WHALE PROTECTION BILL 1980

Date Introduced: 23 April 1980
House: House of Representatives
Presented by: Hon. D.S. Thomson, M.C., Minister for Science and the Environment

Purpose

To provide for the preservation, conservation and protection of whales and other cetacea.

Background

In March 1978, the Government commissioned an independent inquiry into whales and whaling headed by Sir Sydney Frost. The report of the inquiry was tabled in Parliament on 20 February 1979. On 4 April 1979, the Prime Minister announced the Government had accepted all recommendations made in that report. The central conclusion accepted by Government, was that the Whaling Act 1960 be repealed and that a vigorous and active policy for the protection of whales be pursued.

Australia is a signatory to the International Convention for the Regulation of Whaling and is a member of the International Whaling Commission. Under the International Convention for the Regulation of Whaling, Australia and all other coastal signatories give up whaling jurisdiction over foreign vessels and aircraft engaged in whaling in the extended fishing zone, so long as the vessels and aircraft are approved by a foreign country, party to the International Whaling Convention, and there is compliance with the terms of the Conventions.

The Fisheries Amendment Act 1978 declares a 200 nautical mile fishing zone for Australia and this has been effective since 1 November 1979. It is proposed that the Bill will apply to all cetaceans within the zone.

The role of the States in this scheme to protect whales has not yet been determined. The Second Reading Speech states that the Prime Minister has written to State Premiers and the N.T. Chief Minister regarding the legislation and the States have indicated willingness to discuss the matter and that a meeting is planned.
Main Provisions

Clause 4 repeals the Whaling Act 1960.

Clause 6 specifies the application of the Bill. It will extend to the external territories and will apply to Australian citizens, vessels and aircraft and their crews throughout the world (i.e. outside the Australian Fishing Zone), any person within the Fishing Zone (i.e. from 3 nautical miles to 200 nautical miles), and any person within territorial limits subject to certain provisions.

Clause 7 enables regulations to be made, with the agreement of a State or the N.T., declaring the whole or part of the coastal waters of a State or N.T. to be prescribed waters which would have the effect of extending the primary offence clauses to territorial waters adjacent to a State or Territory.

Clause 9 specifies the primary offence of killing, injuring, taking or interfering with a whale in waters to which the Act applies. This carries a penalty on summary conviction of $5,000 or on conviction on indictment of $100,000. A number of other offences is also specified (clauses 9 and 10). Defences to a contravention of sub-cl. 9(1) and (2) include that the action was done in accordance with a permit, it was necessary to avoid loss of human life or injury to a person and it was unavoidable in the course of licensed commercial fishing operations (sub-cl. 9(5)).

Clauses 11-19 inclusive deal with permits to allow dealings with whales for certain specific purposes, including the allocation, conditions of use, revocation, transfer, cancellation and prescribed fees for the issue.

Clauses 20-30 relate principally to administration and in particular deal with the appointment and powers of inspectors. The basic role of inspectors is to ensure enforcement of the Act's provisions.

Clause 30 enables the Minister to conduct relevant research programs relating to the preservation, conservation and protection of whales.

Clauses 31-33 inclusive describe the grounds for and conditions of prosecution under the Act.

Clause 35 allows appeals to the Administrative Appeals Tribunal on matters of variation, transfer, suspension and cancellation of permits.

30 April 1980

Science and Technology Group

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