

EXPLANATORY STATEMENT

LEGISLATIVE INSTRUMENT

Fisheries Management Act 1991

Logbooks for Fisheries Determination 2016

The determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Subsection 42(1) of the *Fisheries Management Act 1991* (the Act) provides that:

“AFMA may, by a written determination, in relation to a particular fishery, provide for holders of fishing concessions in respect of that fishery to keep and maintain logbooks containing information in respect of their activities in that fishery.”

Subsection 42(1A) of the Act provides that:

“Without limiting the generality of subsection (1), a determination by AFMA in respect of a particular fishery may cover matters including:

- (a) the form and content of logbooks for that fishery to be kept by the concession holder; and...

Subsection 42(1B) of the Act provides that:

“The content of the logbook kept by the holder of a fishing concession in respect of a particular fishery, and of any return of information from such logbook, may extend to information in relation to:

- (a) the taking of fish under that concession and the sale or disposal of such fish; or
- (b) the carrying, landing, transshipping or transporting of fish taken under that fishing concession; or
- (c) the receipt or processing of fish taken under that fishing concession and the sale or disposal of fish so received or processed; or
- (d) the course, or position at regular intervals, inside or outside the outer limits of the AFZ, of boats to which the fishing concession relates; or
- (e) any other matter relevant to the fishing concession in that fishery that is specified in the determination.”

Background

The completion of a logbook is a requirement for fishers operating in fisheries managed by the Australian Fisheries Management Authority (AFMA). Logbooks are the primary source of data on fishing activity. They provide essential data for the management of fisheries and are the primary source of data on fishing effort and fish catches for stock assessments.

Section 42 of the Act requires that all logbooks are determined under subsection 42(1) of the Act.

Paper based logbooks have previously been determined for all fisheries.

Objectives

The instrument determines the form and content of the logbook to be kept and maintained for concession holders in Commonwealth managed fisheries. The determination provides for the submission of logbooks or the production of a receipt provided by AFMA evidencing the submission of the information contained in the logbook in an electronic format.

Consultation with stakeholders

The Office of Best Practice Regulation advised that a Regulation Impact Statement was not required for this Determination consistent with the agreement in place to cover all regulatory changes deemed to be of a minor or machinery nature.

The Act does not specify any condition as needing to be met before the power to make the determination may be exercised.

Consultation with the fishing industry was not undertaken as the determination is minor and mechanical in nature.

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 Attachment A.

Determination

The details of this determination are set out below:

- Clause 1** provides that the determination may be cited as the *Logbooks for Fisheries Determination 2016*.
- Clause 2** provides that the determination commences on the 28th day after it is registered on the Federal Register of Legislative Instruments.
- Clause 3** provides that the determination is repealed on 31 December 2021 unless re-determined beforehand.
- Clause 4** provides that the terms defined in the *Fisheries Management Act 1991* have the same meanings in this determination.
- Clause 5-17** provides that holders of fishing concession granted for various fisheries must keep and maintain the logbooks prescribed; in accordance with their instructions.
- Clause 18** provides the form and content of the logbook that must be kept.
- Clause 19** provides that a person has taken to have complied with the requirement to submit a logbook if they submit the information through electronic transmission and can provide a receipt from AFMA showing that the transmission was successfully received.
- Clause 20** provides that an electronic transmission must cover the whole period of a fishing trip.
- Clause 21** provides for the revocation of the *Logbook Determination (Particular Fisheries) 2015*.

Statement of Compatibility with Human Rights

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

Logbooks for Fisheries Determination 2016

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 determines the form and content of the logbook to be kept and maintained for concession holders in Commonwealth managed fisheries. The determination provides for the submission of logbooks or the production of a receipt provided by AFMA evidencing the submission of the information contained in the logbook in an electronic format.

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.