

EXPLANATORY STATEMENT

Issued by the Australian Fisheries Management Authority

Fisheries Management Act 1991
Small Pelagic Fishery Management Plan 2009

FISHERIES MANAGEMENT (SMALL PELAGIC FISHERY) FISHING METHOD DETERMINATION 2018 No. 2

Section 17 of the *Fisheries Management Act 1991* (the Act) provides for the Australian Fisheries Management Authority (the Authority) to determine plans of management for a fishery.

Paragraph 17(6)(aa) of the Act provides that a plan of management may determine, or provide for the Authority to determine, the fishing capacity, for a fishery measured by that method or those methods, permitted for the fishery or a part of the fishery in respect of a particular period or periods.

Section 27 of the *Small Pelagic Fishery Management Plan 2009* (the Plan) provides that the Authority may determine a fishing method other than the purse seine or mid-water trawl fishing methods for use by persons fishing in the fishery.

This instrument determines the fishing methods known as jigging and minor line methods for the purposes of section 27 of the Plan.

The *Fisheries Management (Small Pelagic Fishery) Fishing Method Determination 2018 No. 2* (the Determination) is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Fishery

The Small Pelagic Fishery (the Fishery) extends from the Queensland/New South Wales border, typically outside 3 nautical miles, around southern Australia to a line at latitude 31° south (near Lancelin, north of Perth). The fishery is currently divided into two sub areas East and West of latitude 146°30'00".

Management in the Fishery is through output controls in the form of individually transferable quotas with a Total Allowable Catch determined for each quota species for each fishing year. The main target species in the Fishery are Jack Mackerel, Blue Mackerel, Redbait and Australian Sardines. The target species are caught primarily for the domestic market and are used for fishmeal, bait and human consumption.

Consultation

The Small Pelagic Fishery Scientific Panel (the Panel) and South East Management Advisory Committee (SEMAC) supported the introduction of jigging and minor line methods as authorised Fishing Methods in the Fishery, acknowledging that these pose no sustainability risks as the TAC are considered sustainable and are based on the best available science. However, both committees noted the potential for seabird interactions and therefore recommended an onboard observer is present for the first 5 trips of any new fishing operation.

To address a recently identified omission of a specific beginning and end date of the existing instrument, and for clarity, AFMA is revoking the existing instrument and remaking it as *Fisheries Management (Small Pelagic Fishery) Fishing Method Determination 2018 No. 2* to include specific reference to its period of effect. There are no other changes in the remade instrument or its application. AFMA has not received any applications to use the new methods since the existing instrument was introduced.

Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) 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. **(OBPR ID 23456)**

Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

The Authority assesses under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* that this legislative instrument is compatible with human rights. The Authority's Statement of Compatibility is attached as a supporting document.

Details of the Determination are set out below:

Clause 1 Provides that the name of the Determination is the *Fisheries Management (Small Pelagic Fishery) Fishing Method Determination 2018 No.2*.

Clause 2 Provides the Determination commences on the day after it is registered on the Federal Register of Legislation.

Clause 3 Provides the authority under which the Determination is made.

Clause 4 Defines terms used in the Determination.

Clause 5 Specifies to whom this Determination applies.

Clause 6 Provides that the fishing method known as jigging and minor line methods may be used by persons fishing in the Small Pelagic Fishery.

Clause 7 Provides for a cessation date of 30 April 2023 unless earlier revoked.

Sch. 1 Revokes the *Fisheries Management (Small Pelagic Fishery) Fishing Method Determination 2018* (F2018L00413).

Statement of Compatibility with Human Rights

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

Fisheries Management (Small Pelagic Fishery) Fishing Method Determination 2018 No.2

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

Section 27 of the *Small Pelagic Fishery Management Plan 2009* provides that the Authority may determine a fishing method other than the purse seine or mid-water trawl fishing methods for use by persons fishing in the fishery.

This instrument determines the fishing methods known as jigging and minor line for the purposes of section 27 of the *Small Pelagic Fishery Management Plan 2009*.

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.