

EXPLANATORY STATEMENT

Issued by Authority of the Assistant Minister for Forestry and Fisheries

Fishing Levy Act 1991

Fishing Levy Amendment (2019-2020 Levy Amounts) Regulations 2019

Legislative Authority

The *Fishing Levy Act 1991* (the Levy Act) imposes a levy in respect of fishing concessions.

Section 8 of the Levy Act provides that the Governor-General may make regulations for the purposes of section 6 of the Levy Act. Section 5 of the Levy Act imposes a levy in respect of a fishing concession. Section 6 of the Levy Act provides that the amount of levy imposed on the fishing concession is the amount prescribed by the regulations.

‘Fishing concession’ is defined in the Levy Act with reference to the definition of ‘fishing concession’ in the *Fisheries Management Act 1991* (the Management Act) and relevantly includes a ‘statutory fishing right’ (SFR) and a ‘fishing permit’.

Under the Management Act:

- an SFR is a right set out in subsection 21(1) of the Management Act, which relevantly includes a right to take a particular quantity of fish, or a right to a particular proportion of the fishing capacity that is permitted by or under a plan of management for a fishery; and
- a fishing permit is a permit granted to a person under section 32 of the Management Act, authorising that person (or a person acting on that person’s behalf) to use an Australian boat for fishing in a specified area of the Australian Fishing Zone, or in a specified fishery.

Purpose

The purpose of the proposed *Fishing Levy Amendment (2019-2020 Levy Amounts) Regulations 2019* (the Regulations) is to:

- amend the provisions of the *Fishing Levy Regulations 2018*;
- set the amounts of levy payable in respect of fishing concessions for the purpose of section 6 of the Levy Act; and
- set the levy amounts for the 15 Commonwealth fisheries that have leviable concessions and that are either described in regulation 18 of the *Fisheries Management Regulations 2019* (the Management Regulations) or in fisheries management plans determined in accordance with section 17 of the Management Act.

A related instrument, the *Fisheries Management (Fishing Levy Collection) Amendment (2019-2020 Instalment Dates) Regulations 2019*, provides for when levy amounts imposed are due and payable and also provides for the payment of those levies by way of instalments.

Background

Each financial year the Australian Fisheries Management Authority (AFMA) in accordance with the Australian Government Cost Recovery Guidelines, prepares a cost recovery budget to recover the costs of Commonwealth fisheries management from fishing concession holders through the imposition of levies. AFMA's Cost Recovery Implementation Statement (CRIS) outlines what cost recoverable activities AFMA provides and how those activities are implemented in managing Commonwealth fisheries. The 2019-20 cost recovered budget was calculated to be \$15 044 058 (excluding fisheries managed under the *Torres Strait Fisheries Act 1984* (the Torres Act)). This is an increase of 1.9 per cent on the previous year.

AFMA levies are calculated based on the cost recovered budget for the coming financial year, plus or minus any under or over spend in the previous financial year and take into account any revenue collected through fee-for-service charges. Following the acquittal of a small over collection in the AFMA budget from the 2018-19 financial year and an adjustment for revenue collected through fee-for-service charges, the total AFMA levy amount to be recovered from fishing concession holders for the 2019-20 financial year is \$14 249 595 (an increase of 4.2 per cent on the previous year). Levy amounts for the Torres Strait Prawn Fishery (which is managed under the Torres Act) are prescribed in separate regulations.

As part of its annual levy processes AFMA also collects an amount of research levy for the Fisheries Research and Development Corporation (FRDC). This research levy amount is also subject to an acquittal from the previous financial year and potential adjustment. Such an adjustment may arise as calculations of the research amount are based on the previous financial year's determined gross value of production (GVP) prior to the determined GVP figure for the current year becoming available. For 2019-20 the FRDC amount to be collected is approximately \$879 850.

Under the Regulations the total amount of levy (AFMA levy plus FRDC levy) to be paid by fishing concession holders in 2019-20 is \$15 129 445.

Although the overall amount to be collected from the Commonwealth fishing industry has increased, the amount to be recovered from each fishery varies due to factors including:

- changes in management and research priorities for each fishery;
- adjustments for prior year over/under collections; and
- any changes during the financial year that alter the amount of resources required to administer the fishery.

Consultation

On 26 February 2019, AFMA distributed a draft CRIS, including the draft 2019-20 cost recovered budget, for comment to the Commonwealth Fisheries Association (CFA) (the peak industry body). These drafts were also provided to each of the fishery Management Advisory Committees (MACs) and other relevant consultative bodies for fisheries that do not have a MAC. Relatively minor changes were made to the draft budget based on feedback received during the industry consultation period and involved some revisions to the budgeted amounts for certain activities. A copy of the final cost recovered budget for 2019-20 was forwarded to the CFA on 11 April 2019. The CFA did not object to the final budget.

Consistent with the carve-out agreement made with the Office of Best Practice Regulation on 30 June 2014, AFMA is not required to complete a Regulation Impact Statement in relation to

this instrument. Under this agreement the annual setting of cost recovery levies is considered machinery in nature (ID 14421).

Impact and Effect

The impact of the Regulations is that it requires fishing concession owners to pay levy amounts to the Commonwealth government. The amount of levy payable depends on the quantity and types of fishing concessions held which, in turn, reflect the level of activity AFMA needs to undertake to manage the relevant fishery and/or fish stock. The effect of the Regulations is to assist in enabling fishing concession owners to utilise their fishing concessions in the relevant Commonwealth fishery. This occurs because AFMA's cost-recovered activities include the administration of the fishing concessions system, the setting of sustainable catch limits using the best available science, developing and implementing the fishing rules and monitoring fishing activity.

Although the overall amount to be collected from the Commonwealth fishing industry has increased slightly, the amount to be recovered from each fishery varies due to factors including:

- changes in management and research priorities for each fishery;
- adjustments for prior year over/under collections; and
- any changes during the financial year that alter the amount of resources required to administer the fishery.

There are six fisheries and one sector of the Southern and Eastern Scalefish and Shark Fishery (SESSF) where there has been a decrease in levy for the 2019-20 financial year compared with the previous financial year. These are:

- Bass Strait Central Zone Scallop Fishery 19.39 per cent (\$74 997)
- Macquarie Island Fishery 64.85 per cent (\$274 037)
- North West Slope Fishery 48.52 per cent (\$35 521)
- Small Pelagic Fishery 17.13 per cent (\$207 569)
- Southern and Eastern Scalefish and Shark Fishery
 - Commonwealth South East Trawl 1.57 per cent (\$45 319)
- Southern Bluefin Tuna Fishery 2.42 per cent (\$35 222)
- Western Deepwater Trawl Fishery 79.47 per cent (\$64 335)

There are eight fisheries and two sectors of the SESSF where there has been an increase in levy for the 2019-20 financial year compared with the previous financial year. These are:

- Coral Sea Fishery 13.59 per cent (\$18 438)
- Eastern Skipjack Fishery and Western Skipjack Fishery 39.07 per cent (\$16 708)
- Eastern Tuna and Billfish Fishery 24.96 per cent (\$334 581)
- Heard Island and McDonald Islands Fishery 60.09 per cent (\$447 829)
- Northern Prawn Fishery 9.66 per cent (\$186 690)
- Southern and Eastern Scalefish and Shark Fishery
 - Gillnet, Hook and Trap 1.66 per cent (\$38 158)
 - Great Australian Bight 58.91 per cent (\$213 288)
- Southern Squid Jig Fishery 15.77 per cent (\$14 835)
- Western Tuna and Billfish Fishery 19.60 per cent (\$41 311)

Note: the Eastern Skipjack Fishery and Western Skipjack Fishery are administered under a single budget.

Details of the Regulations are set out in Attachment A.

The 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 Attachment B.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003* and commence on the day after being registered on the Federal Register of Legislation.

Details of the *Fishing Levy Amendment (2019-2020 Levy Amounts) Regulations 2019*

Section 1 – Name of Regulations

This section provides that the name of the proposed Regulations is the *Fishing Levy Amendment (2019-2020 Levy Amounts) Regulations 2019* (the proposed Regulations).

Section 2 – Commencement

This section provides for the proposed Regulations to commence the day after the instrument is registered.

Section 3 – Authority

This section provides that the proposed Regulations are made under the *Fishing Levy Act 1991*.

Section 4 - Schedules

This section provides that 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

Part 1 – Main Amendments

Fishing Levy Regulations 2018

Item [1] Subsection 5(1) (definition of *Management Regulations*)

This item omits the reference to the repealed *Fisheries Management Regulations 1992* and substitutes a reference to the *Fisheries Management Regulations 2019* to reflect the current regulations.

Item [2] Section 6 References to fisheries

New section 6 of the Regulations provides that a reference in this instrument to a fishery using a name mentioned in the table in subsection 18(1) of the Management Regulations, or a name used in a plan of management determined under section 17 of the Management Act, is a reference to the fishery of that name as described in that table or that plan.

NOTE: In the following items that describe the levy rates in each of the fisheries the term “new levy day” has been introduced. This term is defined and explained at Part 2 – Amendments relating to new levy day.

Item [3] Subsection 8(2) – Bass Strait Central Zone Scallop Fishery (BSCZSF)

The effect of this amendment (and the amendment to paragraph 8(1)(b) inserted by item 28 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable BSCZSF SFR is \$0.7425.

Comparison of the BSCZSF levy base between 2018-19 and 2019-20.

	2018-19 \$	2019-20 \$	Difference	
			\$	%
Cost recovered budget	285 764	580	57 816	20.23
Prior year (over)/under recoveries	106 778	(30 707)		
Fee-for-service	(5 744)	(1 072)		
Amount payable (excludes FRDC)	386 798	311 801	(74 997)	(19.39)

There has been a 19.39 per cent (\$74 997) decrease in the levy amount for 2019-20 (\$311 801) compared to the levy amount payable for 2018-19 (\$386 798). The prior year over collection (\$30 707) is due to an under spend of the 2018-19 budget relating primarily to a management position being unfilled for a portion of the year.

To calculate the levy payable for each commercial scallop quota SFR the FRDC levy (\$18 250) is added to the total management levy to be collected (\$311 801) and then divided by the number of commercial scallop quota SFRs in the fishery (444 500).

Items [4] – [5] - Paragraph 9(2)(a) and Subsection 9(2) - Coral Sea Fishery (CSF)

The levy in this fishery is made up of two components: a base amount (Tier 1) levy plus an additional amount (Tier 2) for each sector of the fishery to which the permit provides access. The Tier 1 levy covers general management costs incurred equally across each sector including salaries, travel, logbook processing, data management, licensing and compliance costs. Tier 2 levies reflect observer costs associated with each sector of the fishery.

The effect of the amendment made by item 4 (and the amendment to paragraph 8(1)(b) inserted by item 28 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable CSF fishing permit is \$9391.43.

The effect of the amendment made by item 5 (and the amendment to paragraph 9(1)(b) inserted by item 29 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of Tier 2 levy is as per the table below:

Amount of levy for a sector of the Coral Sea Fishery		
Item	Sector	Amount (\$)
1	Aquarium	755.53
2	Line	2,267.20
3	Line—autobait	2,267.20
4	Lobster and trochus	755.53
5	Sea cucumber	755.53

Comparison of the CSF levy base between 2018-19 and 2019-20.

	2018-19 \$	2019-20 \$	Difference	
			\$	%
Cost recovered budget	158 421	138 921	(19 500)	(12.31)
Prior year (over)/under recoveries	(21 427)	15 711		
Fee-for-service	(1280)	(480)		
Amount payable (excludes FRDC)	135 714	154 152	18 438	13.59

There has been a 13.59 per cent (\$18 438) increase in the levy amount payable for 2019-20 (\$154 152) compared to the levy amount payable for 2018-19 (\$135 714). While the 2019-20 cost-recovered budget was 12.31 per cent (\$19 500) less than the 2018-19 budget, the increase results from the under spend in 2017-18 (a stakeholder meeting was budgeted but did not occur) and the over spend in 2018-19 due to additional staff time reviewing harvest strategies and additional observer coverage in 2018-19.

The levy payable for each permit is split into two tiers. Tier 1 (\$9391.43) is the levy amount paid by each of the 14 permit holders representing general fisheries costs. Tier 2 represents the observer budget (\$22 672) which is split based on expected use, 80 per cent to Line and 20 per cent to Hand Collection.

Item [6] Subsection 10(2) - Eastern Skipjack Fishery (ESF)

The effect of this amendment (and the amendment to paragraph 10(1)(b) made by item 29 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable ESF permit is \$1918.37.

Comparison of the Skipjack Fisheries levy base between 2018-19 and 2019-20.

	2018-19 \$	2019-20 \$	Difference	
			\$	%
Cost recovered budget	69 059	62 430	(6629)	(9.60)
Prior year (over)/under recoveries	(26 203)	(2505)		
Fee-for-service	(95)	(456)		
Amount payable (excludes FRDC)	42 761	59 469	16 708	39.07

There has been a 39.07 per cent (\$16 708) increase in the levy payable for 2019-20 (\$59 469) compared to the levy payable for 2018-19 (\$42 761). The 2018-19 levies were much lower than the budget due to an under spend in the previous year. The 2018-19 budget was almost fully utilised and the lack of a refund from previous years has seen the actual levy amount increase. The amount payable is similar to the 2017-18 levy payable (\$57 074). There remains little effort in this fishery and the budget has been reduced by 9.60 per cent.

The ESF is managed under a single budget for the Western Skipjack Fishery (WSF) and ESF combined. The method used to calculate the levies combines the number of permits from both fisheries and then divides the total levy base by the total number of permits. There are currently 17 permits in the ESF and 14 permits in the WSF. Therefore, to determine the individual levies the levy base of \$59 469 has been divided by 31 permits across both fisheries.

Item [7] Subsection 11(2) - Eastern Tuna and Billfish Fishery (ETBF)

The effect of this amendment (and the amendments to the definitions in subsection 11(1) made by items 31-37 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable ETBF SFR is as per the table below:

Amount of levy—Eastern Tuna and Billfish Fishery		
Item	SFR	Amount (\$)
1	Leviable ETBF Albacore Tuna SFR	0.1021
2	Leviable ETBF Bigeye Tuna SFR	0.1874
3	Leviable ETBF Broadbill Swordfish SFR	0.2650
4	Leviable ETBF longline boat SFR	4,140.95
5	Leviable ETBF minor line boat SFR	2,176.65
6	Leviable ETBF Striped Marlin SFR	0.0383
7	Leviable ETBF Yellowfin Tuna SFR	0.5378

Comparison of the ETBF levy base between 2018-19 and 2019-20.

	2018-19	2019-20	Difference	
	\$	\$	\$	%
Cost recovered budget	1 432 353	1 600 259	167 906	11.72
Prior year (over)/under recoveries	(66 891)	80 064		
Fee-for-service	(25 032)	(5213)		
Amount payable (excludes FRDC)	1 340 430	1 675 011	334 581	24.96

There has been a 24.96 per cent (\$334 581) increase in the levy amount payable for 2019-20 (\$1 675 011) compared to the levy amount payable for 2018-19 (\$1 340 430). This increase is partly due to an over spend of \$80 064 in 2018-19, with the main increase due to an increase in:

- research costs of \$97 937 to cover the re-development of the ETBF harvest strategy;
- electronic monitoring costs of \$70 904 associated with increased overheads and fishing effort; and
- Species and Environmental Management costs of \$42 214 to cover the increased commitment of legal staff on work associated with the remaking of the Fisheries Management Regulations.

There is a two tiered system for the payment of levies in the ETBF. Tier 1 represents the fixed costs of managing the fishery. These costs are divided between Longline Boat SFRs and Minor Line Boat SFRs, with two thirds of the Tier 1 levy recovered equally amongst Longline Boat SFR holders and the remaining one third recovered equally from Minor Line Boat SFR holders. Tier 2 represents the costs which are variable depending on the level of fishing effort, such as compliance data collection, logbooks and observers. These costs are divided between each Quota SFR based on the relative market value of each quota species.

Operators who wish to fish in the Coral Sea Zone of the fishery are required to hold both a Longline Boat SFR and a Coral Sea Zone Boat SFR, hence there is no separate charge for a Coral Sea Zone Boat SFR.

Item [8] Subsection 12(2) - Heard Island and McDonald Islands Fishery (HIMI)

The effect of this amendment (and the amendment to paragraph 12(1)(b) made by item 28 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable HIMI SFR is \$22.83.

Comparison of the HIMIF levy base between 2018-19 and 2019-20.

	2018-19	2019-20	Difference	
	\$	\$	\$	%
Cost recovered budget	1 389 781	1 396 476	6695	0.48
Prior year (over)/under recoveries	(93 666)	348 068		
Fee-for-service	(550 888)	(551 488)		
Amount payable (excludes FRDC)	745 227	1 193 056	447 829	60.09

There has been a 60.09 per cent (\$447 829) increase in the levy amount payable for 2019-20 (\$1 193 056) compared to the levy amount payable for 2018-19 (\$745 227). The increase is due to substantially more observer days required than budgeted for in 2018-19 which resulted in a \$348 068 over spend in the 2018-19 budget. The overall budget for the fishery has only increased by 0.48 per cent and the amount being levied is similar to the 2017-18 financial year. It is not expected that there will be large increases in future years.

To calculate the levy payable for each SFR, the research component (\$176 643) is added to the total management levy (\$1 193 056) to be collected and then divided by the number of commercial SFRs in the fishery (60 000).

Item [9] Subsection 13(2) - Macquarie Island Toothfish Fishery (MITF)

The effect of this amendment (and the amendment to paragraph 13(1)(b) made by item 39 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable MITF SFR is \$8,471.11.

Comparison of the MITF levy base between 2018-19 and 2019-20.

	2018-19	2019-20	Difference	
	\$	\$	\$	%
Cost recovered budget	333 467	314 998	(18 469)	(5.54)
Prior year (over)/under recoveries	169 223	(16 097)		
Fee-for-service	(80 152)	(150 400)		
Amount payable (excludes FRDC)	422 538	148 501	(274 036)	(64.85)

There has been a 64.85 per cent (\$274 036) decrease in the levy amount payable for 2019-20 (\$148 501) compared to the levy amount payable for 2018-19 (\$422 538). The decrease is mainly due to a one-off increase in observer days in 2017-18 which resulted in higher than usual levies in 2018-19.

To calculate the levy payable for each SFR, the research component (\$20 920) is added to the total management levy (\$148 501) to be collected and then divided by the number of commercial SFRs in the fishery (20 000).

Item [10] Subsection 14(2) - Northern Prawn Fishery (NPF)

The effect of this amendment (and the amendments to paragraph 14(1)(b) made by item 40 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable NPF gear SFR is \$67,102.77.

Comparison of the NPF levy base between 2018-19 and 2019-20.

	2018-19	2019-20	Difference	
	\$	\$	\$	%
Cost recovered budget	1 971 855	1 980 756	8901	0.45
Prior year (over)/under recoveries	(38 053)	140 024		
Fee-for-service	(1536)	(1824)		
Amount payable (excludes FRDC)	1 932 266	2 118 956	186 690	9.66

There has been a 9.66 per cent (\$186 690) increase in the levy amount payable for 2019-20 (\$2 118 956) compared with the levy amount payable for 2018-19 (\$1 932 266).

The primary driver of the difference in levy collected in 2018-19 compared to what will need to be collected in 2019-20 is the under spend against the 2017-18 budget (which reduced the 2018-19 levy by \$38 053) and an over spend against the 2018-19 budget (which will increase the 2019-20 levy by \$140 024). The cost recoverable budget component of the 2019-20 NPF budget is very close to the 2018-19 budget with an increase of \$8901.

The over spend in 2018-19 is attributed to higher than budgeted VMS costs, higher observer costs due to 31 additional observer days to cover fishing for scampi, using an extra observer during two trips trialling bycatch reduction devices, an increase in data services associated with updating the ecological risk assessment for the fishery, and additional research and research administration costs.

To calculate the levy payable for each NPF gear SFR, the total FRDC research levy (\$261 783) is added to the total management levy to be collected (\$2 118 956) and divided by the number of gear SFRs in the fishery (35 479).

Item [11] Subsection 15(2) - North West Slope Trawl Fishery (NWSTF)

The effect of this amendment (and the amendment to paragraph 14(1)(b) made by item 41 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable NWSTF fishing permit is \$5700.43.

Comparison of the NWSTF levy base between 2018-19 and 2019-20.

	2018-19 \$	2019-20 \$	Difference	
			\$	%
Cost recovered budget	141 276	106 734	(34 542)	(24.45)
Prior year (over)/under recoveries	(67 966)	(68 883)		
Fee-for-service	(104)	(216)		
Amount payable (excludes FRDC)	73 206	37 685	(35 521)	(48.52)

There has been a 48.52 per cent (\$35 521) decrease in the levy amount payable for 2019-20 (\$37 685), compared to the levy amount payable for 2018-19 (\$73 206). This was a result of under spending of levies collected in the previous year due to lower than budgeted staffing levels. The cost recoverable budget component of the 2019-20 NWSTF budget has decreased by \$34 542 (24.45 per cent) compared to the previous year as a result of lower budgeted staff time associated with policy support for bycatch and harvest strategy policies.

To calculate the levy payable for each NWSTF fishing permit, the total FRDC research levy (\$2455) is added to the total management levy (\$37 685) and divided by the number of permits in the fishery (7).

Item [12] Subsection 16(2) (table) - Small Pelagic Fishery (SPF)

The effect of this amendment (and the various amendments to subsection 16(1) made by items 42-48 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable SPF SFR is as per the table below:

Amount of levy—Small Pelagic Fishery		
Item	SFR	Amount (\$)
1	Leviable SPF Australian Sardine quota SFR	0.0112661
2	Leviable SPF Eastern sub-area Blue Mackerel quota SFR	0.0681798
3	Leviable SPF Eastern sub-area Jack Mackerel quota SFR	0.0255709
4	Leviable SPF Eastern sub-area Redbait quota SFR	0.0076661
5	Leviable SPF Western sub-area Blue Mackerel quota SFR	0.0076661
6	Leviable SPF Western sub-area Jack Mackerel quota SFR	0.0076661
7	Leviable SPF Western sub-area Redbait quota SFR	0.0076661

Comparison of the SPF levy base between 2018-19 and 2019-20.

	2018-19	2019-20	Difference	
	\$	\$	\$	%
Cost recovered budget	1 112 557	1 182 116	69 559	6.25
Prior year (over)/under recoveries	100 617	(175 707)		
Fee-for-service	(1204)	(2008)		
Amount payable (excludes FRDC)	1 211 970	1 004 401	(207 569)	(17.13)

There has been a 17.13 per cent (\$207 569) decrease in the levy amount payable for 2019-20 (\$1 004 401) compared to the levy amount payable for 2018-19 (\$1 211 970). The decrease primarily reflects a reduced workload and consequently less staff costs expected during 2019-20 as well as a relatively large under spend (\$175 707) of the 2018-19 budget for the same reason. The Eastern Jack Mackerel Daily Egg Production Method (DEPM) survey and Eastern Blue Mackerel/Australian Sardine survey are at various stages of completion and a portion of the cost for each will be recovered this year.

The levy model was revised in 2018-19 with the levy payable for each SPF quota SFR comprised of a management levy which includes the cost of DEPM surveys allocated to the relevant stocks quota SFRs, and the research component (FRDC levy).

The management levy for each SPF quota SFR excluding Eastern Jack Mackerel, Eastern Blue Mackerel and Australian Sardine quota SFRs, includes the management component (\$1 004 401) minus the cost of the Eastern Jack Mackerel DEPM survey (\$200 000) and the Eastern Blue Mackerel/Australian Sardine DEPM survey (\$360 000), divided by the total number of SFRs in the fishery (61 047 305).

The management levy for an Eastern Jack Mackerel, Eastern Blue Mackerel and Australian Sardine quota SFR is calculated as for the management levy above, plus the DEPM survey cost allocated to the relevant stock's quota SFRs. The DEPM survey costs are allocated to the respective stock's quota SFRs as follows:

- Eastern Jack Mackerel – the cost of the Eastern Jack Mackerel DEPM survey (\$200 000) is divided by the total number of Eastern Jack Mackerel quota SFRs in the fishery (11 170 217).
- Eastern Blue Mackerel and Australian Sardine - the DEPM survey for these stocks is undertaken concurrently, consequently the cost of the survey (\$360 000) is allocated proportionally between these two stocks SFRs. The proportion is based on the tonnage of each stock landed as a proportion of the combined tonnage for these two stocks for the most recent, complete fishing season (2018-19). This means 97 per cent of the cost for this DEPM survey (\$349 200) is allocated to Eastern Blue Mackerel quota SFRs and 3 per cent (\$10 800) to Australian Sardine quota SFRs. The cost per Eastern Blue Mackerel quota SFR is calculated by dividing the attributable DEPM cost (\$349 200) by the number of SFRs in the fishery (5 770 594). The cost per Australian Sardine quota SFR is calculated by dividing the attributable DEPM cost (\$10 800) by the number of SFRs in the fishery (3 000 001).

The research levy payable for each quota SFR is the FRDC component (\$23 595) divided by the total number of SFRs in the fishery (61 047 305).

The total levy payable per quota SFR for each stock is calculated by summing the management levy per SFR for the relevant stock plus the research component per SFR.

NOTE: Items [13] – [21] refer to the Southern and Eastern Scalefish and Shark Fishery (SESSF)

Section 17 and section 18 of the *Fishing Levy Regulations 2018* prescribe the levy payable for SFRs and fishing permits in the SESSF. The SESSF incorporates the management of the previously individually managed East Coast Deepwater Trawl Fishery (ECDT); the Great Australian Bight Trawl Fishery (GABT); the Gillnet Hook and Trap Fishery (GHT); the Commonwealth South East Trawl Fishery (CSET); and the Victorian Coastal Waters Fishery (VCW) under a single management framework (the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003*) (SESSF management plan)).

Under the SESSF management plan the different sectors are managed under a system of SFRs and fishing permits. The total amount to be recovered through levies is split between fishing concessions granted under the management plan. This includes permits, boat SFRs and individual species quota SFRs. A levy allocation model developed in consultation with industry is used each year to determine how to split the total recoverable amount between the different concession types. Generally, the cost of species stock assessments and associated research are allocated to quota SFRs, and management costs are split based on whether the levied activity is relevant to boat SFRs, fishing permits or quota SFRs.

At industry's request the total budget for the SESSF continues to be set in terms of the individually managed sectors. As a result the SESSF budget is a combined total of the GABT, GHT and CSET budgets.

A number of quota species are caught in both the GHT and CSET sectors of the SESSF.

- **Great Australian Bight Trawl Sector (GABT)**

The total levy base for the fishery is \$599 000 including a research component of \$23 630. A fishing concession holder will pay an amount per quota species as shown in the table below to recover the total amount payable for the GABT.

Comparison of the GABT levy base between 2018-19 and 2019-20.

	2018-19 \$	2019-20 \$	Difference	
			\$	%
Cost recovered budget	373 829	558 392	184 563	49.37
Prior year (over)/under recoveries	(10 886)	18 466		
Fee-for-service	(860)	(1488)		
Amount payable (excludes FRDC)	362 082	575 370	213 288	58.91

There has been a 58.91 per cent (\$213 288) increase in the levy amount payable for 2019-20 (\$575 370) compared to the levy payable for 2018-19 (\$362 082). In addition to the difference between the under spend in 2017-18 (\$10 886) and the over spend in 2019-20 (\$18 466), the increase is mainly because of scheduled stock assessments for two of the fishery's quota species in 2019.

- **Gillnet Hook and Trap Sector (GHT)**

The total levy base for the fishery is \$2 393 392 including a research component of \$62 448. A fishing concession holder will pay an amount per boat SFR or permit as shown in the table below, or per quota species as shown in the table under the Commonwealth south east trawl sector, to recover the total amount payable for the GHT.

Comparison of the GHT levy base between 2018-19 and 2019-20.

	2018-19 \$	2019-20 \$	Difference	
			\$	%
Cost recovered budget	2 530 629	2 473 012	(57 617)	(2.28)
Prior year (over)/under recoveries	(207 163)	(121 540)		
Fee-for-service	(30 680)	(20 528)		
Amount payable (excludes FRDC)	2 292 786	2 330 944	38 158	1.66

There was a 1.66 per cent (\$38 158) increase in the levy amount payable in 2019-20 (\$2 330 944) compared to the levy amount payable for 2018-19 (\$2 292 786). The overall change in the cost recovered budget was largely driven by an increase in the management of domestic commercial fisheries activity group that offset reductions in all other activity groups. This was due to an increase in the budget for risk management, MAC and Resource Assessment Group (RAG) consultation and engagement costs as a result of increases in staff allocation to these activities. The 2018-19 levies were also substantially offset by the carry-over from a budget under spend in 2017-18.

- **Commonwealth South East Trawl Sector (CSET)**

The total levy base for the fishery is \$2 956 334 including a research component of \$114 013. A fishing concession holder will pay an amount per quota species as shown in the table below to recover the total amount payable for the CSET.

Comparison of the CSET levy base between 2018-19 and 2019-20.

	2018-19	2019-20	Difference	
	\$	\$	\$	%
Cost recovered budget	2 984 836	2 920 747	(64 089)	(2.15)
Prior year (over)/under recoveries	(72 652)	(57 554)		
Fee-for-service	(24 544)	(20 872)		
Amount payable (excludes FRDC)	2 887 640	2 842 321	(45 319)	(1.57)

There was a 1.57 per cent (\$45 319) decrease in the levy amount payable for 2019-20 (\$2 842 321) compared to the levy payable for 2018-19 (\$2 887 640). A decrease in the research budget for 2019-20, due to less Tier 1 stock assessments and no scheduled fishery independent survey, was offset by an increase in the budget for management of domestic and commercial fisheries due to projects included under the AFMA and SETFIA Co-Management agreement, as well as additional legal costs across all fisheries.

Item [13] Subsection 17(2) (table)

The effect of this amendment (and the amendments to the definitions in subsection 17(1) made by items 49-54 of Part 2) is that that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable SESSF boat SFR is as per the table below:

Amount of levy—Southern and Eastern Scalefish and Shark Fishery—SFRs (other than quota SFRs)		
Item	SFR	Amount (\$)
1	Leviable SESSF GAB trawl boat SFR	57,537.00
2	Leviable SESSF gillnet boat SFR	6,179.51
3	Leviable SESSF scalefish hook boat SFR	2,830.99

Amount of levy—Southern and Eastern Scalefish and Shark Fishery—SFRs (other than quota SFRs)

Item	SFR	Amount (\$)
4	Leviable SESSF shark hook boat SFR	5,073.20
5	Leviable SESSF trawl boat SFR	9,119.59

Item [14] Subsection 17(3) (table)

The effect of this amendment (and the amendment to the definition of *leviable SESSF quota SFR* made by item 51 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable SESSF quota SFR is as per the table below:

Amount of levy—Southern and Eastern Scalefish and Shark Fishery—quota SFRs

Item	Quota species	Amount (\$)
1	Alfonsino	0.00220
2	Bight redfish	0.00465
3	Blue eye trevalla	0.31679
4	Blue grenadier	0.06420
5	Blue warehou	0.00515
6	Deepwater flathead	0.00628
7	Elephantfish	0.16999
8	Flathead	0.35302
9	Gummy shark	0.39939
10	Jackass morwong	0.04246
11	John dory	0.06140
12	Mirror dory	0.05827
13	Ocean perch	0.09633
14	Oreodory	0.00714
15	Pink ling	0.58929
16	Redfish	0.03081
17	Ribaldo	0.02459
18	Royal red prawn	0.05747
19	Saw shark	0.13118
20	School shark	0.40938
21	School whiting	0.08057
22	Silver trevally	0.01541
23	Silver warehou	0.10524

Item [15] Subsection 17(4) (table)

The effect of this amendment (and the amendment to the definition of *leviable SESSF quota SFR* made by item 51 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable SESSF quota SFR for species in particular sectors or zones is as per the table below:

Amount of levy—Southern and Eastern Scalefish and Shark Fishery—quota SFRs for species in particular sectors or zones			
Item	Quota species	Sector or zone	Amount (\$)
1	Deepwater shark	Eastern	0.00513
2	Deepwater shark	Western	0.01452
3	Gemfish	Eastern	0.09410
4	Gemfish	Western	0.09459
5	Orange roughy	Albany and Esperance	0.00063
6	Orange roughy	Cascade Plateau	0.00017
7	Orange roughy	Eastern	0.02364
8	Orange roughy	Southern	0.00289
9	Orange roughy	Western	0.00580
10	Smooth oreodory	Cascade Plateau	0.00000
11	Smooth oreodory	A sector or zone other than the Cascade Plateau	0.01963

Item [16] Subsection 18(1) – definition of *leviable SESSF GHT fishing permit*

This item amends the definition of *leviable SESSF GHT fishing permit* to omit “leviable SESSF quota species” and substitute “quota species”. The expression “quota species” is used in the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* (the Management Plan). The amendment ensures that the expression in the Regulations is the same as that in the Management Plan.

Item [17] Subsection 18(2) (heading)

This item amends the heading to subsection 18(2) by omitting “quota fishing permits” and substituting “leviable SESSF quota fishing permits”. The amendment would ensure that the expression in the table heading is consistent with the expression used in subsection 18(1).

Item [18] Subsection 18(2) (table)

The effect of this amendment (and the amendments to the various definitions in subsections 18(1) made by items 55, 56, 57, 58 and 60 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect to a leviable SESSF fishing permit (other than leviable SESSF quota fishing permits) is as per the table below:

Amount of levy—Southern and Eastern Scalefish and Shark Fishery—fishing permits (other than leviable SESSF quota fishing permits)

Item	Fishing permit	Amount (\$)
1	Leviable SESSF autolongline fishing permit	5,172.67
2	Leviable SESSF ECDT fishing permit	533.14
3	Leviable SESSF GHT fishing permit	2,258.95
4	Leviable SESSF GHT trap fishing permit	3,879.50
5	Leviable SESSF VCW fishing permit	380.82

Item [19] Subsection 18(3) (heading)

This item repeals the heading “quota fishing permits” and substitutes the heading “leviable SESSF quota fishing permits”. The amendment would ensure that the expression in the table heading is consistent with the expression used in subsection 18(1).

Item [20] Subsection 18(3) (table)

The effect of this amendment (and the amendments to the various definitions in subsection 18(1) made by items 55, 56, 57, 58 and 60 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable SESSF quota fishing permit is as per the table below:

Amount of levy—Southern and Eastern Scalefish and Shark Fishery—leviable SESSF quota fishing permits

Item	Quota species	Amount (\$)
1	Deepwater shark in the Eastern zone	0.01540
2	Deepwater shark in the Western zone	0.04357
3	Oreodory	0.02143
4	Ribaldo	0.07376
5	Smooth oreodory in the Cascade Plateau zone	0.00000
6	Smooth oreodory in a sector or zone other than the Cascade Plateau zone	0.05889

Item [21] Subsection 18(4)(a) and (b)

This item updates the paragraph with dates applicable to the 2019-20 financial year to prescribe that if a leviable SESSF quota fishing permit ceases to be in force on 30 April 2020 and an equivalent leviable SESSF quota SFR comes into force as at 1 May 2020, then the levy payable in respect of the quota fishing permit would be equal to two thirds of the total annual levy.

Item [22] Subsection 19(2) - Southern Bluefin Tuna Fishery (SBTF)

The effect of this amendment (and the amendment to the definition of *SBTF SFR quota* made by item 61 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable SBTF SFR is \$0.2853.

Comparison of the SBTF levy base between 2018-19 and 2019-20.

	2018-19 \$	2019-20 \$	Difference	
			\$	%
Cost recovered budget	1 468 945	1 479 128	10 183	0.69
Prior year (over)/under recoveries	(9590)	(56 899)		
Less Fee-for-service	(3832)	(1928)		
Amount payable (excludes FRDC)	1 455 522	1 420 300	(35 222)	(2.42)

There has been a 2.42 per cent (\$35 222) decrease in the levy amount payable for 2019-20 (\$1 420 300) compared to the levy amount payable for 2018-19 (\$1 455 522). There was a \$10 183 increase in the budget for the fishery, but a \$56 899 under spend of the 2018-19 budget resulted in the slight reduction in levy payable.

To calculate the levy payable for each SBT quota SFR the research component (\$98 833) is added to the total management levy to be collected (\$1 420 300). The total (\$1 519 133.00) is then divided by the total number of commercial SBT quota SFRs in the fishery (5 324 422).

Item [23] Subsection 20(2) - Southern Squid Jig Fishery (SSJF)

The effect of this amendment (and the amendment to the definition of *leviable SSJF gear SFR* made by item 62 of Part 2) that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable SSJF gear SFR is \$23.8548.

Comparison of the SSJF levy base between 2018-19 and 2019-20.

	2018-19 \$	2019-20 \$	Difference	
			\$	%
Cost recovered budget	90 844	107 291	16 447	18.10
Prior year (over)/under recoveries	5273	2153		
Fee-for-service	(2 044)	(536)		
Amount payable (excludes FRDC)	94 073	108 908	14 835	15.77

There has been a 15.77 per cent (\$14 835) increase in the levy payable for 2019-20 (\$108 908) compared to the levy payable for 2018-19 (\$94 073). This increase is the result of work associated with the review of the squid harvest strategy and a face to face Squid Resource Assessment Group meeting when typically they are held via a teleconference.

To calculate the levy payable for each SSJF gear SFR, the FRDC levy (\$5595) is added to the total management levy to be collected (\$108 908) and then divided by the total number of commercial SSJF gear SFRs in the fishery (4800).

Item [24] Subsection 21(2) - Western Deepwater Trawl Fishery (WDWTF)

The effect of this amendment (and the amendment to the definition of *leviable WDWTF fishing permit* made by item 63 of Part 2) that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable WDWTF fishing permit is \$1710.73.

Comparison of the WDTF levy base between 2018-19 and 2019-20.

	2018-19	2019-20	Difference	
	\$	\$	\$	%
Cost recovered budget	143 787	109 868	(33 919)	(23.59)
Prior year (over)/under recoveries	(62 738)	(92 946)		
Fee-for-service	(96)	(304)		
Amount payable (excludes FRDC)	80 953	16 618	(64 335)	(79.47)

There has been a 79.47 per cent (\$64 335) decrease in the levy payable for 2019-20 (\$16 618) compared to the levy amount payable for 2018-19 (\$80 953). This decrease is a result of an under spend in the previous year's levy due to lower than budgeted staffing and lower budget in 2019-20. The cost recoverable budget component of the 2019-20 WDTF budget has decreased by 23.59 per cent (\$33 919) as a result of lower budgeted staff time associated with policy support for bycatch and harvest strategy policies.

To calculate the levy payable for each WDTF fishing permit, the total FRDC research levy (\$1510) is added to the total management levy to be collected (\$16 618) and divided by the total number of fishing permits in the fishery (11).

Item [25] Subsection 22(2) - Western Skipjack Fishery (WSF)

The effect of this amendment (and the amendment to the definition of *leviable WSF fishing permit* made by item 64 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable WSF fishing permit is \$1918.37.

Comparison of the Skipjack Fisheries levy base between 2018-19 and 2019-20.

	2018-19	2019-20	Difference	
	\$	\$	\$	%
Cost recovered budget	69 059	62 430	(6629)	(9.60)
Prior year (over)/under recoveries	(26 203)	(2505)		
Fee-for-service	(95)	(456)		
Amount payable (excludes FRDC)	42 761	59 469	16 708	39.07

There has been a 39.07 per cent (\$16 708) increase in the levy payable for 2019-20 (\$59 469) compared to the levy payable for 2018-19 (\$42 761). The 2018-19 levies were much lower than the budget due to an under spend in the previous year. The 2018-19 budget was almost fully utilised and the lack of a refund from previous years has seen the actual levy amount increase. The amount payable is similar to the 2017-18 levy payable (\$57 074). There remains little effort in this fishery and the budget has been reduced by 9.60 per cent.

The WSF is managed under a single budget for the Eastern Skipjack Fishery (ESF) and WSF combined. The method used to calculate the levies combines the number of permits from both fisheries and then divides the total levy base by the total number of permits. There are currently 17 permits in the ESF and 14 permits in the WSF. Therefore, to determine the individual levies the levy base of \$59 469 has been divided by 31 permits across both fisheries.

Item [26] Subsection 23(2) - Western Tuna and Billfish Fishery (WTBF)

The effect of this amendment (and the amendments made by items 65 – 69 of Part 2) is that starting on the new levy day and ending on the next following 30 June the amount of levy in respect of a leviable WTBF SFR is as per the table below:

Amount of levy—Western Tuna and Billfish Fishery		
Item	SFR	Amount (\$)
1	Leviable WTBF Bigeye Tuna quota SFR	0.04840
2	Leviable WTBF boat SFR	1,167.03
3	Leviable WTBF Broadbill Swordfish quota SFR	0.04840
4	Leviable WTBF Striped Marlin quota SFR	0.04840
5	Leviable WTBF Yellowfin Tuna quota SFR	0.04840

Comparison of the WTBF levy base between 2018-19 and 2019-20.

	2018-19	2019-20	Difference	%
	\$	\$	\$	
Cost recovered budget	275 935	269 350	(6585)	(2.39)
Prior year (over)/under recoveries	(64175)	(15520)		
Fee-for-service	(968)	(1728)		
Amount payable (excludes FRDC)	210 791	252 102	41 311	19.60

There has been a 19.60 per cent (\$41 311) increase in the levy amount payable for 2019-20 (\$252 102) compared to the levy amount payable for 2018-19 (\$210 791). This increase is mainly due to a smaller level of under spend in the budget for 2018-19 (\$15 520) compared to 2017-18 (\$64 175). The 2019-20 budget incorporates increased costs in Species and Environmental management (\$14 640 increase) due to increased legal costs associated with the remaking of the Fisheries Management Regulations and increased research costs

(\$13 811). This has offset reductions in electronic monitoring costs (\$28 655 lower) due to lower fishing effort.

There is a two tiered system for the payment of levies in the WTBF. Tier 1 represents the fixed costs of managing the fishery and the research component. These costs are divided equally between each boat SFR. Tier 2 represents the costs which are variable depending on the level of fishing effort, such as compliance data collection, logbooks and observers. The different options of dividing the Tier 2 costs among the quota SFRs has been discussed with industry members, however no agreement could be reached. Therefore, without industry consensus, it was considered the most equitable option was to divide the costs equally between each quota SFR.

Part 2 – Amendments relating to new levy day

Fishing Levy Regulations 2018

Item [27] Subsection 5(1)

This item inserts the term “new levy day”. The new levy day means the day when the *Fishing Levy Amendment (2019-202) Levy Amounts) Regulations 2019* commence. This amendment reduces drafting complexity and contributes to simplified versions of the instrument in future, as it is no longer necessary to specify the applicable year in so many instances throughout the instrument.

Items [28] – [69]

These items amend various definitions in subsections 8(1) – 23(1) of the Regulations. These amendments, together with the amendments made by Part 1 above, clarify that the levies for the various permits for 2019-2020 are payable between the new levy day (when the Regulations commence) and the end of the next following 30 June.

Statement of Compatibility with Human Rights

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

Fishing Levy Amendment (2019-2020 Levy Amounts) Regulations 2019

This 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 instrument sets the amounts of levy that are payable for Commonwealth fishing concessions for the 2019-20 financial year.

Human rights implications

This instrument does not engage any of the applicable rights or freedoms.

Conclusion

This instrument is compatible with human rights as it does not raise any human rights issues.

**Senator the Hon. Jonathon Duniam
Assistant Minister for Forestry and Fisheries
Parliamentary Secretary to the Minister for Agriculture**