Resource Assessment Commission Bill 1989

Date Introduced: 3 May 1989
House: House of Representatives
Presented by: Hon. John Kerin, M.P., Minister for Primary Industries and Energy

Digest of Bill

Purpose
To establish the Resource Assessment Commission (RAC) which will inquire into and advise the Government on matters relating to the use of resources.

Background
The Commonwealth has no direct power over most resources located in the States, although some powers have been used to directly effect the use of resources. For example, the refusal of export licences was intended to protect Fraser Island, and the external affairs power has been used on a number of occasions to protect areas of great natural importance. The use of this power to refuse foreign investment was also contemplated recently. The Commonwealth's power in relation to the Territories is unlimited.

Since the 1960s there has been increasing pressure to formulate national resources policies. An example of a recent federal initiative in promoting a national policy is the 1983 National Conservation Strategy for Australia. The objectives of the strategy included: to maintain essential ecological processes and life support systems; to ensure the sustainable utilisation of species and ecosystem; and to maintain and enhance environmental qualities. The strategic principles for achieving these objectives include: to integrate conservation and the development and emphasise their interdependence and common ground; retain options for future use; and educate the community about the interdependence of living resource conservation and sustainable development. This strategy has no legal effect.¹

A new series of principles and processes to apply in conservation and development decisions was outlined by the Government on 18 November 1988. The new processes involve the establishment of an RAC, an independent body to inquire into major, complex land use decisions; streamlining and enhancing the operations of the Australian Heritage Commission; the development of a National Forests Inventory; a review of environmental data bases; and increasing the environmental expertise of industry councils and enhancing community understanding of conservation issues.²
Main Provisions

'Resource' is defined to include a biological, mineral or other material component of the environment (other than a human being) (clause 3).

'Resource matter' is defined as any matter relating to the use of a resource, including a matter involving a question of the environmental, cultural, social, industrial, economic or other effects of a use of a resource (clause 3).

The RAC will be established by clause 5.

Clause 6 provides that the functions of the RAC will be to hold inquiries and make reports on resource matters.

Clause 7 provides that the RAC is to be guided by the policy principles set out in proposed Schedule 1 (see below) when resolving competing claims for the use of resources.

In performing its functions, the RAC is to identify the resource with which the matter is concerned, and how it may be used; identify the environmental, cultural, social, industry, economic and other values of the resource involved in its uses; the implications for those values of those uses; assess the losses and benefits involved in alternative uses of that resource; and any other aspect of the resource matter the RAC considers relevant. However, the matters to be examined may be defined in the terms of reference on a matter (see below) (clause 8).

Clause 9 provides the RAC with power to carry out its functions and to do all things necessary to be done in connection with the performance of its functions.

The RAC is to consist of a Chairperson and any special Commissioners appointed for the purposes of inquiries. The Commissioners will be appointed by the Governor-General (clauses 10 and 11).

Where the Government or a Commonwealth Authority makes a decision in relation to a resource matter, the Minister may direct the RAC to conduct an inquiry in the matter. At any time during an inquiry, the Minister may amend or withdraw the reference (clauses 17 and 18).

Clause 23 provides that a Commissioner is to have the same protection and immunity as a High Court Judge, and a witness the same protection and penalties as a witness in proceeding in the High Court.

Clause 36 provides the RAC with power to call witnesses to give information or produce documents relevant to an inquiry.

Clause 38 will allow a Judge to be appointed as a Commissioner.
The Governor-General may suspend or remove from office a Commissioner, other than a Judge, on the ground of misbehaviour or physical or mental incapacity (clause 44).

It will be an offence for a person to hinder, obstruct, molest or interfere with a Commissioner or a person acting on behalf of the RAC in an inquiry. The maximum penalty for breach of this provision will be a fine of $3000. It will also be an offence to intimidate a person in any way because they have given, or propose to give, information or documents to the RAC. The maximum penalty for breach of this provision will be imprisonment for 6 months (clause 51).

It will be an offence for a person, after having been given notice to appear before the RAC, to refuse to do so or to refuse to take an oath or make an affirmation; or to answer a question as required by a Commissioner. The maximum penalty for breach of these provisions will be a fine of $3000. A person may refuse to answer a question, give information or produce a document where it might incriminate them or make them liable to forfeiture or a penalty (clause 52).

It will be an offence for a person to give information or documents to the Commission which are false or misleading. The maximum penalty for breach of this provision will be imprisonment for 6 months (clause 53).

The principles the RAC is to use in resolving conflicting land use claims include: that there should be an integrated approach to conservation and development; resource use decisions should seek to optimise the net benefits to the community; and Commonwealth decisions, policies and management regimes may provide for additional uses that are compatible with the primary purpose values of an area (Schedule 1).

References

For further information, if required, contact the Law and Government Group.

12 May 1989

Bills Digest Service
Legislative Research Service

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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