

EXPLANATORY STATEMENT

Issued by the Authority of the Assistant Minister for Agriculture and Water Resources

Parliamentary Secretary to the Minister for Agriculture and Water Resources

Fisheries Administration Act 1991

Fisheries Management Act 1991

Maritime Powers Act 2013

Fisheries Legislation Amendment (Repeals and Consequential Provisions) Regulations 2019

Legislative authority

Section 114 of the *Fisheries Administration Act 1991* (the Administration Act) provides that the Governor-General may make regulations, not inconsistent with the Administration Act, prescribing all matters required or permitted by the Administration Act to be prescribed or necessary or convenient to be prescribed in carrying out or giving effect to the Administration Act.

Section 168 of the *Fisheries Management Act 1991* (the Management Act) provides that the Governor-General may make regulations not inconsistent with the Management Act prescribing all matters required or permitted by the Management Act to be prescribed or as may be necessary or convenient to be prescribed in carrying out or giving effect to the Management Act.

Section 122 of the Maritime Powers Act 2013 (the Maritime Powers Act) provides that the Governor-General may make regulations not inconsistent with the Maritime Powers Act prescribing all matters required or permitted by the Maritime Powers Act to be prescribed or as may be necessary or convenient to be prescribed in carrying out or giving effect to the Maritime Powers Act.

Purpose

The purpose of the Fisheries Legislation Amendment (Repeals and Consequential Provisions) Regulations 2019 (the Regulations) is to repeal the *Fisheries (Administration) Regulations 1992* (the 1992 Administration Regulations), the *Fisheries Management Regulations 1992* (the 1992 Management Regulations) and the *Fisheries Management (Southern Bluefin Tuna Fishery) Regulations 1995* (SBT Regulations) and to make amendments consequential to the Fisheries Management Regulations 2019 (2019 Management Regulations).

The consequential amendments that the Regulations make are to replace references to the 1992 Management Regulations with references to the 2019 Management Regulations in the *Maritime Powers Regulation 2014* and the *Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002*.

Background

The 1992 Administration Regulations, the 1992 Management Regulations and the SBT Regulations are due to sunset on 1 October 2019, by operation of Part 4 of Chapter 3 of the *Legislation Act 2003*. The *Fisheries Administration Regulations 2019* (2019 Administration Regulations) replace the 1992 Administration Regulations and the 2019 Management Regulations replaces the 1992 Management Regulations and also incorporate the SBT Regulations.

Consultation

The Australian Fisheries Management Authority (AFMA) consulted with all persons holding fishing concessions issued under the *Fisheries Management Act 1991*, all fishing industry bodies, State and Territory agencies responsible for regulation of fisheries, relevant Commonwealth agencies on the remaking of the 1992 Administration Regulations and the 1992 Management Regulations in April 2018. Responses received supported remaking these instruments with amendments.

The Department of Home Affairs was consulted on the proposed Regulations in relation to substituting the reference to the 1992 Management Regulations in the *Maritime Powers Regulation 2014* with a reference to the 2019 Management Regulations. The Department of Home Affairs supported the proposed Regulations.

Impact and Effect

The Office of Best Practice Regulation (OBPR) was consulted prior to making the 2019 Administration Regulations and 2019 Management Regulations. OBPR advised that a Regulatory Impact Statement was not required (OBPR ID 23307). The Regulations is consequential to the 2019 Administration Regulations and 2019 Management Regulations and as such also falls within this OPBR assessment that no RIS is required.

Details/ Operation

Details of the Regulations are set out in [Attachment A](#).

Other

The Regulations are compatible with the human rights and freedoms for the purposes of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in the [Attachment B](#).

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

ATTACHMENT A

Details of the *Fisheries Legislation Amendment (Repeals and Consequential Provisions) Regulations 2019*

Section 1 – Name

This section provides that the name of the Regulations is the *Fisheries Legislation Amendment (Repeals and Consequential Provisions) Regulations 2019* (the Regulations).

Section 2 – Commencement

This section provides that the Regulations commence the later of the start of the day after the instrument is registered and the commencement of the *Fisheries Management Regulations 2019* (2019 Management Regulations).

Section 3 – Authority

This section provides that the Regulations are made under the *Fisheries Administration Act 1991*, the *Fisheries Management Act 1991* and the *Maritime Powers Act 2013*.

Section 4 – Schedules

This section provides that each instrument that is specified in a schedule to the Regulations is amended or repealed as set out in that schedule.

Schedule 1 – Repeals and amendments

Part 1 - Repeals

Item 1 –*Fisheries Management Regulations 1992*

This item repeals the whole of the *Fisheries Administration Regulations 1992*. The *Fisheries Administration Regulations 2019* replaces this instrument.

Item 2 –*Fisheries Management Regulations 1992*

This item repeals the whole of the *Fisheries Management Regulations 1992* (1992 Management Regulations). The 2019 Management Regulations replaces this instrument.

Item 3 – *Fisheries Management (Southern Bluefin Tuna Fishery) Regulations 1995*

This item repeals the whole of the *Fisheries Management (Southern Bluefin Tuna Fishery) Regulations 1995*. The content of this instruments is subsumed in the 2019 Management Regulations.

Part 2 - Amendments

Item 4 –*Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002*

This item repeals subregulation 21(4) in the *Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002*, which contains a reference to Part 5 of the 1992 Management Regulations. The item would substitute it with a new subregulation which refers to Part 9 of the 2019 Management Regulations.

Item 5 – *Maritime Powers Regulation 2014*

This item repeals paragraph 6(f) of the *Maritime Powers Regulation 2014* which contains a reference to the 1992 Management Regulations and would substitute it with a new paragraph that refers to the 2019 Management Regulations.

Statement of Compatibility with Human Rights

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

Fisheries Legislation Amendment (Repeals and Consequential Provisions) Regulations 2019

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the *Fisheries Legislation Amendment (Repeals and Consequential Provisions) Regulations 2019* (the Regulations) is to repeal the *Fisheries (Administration) Regulations 1992*, the *Fisheries Management Regulations 1992* (the 1992 Management Regulations) and the *Fisheries Management (Southern Bluefin Tuna Fishery) Regulations 1995* and to make amendments consequential to the *Fisheries Management Regulations 2019* (2019 Management Regulations).

The consequential amendments that the Regulations make are to replace references to the 1992 Management Regulations with references to the 2019 Management Regulations in the *Maritime Powers Regulation 2014* and the *Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002*.

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. Richard Colbeck

Assistant Minister for Agriculture and Water Resources

Parliamentary Secretary to the Minister for Agriculture and Water Resources