

2004-2005-2006

The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

**Environment and Heritage Legislation
Amendment (Antarctic Seals and Other
Measures) Bill 2006**

No. , 2006

(Environment and Heritage)

**A Bill for an Act to amend legislation relating to
environment and heritage, and for related purposes**

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1 **A Bill for an Act to amend legislation relating to**
2 **environment and heritage, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Environment and Heritage*
6 *Legislation Amendment (Antarctic Seals and Other Measures) Act*
7 2006.

8 **2 Commencement**

9 (1) Each provision of this Act specified in column 1 of the table
10 commences, or is taken to have commenced, in accordance with
11 column 2 of the table. Any other statement in column 2 has effect
12 according to its terms.
13

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	
3. Schedule 2, item 1	Immediately after the commencement of section 7 of the <i>Water Efficiency Labelling and Standards Act 2005</i> .	18 March 2005
4. Schedule 2, item 2	The day on which this Act receives the Royal Assent.	

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Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

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(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

7

3 Schedule(s)

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11

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

1
2 **Schedule 1—Amendments**

3 **Part 1—Amendments**

4 *Antarctic Treaty (Environment Protection) Act 1980*

5 **1 Subsection 3(1) (definition of *animal*)**

6 Repeal the definition, substitute:

7 *animal* includes:

- 8 (a) a native bird, a native invertebrate and a native seal; and
9 (b) an egg, part of an egg and an eggshell; and
10 (c) a dead animal and part of a dead animal (but not something
11 manufactured from a dead animal or from part of a dead
12 animal).

13 **2 Subsection 3(1)**

14 Insert:

15 *disturb* an animal means cause a change in the animal's behaviour
16 otherwise than by physical contact with the animal.

17 **3 Subsection 3(1)**

18 Insert:

19 *interfere* has a meaning affected by subsection (7).

20 **4 Subsection 3(1) (definition of *native bird*)**

21 Repeal the definition, substitute:

22 *native bird* means:

- 23 (a) a member, at any stage of its life cycle (including an egg, part
24 of an egg and an eggshell), of any species of bird that is
25 indigenous to the Antarctic; or
26 (b) a dead bird, or any part of a dead bird, of any species referred
27 to in paragraph (a).

28 **5 Subsection 3(1) (definition of *native mammal*)**

29 Repeal the definition.

1 **6 Subsection 3(1)**

2 Insert:

3 *native seal* means:

- 4 (a) a member, at any stage of its life cycle, of any species of seal
5 that is indigenous to the Antarctic; or
6 (b) a dead seal, or any part of a dead seal, of a species mentioned
7 in paragraph (a).

8 **7 Subsection 3(1) (paragraph (b) of the definition of**
9 ***recognised foreign authority*)**

10 Repeal the paragraph, substitute:

11 (b) either:

- 12 (i) has been issued, given or made by a Party (other than
13 Australia) to the Madrid Protocol that has accepted
14 under that Protocol the same obligations as Australia in
15 relation to the carrying on of that activity in the
16 Antarctic; or
17 (ii) has been issued, given or made by a Party (other than
18 Australia) to the Seals Convention that has accepted
19 under that Convention the same obligations as Australia
20 in relation to the carrying on of that activity in the
21 Antarctic.

22 **8 Subsection 3(1) (definition of *specially protected species*)**

23 Omit “mammal”, substitute “seal”.

24 **9 Subsection 3(1) (definition of *take*)**

25 Omit “mammal”, substitute “seal”.

26 **10 Subsection 3(1) (definition of *whale*)**

27 Repeal the definition.

28 **11 At the end of section 3**

29 Add:

- 30 (6) Except so far as the contrary intention appears, an expression that
31 is used in both this Act and in the Seals Convention (whether or
32 not a particular meaning is assigned to it by that Convention) has,
33 in this Act, the same meaning as in the Convention.

1 (7) A reference in this Act to otherwise interfering with, or causing
2 other interference with, an animal does not include a reference to
3 disturbing the animal.

4 Note: *Disturb* is defined in subsection (1).

5 **12 Subsections 7C(1) and (2)**

6 Omit “mammal”, substitute “seal”.

7 **13 Subsection 9(1)**

8 Repeal the subsection, substitute:

9 (1) On application to the Minister in the prescribed form (or, if no
10 form is prescribed, in a form approved by the Minister), the
11 Minister may grant a person a permit in writing authorising the
12 person, and any other person named in the permit, to carry on,
13 during a specified period, one or more of the activities specified in
14 the permit.

15 (1AA) The activities that may be authorised by a permit are the following:

- 16 (a) an activity that has a result mentioned in paragraph
17 19(1A)(b);
18 (b) an activity mentioned in paragraph 19(1)(b);
19 (c) an activity mentioned in paragraph 19(1)(c);
20 (d) an activity mentioned in paragraph 19(1)(d);
21 (e) an activity mentioned in subsection 19(2) (other than
22 paragraph (g));
23 (f) an activity mentioned in paragraphs 19AA(1)(a) and (b);
24 (g) an activity mentioned in paragraph 19AA(2)(a), if the rock or
25 meteorite is to be gathered or collected in the Antarctic;
26 (h) an activity mentioned in paragraph 19AB(a), if the seal, bird
27 or plant is a native seal, native bird or native plant.

28 (1AB) Subsection (1) is subject to this section and to section 10.

29 (1AC) The Minister may grant a permit under subsection (1) subject to
30 such conditions as the Minister thinks fit.

31 **14 Subsection 9(2)**

32 Repeal the subsection, substitute:

- 1 (2) In deciding whether to grant a permit, and in determining the
2 conditions and limitations to which a permit is to be subject, the
3 Minister must have regard to:
4 (a) the purposes and principles of the Madrid Protocol; and
5 (b) if the decision could affect a seal in seas to which the Seals
6 Convention applies—the purposes and principles of the Seals
7 Convention.

8 **15 After section 9**

9 Insert:

10 **9A Authorities under permits**

- 11 (1) A person who is a principal under a permit (see subsection (6))
12 may authorise, as necessary, other persons to accompany one or
13 more of the principals under that permit in carrying on activities
14 authorised by the permit.
- 15 (2) A principal must not authorise a person under subsection (1)
16 unless:
17 (a) the permit contains a condition allowing principals to do so;
18 and
19 (b) the authorisation is given in accordance with any
20 requirements set out in that condition and any other
21 conditions contained in the permit.
- 22 (3) A person authorised to accompany principals under a permit must
23 comply with the conditions of the permit.
- 24 (4) Subject to subsection (3), a permit is, for the purposes of this Act,
25 taken to authorise the carrying on by a person authorised under
26 subsection (1) of any activity specified in the permit.
- 27 (5) The authorisation of a person under subsection (1) does not prevent
28 a principal under that permit from carrying on any activities.
- 29 (6) In this section:
- 30 *principal*, under a permit, means a person:
31 (a) to whom the permit was granted under subsection 9(1); or
32 (b) who is named in the permit.

1 **16 Subsection 10(1)**

2 Omit “mammal”, substitute “seal”.

3 **17 Subparagraph 10(1)(a)(i)**

4 Omit “mammals”, substitute “seals”.

5 **18 Subparagraph 10(1)(a)(i)**

6 After “or taken”, insert “from local populations”.

7 **19 At the end of subparagraph 10(1)(a)(ii)**

8 Add “and”.

9 **20 Subparagraphs 10(1)(b)(i) and (ii)**

10 Repeal the subparagraphs, substitute:

- 11 (i) if the permit relates to native birds—the construction
12 and operation of scientific support facilities; or
13 (ii) if the permit relates to native birds or native seals—
14 providing specimens for scientific research, public
15 education (including display in museums, zoological
16 gardens or other educational or cultural institutions) or
17 such other educational or cultural purposes as the
18 Minister thinks fit; or
19 (iii) if the permit relates to native birds—monitoring or
20 conserving the environment or an historic site or
21 monument; or
22 (iv) if the permit relates to native birds—providing for
23 unavoidable consequences of scientific activities not
24 authorised under subparagraph (ii); and

25 **21 Subsection 10(1A)**

26 Omit “mammal” (wherever occurring), substitute “seal”.

27 **22 Paragraph 10(1B)(a)**

28 Omit “native animals”, substitute “native seals, native birds, native
29 invertebrates”.

30 **23 Subparagraphs 10(1B)(b)(i) and (ii)**

31 Omit “; and”, substitute “; or”.

1 **24 At the end of paragraph 10(1B)(b)**

2 Add:

- 3 (iii) monitoring or conserving the environment or an historic
4 site or monument; or
5 (iv) providing for unavoidable consequences of scientific
6 activities not authorised under subparagraph (ii); and

7 **25 After subsection 10(1B)**

8 Insert:

9 (1C) A permit authorising a person to gather or collect a meteorite, or to
10 remove a rock or a meteorite, must be expressed so as to ensure, as
11 far as possible, that the activities authorised by the permit will be
12 carried on only to the extent that they are necessary for providing
13 specimens for scientific research, public education (including
14 display in museums or other educational or cultural institutions) or
15 such other educational or cultural purposes as the Minister thinks
16 fit.

17 (1D) A permit authorising a person to bring into the Antarctic a native
18 seal, native bird or native plant must be expressed so as to ensure,
19 as far as possible, that the person takes all reasonable precautions
20 to prevent the introduction of micro-organisms not present in the
21 Antarctic.

22 **26 Subsection 12(2)**

23 Repeal the subsection, substitute:

- 24 (2) In deciding whether to vary or revoke any of the conditions of a
25 permit or to impose further conditions, the Minister must have
26 regard to:
27 (a) the purposes and principles of the Madrid Protocol; and
28 (b) if the decision could affect a seal in seas to which the Seals
29 Convention applies—the purposes and principles of the Seals
30 Convention.

31 **27 Subsections 12N(1), (2) and (3)**

32 Omit “the regulations”, substitute “section 12PA”.

33 **28 Subsection 12N(4)**

1 After “90 days”, insert “after the day on which the suspension takes
2 effect”.

3 **29 At the end of section 12N**

4 Add:

5 (6) A variation, suspension or revocation done at the request of the
6 person authorised to carry on an activity takes effect:

7 (a) at the time notice of the variation, suspension or revocation is
8 given; or

9 (b) at any later time specified in the notice.

10 (7) A variation, suspension or revocation not done at the request of the
11 person authorised to carry on an activity takes effect:

12 (a) if the Minister considers that irreversible environmental
13 damage would be likely to occur if the variation, suspension
14 or revocation did not take effect immediately—at the time
15 notice of the variation, suspension or revocation is given; or

16 (b) at the start of the 14th day after the day on which notice of
17 the variation, suspension or revocation is given or at any later
18 time specified in the notice.

19 (8) Notice of a variation, suspension or revocation given under this
20 section must state when the variation, suspension or revocation is
21 to take effect.

22 (9) A failure to comply with subsection (8) does not invalidate a
23 notice.

24 **30 Section 12P**

25 Before “If”, insert “(1)”.

26 **31 Section 12P**

27 Omit “the regulations”, substitute “section 12PA”.

28 **32 At the end of section 12P**

29 Add:

30 (2) A variation, revocation or imposition done at the request of the
31 person authorised to carry on an activity takes effect:

- 1 (a) at the time notice of the variation, revocation or imposition is
2 given; or
3 (b) at any later time specified in the notice.
- 4 (3) A variation, revocation or imposition not done at the request of the
5 person authorised to carry on an activity takes effect:
6 (a) if the Minister considers that irreversible environmental
7 damage would be likely to occur if the variation, revocation
8 or imposition did not take effect immediately—at the time
9 notice of the variation, revocation or imposition is given; or
10 (b) at the start of the 14th day after the day on which notice of
11 the variation, suspension or revocation is given or at any later
12 time specified in the notice.
- 13 (4) Notice of a variation, revocation or imposition given under this
14 section must state when the variation, revocation or imposition is
15 to take effect.
- 16 (5) A failure to comply with subsection (4) does not invalidate a
17 notice.

18 **33 After section 12P**

19 Insert:

20 **12PA Method of giving notice of variations etc.**

- 21 For the purposes of subsections 12N(1), (2) and (3) and 12P(1), the
22 method by which notice must be given is:
23 (a) in writing to the proponent of the activity covered by the
24 authorisation to which the notice relates; or
25 (b) by a message transmitted by radio, telephone or other
26 electronic means to the proponent of the activity covered by
27 the authorisation to which the notice relates; or
28 (c) by notice published in the *Gazette*.

29 **34 Subsection 15(3)**

30 Omit “\$100”, substitute “1 penalty unit”.

31 **35 At the end of subsection 17(4)**

32 Add:

1 ; and (c) require any person whom he or she finds doing, or whom he
2 or she reasonably suspects of having done, an activity in
3 respect of which the person is required to be authorised under
4 Part 3 to produce such an authorisation or evidence of the
5 existence and content of such an authorisation.

6 **36 Subsection 17(7)**

7 Repeal the subsection, substitute:

8 (7) A person commits an offence if:

9 (a) an inspector makes a requirement of the person under this
10 section; and

11 (b) the person fails to comply with the requirement.

12 Penalty: 10 penalty units.

13 **37 Subsection 17(7B)**

14 Repeal the subsection (including the note).

15 **38 Subparagraphs 19(1A)(b)(i), (ii) and (iii)**

16 Omit “mammal”, substitute “seal”.

17 **39 After subparagraph 19(1A)(b)(iii)**

18 Insert:

19 (iia) disturbs a native bird or native seal; or

20 **40 Subsection 19(1A) (penalty)**

21 Repeal the penalty, substitute:

22 Penalty: Imprisonment for 2 years or 120 penalty units, or both.

23 **41 At the end of paragraph 19(1)(b)**

24 Add “or”.

25 **42 Paragraph 19(1)(c)**

26 After “bring into”, insert “, or keep in,”.

27 **43 At the end of paragraph 19(1)(c)**

28 Add “or”.

- 1 **44 Paragraph 19(1)(caa)**
2 Repeal the paragraph, substitute:
3 (caa) bring a dog into the Antarctic or, being the owner of a dog,
4 allow it to remain in the Antarctic; or
- 5 **45 At the end of paragraph 19(1)(cb)**
6 Add “or”.
- 7 **46 Paragraph 19(1)(e)**
8 Omit “the area;”, substitute “the area.”.
- 9 **47 Subsections 19(1) and (1B) (penalty)**
10 Repeal the penalty, substitute:
11 Penalty: Imprisonment for 2 years or 120 penalty units, or both.
- 12 **48 Paragraph 19(2)(a)**
13 After “of birds”, insert “or of seals”.
- 14 **49 At the end of paragraph 19(2)(a)**
15 Add “or”.
- 16 **50 Paragraph 19(2)(b)**
17 After “of birds”, insert “or of seals”.
- 18 **51 At the end of paragraph 19(2)(b)**
19 Add “or”.
- 20 **52 Paragraph 19(2)(c)**
21 After “of birds”, insert “or of seals”.
- 22 **53 At the end of paragraph 19(2)(c)**
23 Add “or”.
- 24 **54 Paragraph 19(2)(d)**
25 After “of birds”, insert “or of seals”.
- 26 **55 At the end of paragraph 19(2)(d)**
27 Add “or”.
-

1 **56 Paragraph 19(2)(e)**

2 Repeal the paragraph, substitute:

3 (e) while on foot, disturb a concentration of birds or of seals; or

4 **57 Subparagraph 19(2)(ea)(i)**

5 Omit “animal”, substitute “seal”.

6 **58 Subparagraph 19(2)(ea)(ii)**

7 Omit “animals”, substitute “seals”.

8 **59 At the end of paragraph 19(2)(ea)**

9 Add “or”.

10 **60 Subsection 19(2) (penalty)**

11 Repeal the penalty, substitute:

12 Penalty: Imprisonment for 2 years or 120 penalty units, or both.

13 **61 At the end of paragraphs 19(3)(a),(b) and (ba)**

14 Add “or”.

15 **62 Paragraph 19(3)(c)**

16 Omit “except in the case of action of a kind referred to in
17 paragraph (1)(caa), (1)(ca), (1)(cb), (1)(e), (1)(f), (1)(g) or (2)(g)—”.

18 **63 Paragraph 19(3)(d)**

19 Omit “establishment, supply or operation of a station”, substitute
20 “construction or operation of a scientific support facility”.

21 **64 Subsection 19(4) (definition of *concentration*)**

22 Repeal the definition, substitute:

23 *concentration:*

24 (a) of birds, means a group of more than 20 birds; or

25 (b) of seals, means a group of more than 20 seals.

26 **65 Subsection 19(4) (definition of *permit*)**

27 Repeal the definition.

1 **66 After section 19**

2 Insert:

3 **19AA Offences relating to rocks and meteorites**

- 4 (1) A person commits an offence if:
5 (a) the person gathers or collects a meteorite; and
6 (b) the person does so in the Antarctic; and
7 (c) the person does not gather or collect the meteorite in
8 accordance with a permit.

9 Penalty: Imprisonment for 2 years or 120 penalty units, or both.

- 10 (2) A person commits an offence if:
11 (a) the person removes a rock or a meteorite from the Antarctic;
12 and
13 (b) the rock or meteorite was gathered or collected in the
14 Antarctic (whether or not by the person); and
15 (c) the person does not remove the rock or meteorite in
16 accordance with a permit.

17 Penalty: Imprisonment for 2 years or 120 penalty units, or both.

18 **19AB Offence relating to return of indigenous species**

- 19 A person commits an offence if:
20 (a) the person brings into the Antarctic a seal, bird or plant; and
21 (b) the seal, bird or plant is a native seal, a native bird or a native
22 plant; and
23 (c) the person does not bring the seal, bird or plant into the
24 Antarctic in accordance with a permit.

25 Penalty: Imprisonment for 2 years or 120 penalty units, or both.

26 **67 Section 19A**

27 Before “A person”, insert “(1)”.

28 **68 Section 19A (penalty)**

29 Repeal the penalty, substitute:

1 Penalty: Imprisonment for 16 years or 1,000 penalty units, or
2 both.

3 **69 At the end of section 19A**

4 Add:

5 (2) Subsection (1) does not apply to a mining activity if the activity is
6 the gathering or collecting of a meteorite, or the removal of a rock
7 or meteorite, in accordance with a permit.

8 Note: The defendant bears an evidential burden in relation to the matters in
9 subsection (2). See subsection 13.3(3) of the *Criminal Code*.

10 **70 Section 19B**

11 Before “An Australian”, insert “(1)”.

12 **71 Section 19B (penalty)**

13 Repeal the penalty, substitute:

14 Penalty: Imprisonment for 16 years or 1,000 penalty units, or
15 both.

16 **72 Paragraph 19B(b)**

17 Omit “19A(b)”, substitute “19A(1)(b)”.

18 **73 At the end of section 19B**

19 Add:

20 (2) Subsection (1) does not apply to a mining activity if the activity is
21 the gathering or collecting of a meteorite, or the removal of a rock
22 or meteorite, in accordance with a permit.

23 Note: The defendant bears an evidential burden in relation to the matters in
24 subsection (2). See subsection 13.3(3) of the *Criminal Code*.

25 **74 Paragraph 19C(3)(a)**

26 Omit “\$10,000”, substitute “100 penalty units”.

27 **75 Paragraph 19C(3)(b)**

28 Omit “\$50,000”, substitute “500 penalty units”.

29 **76 Paragraph 20(1)(a)**

1 After “the person”, insert “(including a provision of a condition that is
2 applicable to the person because of subsection 9A(3))”.

3 **77 Subsection 20(1) (penalty)**

4 Repeal the penalty, substitute:

5 Penalty: Imprisonment for 1 year or 60 penalty units, or both.

6 **78 Subsection 21(1)**

7 Repeal the subsection, substitute:

8 (1) A person who does an act mentioned in subsection (1AA) in
9 accordance with a permit must notify the Minister or an authorised
10 officer, in the prescribed form (or, if no form is prescribed, in a
11 form approved by the Minister), that the person has done the act, as
12 soon as practicable after doing the act.

13 Penalty: 60 penalty units.

14 (1AA) The acts that must be notified under subsection (1) are the
15 following:

16 (a) an act that has a result mentioned in paragraph 19(1A)(b);

17 (b) an act mentioned in paragraph 19(1)(b);

18 (c) an act mentioned in paragraph 19(1)(d).

19 **79 Subsection 21(2)**

20 Omit “*authorized*”, substitute “*authorised*”.

21 **80 After section 21**

22 Insert:

23 **21AA Giving information about act done in emergency situation**

24 (1) A person who, in an emergency:

25 (a) to save a person from death or serious injury; or

26 (b) to secure the safety of a ship or aircraft or the safety of
27 equipment or facilities of high value; or

28 (c) to protect the environment;

29 does an act mentioned in subsection (2), and does so other than in
30 accordance with a permit or a recognised foreign authority, must

1 notify the Minister or an authorised officer that the person has done
2 the act, before the end of the 30th day after the act was done.

3 Penalty: 60 penalty units.

4 (2) The acts that must be notified under subsection (1) are the
5 following:

6 (a) an act that has a result mentioned in paragraph 19(1A)(b);

7 (b) an act mentioned in subsection 19(1);

8 (c) an act mentioned in subsection 19(2).

9 (3) Subsection (1) does not apply if:

10 (a) it is not possible for the person to notify the Minister or an
11 authorised officer of the act before the end of the 30th day
12 after the act was done; and

13 (b) the person notifies the Minister or an authorised officer of the
14 act as soon as practicable after that day.

15 Note: The defendant bears an evidential burden in relation to the matters in
16 subsection (3). See subsection 13.3(3) of the *Criminal Code*.

17 (4) Strict liability applies to subsection (1).

18 Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

19 (5) In this section:

20 *authorised officer* means a person authorised by the Minister, by
21 notice published in the *Gazette*, for the purposes of this section.

22 **21AB Giving further information about act done in emergency** 23 **situation**

24 (1) A person who, in an emergency:

25 (a) to save a person from death or serious injury; or

26 (b) to secure the safety of a ship or aircraft or the safety of
27 equipment or facilities of high value; or

28 (c) to protect the environment;

29 does an act mentioned in subsection 21A(2), and does so other than
30 in accordance with a permit or a recognised foreign authority,
31 must, before the end of the 60th day after the day on which the act
32 was done, give a written report to the Minister or an authorised
33 officer, in the prescribed form (or if no form is prescribed, in the
34 form approved by the Minister):

- 1 (d) describing the action; and
2 (e) explaining why the action was taken.

3 Penalty: 60 penalty units.

4 (2) Subsection (1) does not apply if:

- 5 (a) it is not possible for the person to give the written report to
6 the Minister or an authorised officer before the end of the
7 60th day after the act was done; and
8 (b) the person gives the written report to the Minister or an
9 authorised officer as soon as practicable after that day.

10 Note: The defendant bears an evidential burden in relation to the matters in
11 subsection (2). See subsection 13.3(3) of the *Criminal Code*.

12 (3) Strict liability applies to subsection (1).

13 Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

14 (4) In this section:

15 *authorised officer* means a person authorised by the Minister, by
16 notice published in the *Gazette*, for the purposes of this section.

17 **81 Subsection 21A(2)**

18 Repeal the subsection, substitute:

19 (2) A person commits an offence if:

- 20 (a) the person carries on an activity; and
21 (b) the person does so in the Antarctic; and
22 (c) the person is not authorised by the Minister under Part 3 to
23 carry on the activity.

24 Penalty: Imprisonment for 7 years or 420 penalty units, or both.

25 **82 Subsection 21A(3)**

26 Repeal the subsection, substitute:

27 (3) A person commits an offence if:

- 28 (a) the Minister authorised the person under Part 3 to carry on an
29 activity in the Antarctic subject to a condition being complied
30 with; and
31 (b) the person carries on the activity; and

1 (c) the person does so without the condition being complied
2 with.

3 Penalty: Imprisonment for 2 years or 120 penalty units, or both.

4 **83 Subsections 21A(5), (6) and (7)**

5 Repeal the subsections.

6 **84 After subsection 28(1)**

7 Insert:

8 (1A) The Administrative Appeals Tribunal must not make an order
9 under subsection 41(2) of the *Administrative Appeals Tribunal Act*
10 *1975* staying, or otherwise affecting the operation or
11 implementation, of:

12 (a) a decision under subsection 12N(1) or (3) to which paragraph
13 12N(7)(a) applies; or

14 (b) a decision under subsection 12P(1) to which paragraph
15 12P(3)(a) applies.

16 **85 Subsection 28(2)**

17 Omit “subsection (1)”, substitute “this section”.

18 **86 Paragraph 29(1)(b)**

19 Repeal the paragraph.

20 **87 Paragraph 29(2)(ba)**

21 Repeal the paragraph.

22 **88 Subsection 29(5)**

23 Repeal the subsection, substitute:

24 (5) The regulations may prescribe penalties, not exceeding 50 penalty
25 units, for offences against the regulations.

1

2 **Part 2—Application, saving and transitional**
3 **provisions**

4 **89 Saving provisions relating to amendment at item 13**

5 (1) If, immediately before subsection 9(1) of the *Antarctic Treaty*
6 *(Environment Protection) Act 1980* was repealed and substituted by
7 item 13 of this Schedule, there was in force a permit granted under that
8 subsection, that permit continues in force after the repeal and
9 substitution as if it had been granted under subsection 9(1) as
10 substituted by this Act.

11 (2) Regulations that:

12 (a) prescribed a form for the purposes of subsection 9(1) of the
13 *Antarctic Treaty (Environment Protection) Act 1980*; and

14 (b) were in force immediately before that subsection was
15 repealed and substituted by item 13 of this Schedule;

16 continue to have effect after that repeal and substitution as if they had
17 been made for the purposes of that subsection as substituted by this Act.

18 (3) If, immediately before subsection 9(1) of the *Antarctic Treaty*
19 *(Environment Protection) Act 1980* was repealed and substituted by
20 item 13 of this Schedule, the Minister had approved a form for the
21 purposes of that subsection and had not revoked that approval, the
22 Minister's approval continues to have effect after the repeal and
23 substitution as if the approval had been made for the purposes of that
24 subsection as substituted by this Act.

25 **90 Saving provisions relating to amendment at item 78**

26 (1) Regulations that:

27 (a) prescribed a form for the purposes of subsection 21(1) of the
28 *Antarctic Treaty (Environment Protection) Act 1980*; and

29 (b) were in force immediately before that subsection was
30 repealed and substituted by item 78 of this Schedule;

31 continue to have effect after that repeal and substitution as if they had
32 been made for the purposes of that subsection as substituted by this Act.

33 (2) If, immediately before subsection 21(1) of the *Antarctic Treaty*
34 *(Environment Protection) Act 1980* was repealed and substituted by

1 item 78 of this Schedule, the Minister had approved a form for the
2 purposes of that subsection and had not revoked that approval, the
3 Minister's approval continues to have effect after the repeal and
4 substitution as if the approval had been given for the purposes of that
5 subsection as substituted by this Act.

6 **91 Permits granted under the Antarctic seals regulations**

7 If, at the time the amendments made by Part 1 of this Schedule
8 commence, a person holds a permit granted under the *Antarctic Seals*
9 *Conservation Regulations 1986*, that permit:

- 10 (a) is taken to be a permit granted under section 9 of the
11 *Antarctic Treaty (Environment Protection) Act 1980* as in
12 force after the commencement of this Schedule; and
13 (b) continues in force for its unexpired period unless earlier
14 varied, suspended or revoked in accordance with the
15 *Antarctic Treaty (Environment Protection) Act 1980* as in
16 force after the commencement of this Schedule.

17 **92 Applications for permits under the Antarctic seals**
18 **regulations**

19 If, at the time the amendments made by Part 1 of this Schedule
20 commence, a person has made an application for a permit under the
21 *Antarctic Seals Conservation Regulations 1986* and the Minister has not
22 yet granted or refused to grant that permit, the application is taken to
23 have been made under section 9 of the *Antarctic Treaty (Environment*
24 *Protection) Act 1980* as in force after the commencement of this
25 Schedule.

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Schedule 2—Other minor amendments

4

Water Efficiency Labelling and Standards Act 2005

5

1 Section 7 (paragraphs (b), (c) and (d) of the definition of offence against this Act)

6

7

Repeal the paragraphs, substitute:

8

(b) an offence against:

9

(i) section 6 of the *Crimes Act 1914*; or

10

(ii) section 11.1, 11.4, 11.5, 136.1, 137.1 or 137.2 of the
Criminal Code;

11

12

that relates to this Act or the regulations.

13

2 Subsection 18(2)

14

After “set out”, insert “, or incorporate by reference,”.

15