appointment, an officer of the Public Service of the Commonwealth, his service as a member of the Commission shall, for the purpose of determining his existing and accruing rights, be taken into account as if it was service in the Public Service of the Commonwealth, and the *Officers' Rights Declaration Act 1928-1940* shall apply as if this Act and this section had been specified in the Schedule to that Act.

Dismissal of Chairman of Commission.

10. The Governor-General may terminate the appointment of the Chairman of the Commission for inability, inefficiency or misbehaviour.

Vacation of office.

11. The office of a member of the Commission shall be vacated—

- (a) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit ;
- (b) if he resigns his office by writing under his hand addressed to the Governor-General and the resignation has been accepted ;
- (c) if he is absent, except on leave granted by the Minister, from all meetings of the Commission held during three consecutive months ; or
- (d) if he, in any way, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than twenty-five persons—
 - (i) becomes concerned or interested in any contract or agreement entered into by or on behalf of the Commission ; or
 - (ii) participates or claims to participate in the profit of any such contract or agreement or in any benefit or emolument arising from such contract or agreement.

12. The Minister may grant leave of absence to a member of the Commission upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Leave of absence.

13.—(1.) The Commission shall hold meetings at such times and places as the Commission determines.

Meetings of Commission.

(2.) The Minister may at any time convene a meeting of the Commission.

(3.) The Chairman of the Commission shall preside at all meetings of the Commission at which he is present.

(4.) In the event of the absence of the Chairman of the Commission from any meeting of the Commission, the Deputy Chairman shall preside at that meeting.

(5.) In the event of the absence of both the Chairman and the Deputy Chairman from any meeting of the Commission, the members of the Commission present shall appoint one of their number to preside at that meeting.

(6.) At a meeting of the Commission, two members of the Commission shall constitute a quorum.

(7.) Any question arising at a meeting of the Commission shall be determined by a majority of the votes of the members present.

(8.) The member of the Commission presiding at any meeting of the Commission shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

14.—(1.) The Commission may, in relation to any particular matter or class of matters, or to any particular place, by writing under its seal, delegate to any person all or any of its powers under this Act (except this power of delegation), so that the delegated powers may be exercised by the delegate with respect to the matter or class of matters, or to the place, specified in the instrument of delegation.

Delegation of powers of Commission.

(2.) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power by the Commission.

Division 2.—Functions and Powers of the Commission.

15. Subject to this Act, the functions of the Commission shall be—

Functions of Commission.

(a) to engage in whaling in Australian waters; and

(b) as an aid to the economic and stable operation of its whaling activities in Australian waters, to employ, in whaling in the vicinity of any Australian waters, vessels not required for the time being for whaling in Australian waters.

16.—(1.) The Commission shall have power to do all that is necessary or convenient to be done for or in connexion with the performance of its functions.

Powers of Commission.

(2.) Without limiting the generality of the last preceding subsection, the Commission shall have power—

- (a) to maintain and operate chaser ships and shore bases ;
- (b) to maintain and operate factory ships, and to establish, maintain and operate shore factories, for the treatment and processing of whales caught by the Commission and the production or manufacture of substances and things from such whales or from materials principally derived from such whales ;
- (c) to sell or otherwise dispose of such whales, substances or things, and to undertake or arrange for the transport, by sea or otherwise, of any such whales, substances or things in connexion with their sale or other disposal ;
- (d) to purchase, or to take on lease or charter, ships required for carrying on the business of the Commission ;
- (e) to employ any ship owned by the Commission, at any time at which the use of the ship is not otherwise required by the Commission, in the carriage of goods—
 - (i) between Australia and other countries or between States ; or
 - (ii) to or from a Territory under the authority of the Commonwealth ;
- (f) to lease or charter any ship owned by the Commission, and to sub-lease or sub-charter any ship on lease or charter to the Commission, for periods during which the use of the ship is not required by the Commission ;
- (g) to dispose of any ship owned by the Commission ;
- (h) to purchase land, and to purchase or construct buildings or wharves, necessary for carrying on the business of the Commission, and to dispose of land, buildings or wharves owned by the Commission ;
- (i) to take on lease any land, buildings or wharves necessary for carrying on the business of the Commission and to dispose of any such lease ;
- (j) to purchase or take on hire plant, equipment, stocks or other goods necessary for carrying on the business of the Commission, and to dispose of any plant, equipment, stocks or other goods owned by the Commission ;
- (k) to appoint agents for the purpose of the business of the Commission ;
- (l) to train, or arrange for the training of, persons to fit them for employment by the Commission ;
- (m) to provide transport, accommodation, provisions, medical treatment, hospital facilities and amenities for officers and employees of the Commission and their families ; and
- (n) to do anything incidental to any of its powers.

(3.) The exercise of any power by the Commission shall be subject to the directions (if any) of the Minister.

Division 3.—Staff.

17.—(1.) The Commission may appoint such officers as it thinks necessary. **Appointment of officers.**

(2.) Subject to the next succeeding sub-section, a person shall not be appointed as an officer of the Commission unless—

- (a) he is a British subject;
- (b) the Chairman of the Commission is satisfied as to his health and physical fitness; and
- (c) he makes and subscribes an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution.

(3.) The Commission may appoint, to such positions or to positions of such classes as are approved by the Minister, persons who do not comply with all the provisions of the last preceding sub-section.

(4.) Subject to the next succeeding sub-section, the terms and conditions of employment of officers appointed by the Commission shall be such as are, subject to the approval of the Public Service Board, determined by the Commission.

(5.) The rate of salary payable to an officer shall, if it exceeds the rate of One thousand five hundred pounds per annum, be subject to the approval of the Minister.

(6.) Where an officer appointed in pursuance of this section was, immediately prior to his appointment, an officer of the Public Service of the Commonwealth, his service as an officer of the Commission shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth, and the *Officers' Rights Declaration Act 1928-1940* shall apply as if this Act and this section had been specified in the Schedule to that Act.

18. The Commission may employ such temporary or casual employees as it thinks fit, on such terms and conditions as the Commission determines. **Temporary and casual employees.**

19.—(1.) Subject to sub-section (3.) of this section, the *Commonwealth Employees' Compensation Act 1930-1948* shall apply to officers and employees of the Commission (not being masters, mates, radio officers or engineers of a ship) as if they were employees within the meaning of that Act. **Compensation to officers and employees.**

(2.) Any liability to pay compensation under that Act as applied by this section shall be borne by the Commission.

(3.) The *Seamen's Compensation Act 1911-1949* shall apply in relation to all seamen (within the meaning of that Act) who are officers or employees of the Commission.

Preservation
of certain
awards, &c.

20. Nothing in this Act shall prevent the making of an industrial award, order, determination or agreement under any Act in relation to persons appointed or employed under this Act or affect the operation of any such award, order, determination or agreement in relation to persons so appointed or employed.

Division 4.—Finances of the Commission.

Power to
borrow money.

21.—(1.) The Commission shall have power to borrow money on overdraft from the Commonwealth Bank of Australia upon the guarantee of the Treasurer.

(2.) The Treasurer may, out of moneys appropriated by the Parliament for the purposes of this Act, make advances to the Commission of such amounts and upon such terms as he thinks fit.

(3.) Except with the consent of the Treasurer, the Commission shall not have power to borrow otherwise than in accordance with this section.

Bank accounts.

22. The Commission shall open and maintain an account or accounts with the Commonwealth Bank of Australia, and may open and maintain an account or accounts with such other bank or banks as the Treasurer approves.

Application
of moneys.

23. Subject to this Act, the moneys of the Commission—

(a) shall be applied by the Commission in payment or discharge of—

(i) the expenses, charges and other obligations incurred or undertaken by the Commission in the performance and exercise of its functions and powers under this Act; and

(ii) the remuneration and allowances of the members of the Commission; and

(b) may be invested on fixed deposit with the Commonwealth Bank of Australia or in securities of, or guaranteed by, the Government of the Commonwealth.

Accounts.

24. The Commission shall keep accounts in such forms as the Treasurer approves.

Audit.

25.—(1.) The accounts of the Commission shall be subject to inspection and audit, at least once yearly, by the Auditor-General for the Commonwealth.

(2.) The Auditor-General shall report to the Minister the result of each inspection and audit.

Liability to
taxation.

26. The income, property and operations of the Commission shall be subject to taxation (other than income tax) under the laws of the Commonwealth but shall not be subject to taxation under any law of a State to which the Commonwealth is not subject.

Reserves.

27. The Commission may, with the approval of the Treasurer, set aside, out of its revenue, such sums as it thinks proper for reserves for depreciation of assets, insurance or other purposes.

28. Subject to the last preceding section, the profits derived by the Commission shall be applied—

Application of profits of Commission.

- (a) firstly, in payment of interest charged on moneys advanced to the Commission by the Treasurer ;
- (b) secondly, in repayment of advances made by the Treasurer, in accordance with the terms upon which those advances were made ; and
- (c) thirdly, in such manner as the Treasurer, after the receipt of a recommendation by the Minister, determines.

Division 5.—Reports.

29.—(1.) The Commission shall, as soon as practicable after the thirtieth day of June in each year, prepare and furnish to the Minister a report on the operations of the Commission during the year ended on that date, together with financial accounts in respect of that year in such form as the Treasurer approves.

Annual report of Commission.

(2.) Before submitting the financial accounts to the Minister, the Commission shall submit them to the Auditor-General for the Commonwealth for report as to their correctness or otherwise.

(3.) The report and financial accounts of the Commission, together with the report of the Auditor-General as to those accounts, shall be laid before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

(4.) The Commission shall furnish to the Minister such other reports, and such documents and information, relating to the operations of the Commission as the Minister requires.

(5.) If the thirtieth day of June next succeeding the first appointment of members of the Commission occurs within six months after that appointment, the first report of the Commission under sub-section (1.) of this section shall be a report on the operations of the Commission for the period from the commencement of those operations to the thirtieth day of June next succeeding that first-mentioned thirtieth day of June, and the financial accounts to be furnished with the report shall be accounts in respect of that period.

PART III.—MISCELLANEOUS.

30. Except as otherwise provided in this Act, the laws of the Commonwealth shall apply to and in relation to the Commission in the same manner as they apply to and in relation to other persons.

Application of certain Acts to Commission.

31. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing penalties not exceeding a fine of Fifty pounds or imprisonment for any period not exceeding three months, or both, for offences against the regulations.

Regulations.