Arts, Sport, Environment and Territories Legislation Amendment Bill 1991

Date Introduced: 29 November 1991
House: House of Representatives
Portfolio: Arts, Sport, the Environment, Tourism and Territories

Purpose
This is an omnibus Bill that will make a number of largely non-contentious amendments. The major amendments relate to the power of the Minister to give directions in relation to the draft National Capital Plan; the recognition of international anti-doping arrangements in sport; and the addition of three international agreements to the Schedule of the National Parks and Wildlife Conservation Act 1975 in respect of which the Governor-General may make regulations.

Background
As there is no central theme to this Bill, the background to each amendment will be explained below.

Main Provisions
Clause 2 will amend six Acts as set out in the Schedule to this Bill.

Amendments to the Australian Capital Territory (Planning and Land Management) Act 1988

The National Capital Planning Authority (NCPA) was established as a statutory authority, responsible to the Commonwealth Minister for Arts, Sport, the Environment, Tourism and Territories, in January 1989 when the Australian Capital Territory (Planning and Land Management) Act 1988 (the Principal Act) came into effect. The Principal Act also established a Territory Planning Authority (TPA) which is responsible to the Australian Capital Territory (ACT) Government.

The functions of the NCPA include to prepare and administer a National Capital Plan (NCP); to keep the NCP under constant review and to propose amendments to it when necessary; and to recommend to the Commonwealth Minister the carrying out of works it considers desirable to maintain or enhance the character of the National Capital. The object of the NCP is to ensure that Canberra and the ACT are planned and developed in accordance with their national significance.

Division 2 of Part II (sections 14-24) of the Principal Act deals with the preparation of the NCP and public consultation. The NCPA is required to prepare a draft NCP, which is to be made available for public submissions and comment by the TPA. The Principal Act provides that the Minister may approve the draft NCP, refer it to the NCPA with directions to conduct further consultations, or suggest alterations. Subsection 19(2) of the Principal Act provides that where the TPA has objected to any aspect of the draft NCP, the Minister is not allowed to act (i.e. approve a draft NCP, refer it to the NCPA with directions to conduct further consultations, or suggest alterations) except after consultations with the ACT Government. It could be argued that under the terms of subsection 19(2) scope exists for the TPA to go through a process of objecting to any aspect of the draft NCP, thus requiring the Minister to consult with the ACT Government, to delay almost indefinitely approval of the draft NCP.

Proposed section 20A, that will be inserted into the Principal Act by this Bill, provides that where the TPA continues to object to any aspect of the draft NCP, the NCPA is to attach to the draft NCP a statement of its reasons for not accommodating the objection. Where the Minister receives such a statement, he/she is to direct the NCPA to disregard the objection, or alter the draft NCP to accommodate the objection wholly or partly.
New subsections 53(2) and 53(3) will be inserted into the Principal Act by this Bill, the effect of which will be to allow the NCPA to charge and recover fees for the granting of approvals, and remit, refund, or waive fees for the granting of approvals (e.g. planning approvals), or exempt persons from the payment of such fees. The amount of fee is to relate to the expenses incurred or to be incurred by the NCPA in granting an approval, and does not amount to a tax.

Amendments to the Australian Sports Drug Agency Act 1990

An interim Australian Sports Drug Agency (ASDA) was established in August 1989 in response to the recommendations of the Senate Standing Committee on Environment, Recreation and the Arts. The Committee presented two reports. An Interim Report tabled in May 1988, examined the extent of drug use in Australian sport, underlying reasons for that usage, issues relating to the supply of drugs and allegations about drug use at the Australian Institute of Sport. The Second Report, tabled in May 1990, examined professional sports and power sports, the national and international regulatory background, together with health and general concerns about the impact of drugs on society.

Legislation to formalise the establishment of the ASDA was introduced during the Budget Session in 1990. The Australian Sports Drug Agency Act 1990 (the Principal Act) came into effect in February 1991. The objects of the ASDA include to encourage the practice of sport free from the use of drugs; encourage the development of programs to educate the sporting community and the general community about the dangers of using drugs in sport; and encourage the establishment of a centralised drug sampling and testing program that exposes all competitors to sampling and drug testing, at short notice, at sporting events, during training and at any other time. The functions of the ASDA include to collect samples from competitors and to arrange for the testing of samples by accredited laboratories; develop and implement educational programs to discourage the use of drugs in sport; establish and maintain a Register of Defaulting Competitors; and charge fees for ASDA services, information and advice.

A new section 66A and subsection 17(1)(d) will be inserted into the Principal Act by this Bill. The effect of the proposed amendments will be to require international anti-doping arrangements in sport the Commonwealth has entered into to be listed in the regulations and the ASDA to notify the relevant authority of the country with which the Commonwealth has entered into an anti-doping arrangement of the entering of a person's name on the Register of Defaulting Competitors.

A new section 17A will be inserted into the Principal Act by this Bill, the effect of which will be to allow the ASDA, where a competitor has returned a negative drug test result, to disclose details of the result to a number of persons/bodies, including the competitor, or each sporting organisation of which the competitor is a member or association with which he/she is associated with.

A new subsection 18(2A) will be inserted into the Principal Act by this Bill. This proposed amendment will allow the Minister, where a competitor has returned a negative drug test result, to request the ASDA to give her/him a notice with the name of a competitor who has returned a negative drug test.

A new section 65A will be inserted into the Principal Act by this Bill, the effect of which will be exempt the ASDA from Commonwealth, State and Territory tax laws other than prescribed tax laws.

Amendments to the National Parks and Wildlife Conservation Act 1975

Section 69 of the National Parks and Wildlife Conservation Act 1975 (the Principal Act) provides that the Governor-General may make regulations giving effect to an agreement specified in the Schedule. Currently, the Schedule to the Principal Act contains several international agreements, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora signed at Washington on 3 March 1973; and the Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment signed at Tokyo on 6 February 1974.

This Bill proposes to insert three additional international agreements into the Schedule of the Principal Act: the Convention on Conservation of Nature in the South Pacific signed at Apia, Western Samoa on 12 June 1976; the Convention on the Conservation of Migratory Species of Wild Animals signed at Bonn on 23 June 1979; and the Agreement between the Government of Australia and the

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For further information, if required, contact the Education and Welfare Group on 06 2772410 and the Law and Government Group on 06 2772430.

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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