



Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Regulation 2016

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 28 September 2016

Peter Cosgrove
Governor-General

By His Excellency's Command

Josh Frydenberg
Minister for the Environment and Energy

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1 Name

This is the *Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Regulation 2016*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 October 2016.	1 October 2016

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Environment Protection and Biodiversity Conservation Act 1999*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Environment Protection and Biodiversity Conservation Regulations 2000

1 Subregulations 4.02(2) and (3)

Omit “\$7 352.00”, substitute “\$6,577.00”.

2 Regulation 5.12A (definition of *category*)

Repeal the definition.

3 Regulation 5.12A (definition of *complexity fee*)

Repeal the definition, substitute:

complexity fee, for an assessment of the impacts of an action, means the sum of the amounts payable for:

- (a) each application component; and
- (b) each controlling provision component; and
- (c) if applicable—the exceptional case component; and
- (d) the legislative impact component; and
- (e) the project composition component.

4 Regulation 5.12A (definition of *extinct in the wild*)

Repeal the definition.

5 Regulation 5.12A (paragraphs (b) and (c) of the definition of *high complexity*)

Repeal the paragraphs, substitute:

- (b) in relation to a controlling provision component: see subregulation 5.12D(1); and
- (c) in relation to a legislative impact component: see subregulation 5.12F(1).

6 Regulation 5.12A (paragraph (b) of the definition of *low complexity*)

Omit “5.12F(2)”, substitute “5.12F(1)”.

7 Regulation 5.12A (paragraphs (b) and (c) of the definition of *moderate complexity*)

Repeal the paragraphs, substitute:

- (b) in relation to a controlling provision component: see subregulation 5.12D(1); and
- (c) in relation to a legislative impact component: see subregulation 5.12F(1).

8 Regulation 5.12A (definition of *point value*)

Repeal the definition.

9 Regulation 5.12A (definition of *project component*)

Omit “subregulation 5.12B(6)”, substitute “paragraph 5.12G(1)(b)”.

10 Regulation 5.12A

Insert:

project composition component: see subregulation 5.12B(6).

11 Regulation 5.12A

Repeal the following definitions:

- (a) definition of *seabird*;
- (b) definition of *shorebird*.

12 Section 5.12A (definition of *very high complexity*)

Repeal the definition, substitute:

very high complexity:

- (a) in relation to an application component: see subregulation 5.12C(1); and
- (b) in relation to a controlling provision component: see subregulation 5.12D(1); and
- (c) in relation to a legislative impact component: see subregulation 5.12F(1).

13 Subregulations 5.12B(1), (2) and (3)

Repeal the subregulations, substitute:

- (1) The complexity fee for an assessment of the impacts of an action includes the following components:
 - (a) 3 application components;
 - (b) one or more controlling provision components;
 - (c) if applicable—the exceptional case component;
 - (d) a legislative impact component;
 - (e) a project composition component.
- (2) An *application component* applies, in relation to the assessment of the impacts of an action, for each of the following types of information required to be included in the referral of the action:
 - (a) information mentioned in paragraph 4.01(a) or (j) of Schedule 2 (about the proposed action);
 - (b) information mentioned in item 5.02, 5.04 or 5.05 of Schedule 2 (about the nature and extent of the likely impacts of the action);
 - (c) information mentioned in item 6.01, 6.02 or 6.03 of Schedule 2 (about measures to avoid or reduce the impacts of the action).
- (3) A *controlling provision component* applies, in relation to the assessment of the impacts of an action, for each Subdivision of a Division of Part 3 of the Act that includes a controlling provision for the action.

14 Subregulations 5.12B(5) and (6)

Repeal the subregulations, substitute:

- (5) A *legislative impact component* applies, in relation to the assessment of the impacts of an action, for the legislative processes involved in the assessment (whether or not there are any).

- (6) A *project composition component* applies, in relation to the assessment of the impacts of an action, for the activities to be carried out in taking the action (known as project components), as determined by the Minister under subregulation 5.12G(1).

15 Subsection 5.12C(1)

Omit “or *high complexity*”, substitute “, *high complexity* or *very high complexity*”.

16 Subregulation 5.12C(2)

Repeal the subregulation, substitute:

- (2) When making a determination under this regulation, the Minister must consider the adequacy of the information provided.

17 Subregulations 5.12D(2) to (4)

Repeal the subregulations, substitute:

- (2) When making a determination under this regulation, the Minister must consider the following:
- (a) the matters referred to in paragraphs 87(3)(a) to (e) of the Act;
 - (b) how well understood are the impacts of the action on each matter protected by a controlling provision included in the Subdivision to which the controlling provision component relates;
 - (c) how well understood are the options for managing or offsetting the impacts of the action on each matter protected by a controlling provision included in the Subdivision to which the controlling provision component relates;
 - (d) if section 18, 18A, 20 or 20A of the Act is relevant to the action—the number of species and communities to be included in the assessment;
 - (e) if section 23 or 24A of the Act is relevant to the action—any bioregional plan for a bioregion that includes the area, or any part of the area, in which the action is taken or in which the action has, will have or is likely to have impacts.

18 Regulation 5.12E (heading)

Repeal the heading, substitute:

5.12E Determination for an exceptional case component

19 Subregulation 5.12E

Omit “that an *exceptional case component* applies in relation to the assessment of the impacts of an action if”, substitute “, in relation to an action, that”.

20 Regulation 5.12F (heading)

Repeal the heading, substitute:

5.12F Determination for the legislative impact component

21 Subregulations 5.12F(2) to (5)

Repeal the subregulations, substitute:

-
- (2) When making a determination under this regulation, the Minister must consider:
- (a) how many (if any) legislative processes of the following kinds are involved in the assessment of the action:
 - (i) a specified manner of assessment in accordance with a bilateral agreement, including a declaration described in section 47 of the Act;
 - (ii) an accredited assessment process mentioned in paragraph 87(1)(a) of the Act;
 - (iii) the implementation of a project mentioned in paragraph 160(2)(a) of the Act;
 - (iv) the adoption or implementation of a plan mentioned in paragraph 160(2)(b) or (c) of the Act;
 - (v) an action prescribed by the regulations for the purposes of paragraph 160(2)(d) of the Act; and
 - (b) whether any other process related to the action is being carried out under a law of the Commonwealth or of a State or Territory and, if so, the nature of the process and the extent to which steps to be carried out under that process may be coordinated with processes referred to in paragraph (a).

22 Regulation 5.12G (heading)

Repeal the heading, substitute:

5.12G Determination for the project composition component

23 Subregulation 5.12G(1)

Repeal the subregulation, substitute:

- (1) The Minister may determine:
 - (a) the number of activities that are to be carried out in taking an action that is being assessed; and
 - (b) that each such activity is a *project component*.

24 Regulation 5.12H

Repeal the regulation, substitute:

5.12H Making determinations

- (1) For the purposes of paragraph 520(4C)(c) of the Act, the making of a determination under regulation 5.12C, 5.12D, 5.12E, 5.12F or 5.12G is a method for working out a fee.
- (2) Regulations 5.12C, 5.12D, 5.12E, 5.12F or 5.12G do not limit the matters that the Minister may consider in making a determination under any of those regulations.

25 Paragraphs 5.12J(1)(c) and (d)

Repeal the paragraphs, substitute:

- (c) a breakdown of the complexity fee, itemising the amounts payable for:
 - (i) each application component; and
 - (ii) each controlling provision component; and
 - (iii) if applicable—the exceptional case component; and

- (iv) the legislative impact component; and
- (v) the project composition component;
- (d) the level of complexity determined for the application components, the controlling provision components and the legislative impact component;

26 Subregulations 5.12J(2) and (3)

Omit “the application component”, substitute “each application component”.

27 At the end of regulation 5.12J

Add:

- (4) If the Minister is satisfied that there is an error in a fee schedule given to a person, the Minister may give the person a corrected fee schedule.

28 Subregulations 5.12K(2) to (5)

Repeal the subregulations, substitute:

Complexity fee—application component

- (2) The amount payable, for an application component for a type of information mentioned in subregulation 5.12B(2), is the amount specified in the table for the type and the level of complexity.

Complexity fee—application component					
Item	Type of information	Low complexity	Moderate complexity	High complexity	Very high complexity
1	the type mentioned in paragraph 5.12B(2)(a)	nil	\$10,982.00	\$34,949.00	\$62,399.00
2	the type mentioned in paragraph 5.12B(2)(b)	nil	\$10,982.00	\$34,949.00	\$84,311.00
3	the type mentioned in paragraph 5.12B(2)(c)	nil	\$10,982.00	\$34,949.00	\$95,311.00

Complexity fee—controlling provision component

- (3) The amount payable for a controlling provision component is:
 - (a) for moderate complexity—\$6,742.00; and
 - (b) for high complexity—\$25,615.00; and
 - (c) for very high complexity—\$48,931.00.
- (4) Despite subregulation (3), if:
 - (a) the controlling provision component is for Subdivision FA (Great Barrier Reef Marine Park) of Division 1 of Part 3 of the Act (the **Great Barrier Reef component**); and

(b) there is also a controlling provision component for Subdivision A (World Heritage) or AA (National Heritage) of Division 1 of Part 3 of the Act; then the amount payable for the Great Barrier Reef component is:

- (c) for moderate complexity—\$3,371.00; and
- (d) for high complexity—\$12,808.00; and
- (e) for very high complexity—\$24,465.00.

Complexity fee—exceptional case component

- (5) The amount payable for an exceptional case component is \$592,086.00.

Complexity fee—legislative impact component

- (6) The amount payable for a legislative impact component is:
- (a) for low complexity—nil; and
 - (b) for moderate complexity—\$8,033.00; and
 - (c) for high complexity—\$16,065.00; and
 - (d) for very high complexity—\$33,162.00.

Complexity fee—project composition component

- (7) The amount payable for a project composition component is set out in the Subdivision of this Division that deals with the approach to be used for assessing the impacts of the action.

29 Subregulation 5.13B(2) (table)

Repeal the table, substitute:

Base fee for assessment by an accredited assessment process		
Item	Stage	Amount payable
1	stage 1	\$3,961.00
2	stage 2	\$3,655.00
3	stage 3	\$2,175.00
4	stage 4	\$8,355.00

30 Paragraph 5.13C(1)(a)

Repeal the paragraph, substitute:

- (a) the ***Part A complexity fee***, which is the sum of the fees for:
- (i) each controlling provision component; and
 - (ii) if applicable—the exceptional case component; and
 - (iii) the legislative impact component; and
 - (iv) the project composition component; and

31 Subregulation 5.13C(3) (table)

Repeal the table, substitute:

Part A complexity fee for assessment by an accredited assessment process

Item	Stage	Percentage payable
1	stage 1	12%
2	stage 2	19%
3	stage 3	20%
4	stage 4	49%

32 Subregulations 5.13C(4) and (5)

Repeal the subregulations, substitute:

Part B complexity fee

- (4) The Part B complexity fee for the assessment of the action is payable in 2 stages as follows:
- (a) 50% before the beginning of stage 3; and
 - (b) 50% before the beginning of stage 4.

33 Regulation 5.13D

Repeal the regulation, substitute:

5.13D Amount of project composition component

The amount of the project composition component of the complexity fee is:

- (a) if there is one project component—nil; and
- (b) if there are 2 or more project components—the amount worked out using the following formula:

$$\$18,146.00 \times \left(\frac{\text{Number of project components}}{\text{Number of project components}} - 1 \right)$$

Note: Regulation 5.12K sets out the amounts of the other components of a complexity fee.

34 Subregulation 5.14B(2) (table)

Repeal the table, substitute:

Base fee for assessment on referral information		
Item	Stage	Amount payable
1	stage 1	\$4,561.00
2	stage 2	\$2,739.00
3	stage 3	\$1,664.00

35 Regulation 5.14D

Repeal the regulation, substitute:

5.14D Amount of project composition component

The amount of the project composition component of the complexity fee is:

- (a) if there is one project component—nil; and
- (b) if there are 2 or more project components—the amount worked out using the following formula:

$$\$8,964.00 \times \left(\frac{\text{Number of project components} - 1}{1} \right)$$

Note: Regulation 5.12K sets out the amounts of the other components of a complexity fee.

36 Regulation 5.14E

Repeal the regulation, substitute:

5.14E Method for working out complexity fee

For the purposes of paragraph 520(4C)(c) of the Act, the sum of the fees for the following components is the method for working out the complexity fee referred to in regulation 5.14C:

- (a) each controlling provision component;
- (b) if applicable—the exceptional case component;
- (c) the legislative impact component;
- (d) the project composition component.

37 Subregulation 5.15A(1) (paragraph (a) of the definition of *stage 1*)

Repeal the paragraph, substitute:

- (a) if section 95A of the Act applies—stage 1 begins when the request under subsection 95A(2) of the Act starts to be prepared; and

38 Subregulation 5.15A(1) (definition of *stage 2*)

Repeal the definition, substitute:

stage 2:

- (a) if section 95A of the Act applies—stage 2 begins when the Minister receives the information requested under subsection 95A(2) of the Act; and
- (b) if section 95A of the Act does not apply—stage 2 does not occur.

39 Subsection 5.15A(2)

After “*stage 1*”, insert “or *stage 2*”.

40 Subregulation 5.15B(2) (table)

Repeal the table, substitute:

Base fee for assessment on preliminary documentation		
Item	Stage	Amount payable
1	stage 1	\$2,074.00
2	stage 2	\$2,289.00

Base fee for assessment on preliminary documentation		
Item	Stage	Amount payable
3	stage 3	\$852.00
4	stage 4	\$2,795.00

41 Paragraph 5.15C(1)(a)

Repeal the paragraph, substitute:

- (a) the ***Part A complexity fee***, which is the sum of the fees for:
- (i) each controlling provision component; and
 - (ii) if applicable—the exceptional case component; and
 - (iii) the legislative impact component; and
 - (iv) the project composition component; and

42 Subregulation 5.15C(3) (table)

Repeal the table, substitute:

Part A complexity fee for assessment on preliminary documentation		
Item	Stage	Percentage payable
1	stage 1	12%
2	stage 2	19%
3	stage 3	20%
4	stage 4	49%

43 Subregulations 5.15C(4) and (5)

Repeal the subregulations, substitute:

Part B complexity fee

- (4) The Part B complexity fee for the assessment of the action is payable in 2 stages as follows:
- (a) 50% before the beginning of stage 3; and
 - (b) 50% before the beginning of stage 4.

44 Regulation 5.15D

Repeal the regulation, substitute:

5.15D Amount of project composition component

The amount of the project composition component of the complexity fee is:

- (a) if there is one project component—nil; and
- (b) if there are 2 or more project components—the amount worked out using the following formula:

$$\$8,010.00 \times \left(\frac{\text{Number of project components}}{\text{Number of project components}} - 1 \right)$$

Note: Regulation 5.12K sets out the amounts of the other components of a complexity fee.

45 Subregulation 5.16A(1) (definition of *stage 1*)

Repeal the definition, substitute:

stage 1:

- (a) if the Minister decides under paragraph 96A(2)(a) of the Act that standard guidelines are not appropriate for the preparation of the draft report—stage 1 begins when the tailored guidelines start to be prepared; and
- (b) otherwise—stage 1 does not occur.

46 Subregulation 5.16A(2)

Omit “(a)”, substitute “(b)”.

47 Subregulation 5.16B(2) (table)

Repeal the table, substitute:

Base fee for assessment by a public environment report		
Item	Stage	Amount payable
1	stage 1	\$4,715.00
2	stage 2	\$5,394.00
3	stage 3	\$7,119.00
4	stage 4	\$8,355.00

48 Paragraph 5.16C(1)(a)

Repeal the paragraph, substitute:

- (a) the ***Part A complexity fee***, which is the sum of the fees for:
 - (i) each controlling provision component; and
 - (ii) if applicable—the exceptional case component; and
 - (iii) the legislative impact component; and
 - (iv) the project composition component; and

49 Subregulation 5.16C(3) (table)

Repeal the table, substitute:

Part A complexity fee for assessment by a public environment report		
Item	Stage	Percentage payable
1	stage 1	12%
2	stage 2	19%
3	stage 3	20%
4	stage 4	49%

50 Subregulations 5.16C(4) and (5)

Repeal the subregulations, substitute:

Part B complexity fee

- (4) The Part B complexity fee for the assessment of the action is payable in 2 stages as follows:

- (a) 50% before the beginning of stage 3; and
- (b) 50% before the beginning of stage 4.

51 Regulation 5.16D

Repeal the regulation, substitute:

5.16D Amount of project composition component

The amount of the project composition component of the complexity fee is:

- (a) if there is one project component—nil; and
- (b) if there are 2 or more project components—the amount worked out using the following formula:

$$\$25,583.00 \times \left(\frac{\text{Number of project components}}{\text{Number of project components}} - 1 \right)$$

Note: Regulation 5.12K sets out the amounts of the other components of a complexity fee.

52 Subregulation 5.17A(1) (definition of stage 1)

Repeal the definition, substitute:

stage 1:

- (a) if the Minister decides under paragraph 101A(2)(b) of the Act that standard guidelines are not appropriate for the preparation of the draft statement—stage 1 begins when the tailored guidelines start to be prepared; and
- (b) otherwise—stage 1 does not occur.

53 Subsection 5.17A(2)

Omit “(a)”, substitute “(b)”.

54 Subregulation 5.17B(2) (table)

Repeal the table, substitute:

Base fee for assessment by an environmental impact statement		
Item	Stage	Amount payable
1	stage 1	\$4,715.00
2	stage 2	\$5,394.00
3	stage 3	\$7,119.00
4	stage 4	\$8,355.00

55 Paragraph 5.17C(1)(a)

Repeal the paragraph, substitute:

- (a) the **Part A complexity fee**, which is the sum of the fees for:
- (i) each controlling provision component; and
 - (ii) if applicable—the exceptional case component; and
 - (iii) the legislative impact component; and
 - (iv) the project composition component; and

56 Subregulation 5.17C(3) (table)

Repeal the table, substitute:

Part A complexity fee for assessment by an environmental impact statement		
Item	Stage	Percentage payable
1	stage 1	12%
2	stage 2	19%
3	stage 3	20%
4	stage 4	49%

57 Subregulations 5.17C(4) and (5)

Repeal the subregulations, substitute:

Part B complexity fee

- (4) The Part B complexity fee for the assessment of the action is payable in 2 stages, as follows:
- (a) 50% at the beginning of stage 3; and
 - (b) 50% at the beginning of stage 4.

58 Regulation 5.17D

Repeal the regulation, substitute:

5.17D Amount of project composition component

The amount of the project composition component of the complexity fee is:

- (a) if there is one project component—nil; and
- (b) if there are 2 or more project components—the amount worked out using the following formula:

$$\$25,583.00 \times \left(\frac{\text{Number of project components}}{\text{Number of project components}} - 1 \right)$$

Note: Regulation 5.12K sets out the amounts of the other components of a complexity fee.

59 Subregulation 5.18(2)

Omit “\$3 233.00”, substitute “\$2,690.00”.

60 Paragraph 5.18B(3)(a)

Omit “\$943.00”, substitute “\$710.00”.

61 Paragraph 5.18B(3)(b)

Omit “\$3 233.00”, substitute “\$2,690.00”.

62 At the end of subregulation 5.18B(3)

Add:

Note: The application must be accompanied by the application fee and the Minister need not consider the application if it is not. See paragraph 143A(2)(b) of the Act and section 521A of the Act.

63 Subregulation 5.18B(4)

Repeal the subregulation.

64 Subregulation 5.19(1)

Omit “\$2 544.00”, substitute “\$1,701.00”.

65 At the end of subregulation 5.19(1)

Add:

Note: The Minister need not consider the information if it is not accompanied by the fee. See section 521A of the Act.

66 Subregulation 5.19(2)

Omit “\$13 087.00”, substitute “\$7,476.00”.

67 At the end of subregulation 5.19(2)

Add:

Note: The Minister need not consider the information if it is not accompanied by the fee. See section 521A of the Act.

68 Subregulation 5.19(3)

Repeal the subregulation, substitute:

- (3) Despite subregulations (1) and (2), no fee is payable in relation to:
- (a) a request referred to in subsection 76(4) or 89(2) of the Act (about assessments by a State or Territory); or
 - (b) a request made under section 132 of the Act to a person who is neither the person proposing to take the action nor the designated proponent of the action.

69 Regulation 5.19A

Omit “\$7 423.00”, substitute “\$6,577.00”.

70 At the end of regulation 5.19A

Add:

Note: The Minister need not consider the request if it is not accompanied by the fee. See section 521A of the Act.

71 Subregulation 5.19B(1)

Omit “(1)”.

72 Subregulation 5.19B(1)

Omit “\$3 320.00”, substitute “\$2,690.00”.

73 At the end of subregulation 5.19B(1)

Add:

Note: The Minister need not consider the request if it is not accompanied by the fee. See section 521A of the Act.

74 Subregulation 5.19B(2)

Repeal the subregulation.

75 At the end of Subdivision I of Division 5.6 of Part 5

Add:

5.19C Request for Minister’s consent to transfer of approval

If a person requests the Minister to decide under section 145B of the Act whether or not to consent to the transfer of an approval, the request must be accompanied by a fee of \$1,967.00.

Note: The Minister need not consider the request if it is not accompanied by the fee. See section 521A of the Act.

5.19D Application to extend period of effect of approval

If a person applies to the Minister under subsection 145C(1) of the Act to extend the period for which an approval has effect, the application must be accompanied by a fee of \$2,690.00.

Note: The Minister need not consider the application if it is not accompanied by the fee. See section 521A of the Act.

5.19E Request to vary proposal to take an action

If a person requests the Minister under subsection 156A(1) of the Act to accept a variation of a proposal to take an action, the request must be accompanied by a fee of \$1,353.00.

Note: The Minister need not consider the request if it is not accompanied by the fee. See section 521A of the Act.

76 Regulation 5.22A

Before “For”, insert “(1)”.

77 At the end of regulation 5.22A (before the note)

Insert:

- (2) The Department must, on behalf of the Commonwealth, refund the amount of a referral fee paid by a person if:

- (a) the referral is withdrawn under section 170C of the Act before the Minister publishes an invitation under paragraph 74(3)(b) of the Act in relation to the referral; and
- (b) the Minister is satisfied that:
 - (i) there has not been any substantial work done on the referral; and
 - (ii) in the circumstances it would be appropriate to refund the referral fee.

78 In the appropriate position in Part 20

Insert:

20.11 Amendments made by the Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Regulation 2016

Fees paid after commencement time

- (1) The amendments made by Schedule 1 to the *Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Regulation 2016* apply in relation to any fee paid after the commencement time.
- (2) Subregulation (1) applies regardless of whether other fees have been paid before the commencement time in relation to the same assessment of an action.
- (3) If a person was given a fee schedule under regulation 5.12J setting out a fee that, at the commencement time, has not been paid, the Minister must give the person a revised fee schedule setting out the amount of the fee worked out in accordance with Division 5.6 of Part 5 as amended. If the Minister does so, the revised fee schedule is taken to have been given under regulation 5.12J.
- (4) A person is not entitled under regulation 5.22 to a refund of a fee paid before the commencement time only on the basis that the fee would have been lower had it been paid after the commencement time.

Fee waiver

- (5) The Minister may, at the Minister's discretion, waive a fee that would otherwise be paid after the commencement time in relation to an assessment of an action.
- (6) In deciding whether to waive a fee under subregulation (5), the Minister must have regard to whether the total amount of the fees payable after the commencement time in relation to the assessment of the action is higher than it would have been if the amendments had not been made.
- (7) The Minister's power under subregulation (5) may only be exercised on the Minister's own initiative.

Determinations

- (8) A determination in force under regulation 5.12C, 5.12D, 5.12E, 5.12F or 5.12G immediately before the commencement time continues in force after the commencement time, as if it had been made under that regulation as amended by Schedule 1 to the *Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Regulation 2016*.

Delegations

- (9) If a delegation by the Minister of a power or function under a provision of Division 5.6 of these Regulations was in force immediately before the commencement time, the delegation continues in force after the commencement time as if it were a delegation of the power or function under the provision of Division 5.6 as amended by Schedule 1 to the *Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Regulation 2016*.

Definitions

- (10) In this section:

commencement time means the start of the day that Schedule 1 to the *Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Regulation 2016* commences.

Note: Schedule 1 to the *Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Regulation 2016* commences on 1 October 2016.

fee includes part of a fee.