



## Maritime Powers Regulations 2023

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I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 14 September 2023

David Hurley  
Governor-General

By His Excellency's Command

Clare O'Neil  
Minister for Home Affairs

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## Part 1—Preliminary

### 1 Name

This instrument is the *Maritime Powers Regulations 2023*.

### 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Parts 1 to 5 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	16 September 2023
2. Schedule 1, Part 1	The day after this instrument is registered.	16 September 2023
3. Schedule 1, Part 2	The later of: (a) immediately after the commencement of the provisions covered by table item 1; and (b) 1 October 2023.	1 October 2023 (paragraph (b) applies)

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This instrument is made under the *Maritime Powers Act 2013*.

### 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### 5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) international agreement;
- (b) international decision;
- (c) maritime officer.

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In this instrument:

*Act* means the *Maritime Powers Act 2013*.

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## Part 2—Australian laws and monitoring laws

### 6 Laws that are not Australian laws

For the purposes of paragraph (b) of the definition of *Australian law* in section 8 of the Act, the following laws are prescribed:

- (a) the *Aviation Transport Security Act 2004*;
- (b) the *Aviation Transport Security Regulations 2005*;
- (c) the *Maritime Transport and Offshore Facilities Security Act 2003*;
- (d) the *Maritime Transport and Offshore Facilities Security Regulations 2003*.

### 7 Laws that are monitoring laws

For the purposes of paragraph (g) of the definition of *monitoring law* in section 8 of the Act, the following laws are prescribed:

- (a) the *Biosecurity Act 2015*;
- (b) regulations and other legislative instruments made under the *Biosecurity Act 2015*;
- (c) the *Environment Protection (Sea Dumping) Act 1981*;
- (d) the *Customs (International Obligations) Regulation 2015*;
- (e) the *Customs (Prohibited Exports) Regulations 1958*;
- (f) the *Customs (Prohibited Imports) Regulations 1956*;
- (g) the *Customs Regulation 2015*;
- (h) the *Fisheries Management (International Agreements) Regulations 2009*;
- (i) the *Fisheries Management Regulations 2019*;
- (j) the *Migration Regulations 1994*;
- (k) the *Migration (United Nations Security Council Resolutions) Regulations 2007*;
- (l) the *Torres Strait Fisheries Regulations 1985*.

## Part 3—International agreements and decisions

### 8 International agreements

For the purposes of subparagraph 12(b)(i) of the Act, the following international agreements are prescribed:

- (a) the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, done at New York on 4 December 1995;

Note: The Agreement is in Australian Treaty Series 2001 No. 8 ([2001] ATS 8) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

- (b) the Agreement on Cooperative Enforcement of Fisheries Laws between the Government of Australia and the Government of the French Republic in the Maritime Areas Adjacent to the French Southern and Antarctic Territories, Heard Island and the McDonald Islands, done at Paris on 8 January 2007;

Note: The Agreement is in Australian Treaty Series 2011 No. 1 ([2011] ATS 1) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

- (c) the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, done at Rome on 22 November 2009;

Note: The Agreement is in Australian Treaty Series 2016 No. 21 ([2016] ATS 21) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

- (d) the Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters, done at Sydney on 18 December 1978;

Note: The Treaty is in Australian Treaty Series 1985 No. 4 ([1985] ATS 4) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

- (e) the Treaty between Australia and the Democratic Republic of Timor-Leste Establishing Their Maritime Boundaries in the Timor Sea, done at New York on 6 March 2018;

Note: The Treaty is in Australian Treaty Series 2019 No. 16 ([2019] ATS 16) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

- (f) the Treaty between the Government of Australia and the Government of the French Republic on cooperation in the maritime areas adjacent to the French Southern and Antarctic Territories (TAAF), Heard Island and the McDonald Islands, done at Canberra on 24 November 2003;

Note: The Treaty is in Australian Treaty Series 2005 No. 6 ([2005] ATS 6) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

- (g) the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982.



Note: The Convention is in Australian Treaty Series 1994 No. 31 ([1994] ATS 31) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

## 9 International decisions

(1) For the purposes of subparagraph 12(b)(i) of the Act, the following international decisions are prescribed:

- (a) the following Conservation and Management Measures adopted by the Western and Central Pacific Fisheries Commission under the Convention on the Conservation of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean:
- (i) CMM 2006-08, Western and Central Pacific Fisheries Commission Boarding and Inspection Procedures;
  - (ii) CMM 2017-02, Conservation and Management Measure on Minimum Standards for Port State Measures;

Note 1: The Conservation and Management Measures could in 2023 be viewed on the website of the Western and Central Pacific Fisheries Commission (<https://www.wcpfc.int>).

Note 2: The Convention is in Australian Treaty Series 2004 No. 15 ([2004] ATS 15) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

- (b) the following Conservation and Management Measures adopted by the Meeting of the Parties to the Southern Indian Ocean Fisheries Agreement under that Agreement:
- (i) CMM 2020/08, Conservation and Management Measure establishing a Port Inspection Scheme;
  - (ii) CMM 2021/14, Conservation and Management Measure for High Seas Boarding and Inspection Procedures for the Southern Indian Ocean Fisheries Agreement;

Note 1: The Conservation and Management Measures could in 2023 be viewed on the website of the Southern Indian Ocean Fisheries Agreement (<https://siofa.org>).

Note 2: The Agreement is in Australian Treaty Series 2012 No. 21 ([2012] ATS 21) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

- (c) the following Conservation and Management Measures adopted by the South Pacific Regional Fisheries Management Organisation under the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean:
- (i) CMM 11-2015, Conservation and Management Measure Relating to Boarding and Inspection Procedures in the SPRFMO Convention Area;
  - (ii) CMM 07-2022, Conservation and Management Measure on Minimum Standards of Inspection in Port;

Note 1: The Conservation and Management Measures could in 2023 be viewed on the website of the South Pacific Regional Fisheries Management Organisation (<https://www.sprfmo.int>).

Note 2: The Convention is in Australian Treaty Series 2012 No. 28 ([2012] ATS 28) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

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(d) the following Resolutions adopted by the Indian Ocean Tuna Commission under the Agreement for the Establishment of the Indian Ocean Tuna Commission:

- (i) Resolution 05/03, Relating to the establishment of an IOTC programme of inspection in port;
- (ii) Resolution 16/11, On port state measures to prevent, deter and eliminate illegal, unreported and unregulated fishing;

Note 1: The Resolutions could in 2023 be viewed on the website of the Indian Ocean Tuna Commission (<https://iotc.org>).

Note 2: The Agreement is in Australian Treaty Series 1996 No. 20 ([1996] ATS 20) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

(e) the Resolution for a CCSBT Scheme for Minimum Standards for Inspection in Port, agreed to by the Extended Commission for the Conservation of Southern Bluefin Tuna under the Convention for the Conservation of Southern Bluefin Tuna;

Note 1: The Resolution could in 2023 be viewed on the website of the Commission for the Conservation of Southern Bluefin Tuna (<https://www.ccsbt.org>).

Note 2: The Convention is in Australian Treaty Series 1994 No. 16 ([1994] ATS 16) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

(f) Conservation Measure 10-03 (2019), Port inspections of fishing vessels carrying Antarctic marine living resources, adopted by the Commission for the Conservation of Antarctic Marine Living Resources under the Convention on the Conservation of Antarctic Marine Living Resources;

Note 1: The Conservation Measure could in 2023 be viewed on the website of the Commission for the Conservation of Antarctic Marine Living Resources (<https://ccamlr.org>).

Note 2: The Convention is in Australian Treaty Series 1982 No. 9 ([1982] ATS 9) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

(g) the System of Inspection established by the Commission for the Conservation of Antarctic Marine Living Resources under the Convention on the Conservation of Antarctic Marine Living Resources.

Note 1: The System of Inspection could in 2023 be viewed on the website of the Commission for the Conservation of Antarctic Marine Living Resources (<https://ccamlr.org>).

Note 2: The Convention is in Australian Treaty Series 1982 No. 9 ([1982] ATS 9) and could in 2023 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

(2) For the purposes of subparagraph 12(b)(i) of the Act, the following international decisions of the Security Council of the United Nations are prescribed:

- (a) United Nations Security Council Resolution 2083 (2012);
- (b) United Nations Security Council Resolution 2095 (2013);
- (c) United Nations Security Council Resolution 2111 (2013);
- (d) United Nations Security Council Resolution 2125 (2013);
- (e) United Nations Security Council Resolution 2146 (2014);
- (f) United Nations Security Council Resolution 2292 (2016);
- (g) United Nations Security Council Resolution 2375 (2017);
- (h) United Nations Security Council Resolution 2397 (2017).

Note: The United Nations Security Council Resolutions could in 2023 be viewed on the United Nations' website (<http://www.un.org>).

## Part 4—Exercising powers between countries

### 10 Customs, fiscal, immigration and sanitary laws

For the purposes of subparagraph 41(1)(c)(i) of the Act, the following customs, fiscal, immigration or sanitary laws are prescribed:

- (a) the *Biosecurity Act 2015*;
- (b) regulations and other legislative instruments made under the *Biosecurity Act 2015*;
- (c) the *Customs Act 1901*;
- (d) the *Customs (International Obligations) Regulation 2015*;
- (e) the *Customs (Prohibited Exports) Regulations 1958*;
- (f) the *Customs (Prohibited Imports) Regulations 1956*;
- (g) the *Customs Regulation 2015*;
- (h) the *Migration Act 1958*;
- (i) the *Migration Regulations 1994*;
- (j) the *Migration (United Nations Security Council Resolutions) Regulations 2007*.

## **Part 5—Maritime powers**

### **11 Prescribed maritime officers**

For the purposes of paragraphs 52(4)(d) and 56(4)(d) of the Act, the following maritime officers are prescribed:

- (a) a maritime officer who performs duties in the Department administered by the Minister administering the *Migration Act 1958*;
- (b) a maritime officer who is appointed under section 83 of the *Fisheries Management Act 1991* to be an officer for the purposes of that Act;
- (c) a maritime officer who is authorised under subsection 3(4) of the *Torres Strait Fisheries Act 1984* to perform duties under that Act;
- (d) a maritime officer who is a member of a police force or police service of a State or Territory.

## **Schedule 1—Repeals and amendments**

### **Part 1—Repeals**

#### ***Maritime Powers Regulation 2014***

##### **1 The whole of the instrument**

Repeal the instrument.

## **Part 2—Amendments**

### ***Maritime Powers Regulations 2023***

#### **2 Subparagraph 9(1)(c)(i)**

Repeal the subparagraph, substitute:

- (i) CMM 11-2023, Conservation and Management Measure for High Seas Boarding and Inspection Procedures for the South Pacific Regional Fisheries Management Organisation;