

## **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 (Administration) Regulations 2019*

### **Legislative background**

The *Fisheries Administration Act 1991* (the Administration Act) establishes the Australian Fisheries Management Authority (AFMA) with functions and responsibilities relating to the management of fisheries on behalf of the Commonwealth. The *Fisheries (Administration) Regulations 1992* (the 1992 Regulations) prescribe matters for the purpose of the Administration Act. This includes prescribing the ‘peak industry body’ for consultation.

Section 114 of 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.

### **Purpose**

The purpose of the *Fisheries Administration Regulations 2019* (the Regulations) is to replace the 1992 Regulations which are due to sunset on 1 October 2019, by operation of Part 4 of Chapter 3 of the *Legislation Act 2003*.

The Regulations prescribe the Commonwealth Fisheries Association (CFA) as the peak industry body for the purposes of the definition in subsection 4(1) of the Administration Act. Provisions in the 1992 Regulations which are no longer in effect as a result of amendments to the Administration Act are not included in the Regulations. The *Fisheries Legislation Amendment (Repeals and Consequential Provisions) Regulations 2019* contain a provision to repeal the 1992 Regulations.

### **Consultation**

AFMA consulted on the content of the Regulations in April 2018 in conjunction with the consultation process for the *Fisheries Management Regulations 2019*. A consultation package for both instruments was sent to 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 and was made available to the general public on the AFMA website. No concerns were expressed regarding the content of the Regulations.

The Office of Best Practice Regulation (OBPR) was consulted prior to making the Regulations and advised that a Regulatory Impact Statement was not required (OBPR ID 23307).

### **Impact and Effect**

Prescribing the CFA as the peak industry body for the purpose of the definition in subsection 4(1) of the Administration Act has the effect that:

- the CEO of AFMA would be required to consult with the CFA before preparing a corporate plan under section 35 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) (under subsection 72(1) of the Administration Act); and
- prior to tabling in parliament of AFMA's annual report prepared by the CEO and given to the Minister under section 46 of the PGPA Act, the Chairperson of the AFMA Commission must give a copy of the annual report to the CFA and request a meeting with the governing body of the CFA to discuss the annual report (subsection 89(1) of the Administration Act).

### **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 Attachment B.

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

**Details of the *Fisheries Administration Regulations 2019***

**Section 1 – Name**

This section provides that the name of the instrument is the *Fisheries Administration Regulations 2019* (the Regulations).

**Section 2 – Commencement**

This section provides that the Regulations commence on 1 October 2019.

**Section 3 – Authority**

This section provides that the Regulations are made under the *Fisheries Administration Act 1991* (Administration Act).

**Section 4 – Peak industry body**

This section prescribes that the Commonwealth Fisheries Association is the peak industry body for the purposes of the definition in subsection 4(1) of the Administration Act.

**Statement of Compatibility with Human Rights**

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

**Fisheries Administration 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 *Fisheries Administration Regulations 2019* (the Regulations) is to replace the *Fisheries (Administration) Regulations 1992* (the 1992 Regulations). The 1992 Regulations are due to sunset on 1 October 2019 by operation of Part 4 of Chapter 3 of the *Legislation Act 2003*. The Regulations prescribe the Commonwealth Fisheries Association as the peak industry body for the purposes of the definition in subsection 4(1) of the *Fisheries Administration Act 1991*.

**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**