



Torres Strait Treaty (Miscellaneous Amendments) Act 1984

No. 22 of 1984

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Torres Strait Treaty (Miscellaneous Amendments) Act 1984

No. 22 of 1984

An Act to amend certain Acts in consequence of the signing of the Treaty between Australia and the Independent State of Papua New Guinea that was signed at Sydney on 18 December 1978 and for other purposes

[Assented to 26 April 1984]

BE IT ENACTED by the Queen, and 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 *Torres Strait Treaty (Miscellaneous Amendments) Act 1984*.

Commencement

2. (1) This Act, other than Part X, shall come into operation on the day fixed under section 2 of the *Torres Strait Fisheries Act 1984*.

(2) Part X shall come into operation on the day fixed under section 2 of the *Torres Strait Fisheries Act 1984* or the day fixed under section 2 of the *Wildlife Protection (Regulation of Exports and Imports) Act 1982*, whichever is the later.

PART II—AMENDMENT OF THE CONTINENTAL SHELF (LIVING NATURAL RESOURCES) ACT 1968

Principal Act

3. The *Continental Shelf (Living Natural Resources) Act 1968*¹ is in this Part referred to as the Principal Act.

4. After section 3 of the Principal Act the following section is inserted:

Application of Act to Protected Zone

“4. (1) In this section, ‘Protected Zone’ has the same meaning as in the *Torres Strait Fisheries Act 1984*.

“(2) The provisions of this Act other than this section and sections 14 and 17 do not, except in relation to matters that occurred before the commencement of the *Torres Strait Fisheries Act 1984*, apply to or in relation to the Protected Zone.

“(3) Where there is in force a Proclamation under sub-section 15 (1) or (2) of the *Torres Strait Fisheries Act 1984* in relation to an area adjacent to the Protected Zone, the provisions of this Act other than this section and sections 14 and 17 do not, except in relation to matters that occurred before the Proclamation came into force, apply to or in relation to any activities within that area to which the *Torres Strait Fisheries Act 1984* applies by virtue of the Proclamation.”.

PART III—AMENDMENT OF THE CUSTOMS ACT 1901

Principal Act

5. The *Customs Act 1901*² is in this Part referred to as the Principal Act.

6. After section 30 of the Principal Act the following section is inserted:

Exemptions pursuant to Torres Strait Treaty

“30A. (1) In this section—

‘area in the vicinity of the Protected Zone’ means an area in respect of which a notice is in force under sub-section (2);

‘Australian place’ means a place in Australia that is in the Protected Zone or in an area in the vicinity of the Protected Zone;

‘Papua New Guinea place’ means a place in Papua New Guinea that is in the Protected Zone or in an area in the vicinity of the Protected Zone;

‘Protected Zone’ means the zone established under Article 10 of the Torres Strait Treaty, being the area bounded by the line described in Annex 9 to that treaty;

‘Protected Zone ship’ means a ship that is owned or operated by a traditional inhabitant;

‘Torres Strait Treaty’ means the Treaty between Australia and the Independent State of Papua New Guinea that was signed at Sydney on 18 December 1978;

‘traditional activities’ has the same meaning as in the Torres Strait Treaty;

‘traditional inhabitants’ has the same meaning as in the *Torres Strait Fisheries Act 1984*.

“(2) The Minister may, by notice published in the *Gazette*, declare an area adjacent to the Protected Zone to be an area in the vicinity of the Protected Zone for the purposes of this section.

“(3) The Minister may, by notice published in the *Gazette*, exempt, subject to such conditions (if any) as are specified in the notice, from so many of the provisions of the Customs Acts as are specified in the notice—

- (a) any Protected Zone ship that arrives at an Australian place on a voyage from a Papua New Guinea place or that leaves an Australian place on a voyage to a Papua New Guinea place, being a ship—
 - (i) on board which there is at least one traditional inhabitant who is undertaking that voyage in connection with the performance of traditional activities in the Protected Zone or in an area in the vicinity of the Protected Zone; and
 - (ii) no person on board which is a person other than—
 - (A) a person referred to in sub-paragraph (i); or
 - (B) an employee of the Commonwealth, of Queensland or of Papua New Guinea or of an authority of the Commonwealth, of Queensland or of Papua New Guinea who is undertaking that voyage in connection with the performance of his duties;
- (b) the entry into Australia, or the departure from Australia, of persons on board a ship of the kind referred to in paragraph (a); or
- (c) the importation into Australia, or the exportation from Australia, of goods on board a ship of the kind referred to in paragraph (a), being goods that—
 - (i) are owned by, or are under the control of, a traditional inhabitant who is on board that ship and have been used, are being used or are intended to be used by him in connection with the performance of traditional activities in the Protected Zone or in an area in the vicinity of the Protected Zone;
 - (ii) are the personal belongings of a person referred to in sub-paragraph (a) (ii); or

- (iii) are stores for the use of the passengers or crew of that ship or for the service of that ship.

“(4) Where—

- (a) the master of a ship (not being a ship to which an exemption under sub-section (3) applies) or the pilot of an aircraft proposes to take that ship or aircraft, as the case may be, on a voyage or flight, as the case may be, from an Australian place to a Papua New Guinea place or from a Papua New Guinea place to an Australian place; and
- (b) that voyage or flight, as the case may be—
 - (i) will be undertaken by at least one person who is a traditional inhabitant for purposes connected with the performance of traditional activities in the Protected Zone or in an area in the vicinity of the Protected Zone; and
 - (ii) will not be undertaken by a person other than—
 - (A) a person referred to in sub-paragraph (i);
 - (B) an employee of the Commonwealth, of Queensland or of Papua New Guinea or of an authority of the Commonwealth, of Queensland or of Papua New Guinea who will be undertaking that voyage in connection with the performance of his duties; or
 - (C) the master of the ship or a member of the crew of the ship or the pilot of the aircraft or a member of the crew of the aircraft, as the case may be,

the master of the ship or the pilot of the aircraft, as the case may be, may, by notice in writing given to the Minister setting out such information as is prescribed, request the Minister to grant an exemption under sub-section (5) in relation to the voyage or flight, as the case may be.

“(5) The Minister may, in his discretion, after receiving an application under sub-section (4) in relation to a proposed voyage by a ship or a proposed flight by an aircraft, by notice in writing given to the person who made the application, exempt, subject to such conditions (if any) as are specified in the notice, from so many of the provisions of the Customs Acts as are specified in the notice—

- (a) the entry into Australia, or the departure from Australia, of that ship or aircraft, as the case may be, in the course of that voyage or flight, as the case may be;
- (b) the entry into Australia, or the departure from Australia, of any person on board that ship or aircraft, as the case may be, in the course of that voyage or flight, as the case may be; and
- (c) the importation into Australia, or the exportation from Australia, of goods, or goods included in a class of goods specified in the notice, on board that ship during that voyage or on board that aircraft during that flight, as the case may be, being goods that—
 - (i) are owned by, or are under the control of, a traditional inhabitant who is on board that ship or aircraft, as the case may

be, and have been used, are being used or are intended to be used by him in connection with the performance of traditional activities in the Protected Zone or in an area in the vicinity of the Protected Zone;

- (ii) are the personal belongings of a person who is on board that ship or aircraft, as the case may be, in the course of that voyage or flight, as the case may be; or
- (iii) are stores for the use of the passengers or crew of that ship or aircraft, as the case may be, or for the service of that ship or aircraft, as the case may be.

“(6) Where—

- (a) under sub-section (3) or (5), the arrival at a place in Australia of a ship, an aircraft or a person, or the importation into Australia of goods, is exempt from any provisions of the Customs Acts; and
- (b) that ship, aircraft or person arrives at, or those goods are taken to, a place in Australia that is not in the Protected Zone or in an area in the vicinity of the Protected Zone,

the Customs Acts (including the provisions referred to in paragraph (a)) apply in relation to the arrival of that ship, aircraft or person at, or the taking of those goods to, the place referred to in paragraph (b) as if that ship, aircraft or person had arrived at that place, or those goods had been taken to that place, as the case may be, from parts beyond the seas.”.

PART IV—AMENDMENT OF THE CUSTOMS TARIFF ACT 1982

Principal Act

7. The *Customs Tariff Act 1982*³ is in this Part referred to as the Principal Act.

Schedule 4

8. Schedule 4 to the Principal Act is amended by inserting in Part I after item 19 the following item:

- | | | |
|----|---|------|
| 20 | Goods, as prescribed by by-law, in relation to which the customs procedures of the Commonwealth are to be applied in the manner mentioned in Article 16 of the Treaty between Australia and the Independent State of Papua New Guinea that was signed at Sydney on 18 December 1978 | Free |
|----|---|------|

PART V—AMENDMENTS OF THE FISHERIES ACT 1952

Principal Act

9. The *Fisheries Act 1952*⁴ is in this Part referred to as the Principal Act.

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

Application of Act to Protected Zone

“5AA. (1) The provisions of this Act other than this section and sections 10 and 14 do not, except in relation to matters that occurred before the commencement of the *Torres Strait Fisheries Act 1984*, apply to or in relation to the Protected Zone.

“(2) Where there is in force a Proclamation under sub-section 15 (1) or (2) of the *Torres Strait Fisheries Act 1984* in relation to an area adjacent to the Protected Zone, the provisions of this Act other than this section and sections 10 and 14 do not, except in relation to matters that occurred before the Proclamation came into force, apply to or in relation to any activities within that area to which the *Torres Strait Fisheries Act 1984* applies by virtue of the Proclamation.

“(3) In this section, ‘Protected Zone’ has the same meaning as in the *Torres Strait Fisheries Act 1984*.”.

Arrangements with States

11. Section 12H of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(6) An arrangement under this section does not have any effect in relation to—

- (a) any area within the Protected Zone; or
- (b) if there is in force a Proclamation under sub-section 15 (1) or (2) of the *Torres Strait Fisheries Act 1984* in relation to an area adjacent to the Protected Zone—any activities within that area to which that Act applies by virtue of the Proclamation.

“(7) Nothing in sub-section (6) shall be taken to affect the operation of an arrangement under this section in relation to—

- (a) matters that occurred in the Protected Zone before the commencement of the *Torres Strait Fisheries Act 1984*; or
- (b) matters that occurred in an area in respect of which a Proclamation is in force under sub-section 15 (1) or (2) of the *Torres Strait Fisheries Act 1984* before the Proclamation came into force.

“(8) In sub-sections (6) and (7), ‘Protected Zone’ has the same meaning as in the *Torres Strait Fisheries Act 1984*.”.

Foreign boats not to land fish in Australia

12. Section 13BB of the Principal Act is amended by inserting in sub-section (1) “or in accordance with an entry under paragraph 21 (2) (b) of the *Torres Strait Fisheries Act 1984*” after “section 9”.

**PART VI—AMENDMENTS OF THE HISTORIC SHIPWRECKS
ACT 1976**

Principal Act

13. The *Historic Shipwrecks Act 1976*^s is in this Part referred to as the Principal Act.

Commencement and application of Act

14. Section 2 of the Principal Act is amended by inserting after sub-section (9) the following sub-sections:

“(9A) Nothing contained in, or done under, sub-section (4) affects the application of this Act to or in relation to a Papua New Guinea shipwreck or a Papua New Guinea relic and a Proclamation under that sub-section in relation to waters adjacent to Queensland shall declare that the Proclamation does not affect the application of this Act to or in relation to any wrecked vessel or article that is a Papua New Guinea shipwreck or Papua New Guinea relic within the meaning of this Act.

“(9B) Where he is satisfied that arrangements made, apart from this Act, with respect to a Papua New Guinea shipwreck or Papua New Guinea shipwrecks or a Papua New Guinea relic or Papua New Guinea relics make it appropriate for him to do so, the Governor-General may, by Proclamation, declare that this Act shall, on a date specified in the Proclamation, cease to apply to and in relation to that Papua New Guinea shipwreck or those Papua New Guinea shipwrecks, or that Papua New Guinea relic or those Papua New Guinea relics and, where such a Proclamation is made, section 8 of the *Acts Interpretation Act 1901* has effect as if this Act, to the extent that it is so declared to cease to apply, had been repealed by another Act on the date specified in the Proclamation.”.

Interpretation

15. Section 3 of the Principal Act is amended—

- (a) by omitting “or” from the end of paragraph (b) of the definition of “historic relic” in sub-section (1);
- (b) by inserting after paragraph (b) of the definition of “historic relic” in sub-section (1) the following paragraph:

“(ba) a Papua New Guinea relic; or”;
- (c) by omitting “or” from the end of paragraph (b) of the definition of “historic shipwreck” in sub-section (1);
- (d) by inserting after paragraph (b) of the definition of “historic shipwreck” in sub-section (1) the following paragraph:

“(ba) a Papua New Guinea shipwreck; or”;

and
- (e) by inserting after the definition of “offence against this Act” in sub-section (1) the following definitions:

“ ‘Papua New Guinea relic’ means an article in respect of which a notice is in force under sub-section 5 (6);

“‘Papua New Guinea shipwreck’ means the remains of a ship in respect of which a notice is in force under sub-section 5 (5);”.

Certain shipwrecks and relics may be declared to be historic

16. Section 5 of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(5) Where the Minister is of the opinion that the remains of a ship (not being a military vessel wrecked after the commencement of this sub-section) that are situated in Australian waters or in waters above the continental shelf of Australia are of historic or special significance to Papua New Guinea, he may, by notice published in the *Gazette*, declare those remains to be a Papua New Guinea shipwreck.

“(6) Where the Minister is of the opinion that a particular article that was, or particular articles that were, associated with a ship (not being a military vessel wrecked after the commencement of this sub-section), or all articles that were associated with a particular ship (not being a military vessel wrecked after the commencement of this sub-section), being an article that is, or articles that are, situated in Australian waters or in waters above the continental shelf of Australia, is or are of historic or special significance to Papua New Guinea, he may, by notice published in the *Gazette*, declare the article or articles to be a Papua New Guinea relic or Papua New Guinea relics.”.

PART VII—AMENDMENTS OF THE MIGRATION ACT 1958

Principal Act

17. The *Migration Act 1958*⁶ is in this Part referred to as the Principal Act.

Interpretation

18. Section 5 of the Principal Act is amended—

(a) by inserting before the definition of “Australian installation” in sub-section (1) the following definition:

“‘area in the vicinity of the Protected Zone’ means an area in respect of which a notice is in force under sub-section (5A);”;

(b) by inserting before the definition of “installation” in sub-section (1) the following definition:

“‘inhabitant of the Protected Zone’ means a person who is a citizen of Papua New Guinea and who is a traditional inhabitant;”;

(c) by inserting before the definition of “return endorsement” in sub-section (1) the following definition:

“‘Protected Zone’ means the zone established under Article 10 of the Torres Strait Treaty, being the area bounded by the line described in Annex 9 to that treaty;”;

(d) by inserting after the definition of “ticket” in sub-section (1) the following definitions:

“ ‘Torres Strait Treaty’ means the Treaty between Australia and the Independent State of Papua New Guinea that was signed at Sydney on 18 December 1978;

“ ‘traditional activities’ has the same meaning as in the Torres Strait Treaty;

“ ‘traditional inhabitants’ has the same meaning as in the *Torres Strait Fisheries Act 1984*”; and

(e) by inserting after sub-section (5) the following sub-section:

“(5A) The Minister may, by notice published in the *Gazette*, declare an area adjacent to the Protected Zone and to the south of the line described in Annex 5 to the Torres Strait Treaty to be an area in the vicinity of the Protected Zone for the purposes of this Act.”.

Exemptions

19. Section 8 of the Principal Act is amended—

(a) by omitting “or” from the end of paragraph (1) (d);

(b) by adding at the end of sub-section (1) the following word and paragraph:

“ or (f) a person who is an inhabitant of the Protected Zone, not being—

(i) a person in respect of whom a declaration is in force under sub-section (2); or

(ii) a person who, at the time of entry, is a person of any of the descriptions set out in paragraph 16 (1) (c),

who is entering a part of Australia that is in the Protected Zone or in an area in the vicinity of the Protected Zone in connection with the performance of traditional activities.”;

(c) by omitting from sub-section (2) “or (d)” and substituting “, (d) or (f)”;

(d) by omitting “or” from the end of paragraph (3) (c); and

(e) by adding at the end of sub-section (3) the following word and paragraph:

“or (e) in the case of a person referred to in paragraph (1) (f)—

(i) if he ceases to be an inhabitant of the Protected Zone;

(ii) if he remains in Australia otherwise than in connection with the performance of traditional activities; or

(iii) if he enters a part of Australia other than a part of Australia that is in the Protected Zone or in an area in the vicinity of the Protected Zone.”.

Carriage of persons to Australia without documentation

20. Section 11C of the Principal Act is amended—

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

“and (c) is not a person who is exempted from the operation of Division 1 of Part II by virtue of the operation of paragraph 8 (1) (f).”.

Offences in relation to entering or remaining in Australia

21. Section 27 of the Principal Act is amended by omitting from paragraph (1) (b) “or (c)” and substituting “, (c) or (e)”.

**PART VIII—AMENDMENTS OF THE PETROLEUM
(SUBMERGED LANDS) ACT 1967**

Principal Act

22. The *Petroleum (Submerged Lands) Act 1967* is in this Part referred to as the Principal Act.

Certain points, &c., to be ascertained by other means

23. Section 156A of the Principal Act is amended—

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

“or (d) the Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the two countries, including the area known as the Torres Strait, and related matters that was signed at Sydney on 18 December 1978.”.

Schedule 2

24. Schedule 2 to the Principal Act is amended by omitting the description of the area specified in that Schedule as being the area that includes the adjacent area in respect of Queensland and substituting the following description:

“The area the boundary of which commences at a point that is the intersection of the coastline at mean low water by the boundary between the Northern Territory of Australia and the State of Queensland and runs—

(1) thence north-easterly along the geodesic to the point of Latitude 15° 55' South, Longitude 138° 30' East;

(2) thence north along the meridian of Longitude 138° 30' East to its intersection by the parallel of Latitude 14° 30' South;

(3) thence east along that parallel to its intersection by the meridian of Longitude 139° 15' East;

(4) thence north along that meridian to its intersection by the parallel of Latitude 11° South;

(5) thence north-westerly along the geodesic to the point of Latitude 10° 51' South, Longitude 139° 12' 30" East;

(6) thence north-westerly along the geodesic to the point of Latitude 10° 50' South, Longitude 139° 12' East;

(7) thence south-easterly along the geodesic to the point of Latitude 11° 09' South, Longitude 139° 23' East;

(8) thence north-easterly along the geodesic to the point of Latitude 10° 59' South, Longitude 140° 00' East;

(9) thence north-easterly along the geodesic to the point of Latitude 9° 46' South, Longitude 142° 00' East;

(10) thence north-easterly along the geodesic to the point of Latitude 9° 45' 24" South, Longitude 142° 03' 30" East;

(11) thence north-easterly along the geodesic to the point of Latitude 9° 42' South, Longitude 142° 23' East;

(12) thence north-easterly along the geodesic to the point of Latitude 9° 40' 30" South, Longitude 142° 51' East;

(13) thence north-easterly along the geodesic to the point of Latitude 9° 40' South, Longitude 143° 00' East;

(14) thence north-easterly along the geodesic to the point of Latitude 9° 33' South, Longitude 143° 05' East;

(15) thence east along the parallel of Latitude 9° 33' South, to its intersection by the meridian of Longitude 143° 20' East;

(16) thence north-easterly along the geodesic to the point of Latitude 9° 24' South, Longitude 143° 30' East;

(17) thence north-easterly along the geodesic to the point of Latitude 9° 22' South, Longitude 143° 48' East;

(18) thence south-easterly along the geodesic to the point of Latitude 9° 30' South, Longitude 144° 15' East;

(19) thence south-easterly along the geodesic to the point of Latitude 9° 51' South, Longitude 144° 44' East;

(20) thence south-easterly along the geodesic to the point of Latitude 12° 20' South, Longitude 146° 30' East;

(21) thence south-easterly along the geodesic to the point of Latitude 12° 38' 30" South, Longitude 147° 08' 30" East;

(22) thence south-easterly along the geodesic to the point of Latitude 12° 56' 23" South, Longitude 147° 40' East;

(23) thence south along the meridian of Longitude 147° 40' East to its intersection by the parallel of Latitude 14° South;

(24) thence west along that parallel to its intersection by the meridian of Longitude 146° 55' East;

(25) thence south along that meridian to its intersection by the parallel of Latitude 17° 05' South;

(26) thence east along that parallel to its intersection by the meridian of Longitude 147° 45' East;

(27) thence south along that meridian to its intersection by the parallel of Latitude 18° 30' South;

(28) thence east along that parallel to its intersection by the meridian of Longitude 150° 50' East;

(29) thence south along that meridian to its intersection by the parallel of Latitude 20° South;

(30) thence east along that parallel to its intersection by the meridian of Longitude 151° 30' East;

(31) thence south along that meridian to its intersection by the parallel of Latitude 20° 25' South;

(32) thence east along that parallel to its intersection by the meridian of Longitude 153° 05' East;

(33) thence south along that meridian to its intersection by the parallel of Latitude 22° 50' South;

(34) thence east along that parallel to its intersection by the meridian of Longitude 153° 40' East;

(35) thence south along that meridian to its intersection by the parallel of Latitude 23° 15' South;

(36) thence east along that parallel to its intersection by the meridian of Longitude 154° East;

(37) thence south along that meridian to its intersection by the parallel of Latitude 23° 50' South;

(38) thence east along that parallel to its intersection by the meridian of Longitude 155° 15' East;

(39) thence south along that meridian to its intersection by the parallel of Latitude 25° South;

(40) thence east along that parallel to its intersection by the meridian of Longitude 158° 32' 47" East;

(41) thence south-easterly along the geodesic to the point of Latitude 25° 08' 54" South, Longitude 158° 36' 36" East;

(42) thence south-easterly along the geodesic to the point of Latitude 26° 26' 36" South, Longitude 163° 43' 27" East;

(43) thence north-easterly along the geodesic to the point of Latitude 26° 13' 33" South, Longitude 165° 40' East;

(44) thence south along the meridian of Longitude 165° 40' East, to its intersection by the parallel of Latitude 26° 59' 05" South;

(45) thence south-westerly along the geodesic to the point of Latitude 27° 48' South, Longitude 154° 22' East;

(46) thence south-westerly along the geodesic to the point of Latitude 27° 58' South, Longitude 154° East;

(47) thence south-westerly along the geodesic between the last-mentioned point and the trigonometrical station known as Point Danger near Point Danger to its intersection by the coastline at mean low water; and

(48) thence along the coastline of the State of Queensland at mean low water to the point of commencement.”.

PART IX—AMENDMENTS OF THE QUARANTINE ACT 1908

Principal Act

25. The *Quarantine Act 1908*⁸ is in this Part referred to as the Principal Act.

Interpretation

26. Section 5 of the Principal Act is amended—

(a) by inserting after the definition of “Animal” in sub-section (1) the following definition:

“‘Area in the vicinity of the Protected Zone’ means an area in respect of which a notice is in force under sub-section (8);”;

(b) by inserting after the definition of “Pratique” in sub-section (1) the following definitions:

“‘Protected Zone’ means the zone established under Article 10 of the Torres Strait Treaty, being the area bounded by the line described in Annex 9 to that treaty;

“‘Protected Zone vessel’ means a vessel of a kind used in navigation by sea that is owned or operated by a traditional inhabitant;”;

(c) by inserting after the definition of “Quarantine Officer” in sub-section (1) the following definitions:

“‘Torres Strait Treaty’ means the Treaty between Australia and the Independent State of Papua New Guinea that was signed at Sydney on 18 December 1978;

“‘Traditional activities’ has the same meaning as in the Torres Strait Treaty;

“‘Traditional inhabitants’ has the same meaning as in the *Torres Strait Fisheries Act 1984*;”;

(d) by adding at the end thereof the following sub-sections:

“(8) The Minister may, by notice published in the *Gazette*, declare an area adjacent to the Protected Zone to be an area in the vicinity of the Protected Zone for the purposes of this Act.

“(9) A vessel that enters a part of Australia that is in the Protected Zone or in an area in the vicinity of the Protected Zone shall not be taken to be a Protected Zone vessel if the vessel had, at any time during the period of 3 months ending on the day on which the vessel so entered Australia, voyaged to or from a place (other than a place in Australia) that is outside—

- (a) the Protected Zone; and
- (b) any area in the vicinity of the Protected Zone.”.

Proclamation of ports of entry, &c.

27. Section 13 of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(4) Where there is in force a Proclamation (in this sub-section referred to as the ‘relevant Proclamation’) under sub-section (1) (whether made before or after the commencement of this sub-section) prohibiting the importation into Australia of any articles, animals or plants, the Governor-General may, by Proclamation (in this sub-section referred to as the ‘exempting Proclamation’), either generally or subject to such conditions or restrictions as are specified in the exempting Proclamation, exempt from the operation of the relevant Proclamation articles, animals or plants of a kind specified in the exempting Proclamation, being articles, animals or plants that—

- (a) are brought into a part of Australia that is in the Protected Zone or in an area in the vicinity of the Protected Zone on board a Protected Zone vessel; and
- (b) are owned by, or are under the control of, a traditional inhabitant who is on board that vessel and have been used, are being used or are intended to be used by him in connection with the performance of traditional activities in the Protected Zone or in an area in the vicinity of the Protected Zone.

“(5) A Proclamation made under sub-section (1) may, either generally or subject to such conditions or restrictions as are specified in the Proclamation, exempt from the operation of the Proclamation any articles, animals or plants specified in the Proclamation, being articles, animals or plants in respect of which an exemption may be granted under sub-section (4).”.

28. After section 14 of the Principal Act the following section is inserted:

Exemptions pursuant to Torres Strait Treaty

“14A. (1) Without limiting the power of the Governor-General to grant exemptions under section 14, the Minister may, by notice published in the *Gazette*, exempt, subject to such conditions (if any) as are specified in the notice, from all of the provisions of this Act or the regulations or from so many of those provisions as are specified in the notice—

- (a) any Protected Zone vessel that enters a part of Australia that is in the Protected Zone or in an area in the vicinity of the Protected Zone, being a vessel—
 - (i) on board which there is at least one traditional inhabitant who is entering that part of Australia in connection with the performance of traditional activities in the Protected Zone or in an area in the vicinity of the Protected Zone; and

- (ii) no person on board which is a person other than—
 - (A) a person referred to in sub-paragraph (i); or
 - (B) an employee of the Commonwealth, of Queensland or of Papua New Guinea or of an authority of the Commonwealth, of Queensland or of Papua New Guinea who is entering that part of Australia in connection with the performance of his duties;
- (b) persons on board a vessel of the kind referred to in paragraph (a); or
- (c) goods on board a vessel of the kind referred to in paragraph (a), being goods that—
 - (i) are owned by, or are under the control of, a traditional inhabitant who is on board that vessel and have been used, are being used or are intended to be used by him in connection with the performance of traditional activities in the Protected Zone or in an area in the vicinity of the Protected Zone; or
 - (ii) are the personal belongings of a person referred to in sub-paragraph (a) (ii).

“(2) An exemption granted under sub-section (1) has effect only while the vessels, persons or goods in respect of which the exemption was granted remain in the Protected Zone or in an area in the vicinity of the Protected Zone.”.

PART X—AMENDMENT OF THE WILDLIFE PROTECTION (REGULATION OF EXPORTS AND IMPORTS) ACT 1982

Principal Act

29. The *Wildlife Protection (Regulation of Exports and Imports) Act 1982*⁹ is in this Part referred to as the Principal Act.

30. After section 8 of the Principal Act the following section is inserted:

Act not to apply to certain specimens used by traditional inhabitants

“8A. (1) In this section—

‘area in the vicinity of the Protected Zone’ means an area in respect of which a notice is in force under sub-section (2);

‘Australian place’ means a place in Australia that is in the Protected Zone or in an area in the vicinity of the Protected Zone;

‘Papua New Guinea place’ means a place in Papua New Guinea that is in the Protected Zone or in an area in the vicinity of the Protected Zone;

‘prescribed specimen’ means a specimen of a kind specified in a notice in force under sub-section (3);

‘Protected Zone’ means the zone established under Article 10 of the Torres Strait Treaty, being the area bounded by the line described in Annex 1 to that treaty;

‘Torres Strait Treaty’ means the Treaty between Australia the Independent State of Papua New Guinea that was signed at Sydney on 18 December 1978;

‘traditional activities’ has the same meaning as in the Torres Strait Treaty;

‘traditional inhabitants’ has the same meaning as in the *Torres Strait Fisheries Act 1984*.

“(2) The Minister may, by notice published in the *Gazette*, declare an area adjacent to the Protected Zone to be an area in the vicinity of the Protected Zone for the purposes of this section.

“(3) The Minister may, by notice published in the *Gazette*, declare that a specimen of a kind specified in the notice is a prescribed specimen for the purposes of this section.

“(4) For the purposes of this Act, where a prescribed specimen that is owned by, or is under the control of, a traditional inhabitant and that has been used, is being used or is intended to be used by him in connection with the performance of traditional activities in the Protected Zone or in an area in the vicinity of the Protected Zone, is—

(a) brought to an Australian place from a Papua New Guinea place; or

(b) taken from an Australian place to a Papua New Guinea place,

then, subject to sub-section (5), that specimen—

(c) in the case where the specimen is brought into Australia as mentioned in paragraph (a)—shall be taken not to have been imported into Australia; and

(d) in the case where the specimen is taken from Australia as mentioned in paragraph (b)—shall be taken not to have been exported from Australia.

“(5) Where—

(a) a prescribed specimen that has been brought into Australia is, under sub-section (4), taken not to have been imported into Australia; and

(b) that prescribed specimen is brought to a place in Australia that is not in the Protected Zone or in an area in the vicinity of the Protected Zone,

the prescribed specimen shall be taken to have been imported into Australia upon being brought to the place referred to in paragraph (b).”.

NOTES

1. No. 149, 1968, as amended. For previous amendments, see No. 219, 1973; No. 91, 1976; No. 100, 1978; No. 155, 1979; Nos. 70 and 94, 1980; No. 182, 1981; and No. 80, 1982.
2. No. 6, 1901, as amended. For previous amendments, see No. 21, 1906; Nos. 9 and 36, 1910; No. 19, 1914; No. 10, 1916; No. 41, 1920; No. 19, 1922; No. 12, 1923; No. 22, 1925; No. 6, 1930; Nos. 7 and 45, 1934; No. 7, 1935; No. 85, 1936; No. 54, 1947; No. 45, 1949; Nos. 56 and 80, 1950; No. 56, 1951; No. 108, 1952; No. 47, 1953; No. 66, 1954; No. 37, 1957; No. 54, 1959; Nos. 42 and 111, 1960; No. 48, 1963; Nos. 29, 82 and 133,

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1965; No. 28, 1966; No. 54, 1967; Nos. 14 and 104, 1968; Nos. 12 and 134, 1971; No. 162, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 28 and 120, 1974; Nos. 56, 77 and 107, 1975; Nos. 41, 91 and 174, 1976; No. 154, 1977; Nos. 36 and 183, 1978; Nos. 19, 92, 116, 155, 177 and 180, 1979; Nos. 13, 15, 110 and 171, 1980; Nos. 45, 61, 67, 152 and 157, 1981; No. 64, 1981 (as amended by No. 51, 1982); Nos. 48, 51, 80, 108, 115 and 137, 1982; No. 81, 1982 (as amended by No. 39, 1983); and Nos. 19 and 39, 1983.

3. No. 113, 1982, as amended. For previous amendments, see No. 32, 1983.
4. No. 7, 1952, as amended. For previous amendments, see No. 3, 1953; No. 4, 1956; No. 48, 1959; No. 93, 1966; No. 116, 1967; No. 150, 1968; No. 93, 1970; No. 218, 1973 (as amended by No. 7, 1974); No. 3, 1975; No. 91, 1976; No. 99, 1978; No. 155, 1979; Nos. 70, 86 and 93, 1980; No. 181, 1981; and No. 80, 1982.
5. No. 190, 1976, as amended. For previous amendments, see No. 19, 1979; No. 88, 1980; and No. 61, 1981.
6. No. 62, 1958, as amended. For previous amendments, see No. 87, 1964; No. 10, 1966; Nos. 16 and 216, 1973; No. 91, 1976; Nos. 117 and 118, 1979; Nos. 89 and 175, 1980; No. 61, 1981; and No. 51, 1982.
7. No. 118, 1967, as amended. For previous amendments, see No. 1, 1968; No. 36, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 57, 1974; No. 80, 1980 (as amended by Nos. 79 and 176, 1981); No. 79, 1981; and No. 80, 1982.
8. No. 3, 1908, as amended. For previous amendments, see No. 15, 1912; No. 42, 1915; No. 47, 1920; No. 30, 1924; Nos. 19 and 92, 1947; No. 80, 1950; No. 61, 1961; No. 12, 1966; No. 1, 1969; No. 216, 1973 (as amended by No. 20, 1974); Nos. 1, 105 and 155, 1979; No. 70, 1980; No. 54, 1981; and No. 51, 1982.
9. No. 149, 1982.