

EXPLANATORY STATEMENT

Select Legislative Instrument No. 141, 2014

Issued by the Authority of the Parliamentary Secretary to the Minister for Agriculture

Fisheries Management Act 1991

Fisheries Management Regulations 1992

Fisheries Management Amendment (2014 Measures No. 1) Regulation 2014

Section 168 of the *Fisheries Management Act 1991* (the Management Act) empower the Governor-General to make regulations for the purposes of the Management Act.

Section 168 (2)(e) of the Management Act provides for the imposition and recovery of fees in respect of (ii) the making of applications under this Act and (iiia) the giving of a notice to AFMA nominating an Australian boat under paragraph 32(1A)(b) or subsection 32(1B).

Section 42B of the Management Act provides that regulations may prescribe conditions that apply to fishing concessions or foreign fishing licences.

The primary purpose of *Fisheries Management Amendment (2014 Measures No. 1) Regulation 2014* (the Regulation) is to implement three changes to the *Fisheries Management Regulations 1992* (the Principal Regulations) in order to reduce complexity, improve flexibility and reduce costs to the Australian Fisheries Management Authority (AFMA) and industry stakeholders. The Regulation removes direct charges for online transactions, removes Scientific Permit application fees and simplifies the boat nomination process.

In accordance with government policy and existing legislation, AFMA recovers the costs of management activities attributable to the concession activities from the holders of fishing concessions. These activities include the provision of licensing services through AFMA's online Licensing service (GoFish). Fees for transactions performed on GoFish are charged on a transaction-by-transaction basis. This is outside the levy base and other fee for service arrangements. This transaction-by-transaction charging is time consuming and inefficient for both industry and AFMA. The Regulation builds the costs of this into relevant fishery levy bases and makes the online service fee free until a more cost-effective collection mechanism is developed.

Scientific Permit applications are funded through AFMA's fee for service arrangements on a user-pays basis. Most scientific permit applications are AFMA endorsed research paid for through fishery levies. The scientific organisations conducting the research include the cost of the application fee in the research costs which creates a funding loop where the fishery ends up paying for the cost of the application fee through the levies anyway. The Regulation removes the application fees for Scientific Permits.

In some quota-managed fisheries, it is a general condition imposed on all the concessions by the Principal Regulations that concession holders are required to nominate both their overarching access right and their quota, to a boat, before they can fish. In the Eastern Tuna and Billfish Fishery, AFMA has recently trialled a simplified process wherein only the access right (but not also the quota concessions) needed a boat nominated to the concession before commencing fishing. The result of the trial has been greater operational flexibility for vessels and reduced quota market impediments (e.g. if an operator has multiple boats they can all utilise quota from the same pool). This also removes the need for concession holders to allocate their quota after each lease or to move quota around within their companies thereby greatly reducing the number of transactions with AFMA in order to do business. The Regulation removes the requirement to nominate quota to a boat in fisheries that have a separate access right and enables quota pooling across boats.

Consultation with fishery stakeholders

AFMA has consulted through email and written correspondence with the Commonwealth Fisheries Association (CFA) and received positive feedback and support to implement the opportunities outlined in the Regulation. The CFA acknowledged and congratulated AFMA on proposing the improvements to these processes.

Regulation Impact Statement

The Office of Best Practice Regulation OBPR advised that a Regulation Impact Statement was not required for the Regulation (ID: 17206).

Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

AFMA assesses under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* that the Regulation is compatible with human rights. AFMA's Statement of Compatibility is set out in [Attachment A](#).

The Amendment Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Details of the Fisheries Management Amendment (2014 Measures No. 1) Regulation 2014

Details of the Regulation are set out below:

Part 1 – Name of Regulation

This part provides for the Regulation to be cited as the *Fisheries Management Amendment (2014 Measures No. 1) Regulation 2014*.

Part 2 – Commencement

This part provides that the Regulation commences on the day after it is registered.

Part 3 – Authority

This part provides that the Regulation is made under the *Fisheries Management Act 1991*

Part 4 – Schedule(s)

This part provides that the *Fisheries Management Regulations 1992* is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 item 1 – inserts new definitions for each of a boat statutory fishing right, designated quota statutory fishing right, gear statutory fishing right and quota statutory fishing right into Subregulation 3(1) of the Principal Regulations.

Schedule 1 item 2 – repeals the heading for Subdivision 1 of Division 1 of Part 3A

Schedule 1 item 3 – repeals Subdivision 2 of Division 1 of Part 3A and substitutes a new Subdivision. The Subdivision requires as a deemed condition of each fishing concession, the nomination of boats to all fishing concessions with the exception of those quota fishing concessions not “designated” and for the revocation of such nominations.

Schedule 1 item 4 – repeals Division 12 of Part 3A which is made redundant by item 3.

Schedule 1 item 5 – inserts after Part 13 transitional provisions applying to existing nominations.

Schedule 1 item 6 – repeals Part 2 of Schedule 2 being the Schedule of Fees (table items 1 to 17, including the subheadings) and substitutes new items and subheadings. The items and subheadings remove fees that previously applied to some dealings with fishing permits, scientific permits and statutory fishing rights.

Schedule 1 item 7 – Omits “No fee”, and substitutes “Nil” in Part 2 of Schedule 2 (table items 20 to 40, 45 and 46) to maintain consistency of expression in the table.

Statement of Compatibility with Human Rights

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

Fisheries Management Amendment (2014 Measures No. 1) 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 Legislative Instrument simplifies the boat nomination process and sets the fees that will apply to dealings with permits and statutory fishing rights.

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**