

EXPLANATORY STATEMENT

Select Legislative Instrument No. 160, 2015

Issued by the Authority of the Minister for the Environment

Antarctic Marine Living Resources Conservation Act 1981

Antarctic Marine Living Resources Conservation Amendment (Conservation Measures) Regulation 2015

Section 24 of the *Antarctic Marine Living Resources Conservation Act 1981* (the Act) provides that the Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act, the Convention or conservation measures.

Australia implements its international obligations under the *Convention on the Conservation of Antarctic Marine Living Resources* (the CAMLR Convention) in the Act. This includes the granting of permits to harvest marine organisms or to carry out scientific research on marine organisms in the Southern Ocean.

Under the CAMLR Convention, the Commission for the Conservation of Antarctic Marine Living Resources (the Commission) adopts conservation measures that support the conservation of Antarctic marine living resources and the management of fisheries in the Southern Ocean. These conservation measures prescribe various matters including catch limits and gear types, research methods and protected areas.

In Section 3 of the Act, conservation measures means measures for the conservation of Antarctic marine living resources that are adopted from time to time by the Commission for the Conservation of Antarctic Marine Living Resources (the Commission) under Article IX of the Convention and by which Australia accepts in accordance with that Article to be bound. Australia is a State Party to, and the Depositary under, the Convention. It is also a Member of the Commission. All conservation measures are adopted by consensus at the annual meetings of the Commission.

The Australian Antarctic Division of the Department of the Environment is required to consider applications and issue permits under the Act for activities conducted in the Convention Area. The Act includes the *Antarctic Marine Living Resources Conservation Regulations 1994* (the Principal Regulations). Conservation measures are set out in the Schedule to the Principal Regulations. The Schedule no longer provides an accurate reflection of the conservation measures in force for Australia.

The purpose of the *Antarctic Marine Living Resources Conservation Amendment (Conservation Measures) Regulation 2015* (the Regulation) is to ensure the Principal Regulations accurately reference the current conservation measures in force for Australia, as adopted from time to time by the Commission.

The Regulation allows for the annual revision by the Commission of the conservation measures, as defined by the Act, and therefore enforceable by Australia.

The Regulation:

- Removed references to conservation measures “set out in the Schedule” and refers only to “conservation measures” (as defined by the Act)
- Repealed the Schedule from the Principal Regulations, which included reference to specific conservation measures.

A notice inviting comments on the proposal was published on the Australian Antarctic Division website on 16 July 2015. It specified that comments must be received by 3 August 2015. No comments were received.

The Office of Best Practice Regulation is satisfied that impact of the implementation of the Regulation on the business or not-for-profit sector is likely to be minor, and has confirmed that no further analysis (in the form of a Regulation Impact Statement) is required (ID 19373).

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

The Regulation commenced on the day after it was registered on the Federal Register of Legislative Instruments.

Details of the proposed Regulation are set out in the **Attachment**.



Statement of Compatibility with Human Rights

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

Antarctic Marine Living Resources Conservation

Amendment (Conservation Measures) 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

This legislative instrument makes technical amendments to the *Antarctic Marine Living Resources Conservation Regulations 1994*. These amendments will ensure that these regulations accurately reflect and comply with the conservation measures currently in force for Australia, as agreed from time to time by the Commission for the Conservation of Antarctic Marine Living Resources.

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.

Dr. Nick Gales

Director

Australian Antarctic Division

ATTACHMENT

Details of the *Antarctic Marine Living Resources Conservation Amendment (Conservation Measures) Regulation 2015*

Section 1 – Name

This is the *Antarctic Marine Living Resources Conservation Amendment (Conservation Measures) Regulation 2015*.

Section 2 – Commencement

This section provides for the whole of the instrument to commence on the day after this instrument is registered 2015.

Section 3 – Authority

The instrument is made under the *Antarctic Marine Living Resources Conservation Act 1981*.

Section 4 – Schedule(s)

This section provides that each instrument that is specified in a Schedule to this instrument 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 – Amendments

Item 1 – Regulation 4

This item omits “set out in the Schedule”.

Item 2 – At the end of regulation 4

This item adds “Note: Conservation measures are certain measures adopted by the Commission for the Conservation of Antarctic Marine Living Resources, and accepted by Australia, from time to time (see the definition of *conservation measures* in subsection 3(1) of the Act).

Item 3 – Paragraph 7(1)(b)

This item omits “set out in the Schedule”.

Item 4 – At the end of subregulation 7(1)

This item adds “Note: The conservation measures that must be complied with are certain measures adopted by the Commission for the Conservation of Antarctic Marine Living Resources, and accepted by Australia, from time to time (see the definition of *conservation measures* in subsection 3(1) of the Act).

Item 5 – After Part 3

This item inserts a new part (Part 4 – Application, savings and transitional provisions). Part 4 provides that a permit under subsection 9(1) of the Act that was in force immediately before the commencement of Schedule 1 to the *Antarctic Marine Living Resources Conservation Amendment (Conservation Measures) Regulation 2015* does not, on or after that commencement, authorise a person to do an act that would contravene a conservation measure, despite any terms or conditions to which the permit was subject immediately before that commencement.

Item 6 – Schedule

This item repeals the Schedule.