

2008-2009-2010

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Antarctic Treaty (Environment
Protection) Amendment Bill 2010**

No. , 2010

(Environment, Heritage and the Arts)

**A Bill for an Act to amend the law relating to the
protection of the Antarctic environment, and for
related purposes**

Contents

1	Short title	1
2	Commencement	1
3	Schedule(s)	2

Schedule 1—Implementation of amendments to Annex II of the Madrid Protocol	3
Part 1—Amendments	3
<i>Antarctic Treaty (Environment Protection) Act 1980</i>	3
Part 2—Application and transitional	18

1 **A Bill for an Act to amend the law relating to the**
2 **protection of the Antarctic environment, and for**
3 **related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Antarctic Treaty (Environment*
7 *Protection) Amendment Act 2010*.

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 this Act receives the Royal Assent.	
2. Schedule 1	The later of: (a) the day this Act receives the Royal Assent; and (b) the day Measure 16, adopted by the XXXIInd Antarctic Treaty Consultative Meeting at Baltimore on 17 April 2009, comes into force for Australia. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur. The Minister must announce by notice in the <i>Gazette</i> the day the Measure comes into force for Australia.	

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

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

7 **3 Schedule(s)**

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9 repealed as set out in the applicable items in the Schedule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

1
2 **Schedule 1—Implementation of amendments**
3 **to Annex II of the Madrid Protocol**

4 **Part 1—Amendments**

5 *Antarctic Treaty (Environment Protection) Act 1980*

6 **1 Subsection 3(1)**

7 Insert:

8 *organism* includes:

- 9 (a) a living organism at any stage of its life cycle; and
10 (b) an organism that was once alive, but is now dead; and
11 (c) a reproductive propagule of a living organism; and
12 (d) an article containing or infected by a virus or bacterium.

13 **2 Subsection 3(1) (definition of *specially protected species*)**

14 After “native bird”, insert “, native invertebrate”.

15 **3 Subsection 3(1) (definition of *take*)**

16 Repeal the definition, substitute:

17 *take*:

- 18 (a) in relation to a native bird or native seal—includes catch or
19 capture; and
20 (b) in relation to native plants—means to remove or damage
21 such quantities of the plants that their local distribution or
22 abundance would be significantly affected; and
23 (c) in relation to native invertebrates—means to remove or
24 damage such quantities of the invertebrates that their local
25 distribution or abundance would be significantly affected.

26 **4 Subsection 3(2)**

27 Repeal the subsection.

28 **5 Subsection 7C(1)**

29 After “native bird”, insert “, native invertebrate”.

1 **6 Subparagraph 10(1)(b)(ii)**

2 Omit “(including display in museums, zoological gardens or other
3 educational or cultural institutions) or such other educational or cultural
4 purposes”, substitute “(including display in museums or other
5 educational institutions) or such other educational purposes”.

6 Note: The following heading to subsection 10(1) is inserted “*Permits for taking etc. native*
7 *birds and native seals*”.

8 **7 After subparagraph 10(1)(b)(ii)**

9 Insert:

10 (ia) if the permit relates to native birds or native seals—
11 providing specimens for zoological gardens in cases
12 where such specimens cannot be obtained from existing
13 captive collections elsewhere or where there is a
14 compelling conservation need; or

15 **8 Subparagraph 10(1)(b)(iv)**

16 After “subparagraph (ii)”, insert “or (ia)”.

17 **9 At the end of paragraph 10(1)(c)**

18 Add:

19 ; and (iii) if the permit is to kill a native bird or native seal of that
20 species—there is no suitable alternative technique to
21 achieve the purpose for which the permit is granted.

22 **10 After subsection 10(1A)**

23 Insert:

24 *Permits for taking native invertebrates*

25 (1AA) A permit must not authorise a person to take native invertebrates
26 unless:

- 27 (a) the Minister is satisfied that the variety of species, the
28 habitats essential to their existence and the balance of the
29 natural ecological systems existing within the Antarctic will
30 be maintained; and
31 (b) the permit is so expressed as to ensure, as far as possible, that
32 the taking authorised by the permit will be carried on to the
33 extent only that it is necessary for:

- 1 (i) the construction and operation of scientific support
2 facilities; or
3 (ii) providing specimens for scientific research, public
4 education (including display in museums or other
5 educational institutions) or such other educational
6 purposes as the Minister thinks fit; or
7 (iii) providing specimens for zoological gardens; or
8 (iv) monitoring or conserving the environment or an historic
9 site or monument; or
10 (v) providing for unavoidable consequences of scientific
11 activities not authorised under subparagraph (ii) or (iii);
12 and
13 (c) in the case of a permit relating to a specially protected
14 species:
15 (i) the permit is granted for a compelling scientific
16 purpose; and
17 (ii) the Minister is satisfied that the activities authorised by
18 the permit will not jeopardise the existing ecological
19 system or the survival or recovery of that species or of
20 the local population of that species; and
21 (iii) if the permit is to kill native invertebrates of that
22 species—there is no suitable alternative technique to
23 achieve the purpose for which the permit is granted.

24 **11 Subparagraph 10(1B)(b)(ii)**

25 Omit “(including display in museums, herbaria, botanical gardens or
26 other educational or cultural institutions) or such other educational or
27 cultural purposes”, substitute “(including display in museums, herbaria,
28 botanical gardens or other educational institutions) or such other
29 educational purposes”.

30 Note: The following heading to subsection 10(1B) is inserted “*Permits for gathering etc.*
31 *native plants*”.

32 **12 At the end of paragraph 10(1B)(c)**

33 Add:

- 34 ; and (iii) if the permit is to kill (whether by collection or any
35 other action) a native plant of that species—there is no
36 suitable alternative technique to achieve the purpose for
37 which the permit is granted.

Schedule 1 Implementation of amendments to Annex II of the Madrid Protocol
Part 1 Amendments

1 Note: The following heading to subsection 10(1C) is inserted "*Permits for gathering etc.*
2 *meteorites and rocks*".

3 **13 Subsection 10(1D)**

4 Repeal the subsection.

5 **14 Paragraph 10(2)(b)**

6 Omit "that is not indigenous to the Antarctic".

7 Note: The following heading to subsection 10(2) is inserted "*Permits to bring organisms into*
8 *the Antarctic*".

9 **15 Subsection 10(3)**

10 Repeal the subsection, substitute:

11 (3) A permit must not authorise a person to bring into the Antarctic a
12 cultivated plant that is not indigenous to the Antarctic or a
13 reproductive propagule of such a plant other than for use under
14 controls that ensure that it does not escape into the Antarctic
15 environment.

16 (3A) A permit must not authorise a person to bring into the Antarctic
17 any other organism that is not indigenous to the Antarctic other
18 than for experimental use under controls that ensure that it does not
19 escape into the Antarctic environment.

20 **16 Subsection 10(4)**

21 Omit "an animal, plant, virus, bacterium, yeast or fungus that is not
22 indigenous to the Antarctic and might cause harmful interference with
23 the natural system if left unsupervised within the Antarctic", substitute
24 "an organism that is not indigenous to the Antarctic".

25 **17 Subsection 10(5)**

26 Repeal the subsection, substitute:

27 (5) A permit authorising a person to bring into the Antarctic organisms
28 that are not indigenous to the Antarctic must:

29 (a) specify:

30 (i) the number of organisms to which the permit relates;

31 and

32 (ii) the species of the organisms; and

- 1 (iii) a rationale justifying the introduction of the organisms;
2 and
3 (iv) if appropriate in the case of a permit relating to
4 animals—the age and sex of each of the animals; and
5 (b) specify as a condition of the permit that the person must take
6 all reasonable precautions to prevent any of the organisms
7 from escaping or coming in contact with fauna or flora.

8 Note: The following heading to subsection 10(6) is inserted “*Specially protected areas*”.

9 **18 Paragraph 17(1)(a)**

10 Omit “any animal, plant, virus, bacterium, yeast, fungus”, substitute
11 “any organism”.

12 **19 Subsection 18(2)**

13 Omit “any animal, plant, virus, bacterium, yeast or fungus”, substitute
14 “any organism”.

15 **20 Subparagraph 19(1A)(b)(i)**

16 Omit “, a native invertebrate”.

17 **21 Subparagraph 19(1A)(b)(ii)**

18 Omit “, a native invertebrate”.

19 **22 After subparagraph 19(1A)(b)(ii)**

20 Insert:

21 (ia) causes the taking of native invertebrates or native plants
22 in the Antarctic; or

23 **23 Subparagraph 19(1A)(b)(iii)**

24 Omit “, a native invertebrate”.

25 **24 Subparagraph 19(1A)(b)(iiia)**

26 Omit “seal; or”, substitute “seal.”.

27 **25 Subparagraph 19(1A)(b)(iv)**

28 Repeal the subparagraph.

29 **26 Paragraph 19(1)(c)**

1 Omit “an animal, plant, virus, bacterium, yeast or fungus”, substitute
2 “an organism”.

3 **27 After paragraph 19(1)(caa)**

4 Insert:
5 (cab) bring a living bird into the Antarctic; or

6 **28 Paragraph 19(2)(g)**

7 Repeal the paragraph, substitute:
8 (g) cause or permit to escape from his or her control or the
9 control of any other person an organism that is not
10 indigenous to the Antarctic and has been brought into the
11 Antarctic by virtue of a permit.

12 **29 Paragraph 19(3)(b)**

13 Omit “the animal (not being a live bird), plant, virus, bacterium, yeast
14 or fungus, as the case may be,”, substitute “the organism”.

15 **30 After section 19AB**

16 Insert:

17 **19AC Offence relating to the accidental introduction of**
18 **micro-organisms**

- 19 (1) A person commits an offence if:
20 (a) the person brings into the Antarctic an organism or an article;
21 and
22 (b) the person, by that conduct, brings into the Antarctic a
23 micro-organism that is not indigenous to the Antarctic.

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

- 25 (2) Subsection (1) does not apply if:
26 (a) the person brings the organism or article into the Antarctic
27 for use as food; or
28 (b) the person has taken all reasonable precautions to ensure that
29 a micro-organism that is not indigenous to the Antarctic is
30 not brought into the Antarctic by the conduct mentioned in
31 paragraph (1)(a); or

1 (c) the person has a permit or a recognised foreign authority to
2 bring in the micro-organism.

3 (3) Subsection (1) does not apply in relation to the conduct mentioned
4 in paragraph (1)(a) if the conduct was done in an emergency:

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

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

8 (c) to protect the environment.

9 **19AD Offences relating to bringing food into the Antarctic**

10 *Bringing live animals into the Antarctic as food*

11 (1) A person must not bring a live animal into the Antarctic for use as
12 food.

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

14 *Controls to ensure organisms brought into Antarctic as food do not* 15 *escape*

16 (2) If a person brings an organism into the Antarctic for use as food,
17 the person must put controls in place that ensure that the organism
18 does not escape into the Antarctic environment.

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

20 *Poultry and food products derived from poultry*

21 (3) A person commits an offence if:

22 (a) the person brings poultry or any other bird product that is to
23 be used as food into the Antarctic; and

24 (b) the poultry or other bird product is contaminated with
25 disease.

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

27 (4) Subsection (3) does not apply if the person has taken all reasonable
28 precautions to ensure that disease is not brought into the Antarctic
29 by the conduct mentioned in paragraph (3)(a).

1 **19AE Offence relating to destruction of organisms brought into**
2 **Antarctic without a permit**

3 (1) This section applies if:

- 4 (a) a person brings into, or keeps in, the Antarctic an organism
5 that is not indigenous to the Antarctic; and
6 (b) that conduct is not in accordance with a permit or recognised
7 foreign authority (either because the person does not have
8 one to do so or because the conduct cannot be authorised by a
9 permit or recognised foreign authority); and
10 (c) the organism poses a risk to native fauna and flora.

11 (2) The person must, as soon as is reasonably practicable after
12 bringing the organism into the Antarctic or beginning to keep it,
13 remove or destroy the organism and any progeny of the organism.

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

15 (3) Subsection (2) does not apply if:

- 16 (a) it is not feasible to remove or destroy the organism or its
17 progeny; or
18 (b) the removal or destruction of the organism or its progeny
19 would result in a greater adverse environmental impact than
20 not doing so; or
21 (c) the organism is brought into or kept in the Antarctic to be
22 used as food.

23 (4) The person must, as soon as is reasonably practicable after
24 bringing the organism into the Antarctic or beginning to keep it,
25 take all reasonable steps to avoid or, if already occurring, control
26 the consequences of the conduct mentioned in paragraph (1)(a).

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

28 (5) Subsection (4) does not apply if the organism is brought into or
29 kept in the Antarctic to be used as food.

30 **31 Paragraphs 29(2)(f) and (g)**

31 Omit “animals, plants, viruses, bacteria, yeasts and fungi”, substitute
32 “organisms”.

1 **32 Schedule 3 (Annex II to the Protocol on Environmental**
2 **Protection to the Antarctic Treaty)**

3 Repeal the Annex, substitute:
4

5 **ANNEX II TO THE PROTOCOL ON ENVIRONMENTAL**
6 **PROTECTION TO THE ANTARCTIC TREATY**

7 **CONSERVATION OF ANTARCTIC FAUNA AND FLORA**

8 **ARTICLE 1**

9 ***DEFINITIONS***

10 For the purposes of this Annex:

- 11 (a) “native mammal” means any member of any species
12 belonging to the Class Mammalia, indigenous to the
13 Antarctic Treaty area or occurring there naturally through
14 migrations;
- 15 (b) “native bird” means any member, at any stage of its life cycle
16 (including eggs), of any species of the Class Aves indigenous
17 to the Antarctic Treaty area or occurring there naturally
18 through migrations;
- 19 (c) “native plant” means any member of any species of terrestrial
20 or freshwater vegetation, including bryophytes, lichens, fungi
21 and algae, at any stage of its life cycle (including seeds, and
22 other propagules), indigenous to the Antarctic Treaty area;
- 23 (d) “native invertebrate” means any member of any species of
24 terrestrial or freshwater invertebrate, at any stage of its life
25 cycle, indigenous to the Antarctic Treaty area;
- 26 (e) “appropriate authority” means any person or agency
27 authorised by a Party to issue permits under this Annex;
- 28 (f) “permit” means a formal permission in writing issued by an
29 appropriate authority;
- 30 (g) “take” or “taking” means to kill, injure, capture, handle or
31 molest a native mammal or bird, or to remove or damage
32 such quantities of native plants or invertebrates that their
33 local distribution or abundance would be significantly
34 affected;
- 35 (h) “harmful interference” means:

- 1 (i) flying or landing helicopters or other aircraft in a
2 manner that disturbs concentrations of native birds or
3 seals;
- 4 (ii) using vehicles or vessels, including hovercraft and small
5 boats, in a manner that disturbs concentrations of native
6 birds or seals;
- 7 (iii) using explosives or firearms in a manner that disturbs
8 concentrations of native birds or seals;
- 9 (iv) wilfully disturbing breeding or moulting native birds or
10 concentrations of native birds or seals by persons on
11 foot;
- 12 (v) significantly damaging concentrations of native
13 terrestrial plants by landing aircraft, driving vehicles, or
14 walking on them, or by other means; and
- 15 (vi) any activity that results in the significant adverse
16 modification of habitats of any species or population of
17 native mammal, bird, plant or invertebrate.
- 18 (i) “International Convention for the Regulation of Whaling”
19 means the Convention done at Washington on 2 December
20 1946.
- 21 (j) “Agreement on the Conservation of Albatrosses and Petrels”
22 means the Agreement done at Canberra on 19 June 2001.
23
24

ARTICLE 2

CASES OF EMERGENCY

- 25
- 26 1. This Annex shall not apply in cases of emergency relating to the
27 safety of human life or of ships, aircraft, or equipment and
28 facilities of high value, or the protection of the environment.
- 29 2. Notice of activities undertaken in cases of emergency that result in
30 any taking or harmful interference shall be circulated immediately
31 to all Parties and to the Committee.
32

ARTICLE 3

PROTECTION OF NATIVE FAUNA AND FLORA

- 34
- 35 1. Taking or harmful interference shall be prohibited, except in
36 accordance with a permit.
-

- 1 2. Such permits shall specify the authorised activity, including when,
2 where and by whom it is to be conducted and shall be issued only
3 in the following circumstances:
- 4 (a) to provide specimens for scientific study or scientific
5 information;
- 6 (b) to provide specimens for museums, herbaria and botanical
7 gardens, or other educational institutions or uses;
- 8 (c) to provide specimens for zoological gardens but, in respect of
9 native mammals or birds, only if such specimens cannot be
10 obtained from existing captive collections elsewhere, or if
11 there is a compelling conservation requirement; and
- 12 (d) to provide for unavoidable consequences of scientific
13 activities not otherwise authorised under sub-paragraphs (a),
14 (b) or (c) above, or of the construction and operation of
15 scientific support facilities.
- 16 3. The issue of such permits shall be limited so as to ensure that:
- 17 (a) no more native mammals, birds, plants or invertebrates are
18 taken than are strictly necessary to meet the purposes set
19 forth in paragraph 2 above;
- 20 (b) only small numbers of native mammals or birds are killed,
21 and in no case more are killed from local populations than
22 can, in combination with other permitted takings, normally
23 be replaced by natural reproduction in the following season;
24 and
- 25 (c) the diversity of species, as well as the habitats essential to
26 their existence, and the balance of the ecological systems
27 existing within the Antarctic Treaty area are maintained.
- 28 4. Any species of native mammals, birds, plants and invertebrates
29 listed in Appendix A to this Annex shall be designated “Specially
30 Protected Species”, and shall be accorded special protection by the
31 Parties.
- 32 5. Designation of a species as a Specially Protected Species shall be
33 undertaken according to agreed procedures and criteria adopted by
34 the ATCM.
- 35 6. The Committee shall review and provide advice on the criteria for
36 proposing native mammals, birds, plants or invertebrates for
37 designation as a Specially Protected Species.

- 1 7. Any Party, the Committee, the Scientific Committee on Antarctic
2 Research or the Commission for the Conservation of Antarctic
3 Marine Living Resources may propose a species for designation as
4 a Specially Protected Species by submitting a proposal with
5 justification to the ATCM.
- 6 8. A permit shall not be issued to take a Specially Protected Species
7 unless the taking:
8 (a) is for a compelling scientific purpose; and
9 (b) will not jeopardise the survival or recovery of that species or
10 local population;
- 11 9. The use of lethal techniques on Specially Protected Species shall
12 only be permitted where there is no suitable alternative technique.
- 13 10. Proposals for the designation of a species as a Specially Protected
14 Species shall be forwarded to the Committee, the Scientific
15 Committee on Antarctic Research and, for native mammals and
16 birds, the Commission for the Conservation of Antarctic Marine
17 Living Resources, and as appropriate, the Meeting of the Parties to
18 the Agreement on the Conservation of Albatrosses and Petrels and
19 other organisations. In formulating its advice to the ATCM on
20 whether a species should be designated as a Specially Protected
21 Species, the Committee shall take into account any comments
22 provided by the Scientific Committee on Antarctic Research, and,
23 for native mammals and birds, the Commission for the
24 Conservation of Antarctic Marine Living Resources, and as
25 appropriate, the Meeting of the Parties to the Agreement on the
26 Conservation of Albatrosses and Petrels and other organisations.
- 27 11. All taking of native mammals and birds shall be done in the
28 manner that involves the least degree of pain and suffering
29 practicable.

ARTICLE 4

INTRODUCTION OF NON-NATIVE SPECIES AND DISEASES

- 33 1. No species of living organisms not native to the Antarctic Treaty
34 area shall be introduced onto land or ice shelves, or into water, in
35 the Antarctic Treaty area except in accordance with a permit.
- 36 2. Dogs shall not be introduced onto land, ice shelves or sea ice.

- 1 3. Permits under paragraph 1 above shall:
- 2 (a) be issued to allow the importation only of cultivated plants
- 3 and their reproductive propagules for controlled use, and
- 4 species of living organisms for controlled experimental use;
- 5 and
- 6 (b) specify the species, numbers and, if appropriate, age and sex
- 7 of the species to be introduced, along with a rationale,
- 8 justifying the introduction and precautions to be taken to
- 9 prevent escape or contact with fauna or flora.
- 10 4. Any species for which a permit has been issued in accordance with
- 11 paragraphs 1 and 3 above shall, prior to expiration of the permit, be
- 12 removed from the Antarctic Treaty area or be disposed of by
- 13 incineration or equally effective means that eliminates risk to
- 14 native fauna or flora. The permit shall specify this obligation.
- 15 5. Any species, including progeny, not native to the Antarctic Treaty
- 16 area that is introduced into that area without a permit that has been
- 17 issued in accordance with paragraph 1 and 3 above, shall be
- 18 removed or disposed of whenever feasible, unless the removal or
- 19 disposal would result in a greater adverse environmental impact.
- 20 Such removal or disposal may include by incineration or by
- 21 equally effective means, so as to be rendered sterile, unless it is
- 22 determined that they pose no risk to native flora or fauna. In
- 23 addition, all reasonable steps shall be taken to control the
- 24 consequences of that introduction to avoid harm to native fauna or
- 25 flora.
- 26 6. Nothing in this Article shall apply to the importation of food into
- 27 the Antarctic Treaty area provided that no live animals are
- 28 imported for this purpose and all plants and animal parts and
- 29 products are kept under carefully controlled conditions and
- 30 disposed of in accordance with Annex III to the Protocol.
- 31 7. Each Party shall require that precautions are taken to prevent the
- 32 accidental introduction of micro-organisms (e.g., viruses, bacteria,
- 33 yeasts, fungi) not present naturally in the Antarctic Treaty area.
- 34 8. No live poultry or other living birds shall be brought into the
- 35 Antarctic Treaty area. All appropriate efforts shall be made to
- 36 ensure that poultry or avian products imported into Antarctica are
- 37 free from contamination by diseases (such as Newcastle's Disease,
- 38 tuberculosis, and yeast infection) which might be harmful to native

1 flora and fauna. Any poultry or avian products not consumed shall
2 be removed from the Antarctic Treaty area or disposed of by
3 incineration or equivalent means that eliminates the risks of
4 introduction of micro-organisms (e.g. viruses, bacteria, yeasts,
5 fungi) to native flora and fauna.

- 6 9. The deliberate introduction of non-sterile soil into the Antarctic
7 Treaty area is prohibited. Parties should, to the maximum extent
8 practicable, ensure that non-sterile soil is not unintentionally
9 imported into the Antarctic Treaty area.

10
11 **ARTICLE 5**

12 ***INFORMATION***

13 Each Party shall make publicly available information on prohibited
14 activities and Specially Protected Species to all those persons
15 present in or intending to enter the Antarctic Treaty area with a
16 view to ensuring that such persons understand and observe the
17 provisions of this Annex.

18
19 **ARTICLE 6**

20 ***EXCHANGE OF INFORMATION***

- 21 1. The Parties shall make arrangements for:
22 (a) collecting and annually exchanging records (including
23 records of permits) and statistics concerning the numbers or
24 quantities of each species of native mammal, bird, plant or
25 invertebrate taken in the Antarctic Treaty area; and
26 (b) obtaining and exchanging information as to the status of
27 native mammals, birds, plants, and invertebrates in the
28 Antarctic Treaty area, and the extent to which any species or
29 population needs protection.
- 30 2. As early as possible, after the end of each austral summer season,
31 but in all cases before 1 October of each year, the Parties shall
32 inform the other Parties as well as the Committee of any step taken
33 pursuant to paragraph 1 above and of the number and nature of
34 permits issued under this Annex in the preceding period of 1 April
35 to 31 March.
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ARTICLE 7

***RELATIONSHIP WITH OTHER AGREEMENTS OUTSIDE THE
ANTARCTIC TREATY SYSTEM***

Nothing in this Annex shall derogate from the rights and obligations of Parties under the International Convention for the Regulation of Whaling.

ARTICLE 8

REVIEW

The Parties shall keep under continuing review measures for the conservation of Antarctic fauna and flora, taking into account any recommendations from the Committee.

ARTICLE 9

AMENDMENT OR MODIFICATION

1. This Annex may be amended or modified by a measure adopted in accordance with Article IX (1) of the Antarctic Treaty. Unless the measure specifies otherwise, the amendment or modification shall be deemed to have been approved, and shall become effective, one year after the close of the Antarctic Treaty Consultative Meeting at which it was adopted, unless one or more of the Antarctic Treaty Consultative Parties notifies the Depositary, within that time period, that it wishes an extension of that period or that it is unable to approve the measure.
2. Any amendment or modification of this Annex which becomes effective in accordance with paragraph 1 above shall thereafter become effective as to any other Party when notice of approval by it has been received by the Depositary.

APPENDICES TO THE ANNEX

APPENDIX A:

SPECIALLY PROTECTED SPECIES

Ommatophoca rossii, Ross Seal.

1

2 **Part 2—Application and transitional**

3 **33 Application and transitional provisions**

4 (1) The amendments made by items 6 to 17 apply to permits issued on or
5 after the commencement of this Schedule.

6 (2) The amendments made by items 20, 21, 23, 24, 25, 26, 27, 28 and 29
7 apply to acts done on or after the commencement of this Schedule.

8 (3) The amendment made by item 22 applies to acts done wholly on or after
9 the commencement of this Schedule.

10 (4) To avoid doubt:

11 (a) if an action is done in accordance with a permit or recognised
12 foreign authority issued before the commencement of this
13 Schedule, section 19 of the *Antarctic Treaty (Environment
14 Protection) Act 1980* (whether as in force before or after the
15 commencement of this Schedule) does not apply to that
16 action; and

17 (b) if a permit issued before the commencement of this Schedule
18 refers to the taking of a native invertebrate or a native plant,
19 that term has a meaning unaffected by the amendment made
20 by item 3 of this Schedule.

21 (5) The amendment made by item 30 applies to:

22 (a) to the extent that the amendment relates to the insertion of
23 section 19AC into the *Antarctic Treaty (Environment
24 Protection) Act 1980*—bringing an organism or article into
25 the Antarctic on or after the commencement of this Schedule;
26 and

27 (b) to the extent that the amendment relates to the insertion of
28 section 19AD into that Act—bringing an organism or bird
29 product into the Antarctic on or after the commencement of
30 this Schedule; and

31 (c) to the extent that the amendment relates to the insertion of
32 section 19AE into that Act—any organism that is brought
33 into, kept or continues to be kept in the Antarctic on or after
34 the commencement of this Schedule.

- 1 (6) Despite the amendment made by item 31, regulations in force under
2 section 29 of the *Antarctic Treaty (Environment Protection) Act 1980*
3 immediately before the commencement of this Schedule continue in
4 effect, on and after that commencement, as if they had been made under
5 that section as in force after that commencement.