

EXPLANATORY STATEMENT

Issued by Authority of the Parliamentary Secretary to the Deputy Prime Minister and Minister
for Agriculture and Water Resources

Primary Industries Research and Development Act 1989

*Fisheries Research and Development Corporation Amendment (Fishing Levy)
Regulations 2017*

The *Primary Industries Research and Development Act 1989* (the Act) provides for the undertaking of research and development relating to primary industries and natural resources, and for related purposes.

Section 149 of 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.

Section 8 of the Act provides for regulations to establish a Research and Development Corporation in respect of a primary industry. Subsection 5(1) of the Act allows a levy to be attached to a Research and Development Corporation by way of regulations. 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.

The *Fisheries Research and Development Corporation Regulations 1991* (the Principal Regulations) establish the Fisheries Research and Development Corporation (FRDC) in respect of the fishing industry. 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 4(A)(2) specifies the proportion of the levy collected from the fishing industry to be paid to the FRDC as the research component of the levy in accordance with section 30 of the Act.

The proportion of the fishing levy that is the research component varies annually because it 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 *Fisheries Research and Development Corporation Amendment (Fishing Levy) Regulations 2017* (Amendment Regulations) 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 2016–17 financial year. The proportion for 2016–17 is 5.8 per cent.

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 Regulations.

The Office of Best Practice Regulation advised in 2016 that the Department is exempt from submitting a Preliminary Assessment for annual amendments to the Regulations (ID 20522).

The Amendment Regulations are 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.

The Amendment Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Fisheries Research and Development Corporation Amendment (Fishing Levy) Regulations 2017

Section 1 – Name of Regulation

This section provides that the Amendment Regulations are referred to as the *Fisheries Research and Development Corporation Amendment (Fishing Levy) Regulations 2017*.

Section 2 – Commencement

This section provides that the Amendment Regulations commence on the day after registration on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the Amendment Regulation are made under the *Primary Industries Research and Development Act 1989*.

Section 4 – Schedule(s)

This section provides that the Principal 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 Principal Regulations to specify the research component of the levy for the 2016–17 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.

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) Regulations 2017

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 and Water Resources 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. Anne Ruston
**Parliamentary Secretary to the Deputy Prime Minister and Minister for Agriculture
and Water Resources**