



Fisheries Research and Development Corporation Regulations 1991

Statutory Rules No. 91, 1991

made under the

Primary Industries Research and Development Act 1989

Compilation No. 21

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About this compilation

This compilation

This is a compilation of the *Fisheries Research and Development Corporation Regulations 1991* that shows the text of the law as amended and in force on 1 January 2020 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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1 Name of Regulations

These Regulations are the *Fisheries Research and Development Corporation Regulations 1991*.

3 Interpretation

In these Regulations, unless the contrary intention appears:

Act means the *Primary Industries Research and Development Act 1989*.

Corporation means the Fisheries Research and Development Corporation specified in regulation 4.

fish means all living aquatic natural resources of:

- (a) rivers; or
- (b) estuaries; or
- (c) the sea; or
- (d) the seabed; or
- (e) waters within the limits of Australia.

fishing industry includes any industry or activity carried on in or from Australia concerned with:

- (a) taking; or
- (b) culturing; or
- (c) processing; or
- (d) preserving; or
- (e) storing; or
- (f) transporting; or
- (g) marketing; or
- (h) selling;

fish or fish products.

fish products means all products derived from:

- (a) culturing; or
- (b) processing; or
- (c) preserving;

fish.

4 Establishment of the Fisheries Corporation

An R & D Corporation to be known as the Fisheries Research and Development Corporation is declared to be established in respect of the fishing industry.

Regulation 4A

4A Levies attached to the Corporation—fishing

- (1) For paragraph 5(1)(a) of the Act, the levy imposed by section 5 of the *Fishing Levy Act 1991* is attached to the Corporation.
- (2) For paragraph 5(3)(a) of the Act, for a financial year mentioned in an item of the following table, the research component of the levy mentioned in subregulation (1) is the percentage of the levy mentioned in the item.

Item	For the financial year commencing on ...	the percentage of the levy is ...
1	1 July 1999	10.3%
2	1 July 2000	10.1%
3	1 July 2001	10.4%
4	1 July 2002	9.5%
5	1 July 2003	8.7%
6	1 July 2004	8.2%
7	1 July 2005	6.7%
8	1 July 2006	12.35%
9	1 July 2007	7.51%
10	1 July 2008	7.64%
11	1 July 2009	5.66%
12	1 July 2010	5.61%
13	1 July 2011	4.89%
14	1 July 2012	4.88%
15	1 July 2013	6.09%
16	1 July 2014	6.11%
17	1 July 2015	5.82%
18	1 July 2016	5.8%
19	1 July 2017	6.55%
20	1 July 2018	7.13%

- (3) For paragraph 5(3)(b) of the Act, the fishing industry is the primary industry to which the levy mentioned in subregulation (1) relates.
- (4) If the Corporation has received levy payments during a financial year mentioned in an item of the table in subregulation (2), the amount of the research component of the levy for that year is to be reduced by any payments of levy already made to the Corporation for that year.

4B Levies attached to the Corporation—product levies on farmed prawns

- (1) For paragraph 5(1)(a) of the Act, the following are attached to the Corporation:
 - (a) the levy imposed by clause 3.2 of Schedule 27 to the *Primary Industries (Excise) Levies Regulations 1999*;

- (b) the charge imposed by clause 2.2 of Schedule 14 to the *Primary Industries (Customs) Charges Regulations 2000*.
- (2) For paragraph 5(3)(a) of the Act, the research component of the levies mentioned in subregulation (1) is the whole of the levies.
- (3) For paragraph 5(3)(b) of the Act, the fishing industry is the primary industry to which the levies mentioned in subregulation (1) relate.

4BA Levies attached to the Corporation—white spot disease repayment levies on farmed prawns

Interpretation

- (1) In this regulation:

final repayment year means the first financial year ending after the commencement of this regulation when the outstanding industry debt at the end of the year is nil.

final repayment year surplus means the amount that is the difference between:

- (a) the total repayment levies amount for the final repayment year; and
- (b) the outstanding industry debt at the end of the financial year immediately preceding the final repayment year.

first repayment year means the financial year ending on 30 June 2020.

indexation factor for a financial year has the meaning given by subregulations (8) and (9).

index number for a financial year means the All Groups Consumer Price Index number (being the weighted average of 8 capital cities) published by the Australian Statistician for that year.

later repayment year means a financial year commencing on or after 1 July 2020.

outstanding industry debt at the end of a financial year has the meaning given by subregulations (5) and (6).

repayment levy means:

- (a) the levy referred to in paragraph (2)(a); or
- (b) the charge referred to in paragraph (2)(b).

total repayment levies amount for a financial year means the amount worked out by:

- (a) calculating the total amount of all repayment levies received by the Commonwealth during the financial year; and
- (b) adding any amounts of penalty received by the Commonwealth during the financial year for non-payment of repayment levy; and

- (c) subtracting any overpaid amounts of repayment levy, and any overpaid amounts of penalty for non-payment of repayment levy, that were refunded by the Commonwealth during the financial year (whether or not those overpaid amounts were received by the Commonwealth during the financial year).

Note: Section 18 of the *Primary Industries Levies and Charges Collection Act 1991* deals with refunds of the overpaid amounts referred to in paragraph (c).

Repayment levies attached to the Corporation

- (2) For the purposes of paragraph 5(1)(a) of the Act, the following levies are attached to the Corporation:
 - (a) the levy imposed by Division 3.3 of Schedule 27 to the *Primary Industries (Excise) Levies Regulations 1999*;
 - (b) the charge imposed by Division 2.3 of Schedule 14 to the *Primary Industries (Customs) Charges Regulations 2000*.

Research component of repayment levies

- (3) For the purposes of paragraph 5(3)(a) of the Act, the research component of a levy referred to in paragraph (2)(a) or (b) of this regulation (the **relevant repayment levy**) is the sum of the following amounts:
 - (a) the amount of the final repayment year surplus that is attributable to the relevant repayment levy (as worked out under subregulation (4));
 - (b) any amounts of the relevant repayment levy that are due for payment before the end of the final repayment year but are not received by the Commonwealth before the end of that year;
 - (c) any amounts of the relevant repayment levy that are due for payment after the end of the final repayment year.

Note: For when the relevant repayment levy is due for payment, see Part 3 of Schedule 37 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

- (4) The amount of the final repayment year surplus that is attributable to a levy referred to in paragraph (2)(a) or (b) (the **relevant repayment levy**) is worked out using the following formula:

$$\frac{\text{Relevant repayment levy amount for the final repayment year}}{\text{Total repayment levies amount for the final repayment year}} \times \text{Final repayment year surplus}$$

where:

relevant repayment levy amount for the final repayment year means the amount worked out by:

- (a) calculating the total amount of the relevant repayment levy received by the Commonwealth during the final repayment year; and
- (b) adding any amounts of penalty received by the Commonwealth during the final repayment year for non-payment of the relevant repayment levy; and

- (c) subtracting any overpaid amounts of the relevant repayment levy, and any overpaid amounts of penalty for non-payment of the relevant repayment levy, that were refunded by the Commonwealth during the final repayment year (whether or not those overpaid amounts were received by the Commonwealth during the final repayment year).

Outstanding industry debt

- (5) The **outstanding industry debt** at the end of the financial year ending on 30 June 2019 is \$3,998,312.
- (6) The **outstanding industry debt** at the end of a financial year commencing on or after 1 July 2019 (the **relevant repayment year**) is:
- (a) if the total repayment levies amount for the relevant repayment year is less than the outstanding industry debt at the end of the immediately preceding financial year—the amount worked out by calculating the difference between that outstanding industry debt and the total repayment levies amount for the relevant repayment year and multiplying that difference by the indexation factor for the relevant repayment year; or
- (b) otherwise—nil.
- (7) For the purposes of subregulation (6), the outstanding industry debt at the end of a financial year is to be rounded to the nearest whole cent (rounding 0.5 cents upwards).

Indexation factor

- (8) The **indexation factor** for the first repayment year is the number worked out using the following formula:

$$\frac{A - \left(\frac{A - B}{2} \right)}{B}$$

where:

A is the index number for the first repayment year.

B is the index number for the financial year immediately preceding the first repayment year.

- (9) The **indexation factor** for a later repayment year is the number worked out by dividing the index number for the later repayment year by the index number for the financial year immediately preceding the later repayment year.
- (10) An indexation factor worked out under subregulation (8) or (9) is to be calculated to 3 decimal places (rounding up if the fourth decimal place is 5 or more).
- (11) In working out an indexation factor under subregulation (8) or (9):
- (a) use only index numbers published in terms of the most recently published index reference period for the Consumer Price Index; and

- (b) disregard index numbers that are published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the index reference period).

Primary industry to which repayment levies relate

- (12) For the purposes of paragraph 5(3)(b) of the Act, the fishing industry is the primary industry to which each repayment levy relates.

4C Gross value of production of fishing industry

- (1) In this regulation:

fishing industry means that part of the fishing industry concerned with taking or culturing fish or fish products, whether managed by or on behalf of the Commonwealth, a State or a Territory.

- (2) For subsection 30A(5) of the Act, the Minister must determine the total GVP for a financial year (the ***relevant financial year***) by using:

$$\frac{A + B + C}{3}$$

where:

A is the estimated gross value of production of the fishing industry in the relevant financial year.

B is the gross value of production of the fishing industry in the financial year immediately before the relevant financial year (the ***previous financial year***).

C is the gross value of production of the fishing industry in the financial year immediately before the previous financial year.

- (3) For ***A***, ***B*** and ***C*** in subregulation (2), the amount for the gross value of production is the figure supplied by the Department of Agriculture, Fisheries and Forestry.

4D Gross value of production of Commonwealth managed fisheries

- (1) In this regulation:

Commonwealth fishing industry means that part of the fishing industry:

- (a) concerned with taking or culturing fish or fish products; and
(b) managed by or on behalf of the Commonwealth.

- (2) For subsection 30A(5) of the Act, the Minister must determine the Commonwealth GVP for a financial year (the ***relevant financial year***) by using:

$$\frac{A + B + C}{3}$$

where:

A is the estimated gross value of production of the Commonwealth fishing industry in the relevant financial year.

B is the gross value of production of the Commonwealth fishing industry in the financial year immediately before the relevant financial year (the *previous financial year*).

C is the gross value of production of the Commonwealth fishing industry in the financial year immediately before the previous financial year.

- (3) For *A*, *B* and *C* in subregulation (2), the amount for the gross value of production is the figure supplied by the Department of Agriculture, Fisheries and Forestry.

4E Gross value of production of State or Territory managed fisheries

- (1) In this regulation:

State or Territory fishing industry means that part of the fishing industry:

- (a) concerned with taking or culturing fish or fish products; and
- (b) managed by or on behalf of a State or Territory.

- (2) For subsection 30A(5) of the Act, the Minister must determine the State or Territory GVP for a financial year (the *relevant financial year*) by using:

$$\frac{A + B + C}{3}$$

where:

A is the estimated gross value of production of the State or Territory fishing industry in the relevant financial year.

B is the gross value of production of the State or Territory fishing industry in the financial year immediately before the relevant financial year (the *previous financial year*).

C is the gross value of production of the State or Territory fishing industry in the financial year immediately before the previous financial year.

5 Annual Report

For the purposes of paragraph 28(d) of the Act, the fishing industry is a prescribed primary industry.

6 Accountability to representative organisations

For the purposes of subparagraph 29(b)(iii) of the Act, the fishing industry is a prescribed primary industry.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
91, 1991	6 May 1991	2 July 1991 (r 2)	
17, 1992	31 Jan 1992	3 Feb 1992 (r 1 and gaz 1992, No. GN1)	—
186, 1995	4 July 1995	3 Feb 1992 (r 1 and gaz 1992, No GN1)	—
414, 1995	19 Dec 1995	1 July 1994 (r 1)	—
239, 1996	30 Oct 1996	r 4: 30 Oct 1996 (r 1) Remainder: 1 July 1995	—
90, 1998	21 May 1998	1 July 1996 (r 1)	
as amended by			
270, 2000	5 Oct 2000	r 4 and Sch 3: (2000 No 270 below)	—
270, 2000	5 Oct 2000	r 1–3 and Sch 1: 1 July 1997 (r 2(a)) r 4 and Sch 3: 5 Oct 2000 (r 2(b)) Remainder: 1 July 1998	—
232, 2001	5 Sept 2001	1 Oct 2001 (r 2)	—
92, 2006	9 May 2006 (F2006L01452)	Sch 1 (item 2):1 July 2000 (r 2(b)) Sch 1 (item 3):1 July 2001 (r 2(c)) Sch 1 (item 4):1 July 2002 (r 2(d)) Sch 1 (item 5):1 July 2003 (r 2(e)) Sch 1 (item 6):1 July 2004 (r 2(f)) Sch 1 (item 7):1 July 2005 (r 2(g)) Sch 1 (item 8):10 May 2006 (r 2(h)) Remainder: 1 July 1999 (r 2(a))	—
46, 2007	29 Mar 2007 (F2007L00873)	r 1–3: 30 Mar 2007 (r 2(a)) Sch 1: 1 July 2006 (r 2(b))	—
83, 2008	30 May 2008 (F2008L01554)	31 May 2008 (r 2)	—
73, 2009	15 May 2009 (F2009L01792)	16 May 2009 (r 2)	—
126, 2010	18 June 2010 (F2010L01584)	19 June 2010 (r 2)	—
71, 2011	6 June 2011 (F2011L00955)	7 June 2011 (r 2)	—
48, 2012	23 Apr 2012 (F2012L00909)	24 Apr 2012 (s 2)	—
87, 2013	3 June 2013 (F2013L00895)	4 June 2013 (s 2)	—
45, 2014	16 May 2014 (F2014L00556)	17 May 2014 (s 2)	—
93, 2015	26 June 2015 (F2015L00948)	Sch 1: 27 June 2015 (s 2(1) item 1)	—

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Fisheries Research and Development Corporation Amendment (Fishing Levy) Regulation 2016	2 Sept 2016 (F2016L01382)	3 Sept 2016 (s 2(1) item 1)	—
Fisheries Research and Development Corporation Amendment (Fishing Levy) Regulations 2017	19 June 2017 (F2017L00691)	20 June 2017 (s 2(1) item 1)	—
Fisheries Research and Development Corporation Amendment (Fishing Levy) Regulations 2018	12 June 2018 (F2018L00748)	13 June 2018 (s 2(1) item 1)	—
Fisheries Research and Development Corporation Amendment (Fishing Levy) Regulations 2019	8 Mar 2019 (F2019L00269)	9 Mar 2019 (s 2(1) item 1)	—
Fisheries Research and Development Corporation Amendment (Farmed Prawns) Regulations 2019	5 Dec 2019 (F2019L01581)	1 Jan 2020 (s 2(1) item 1)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
r 1	rs No 270, 2000
r 2	rep LA s 48D
r 3	am No 17, 1992; No 232, 2001; No 93, 2015
r 4	am No 17, 1992
r 4A	ad No 17, 1992 rs No 186, 1995 am No 414, 1995; No 239, 1996; No 90, 1998 rs No 270, 2000 am No 270, 2000; No 232, 2001; No 92, 2006; No 46, 2007; No 83, 2008; No 73, 2009; No 126, 2010; No 71, 2011; No 48, 2012; No 87, 2013; No 45, 2014; No 93, 2015; F2016L01382; F2017L00691; F2018L00748; F2019L00269
r 4B.....	ad No 17, 1992 rs No 232, 2001 am F2019L01581
r 4BA.....	ad F2019L01581
r 4C.....	ad No 17, 1992 rs No 232, 2001
r 4D	ad No 239, 1996 rs No 232, 2001
r 4E.....	ad No 232, 2001
r 5	am No 17, 1992; No 93, 2015
r 6	am No 17, 1992