

EXPLANATORY STATEMENT

Select Legislative Instrument No. 45, 2014

Issued by Authority of the Parliamentary Secretary for Agriculture

Primary Industries Research and Development Act 1989

*Fisheries Research and Development Corporation Amendment (Fishing Levy)
Regulation 2014*

Section 149 of the *Primary Industries Research and Development Act 1989* (the Act) provides that the Governor-General may make regulations not inconsistent with the Act, prescribing matters required by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of this Regulation is to amend the *Fisheries Research and Development Corporation Regulations 1991* (the Principal Regulations) to authorise the Department of Agriculture (the department) to transfer funds collected from industry for research, development and extension in the 2013-14 financial year to the Fisheries Research and Development Corporation (FRDC).

Section 8 of the Act provides for research and development corporations to be established in respect of primary industries by way of regulations. In accordance with that section, the Principal Regulations establish the FRDC in respect of the fishing industry.

Subsection 5(1) of the Act allows a levy to be attached to a research and development corporation by way of regulations. Section 4(A) of the Principal Regulations attaches the fishing levy imposed by section 5 of the *Fishing Levy Act 1991* to the FRDC. Subsection 5(3) of the Act requires that, if a regulation attaches a levy to a research and development corporation, then the regulation must also declare the whole or a specified proportion of the levy to be the research component of the levy. Section 30 of the Act provides that the FRDC is to be paid the research component of the levy that is attached to it.

The proposed Regulation will amend the Principal Regulations to specify the proportion of the annual fishing levy that is the research component and is therefore to be paid to the FRDC in the 2013–14 financial year. The proportion for 2013–14 is 6.09 per cent. The amendment will authorise the department to transfer the research component from the Consolidated Revenue Fund to the FRDC.

The proportion of the fishing levy that is the research component and is to be paid to the FRDC varies annually because it is derived from independent sources. The research component of the levy is derived from the gross value of production of Commonwealth managed fisheries, as determined by the Minister for the relevant financial year. The fisheries management component of the levy is derived from the costs borne by the Australian Fisheries Management Authority in managing Commonwealth fisheries. As a result, the proportion to be paid to the FRDC varies and must be declared in the Principal Regulations on an annual basis.

The department consulted with the Australian Fisheries Management Authority (AFMA) in determining the proportion of the levy to be paid to the FRDC. AFMA collects the fishing levy on behalf of the FRDC. The FRDC has been notified of the Regulation.

The Office of Best Practice was consulted in the preparation of the Regulation (ID 16706).

The Regulation is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in the Attachment.

The Regulation would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Details of the Fisheries Research and Development Corporation Amendment (Fishing Levy) Regulation 2014

Section 1 – Name of Regulation

This Section provides that the regulation is referred to as the *Fisheries Research and Development Corporation Amendment (Fishing Levy) Regulation 2014*.

Section 2 – Commencement

This Section provides that the regulation commences on the day after it is registered.

Section 3 – Authority

This Section provides that the regulation is made under the *Primary Industries Research and Development Act 1989*.

Section 4 – Schedule(s)

This section provides that the Principle Regulations are amended as set out in Schedule 1 to this instrument.

Schedule 1 – Amendments

Item [1] – inserts an additional figure to the table at subregulation 4A(2) of the Principle Regulations to specify the research component of the levy for the 2013-14 financial year. An additional figure is inserted into the table at subregulation 4A(2) each year to enable funds collected through fishing levies for research and development to be paid to the FRDC.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Fisheries Research and Development Corporation Amendment (Fishing Levy) Regulation 2014

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The instrument authorises the Department of Agriculture to transfer funds collected from industry for research, development and extension in the 2013-14 financial year to the Fisheries Research and Development Corporation.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**Senator the Hon. Richard Colbeck
Parliamentary Secretary to the Minister for Agriculture**