

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2015 No. 93, 2015**

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

*Primary Industries Research and Development Act 1989*

*Fisheries Research and Development Corporation Amendment (Fishing Levy)  
Regulation 2015*

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 *Fisheries Research and Development Corporation Amendment (Fishing Levy Regulation 2015* (Amendment Regulation) amends the *Fisheries Research and Development Corporation Regulations 1991* (the Principal Regulations) to specify the amount of funds to be transferred to the Fisheries Research and Development Corporation (FRDC) from funds collected from industry for research, development and extension in the 2014–15 financial year. The amount of funds is expressed as a percentage of the total fishing levy collected from industry.

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 Regulation amends 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 2014–15 financial year. The proportion for 2014–15 is 6.11 per cent. The amendment provides the department the value of the research component to be transferred 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 (AFMA) 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 AFMA in determining the proportion of the levy to be paid to the FRDC. AFMA collects the research component of the fishing levy on behalf of the FRDC. The FRDC has been notified of the amendments to the Regulation.

The Office of Best Practice was consulted in the preparation of the amendments to the Regulation (ID 18665).

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.

### **Details of the *Fisheries Research and Development Corporation Amendment (Fishing Levy) Regulation 2015***

#### 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 2015*.

#### 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 2014–15 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.

**Item [2]** – Omit “28(1)(d)”, substitute “28(d)” for Regulation 5.

## **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 2015**

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 amends the *Fisheries Research and Development Corporation Regulations 1991* and provides the Department of Agriculture the value of the research component to be transferred from the Consolidated Revenue Fund to the FRDC.

#### **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**