



# **Fisheries Administration Act 1991**

**No. 161, 1991 as amended**

**Compilation start date:** 24 June 2014

**Includes amendments up to:** Act No. 31, 2014

Prepared by the Office of Parliamentary Counsel, Canberra

---

## About this compilation

### **This compilation**

This is a compilation of the *Fisheries Administration Act 1991* as in force on 24 June 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 24 June 2014.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

### **Uncommenced amendments**

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Modifications**

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

### **Provisions ceasing to have effect**

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

---

# Contents

|   |    |
|---|----|
| <b>Part 1—Preliminary</b>   | 1  |
| 1 Short title .....   | 1  |
| 2 Commencement .....  | 1  |
| 3 Objects of Act .....  | 1  |
| 4 Interpretation .....  | 2  |
| <b>Part 2—Australian Fisheries Management Authority</b>                   | 5  |
| <b>Division 1—Establishment, functions and powers of Authority</b>        | 5  |
| 5 Establishment .....   | 5  |
| 6 Objectives .....  | 5  |
| 6A Principles of ecologically sustainable development .....               | 6  |
| 7 Functions .....   | 6  |
| 8 Powers .....  | 10 |
| 9 Consultation .....  | 10 |
| 10 Authority is a body corporate .....                                    | 11 |
| 10A Financial liabilities .....   | 11 |
| 10B The Commission and CEO .....  | 11 |
| 10C Minister may give directions to CEO about foreign<br>compliance ..... | 12 |
| <b>Division 2—Constitution of Commission</b>                              | 14 |
| 11 Constitution of Commission .....                                       | 14 |
| <b>Division 3—Appointment of commissioners</b>                            | 15 |
| 12 Appointment of commissioners .....                                     | 15 |
| 13 Deputy Chairperson .....   | 16 |
| 14 Acting CEO .....   | 17 |
| 15 Other employment .....   | 18 |
| 17 Remuneration and allowances .....                                      | 18 |
| 18 Leave of absence .....   | 19 |
| 19 Resignation .....  | 20 |
| 20 Disclosure of interests to Minister .....                              | 20 |
| 21 Termination of appointment .....                                       | 20 |
| 22 Terms and conditions of appointment not provided for by<br>Act .....   | 22 |
| <b>Division 4—Operation of Commission</b>                                 | 23 |
| 23 Meetings .....   | 23 |
| 24 Disclosure of interests to Commission .....                            | 24 |
| 25 Decisions without meetings .....                                       | 24 |

---

|  |    |
|--|----|
| <b>Division 5—Committees</b>   | 26 |
| 54 Committees.....   | 26 |
| 55 Committees other than management advisory committees.....                                   | 26 |
| 56 Management advisory committees .....  | 27 |
| 57 Functions of management advisory committees .....   | 27 |
| 58 Powers of management advisory committee etc.....  | 27 |
| 59 Management advisory committee to act in accordance with<br>policies etc. of Authority ..... | 28 |
| 60 Constitution of management advisory committees .....  | 29 |
| 61 Acting Chairperson.....   | 29 |
| 62 Appointment of members .....  | 29 |
| 63 Term of office.....   | 30 |
| 64 Leave of absence .....  | 30 |
| 64A Resignation.....   | 30 |
| 64B Termination of appointment .....   | 31 |
| 64C Disclosure of interests to management advisory committee .....                             | 31 |
| 64D Disclosure of interests to Authority .....   | 32 |
| 65 Meetings.....   | 32 |
| 65A Decisions without meetings.....  | 33 |
| 66 Arrangements relating to staff etc.....   | 33 |
| 67 Remuneration and allowances .....   | 33 |
| <b>Division 6—Staff and consultants</b>  | 35 |
| 68 Staff.....  | 35 |
| 69 Consultants .....   | 35 |
| <b>Division 7—Corporate and annual operational plans</b>                                       | 36 |
| 72 Development of corporate plan .....   | 36 |
| 73 Approval of corporate plan .....  | 36 |
| 74 Variation of corporate plan by Authority.....   | 37 |
| 75 Variation at request of Minister .....  | 37 |
| 76 Date of effect of variations .....  | 38 |
| 77 Development of annual operational plan .....  | 38 |
| 78 Approval of annual operational plan .....   | 39 |
| 79 Variation of annual operational plan .....  | 39 |
| <b>Division 9—Miscellaneous</b>  | 40 |
| 87 Annual report.....  | 40 |
| 88 Co-management arrangements .....  | 41 |
| 89 Peak industry body to be given copy of report etc.....                                      | 41 |
| 90 Public meetings .....   | 41 |
| 91 Minister may give directions in exceptional circumstances.....                              | 42 |

---

---

|  |  |           |
|--|--|-----------|
| 92   | Delegation of functions and powers for which Commission is responsible ..... | 43        |
| 93   | Delegation of functions and powers for which CEO is responsible.....         | 44        |
| 94   | Fees .....   | 44        |
| 94A  | Exemption from tax .....   | 45        |
| 94B  | The AFMA Special Account .....   | 45        |
| 94C  | Credits to the AFMA Special Account .....                                    | 45        |
| 94D  | Purposes of the AFMA Special Account .....                                   | 45        |
| 94E  | Adjusted levy amounts .....  | 46        |
| <b>Part 3—The Fishing Industry Policy Council</b>                |  | <b>48</b> |
| <b>Division 1—Preliminary</b>                                    |  | <b>48</b> |
| 95   | Interpretation .....   | 48        |
| <b>Division 2—Establishment, functions and powers of Council</b> |  | <b>49</b> |
| 96   | Establishment of Council.....  | 49        |
| 97   | Objectives.....  | 49        |
| 98   | Functions of Council .....   | 49        |
| 99   | Powers of Council .....  | 50        |
| 100  | Industry conferences.....  | 50        |
| 101  | Publication of Council reports .....   | 51        |
| <b>Division 3—Constitution and meetings of Council</b>           |  | <b>53</b> |
| 102  | Constitution of Council .....  | 53        |
| 103  | Acting Chairperson.....  | 54        |
| 104  | Deputies of members .....  | 54        |
| 105  | Resignation of members .....   | 55        |
| 106  | Termination of appointments etc. ....  | 55        |
| 107  | Disclosure of interests .....  | 56        |
| 108  | Meetings .....   | 56        |
| <b>Division 4—Working groups of Council</b>                      |  | <b>58</b> |
| 109  | Working groups of Council .....  | 58        |
| 110  | Disclosure of interests of members of working groups.....                    | 59        |
| <b>Division 5—Miscellaneous</b>                                  |  | <b>60</b> |
| 111  | Remuneration and allowances .....  | 60        |
| 112  | Arrangements relating to staff etc.....                                      | 60        |
| 113  | Annual report.....   | 61        |
| <b>Part 4—Miscellaneous</b>                                      |  | <b>62</b> |
| 114  | Regulations.....   | 62        |

---

---

|   |    |
|---|----|
| <b>Endnotes</b>                                 | 63 |
| <b>Endnote 1—About the endnotes</b>             | 63 |
| <b>Endnote 2—Abbreviation key</b>               | 65 |
| <b>Endnote 3—Legislation history</b>            | 66 |
| <b>Endnote 4—Amendment history</b>              | 70 |
| <b>Endnote 5—Uncommenced amendments [none]</b>  | 74 |
| <b>Endnote 6—Modifications [none]</b>           | 74 |
| <b>Endnote 7—Misdescribed amendments [none]</b> | 74 |
| <b>Endnote 8—Miscellaneous [none]</b>           | 74 |

# **An Act to establish an Australian Fisheries Management Authority and a Fishing Industry Policy Council, and for related purposes**

## **Part 1—Preliminary**

### **1 Short title**

This Act may be cited as the *Fisheries Administration Act 1991*.

### **2 Commencement**

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

### **3 Objects of Act**

The objects of this Act are:

- (a) to establish an Australian Fisheries Management Authority with functions and responsibilities relating to the management of fisheries on behalf of the Commonwealth; and
- (b) to establish a Fishing Industry Policy Council with a view to ensuring the participation by persons engaged in, or having an interest in, the fishing industry in the process of formulating government policy in relation to the management of fisheries.

Section 4

---

#### 4 Interpretation

(1) In this Act, unless the contrary intention appears:

**AFMA staff member** means a member of the staff assisting the CEO (see section 68).

**AFZ** has the same meaning as in the *Fisheries Management Act 1991*.

**associated law** means a law conferring powers and functions on the Authority.

**Australian-flagged boat** has the same meaning as in the *Fisheries Management Act 1991*.

**Authority** means the Australian Fisheries Management Authority established by section 5.

**CEO** means the Chief Executive Officer (see subsection 10B(1)).

**co-management arrangement** has the meaning given in section 88.

**Commission** means the Commission established by subsection 10B(1).

**commissioner** means:

- (a) a part-time commissioner; or
- (b) the CEO.

**Compliance Agreement** has the same meaning as in the *Fisheries Management Act 1991*.

**domestic fisheries management functions and powers** of the Authority means the functions and powers of the Authority, other than the foreign compliance functions and powers of the Authority.

Note: The functions and powers of the Authority are set out in sections 7 and 8, and include functions and powers under associated laws.

**e-monitoring data** has the same meaning as in the *Fisheries Management Act 1991*.



**fishery** means a class of activities by way of fishing, including activities identified by reference to all or any of the following:

- (a) a species or type of fish;
- (b) a description of fish by reference to sex or any other characteristic;
- (c) an area of waters or of seabed;
- (d) a method of fishing;
- (e) a class of boats;
- (f) a class of persons;
- (g) a purpose of activities.

**fishing concession** has the same meaning as in the *Fisheries Management Act 1991*.

**foreign boat** has the same meaning as in the *Fisheries Management Act 1991*.

**foreign compliance functions and powers** of the Authority means the functions and powers of the Authority as they relate to:

- (a) foreign boats in the AFZ where the operation of the boat is not covered by a fishing concession, port permit or scientific permit, and persons or things on such boats; and
- (b) boats outside the AFZ, and persons or things on such boats, other than where the boat is operating in an area where it is authorised to operate under a fishing concession.

Note: The functions and powers of the Authority are set out in sections 7 and 8, and include functions and powers under associated laws.

**governing body**, in relation to another body (whether incorporated or otherwise), means the persons having the management of the affairs of that other body.

**industry** means the fishing industry including the catching, processing and marketing sectors of that industry.

**part-time commissioner** means a person appointed as a part-time commissioner under subsection 12(1), and includes the Chairperson of the Commission.

Section 4

---

**peak industry body** means such body (whether incorporated or otherwise) representative generally of persons engaged in the industry as is prescribed for the purposes of this definition.

**plan of management** means a plan of management of a fishery determined by the Authority under an associated law.

**port permit** has the same meaning as in the *Fisheries Management Act 1991*.

**precautionary principle** has the same meaning as in clause 3.5.1 of the Intergovernmental Agreement on the Environment, a copy of which is set out in the Schedule to the *National Environment Protection Council Act 1994*.

**primary stakeholder** in relation to a fishery means:

- (a) the holder of a fishing concession in the fishery; or
- (b) an incorporated body that represents those holders (including a peak body, for example); or
- (c) a person prescribed by the regulations.

**principles of ecologically sustainable development** has the meaning given by section 6A.

**scientific permit** has the same meaning as in the *Fisheries Management Act 1991*.

Note: Definitions relating only to Part 3 are in section 95.

- (2) For the purposes of this Act:
  - (a) in relation to a fishery or a managed fishery that is identified by reference to an area, a reference to activities in the fishery or in the managed fishery includes activities in that area; and
  - (b) in relation to a fishery or a managed fishery that is identified by reference to any matter other than an area, a reference to activities in the fishery or in the managed fishery includes activities in relation to the fishery.
- (3) If an arrangement under Division 3 of Part 5 of the *Fisheries Management Act 1991* is varied, a reference in this Act to the arrangement is a reference to the arrangement as varied.

## **Part 2—Australian Fisheries Management Authority**

### **Division 1—Establishment, functions and powers of Authority**

#### **5 Establishment**

An Australian Fisheries Management Authority is established.

#### **6 Objectives**

The Authority, in the performance of its functions, must pursue the objectives of:

- (a) implementing efficient and cost-effective fisheries management on behalf of the Commonwealth; and
- (b) ensuring that the exploitation of fisheries resources and the carrying on of any related activities are conducted in a manner consistent with the principles of ecologically sustainable development (which include the exercise of the precautionary principle), in particular the need to have regard to the impact of fishing activities on non-target species and the long term sustainability of the marine environment; and
- (ba) ensuring that:
  - (i) the exploitation in the Australian fishing zone (as defined in the *Fisheries Management Act 1991*) and the high seas of fish stocks in relation to which Australia has obligations under international agreements; and
  - (ii) related activities;are carried on consistently with those obligations; and
- (bb) to the extent that Australia has obligations:
  - (i) under international law; or
  - (ii) under the Compliance Agreement or any other international agreement;in relation to fishing activities by Australian-flagged boats on the high seas that are additional to the obligations referred to

**Section 6A**

---

- in paragraph (ba)—ensuring that those activities are carried on consistently with those first-mentioned obligations; and
- (c) maximising the net economic returns to the Australian community from the management of Australian fisheries; and
- (d) ensuring accountability to the fishing industry and to the Australian community in the Authority’s management of fisheries resources; and
- (e) achieving government targets in relation to the recovery of the costs of the Authority.

**6A Principles of ecologically sustainable development**

The following principles are *principles of ecologically sustainable development*:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equity considerations;
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- (c) the principle of inter-generational equity—that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
- (e) improved valuation, pricing and incentive mechanisms should be promoted.

**7 Functions**

- (1) The Authority has the following functions:
  - (a) to devise management regimes in relation to Australian fisheries;
  - (aa) to devise and implement management regimes that:

- (i) relate to fishing for fish stocks in relation to which Australia has obligations under international agreements; and
  - (ii) are consistent with those obligations;
- (ab) to the extent that Australia has obligations:
  - (i) under international law; or
  - (ii) under the Compliance Agreement or any other international agreement;in relation to fishing activities by Australian-flagged boats on the high seas that are additional to the obligations referred to in paragraph (aa)—to devise and implement management regimes in relation to those activities that are consistent with those first-mentioned obligations; and
- (ac) to advise and assist in relation to the exercise of powers and the performance of functions under the *Torres Strait Fisheries Act 1984*;
- (b) to devise fisheries adjustment programs and fisheries restructuring programs;
- (c) to consult, and co-operate, with the industry and members of the public generally in relation to the activities of the Authority;
- (d) to devise exploratory and feasibility programs relating to fishing;
- (da) to manage and carry out:
  - (i) programs referred to in paragraphs (b) and (d) that are devised by the Authority; and
  - (ii) programs of a similar nature that are devised by other persons or bodies;
- (e) to establish priorities in respect of research relating to fisheries managed by the Authority and arrange for the undertaking of such research;
- (ea) to make arrangements in relation to the placement of persons as observers on board boats used for commercial fishing, including foreign fishing boats operating, or intended to operate, outside the Australian fishing zone if such placements are consistent with Australia's international obligations;

**Section 7**

---

- (f) to consult, and negotiate, with foreign governments and foreign business interests in relation to access by foreign fishing vessels to Australian fisheries and Australian ports;
- (fa) to consult and exchange information with an entity in a State, Territory or foreign country that has similar functions to the Authority's functions;
- (g) to make its expertise in fisheries management available to the following entities (including by providing information technology, services or technical experts, for example):
  - (i) an entity in the Commonwealth, a State, a Territory or a foreign country;
  - (ii) another person;
- (ga) to liaise and co-operate with and, where obliged under this Act or any associated law or under international law or international agreements to do so, to give information to, overseas and international bodies on matters relating to global, regional or subregional fisheries management organisations or arrangements;
- (gaa) in addition to the collection of information in the exercise or performance of its other powers and functions—to collect, as authorised (within the meaning of subsection (4)), information relating to the following:
  - (i) possible breaches of the laws of Australia or of a foreign country;
  - (ii) the control and protection of Australia's borders;
  - (iii) the administration and management of fisheries or marine environments;
  - (iv) research or monitoring conducted, or proposed to be conducted, into fisheries or marine environments;
- (gb) to disclose, as authorised (within the meaning of subsection (4)), information, including e-monitoring data and personal information, relating to the following:
  - (i) possible breaches of the laws of Australia or of a foreign country;
  - (ii) the control and protection of Australia's borders;
  - (iii) the administration and management of fisheries or marine environments;

- (iv) research or monitoring conducted, or proposed to be conducted, into fisheries or marine environments;
  - (h) the functions specified in section 9 relating to consultation;
  - (j) the functions specified in Division 7 relating to corporate plans and annual operational plans;
  - (k) the functions specified in this Part relating to reporting;
  - (m) as provided by an associated law:
    - (i) to establish and allocate fishing rights;
    - (ii) to establish and maintain a register of fishing rights;
    - (iii) functions relating to plans of management;
    - (iv) functions relating to recreational fishing;
    - (v) to undertake, on behalf of the Commonwealth, management responsibilities in relation to fisheries management arrangements entered into with the States and Territories;
    - (vi) to collect, on behalf of the Commonwealth, a payment in the nature of a community return payable by persons exploiting fisheries resources;
  - (ma) to take action in accordance with international law to deter the use of vessels on the high seas for activities that contravene or reduce the effectiveness of measures that are for the conservation and management of fish stocks and are established by:
    - (i) a subregional or regional fisheries management organisation that Australia is a member of; or
    - (ii) a subregional or regional fisheries management arrangement that Australia participates in;
  - (n) such other functions as are conferred on the Authority by or under this Act or an associated law.
- (2) The paragraphs of subsection (1) do not limit one another.
- (3) In disclosing information in the course of an activity referred to in paragraph (1)(g), (ga), (gb) or (ma), the Authority may require that the information:
- (a) not be disclosed by the person or body to which it is provided; or

**Section 8**

---

- (b) be disclosed only for such purposes, and on such conditions, as the Authority specifies.
- (4) Collection or disclosure of information is **authorised** for the purposes of paragraph (1)(gaa) or (gb) if it is done in accordance with:
  - (a) this Act, the *Fisheries Management Act 1991* or the *Torres Strait Fisheries Act 1984*; or
  - (b) regulations made under an Act mentioned in paragraph (a).

**8 Powers**

- (1) The Authority may do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions.
- (2) However, the Authority does not have the following powers:
  - (a) the power to acquire, hold and dispose of real or personal property;
  - (b) the power to enter into contracts;
  - (c) the power to lease the whole or any part of any land or building for the purposes of the Authority.
- (3) A right to sue is taken not to be personal property for the purposes of paragraph (2)(a).

**9 Consultation**

The Authority, for the purpose of considering any matter, or obtaining information or advice, relating to the performance of its functions, may consult with persons, bodies or Governments, including:

- (a) persons or bodies representative of the whole or a part of the industry or recreational fishing; and
- (b) the Commonwealth Government or State or Territory Governments or Commonwealth, State or Territory authorities having functions relating to fisheries; and



- (c) persons (including members of the scientific community) having a particular interest in matters associated with the industry.

## **10 Authority is a body corporate**

- (1) The Authority:
  - (a) is a body corporate; and
  - (b) must have a seal; and
  - (c) may sue and be sued in its corporate name.
- (2) The seal of the Authority must be kept in such custody as the CEO directs, and must not be used except as authorised:
  - (a) in relation to the performance and exercise of the domestic fisheries management functions and powers of the Authority—by the Commission; or
  - (b) in relation to the performance and exercise of the foreign compliance functions and powers of the Authority—by the CEO.
- (3) All courts, judges and persons acting judicially must:
  - (a) take judicial notice of the imprint of the seal of the Authority appearing on a document; and
  - (b) presume that it was duly sealed.

## **10A Financial liabilities**

- (1) Any financial liabilities of the Authority are taken to be liabilities of the Commonwealth.
- (2) For the purposes of this section:  
*financial liability* means a liability to pay a person an amount, where the amount, or the method for working out the amount, has been determined.

## **10B The Commission and CEO**

- (1) There is to be a Commission and a Chief Executive Officer.

**Part 2** Australian Fisheries Management Authority

**Division 1** Establishment, functions and powers of Authority

**Section 10C**

---

Note: The Chief Executive Officer is also a commissioner: see the definition of *commissioner* in subsection 4(1).

- (2) The Commission is responsible for performing and exercising the domestic fisheries management functions and powers of the Authority.
- (3) The CEO is responsible for:
  - (a) performing and exercising the foreign compliance functions and powers of the Authority; and
  - (b) assisting the Commission, including by giving effect to the decisions of the Commission.
- (4) The CEO is not subject to direction by the Commission in relation to the CEO's performance or exercise of:
  - (a) functions and powers under the *Financial Management and Accountability Act 1997* or the *Public Service Act 1999*; or
  - (b) the foreign compliance functions and powers of the Authority.
- (5) Anything done in the name of the Authority, or on the Authority's behalf, by:
  - (a) the Commission in performing or exercising the domestic fisheries management functions and powers of the Authority; or
  - (b) the CEO in performing or exercising the foreign compliance functions and powers of the Authority;is taken to have been done by the Authority.

**10C Minister may give directions to CEO about foreign compliance**

- (1) The Minister may give written directions to the CEO about the performance and exercise of the foreign compliance functions and powers of the Authority.
- (2) Directions given by the Minister under subsection (1) may relate to a particular case.
- (3) The CEO must comply with any direction given by the Minister under subsection (1).

Section 10C

---

- (4) The Minister must cause a copy of each direction given under subsection (1) to be tabled in each House of the Parliament within 15 sitting days of that House after giving the direction.
- (5) Subsection (4) does not apply in relation to a particular direction if the Minister determines, in writing, that compliance with the subsection is undesirable because compliance would, or would be likely to, be prejudicial to the national interest of Australia.
- (6) Neither a direction made under subsection (1) nor a determination made under subsection (5) is a legislative instrument.

## **Division 2—Constitution of Commission**

### **11 Constitution of Commission**

- (1) The Commission consists of:
  - (a) the Chairperson of the Commission; and
  - (b) the other part-time commissioners; and
  - (c) the CEO.
- (2) There must be no more than 8 part-time commissioners (including the Chairperson).

## **Division 3—Appointment of commissioners**

### **12 Appointment of commissioners**

- (1) The Chairperson of the Commission, the other part-time commissioners and the CEO are to be appointed by the Minister by written instrument.

*CEO may also be appointed Chairperson*

- (2) The CEO may also be appointed as the Chairperson of the Commission, but must not otherwise hold office as a part-time commissioner.

*Eligibility for appointment*

- (3) To be eligible for appointment as a commissioner, an individual, at the time of appointment:
- (a) must have a high level of expertise in one or more of the following fields:
    - (i) fisheries management;
    - (ii) fishing industry operations;
    - (iii) science;
    - (iv) natural resource management;
    - (v) economics;
    - (vi) business or financial management;
    - (vii) law;
    - (viii) public sector administration or governance;
    - (ix) such other fields (if any) as are prescribed by the regulations; but
  - (b) must not hold:
    - (i) an executive position in a fishing industry association (however described); or
    - (ii) a fishing concession granted under the *Fisheries Management Act 1991*; or
    - (iii) a licence or permit granted under the *Torres Strait Fisheries Act 1984*; or
-

Section 13

---

- (iv) an executive position (however described and whether or not a director of the body) in a body corporate that holds a fishing concession, licence or permit of a kind mentioned in subparagraph (ii) or (iii); or
- (v) the majority of the voting shares in a company that holds a fishing concession, licence or permit of a kind mentioned in subparagraph (ii) or (iii).

Note: These eligibility criteria will apply to the CEO who is also a commissioner: see the definition of *commissioner* in subsection 4(1).

- (4) For the purposes of subparagraph (3)(b)(iv), a person holds an *executive position* in a body corporate if the person is concerned in, or takes part in, the management of the body.
- (5) In appointing commissioners, the Minister must ensure, as far as practicable, that the commissioners collectively possess expertise in all of the fields mentioned in paragraph (3)(a).

*Basis of appointments*

- (6) The Chairperson of the Commission and the other part-time commissioners must be appointed on a part-time basis.
- (7) The CEO must be appointed on a full-time basis.

*Term of appointment*

- (8) A commissioner holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

*Validation*

- (9) The appointment of an individual as a commissioner is not invalid because of a defect or irregularity in connection with the individual's appointment.

### 13 Deputy Chairperson

- (1) The Minister is to appoint a part-time commissioner (other than the Chairperson) to be the Deputy Chairperson of the Commission.

- (2) The Minister must, before appointing a person to be the Deputy Chairperson, consult with the Chairperson of the Commission.
- (3) The Minister may at any time terminate an appointment made under subsection (1).
- (4) A person appointed as Deputy Chairperson ceases to hold the office if the person ceases to be a part-time commissioner.
- (5) A person appointed as Deputy Chairperson may resign by giving to the Minister a signed notice of resignation.
- (6) During any period when:
  - (a) the office of Chairperson of the Commission is vacant (whether or not an appointment has previously been made to the office); or
  - (b) the Chairperson of the Commission is absent from Australia or is, for any reason, unable to perform the duties of the office;the Deputy Chairperson is to act as Chairperson.

Note: For rules that apply to persons acting as the Chairperson, see section 33A of the *Acts Interpretation Act 1901*.
- (7) The Deputy Chairperson has, when acting as Chairperson, all the powers, duties, rights and entitlements of the Chairperson of the Commission.

## 14 Acting CEO

The Minister may appoint a person to act as the CEO:

- (a) during a vacancy in the office of CEO (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the CEO is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

Section 15

---

**15 Other employment**

- (1) A part-time commissioner must not engage, without the Minister's approval, in paid employment that conflicts or may conflict with the proper performance of his or her duties.
- (2) The CEO must not engage in paid employment outside the duties of the CEO's office without the Minister's approval.

**17 Remuneration and allowances**

- (1) A commissioner is to be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination is in operation, the commissioner is to be paid such remuneration as is prescribed.
- (2) A commissioner is to be paid such allowances as are prescribed.
- (3) Where:
  - (a) a person who is a part-time commissioner is a member of, or a candidate for election to, the Parliament of a State; and
  - (b) under the law of the State, the person would not be eligible to remain, or to be elected as a member of that Parliament if the person were entitled to remuneration or allowances under this Act;the person must not be paid remuneration or allowances under this Act, but is to be reimbursed the expenses that the person reasonably incurs in performing duties under this Act.
- (4) Where a part-time commissioner:
  - (a) is a member of the Parliament of a State, but subsection (3) does not apply in relation to the person; or
  - (b) is in the service or employment of a State, or an authority of a State, on a full-time basis; or
  - (c) holds or performs the duties of an office or position established by or under a law of a State on a full-time basis;it is a condition of the person's holding office under this Act that the person pay to the State, within one month of receiving an amount of remuneration under this Act, an amount equal to the amount of remuneration.



- (5) An amount payable under subsection (4) is a debt due to the State, and the State may recover the amount by action against the person in a court of competent jurisdiction.
- (6) This section has effect subject to the *Remuneration Tribunal Act 1973*.
- (8) In this section:

***Parliament*** means:

- (a) in relation to the Australian Capital Territory—the Legislative Assembly for the Australian Capital Territory; and
- (b) in relation to the Northern Territory—the Legislative Assembly of the Northern Territory.

***State*** includes the Australian Capital Territory and the Northern Territory.

## **18 Leave of absence**

*Part-time commissioners*

- (1) The Minister may grant leave of absence to the Chairperson of the Commission on such terms and conditions as the Minister considers appropriate.
- (2) The Chairperson may grant leave of absence to another part-time commissioner on such terms and conditions as the Chairperson considers appropriate.

*CEO*

- (3) The CEO has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (4) The Minister may grant the CEO leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

Section 19

---

## 19 Resignation

A commissioner may resign by giving to the Minister a signed notice of resignation.

## 20 Disclosure of interests to Minister

### *Disclosure on appointment*

- (1) Before starting to hold office, a commissioner must give to the Minister a written statement of any interest, pecuniary or otherwise, that the commissioner has that may relate to:
  - (a) the functions of the commissioner; and
  - (b) in the case of the CEO—the additional functions of the CEO.

### *Disclosures during term of appointment*

- (2) The commissioner must give written notice to the Minister of all interests, pecuniary or otherwise, that the commissioner has or acquires and that conflict or may conflict with the proper performance of:
  - (a) the commissioner's functions; and
  - (b) in the case of the CEO—the additional functions of the CEO.
- (3) The notice must be given as soon as possible after the relevant facts come to the commissioner's knowledge.

### *Keeping of register*

- (4) The Commission must keep a register of the interests disclosed under this section.

## 21 Termination of appointment

- (1) The Minister may terminate the appointment of a commissioner for:
  - (a) misbehaviour or physical or mental incapacity; or
  - (b) inefficiency or incompetence.
- (2) The Minister may terminate the appointment of a commissioner if:

- (a) the commissioner:
  - (i) becomes bankrupt; or
  - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
  - (iii) compounds with his or her creditors; or
  - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
- (b) the commissioner is absent, except on leave of absence:
  - (i) in the case of a part-time commissioner—from 3 consecutive meetings of the Commission; or
  - (ii) in the case of the CEO—for 14 consecutive days or for 28 days in any 12 months; or
- (c) the commissioner engages:
  - (i) in the case of a part-time commissioner—in paid employment, without the approval of the Minister, that conflicts or may conflict with the proper performance of the duties of his or her office (see section 15); or
  - (ii) in the case of the CEO—in paid employment outside the duties of his or her office without the approval of the Minister (see section 15); or
- (d) the commissioner fails, without reasonable excuse, to comply with section 20 or 24.

*Termination for holding certain positions or interests*

- (3) The appointment of a commissioner is terminated, by force of this subsection, if the commissioner becomes the holder of:
  - (a) an executive position in a fishing industry association (however described); or
  - (b) a fishing concession granted under the *Fisheries Management Act 1991*; or
  - (c) a licence or permit granted under the *Torres Strait Fisheries Act 1984*; or
  - (d) an executive position (however described and whether or not a director of the body) in a body corporate that holds a fishing concession, licence or permit of a kind mentioned in paragraph (b) or (c); or

Section 22

---

- (e) the majority of the voting shares in a company that holds a fishing concession, licence or permit of a kind mentioned in paragraph (b) or (c).
- (4) For the purposes of paragraph (3)(d), a person holds an *executive position* in a body corporate if the person is concerned in, or takes part in, the management of the body.

*Validation*

- (5) Anything done by or in relation to the Commission is not invalid merely because the appointment of a commissioner has been terminated by force of subsection (3).

**22 Terms and conditions of appointment not provided for by Act**

A commissioner holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, in writing, by the Minister.

## **Division 4—Operation of Commission**

### **23 Meetings**

(1) Subject to subsection (2), meetings of the Commission are to be held at such times and places as the Commission from time to time determines.

(2) The Chairperson of the Commission may at any time convene a meeting of the Commission.

Note: Section 33B of the *Acts Interpretation Act 1901* provides for participation in meetings by telephone etc.

(3) The Chairperson of the Commission is to preside at all meetings of the Commission at which the Chairperson is present.

(4) If the Chairperson and Deputy Chairperson of the Commission are not present at a meeting of the Commission the commissioners present are to appoint one of their number to preside at the meeting.

(5) At a meeting of the Commission:

(a) a majority of the commissioners constitutes a quorum; and

(b) a question is to be decided by a majority of the votes of the commissioners present and voting; and

(c) the commissioner presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(6) If:

(a) section 24 prevents a commissioner from participating in deliberations or decisions with respect to a particular matter at a meeting of the Commission; and

(b) when the commissioner leaves the meeting concerned there is no longer a quorum present;

the remaining commissioners at the meeting constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.

(7) The Commission must keep minutes of its proceedings.

**Section 24**

---

- (8) The Commission may invite a person to attend a meeting for the purpose of advising or informing it on any matter.

**24 Disclosure of interests to Commission**

- (1) A commissioner who has an interest, whether pecuniary or otherwise, in a matter being considered or about to be considered by the Commission must disclose the nature of the interest to a meeting of the Commission.
- (2) The disclosure must be made as soon as possible after the relevant facts have come to the commissioner's knowledge.
- (3) The disclosure must be recorded in the minutes of the meeting of the Commission.
- (4) Unless the Commission otherwise determines, the commissioner:
- (a) must not be present during any deliberation by the Commission on the matter; and
  - (b) must not take part in any decision of the Commission with respect to the matter.
- (5) For the purposes of the Commission making a determination under subsection (4), the commissioner:
- (a) must not be present during any deliberation of the Commission for the purpose of making the determination; and
  - (b) must not take part in making the determination.
- (6) A determination made by the Commission under subsection (4) must be recorded in the minutes of the meeting of the Commission.

**25 Decisions without meetings**

- (1) The Commission is taken to have made a decision at a meeting if:
- (a) without meeting, a majority of the commissioners entitled to vote on the proposed decision indicate agreement with the decision; and
  - (b) that agreement is indicated in accordance with the method determined by the Commission under subsection (2); and
-

- (c) all the commissioners were informed of the proposed decision, or reasonable efforts were made to inform all the commissioners of the proposed decision.
- (2) Subsection (1) applies if the Commission:
  - (a) has determined that it may make decisions of that kind without a meeting; and
  - (b) has determined the method by which commissioners are to indicate agreement with proposed decisions.
- (3) For the purposes of paragraph (1)(a), a commissioner is not entitled to vote on a proposed decision if the commissioner would not have been entitled to vote on that proposal if the matter had been considered at a meeting of the Commission.
- (4) The Commission must keep a record of decisions made in accordance with this section.

## Division 5—Committees

### 54 Committees

The Authority may establish committees to assist it in the performance of its functions and the exercise of its powers, and may abolish any such committee.

### 55 Committees other than management advisory committees

- (1) A committee (other than a management advisory committee) may be constituted wholly by commissioners or partly by commissioners and partly by other persons.
- (2) The Authority may determine:
  - (a) the manner in which the committee is to perform its functions; and
  - (b) the procedure to be followed at or in relation to meetings of the committee, including matters with respect to:
    - (i) the convening of meetings of the committee; and
    - (ii) the number of members of the committee who are to constitute a quorum; and
    - (iii) the selection of a member of the committee to preside at meetings of the committee; and
    - (iv) the manner in which questions arising at a meeting of the committee are to be decided.
- (3) Where:
  - (a) a member of such a committee has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the committee; and
  - (b) the interest could conflict with the proper performance of the member's duties in relation to the consideration of the matter;the member must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the committee.



- (4) A disclosure under subsection (3) must be recorded in the minutes of the meeting.

### **56 Management advisory committees**

- (1) Without limiting the power of the Authority to establish committees under section 54, the Authority may, under that section, establish management advisory committees to assist it in the performance of its functions and the exercise of its powers in relation to a fishery.
- (2) Where a plan of management makes provision for the performance of functions, or the exercise of powers, by a management advisory committee, the Authority is to establish such a committee for the purposes of that plan.
- (3) The Authority may, after consultation with the members of a management advisory committee, vary the committee's functions and powers.

### **57 Functions of management advisory committees**

- (1) A management advisory committee has such functions as the Authority from time to time determines.
- (2) Without limiting the generality of subsection (1), the Authority may determine any of the following functions in relation to a management advisory committee:
- (a) the function of being a liaison body between the Authority and persons engaged in a fishery;
  - (b) the function of providing advice to the Authority in relation to the preparation and operation of a plan of management;
  - (c) the function of monitoring, and reporting to the Authority in relation to, scientific, economic and other information relating to a fishery.

### **58 Powers of management advisory committee etc.**

- (1) Subject to section 59, a management advisory committee has power to do, on behalf of the Authority, all things necessary or
-

Section 59

---

convenient to be done for, or in connection with, the performance of its functions.

- (1A) Without limiting subsection (1), a management advisory committee:
- (a) may establish sub-committees, consisting of such persons (whether members of the management advisory committee or not) as the management advisory committee determines, to advise it in the performance of its functions and the exercise of its powers; and
  - (b) may abolish any such sub-committee.
- (1B) A management advisory committee may determine:
- (a) the manner in which a sub-committee established by the management advisory committee is to perform its functions; and
  - (b) the procedure to be followed at or in relation to meetings of the sub-committee, including matters with respect to:
    - (i) the convening of meetings of the sub-committee; and
    - (ii) the number of members of the sub-committee who are to constitute a quorum; and
    - (iii) the selection of a member of the sub-committee to preside at meetings of the sub-committee; and
    - (iv) the manner in which questions arising at a meeting of the sub-committee are to be decided.
- (2) All acts and things properly done in the name of, or on behalf of, the Authority by a management advisory committee are taken to have been done by the Authority.

**59 Management advisory committee to act in accordance with policies etc. of Authority**

A management advisory committee must act in accordance with any policies determined by, and any directions given by, the Authority.

## **60 Constitution of management advisory committees**

- (1) A management advisory committee consists of the following members:
  - (a) the Chairperson of the committee;
  - (b) the AFMA staff member who is responsible for the management of the fishery in relation to which the committee has been established;
  - (c) such number of other members (not exceeding 7) as the Authority determines from time to time after consultation with the industry, the States and Territories and persons engaged in research who, in the opinion of the Authority, have an interest in matters in relation to which the committee is established.
- (2) The performance of the functions, and the exercise of the powers, of a management advisory committee are not affected by reason only of vacancies in the membership of the committee.

## **61 Acting Chairperson**

The Authority may appoint a person to act as the Chairperson of a management advisory committee:

- (a) during a vacancy in the office of Chairperson of the committee (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the Chairperson of the committee is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

## **62 Appointment of members**

- (1) The members of a management advisory committee are to be appointed by the Authority.

**Section 63**

---

- (2) The appointment of a person as a member of a management advisory committee is not invalid because of a defect or irregularity in connection with the person's appointment.
- (3) The Authority must try, as far as practicable, to ensure that the membership of a management advisory committee includes an appropriate number of members engaged in, or with experience in, the industry in the fishery in relation to which the management advisory committee is established.
- (4) Nothing in this Division requires the Authority to appoint a particular person or a representative of a particular group of persons, or of a State or Territory, to be a member of a management advisory committee referred to in paragraph 60(1)(c).

**63 Term of office**

- (1) A member of a management advisory committee holds office, subject to this Division, for such term (not exceeding 3 years) as is specified in the instrument of appointment but is eligible for reappointment in accordance with this Act.
- (2) If a member of a management advisory committee (other than the Chairperson) ceases to hold office before the end of the term of appointment, another person may, in accordance with this Act, be appointed in the member's place until the end of the term.

**64 Leave of absence**

- (1) The Authority may grant leave of absence to the Chairperson of a management advisory committee on such terms and conditions as the Authority considers appropriate.
- (2) The Chairperson of a management advisory committee may grant leave of absence to another member of the committee on such terms and conditions as the Chairperson considers appropriate.

**64A Resignation**

A member of a management advisory committee may resign his or her appointment by giving the Authority a written resignation.

### **64B Termination of appointment**

- (1) The Authority may terminate the appointment of a member of a management advisory committee for:
  - (a) misbehaviour or physical or mental incapacity; or
  - (b) inefficiency or incompetence.
- (2) The Authority may terminate the appointment of a member of a management advisory committee if:
  - (a) the member:
    - (i) becomes bankrupt; or
    - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
    - (iii) compounds with his or her creditors; or
    - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
  - (b) the member is absent, except on leave of absence, from 3 consecutive meetings of the Commission; or
  - (c) the member fails, without reasonable excuse, to comply with section 64C or 64D.

### **64C Disclosure of interests to management advisory committee**

- (1) A member of a management advisory committee who has an interest, whether pecuniary or otherwise, in a matter being considered or about to be considered by the committee must disclose the nature of the interest to a meeting of the committee.
- (2) The disclosure must be made as soon as possible after the relevant facts have come to the member's knowledge.
- (3) The disclosure must be recorded in the minutes of the meeting of the committee.
- (4) Unless the committee otherwise determines, the member:
  - (a) must not be present during any deliberation by the committee on the matter; and
  - (b) must not take part in any decision of the committee with respect to the matter.

**Section 64D**

---

- (5) For the purposes of the committee making a determination under subsection (4), the member:
  - (a) must not be present during any deliberation of the committee for the purpose of making the determination; and
  - (b) must not take part in making the determination.
- (6) A determination made by the committee under subsection (4) must be recorded in the minutes of the meeting of the committee.

**64D Disclosure of interests to Authority**

A member of a management advisory committee must give written notice to the Authority of all interests, pecuniary or otherwise, that the member has or acquires and that conflict or could conflict with the proper performance of his or her functions.

**65 Meetings**

- (1) The Authority may from time to time determine the procedure to be followed at or in relation to meetings of a management advisory committee, including matters with respect to:
  - (a) the convening of meetings of the committee; and
  - (b) the quorum for meetings of the committee (including requirements that particular members be present); and
  - (c) the member of the committee to preside at meetings of the committee at which the Chairperson of the committee is not present; and
  - (d) the manner in which questions arising at meetings are to be determined; and
  - (e) the keeping of minutes; and
  - (f) the inviting of persons to attend meetings of the committee for the purpose of advising or informing the committee on any matter.
- (2) Except in relation to matters determined by the Authority under subsection (1), the committee may determine the procedure to be followed at or in relation to its meetings.

### **65A Decisions without meetings**

- (1) A management advisory committee is taken to have made a decision at a meeting if:
  - (a) without meeting, a majority of the members of the committee entitled to vote on the proposed decision indicate agreement with the decision; and
  - (b) that agreement is indicated in accordance with the method determined by the committee under subsection (2); and
  - (c) all the members of the committee were informed of the proposed decision, or reasonable efforts were made to inform all the members of the proposed decision.
- (2) Subsection (1) applies if the management advisory committee:
  - (a) has determined that it may make decisions of that kind without a meeting; and
  - (b) has determined the method by which members of the committee are to indicate agreement with proposed decisions.
- (3) For the purposes of paragraph (1)(a), a member of a management advisory committee is not entitled to vote on a proposed decision if the member would not have been entitled to vote on that proposal if the matter had been considered at a meeting of the committee.
- (4) A management advisory committee must keep a record of decisions made in accordance with this section.

### **66 Arrangements relating to staff etc.**

The Chairperson of a management advisory committee is to arrange with the CEO for the services of AFMA staff members and consultants to the Authority, and facilities, to be made available to the committee.

### **67 Remuneration and allowances**

- (1) The Chairperson and other members of a management advisory committee are to be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination is in operation, they are to be paid such remuneration as is prescribed.

**Section 67**

---

- (2) The Chairperson and other members of a management advisory committee are to be paid such allowances as are prescribed.
- (3) Subsections (1), (2) and (4) have effect subject to the *Remuneration Tribunal Act 1973*.
- (4) A member of:
  - (a) a committee established under section 54; or
  - (b) a sub-committee established under subsection 58(1A);(other than the Chairperson or other member of a management advisory committee or a member who is a commissioner or AFMA staff member) is to be paid such travelling allowance as is determined by the Remuneration Tribunal in relation to the performance of his or her duties as a member of the committee or sub-committee.
- (5) The following offices are not public offices within the meaning of the *Remuneration Tribunal Act 1973*:
  - (a) member of any committee established under section 54 other than a management advisory committee.
  - (c) member of a sub-committee established under subsection 58(1A).



## **Division 6—Staff and consultants**

### **68 Staff**

- (1) The staff assisting the CEO must be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
  - (a) the CEO and the staff assisting the CEO together constitute a Statutory Agency; and
  - (b) the CEO is the Head of that Statutory Agency.

### **69 Consultants**

- (1) The CEO may, on behalf of the Commonwealth, engage persons having suitable qualifications and experience as consultants to the Authority.
- (2) The terms and conditions of engagement are to be determined by the CEO.

## **Division 7—Corporate and annual operational plans**

### **72 Development of corporate plan**

- (1) The Authority must give to the Minister a corporate plan before 1 May 1992 and before 1 May in each subsequent calendar year.
- (2) A corporate plan is to be prepared after consultation with the peak industry body and with any other person or body considered by the Authority to be appropriate.
- (3) A corporate plan is to relate to a period commencing on the following 1 July and extending for 3, 4 or 5 years, as the Authority chooses.
- (4) A corporate plan must:
  - (a) define what the Authority considers should be its principal goals during the period to which the plan relates; and
  - (b) give a broad outline of the strategies that the Authority considers should be pursued during that period for achieving those goals; and
  - (c) set out the Authority's assessment of the factors that will affect the operations of the Authority during the period of the plan in giving effect to the objectives set out in section 6; and
  - (d) include such performance indicators as the Authority considers appropriate against which the performance of the Authority can be assessed during the period of the plan; and
  - (e) be signed by the Chairperson and the CEO.

### **73 Approval of corporate plan**

- (1) The Minister may, by written notice given to the Authority:
  - (a) approve the corporate plan; or
  - (b) if the Minister thinks that the interests of fisheries management, or any matter relating to fisheries management, so require—request the Authority to revise the plan appropriately.

- (2) If the Minister makes a request under paragraph (1)(b), the Minister is to set out the reasons for the request in the notice.
- (3) The Authority must consider a request for the revision of a corporate plan and the reasons for the request, make such revision of the plan as it considers appropriate and submit the revised plan to the Minister for approval.
- (4) A corporate plan comes into force:
  - (a) at the commencement of the period to which the plan relates;  
or
  - (b) on the day on which the Authority receives notice of the Minister's approval;whichever is the later.

#### **74 Variation of corporate plan by Authority**

- (1) Subject to subsection (4), the Authority must not vary a corporate plan except with the agreement of the Minister.
- (2) Where the Authority wishes to vary a corporate plan, the Authority must prepare written proposals for the variations and give a copy of the proposals to the Minister together with a statement setting out the Authority's reasons for making the proposals.
- (3) The Minister may, after considering proposals for the variation of a corporate plan and the reason for making those proposals, by written notice given to the Authority, agree with or reject the proposals.
- (4) Nothing in this section prevents the Authority making variations of a minor nature to a corporate plan without the agreement of the Minister but the Authority must inform the Minister of the variation as soon as practicable after making it.

#### **75 Variation at request of Minister**

- (1) The Minister may, at any time, give the Authority written notice requesting it to vary a corporate plan in the manner set out in the notice.

**Section 76**

---

- (2) The Minister is to set out in the notice the reasons for the request.
- (3) The Authority must consider the request and reasons, prepare written proposals for such variations of the plan as the Authority considers appropriate and submit those proposals to the Minister.
- (4) The Minister is to give the Authority written notice approving or rejecting the proposals.

**76 Date of effect of variations**

Where:

- (a) a corporate plan has come into force; and
- (b) a variation of the plan is approved by the Minister under section 74 or 75 or the Authority makes a variation of a minor nature;

the variation takes effect on the day on which the Authority receives notice of the Minister's approval or makes the variation of a minor nature, as the case may be.

**77 Development of annual operational plan**

- (1) The Authority must, before 1 June 1992 and before 1 June in each subsequent calendar year or such later date as the Minister in the particular case allows, give to the Minister an annual operational plan relating to the period of 12 months commencing on the following 1 July.
- (2) An annual operational plan must:
  - (a) set out particulars of the action that the Authority intends to take in order to give effect to, or further, during the period to which the plan relates, the goals set out in the corporate plan applicable to the period; and
  - (b) indicate whether the Authority intends to determine, or otherwise institute, a plan of management during the period to which the annual operational plan relates and, if so, provide an outline of the nature and object of any such plan; and
  - (c) include such performance indicators as the Authority considers appropriate against which the performance of the

Authority can be assessed during the period to which the plan relates; and

(d) be signed by the Chairperson and the CEO.

### **78 Approval of annual operational plan**

- (1) The Minister may, by written notice given to the Authority:
  - (a) approve an annual operational plan; or
  - (b) if the Minister thinks that the plan is inconsistent with the provisions of the relevant corporate plan—request the Authority to revise the annual operational plan appropriately.
- (2) If the Minister makes a request under paragraph (1)(b), the Minister is to set out the reasons for the request in the notice.
- (3) The Authority must consider a request under paragraph (1)(b) and the statement of reasons, make such revision of the annual operational plan as it considers appropriate and submit the revised plan to the Minister for approval.
- (4) An annual operational plan comes into force:
  - (a) at the commencement of the period to which the plan relates; or
  - (b) on the day on which the Authority receives notice of the Minister's approval;whichever is the later.

### **79 Variation of annual operational plan**

- (1) Sections 74, 75 and 76 apply to annual operational plans in the same way as they apply to corporate plans.
- (2) When submitting to the Minister proposals for variation of a corporate plan, the Authority must also submit to the Minister proposals for any consequential variations of a relevant annual operational plan.

## Division 9—Miscellaneous

### 87 Annual report

- (1) The Authority must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report on its operations during that year.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about annual reports.

- (2) The Authority must include in the report:
- (a) an assessment of the extent to which the operations of the Authority during the year to which the report relates have contributed:
    - (i) to the objectives set out in section 6 and, in particular, to the objective set out in paragraph (b) of that section; and
    - (ii) to the goals set out in the corporate plan applicable to the period; and
    - (iii) to the objectives set out in the annual operational plan that relates to a period corresponding to that year; and
  - (b) particulars of:
    - (i) variations (if any) of the corporate plan and the annual operational plan taking effect during that year; and
    - (ii) significant changes to plans of management and the introduction of new plans of management during that year; and
    - (iii) the effectiveness or otherwise of the operation of plans of management during that year; and
    - (iv) any directions given to the Authority by the Minister under section 91 during that year; and
  - (c) an evaluation of its overall performance against the performance indicators set out in the corporate plan applicable to the period and the annual operational plan that came into force at the beginning of that year.

## **88 Co-management arrangements**

The Authority may enter into an arrangement (a *co-management arrangement*) with stakeholders in a fishery under which the stakeholders assist the Authority to perform the Authority's functions and powers for the sustainable management of the fishery.

## **89 Peak industry body to be given copy of report etc.**

- (1) Where a report of the Authority's operations during a year has been laid before each House of the Parliament, the Chairperson of the Commission is to:
  - (a) give to the peak industry body a copy of the report; and
  - (b) request a meeting with the governing body of the peak industry body.
- (2) The purpose of meeting with that governing body is to enable the Chairperson and the CEO:
  - (a) to address the members of the governing body on the Authority's activities during the period covered by the report and on any other matters relating to fisheries management that the Chairperson and the CEO regard as relevant; and
  - (b) to give any additional information to those members in relation to the Authority's activities as the Chairperson and the CEO believe to be appropriate.

## **90 Public meetings**

- (1) For the purpose of consulting with the industry and the public generally, the Authority is to hold public meetings at intervals of not greater than one year and is to take such steps as are reasonably necessary to bring the holding of a proposed meeting to the notice of persons engaged in the industry and members of the public.
- (2) If the Minister believes that additional consultation by the Authority would be beneficial, the Minister may direct the Authority to conduct an additional public meeting.
- (3) The Authority must comply with such a direction.

Section 91

---

**91 Minister may give directions in exceptional circumstances**

- (1) Subject to subsection (2), the Minister may give directions in writing to the Authority concerning the performance of its functions and the exercise of its powers, and the Authority must comply with those directions.
- (2) The Minister must not give a direction to the Authority unless:
  - (a) the Minister is satisfied that, because of the existence of exceptional circumstances, it is necessary to give the direction to the Authority in order to ensure that the performance of the functions, or the exercise of the powers, of the Authority does not conflict with major government policies; and
  - (b) the Minister has given to the Authority a written notice stating that the Minister is considering giving the direction; and
  - (c) the Minister has given to the Chairperson of the Commission or the CEO, as the case requires, an adequate opportunity to discuss with the Minister the need for the proposed direction.
- (3) Subject to subsection (4), where the Minister gives a direction to the Authority:
  - (a) the Minister must:
    - (i) cause a notice setting out particulars of the direction to be published in the *Gazette* as soon as practicable after giving the direction; and
    - (ii) cause a copy of that notice to be laid before each House of the Parliament within 15 sitting days of that House after the publication of the notice in the *Gazette*; and
  - (b) the annual report for the year in which the direction was given must include:
    - (i) particulars of the direction; and
    - (ii) particulars of the impact of that direction on the operations of the Authority.
- (4) Subsection (3) does not apply in relation to a particular direction if the Minister determines, in writing, that compliance with the



subsection is undesirable because compliance would, or would be likely to, be prejudicial to the national interest of Australia.

- (5) If, in respect of a fishery, there is in force an arrangement under Division 3 of Part 5 of the *Fisheries Management Act 1991* under which:
- (a) a Joint Authority has the management of the fishery; and
  - (b) the fishery, or a part of the fishery identified in the arrangement, is to be managed in accordance with the law of the Commonwealth;

references in this section to the Minister are taken, in relation to the fishery or the part of the fishery, to be references to the Joint Authority.

## **92 Delegation of functions and powers for which Commission is responsible**

### *Delegation to the CEO*

- (1) The Commission may, by writing under the seal of the Authority, delegate to the CEO any of the domestic fisheries management functions or powers of the Authority.
- (2) The CEO, in performing a function or exercising a power delegated under subsection (1), is subject to the directions of the Commission.

### *Sub-delegation by the CEO*

- (3) The CEO may, by signed writing, delegate to:
  - (a) an AFMA staff member; or
  - (b) a committee established by the Authority under section 54; or
  - (c) a person engaged as a consultant to the Authority; or
  - (d) a person engaged under contract to assist the Authority; or
  - (e) an officer within the meaning of the *Fisheries Management Act 1991* or the *Torres Strait Fisheries Act 1984*; or
  - (f) a primary stakeholder in a fishery under a co-management arrangement for the fishery;

Section 93

---

any of the functions or powers of the Authority that have been delegated to the CEO by the Commission.

- (4) Subject to subsection (5) of this section, sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* apply to a delegation under subsection (3) of this section in a corresponding way to the way in which they apply to a delegation under subsection (1) of this section.
- (5) A function or power that is performed or exercised by a person under a delegation under subsection (3) is taken, for the purposes of this Act, to have been exercised or performed by the Authority.
- (6) A delegate of the CEO, in performing a function or exercising a power delegated under subsection (3), is subject to the directions of the CEO.

**93 Delegation of functions and powers for which CEO is responsible**

- (1) The CEO may, by signed writing, delegate to:
  - (a) an AFMA staff member; or
  - (b) a committee established by the Authority under section 54; or
  - (c) a person engaged as a consultant to the Authority; or
  - (d) a person engaged under contract to assist the Authority; or
  - (e) an officer within the meaning of the *Fisheries Management Act 1991* or the *Torres Strait Fisheries Act 1984*;any of the functions or powers of the Authority for which the CEO is responsible.
- (2) A delegate of the CEO, in performing a function or exercising a power delegated under subsection (1), is subject to the directions of the CEO.

**94 Fees**

- (1) The Authority may charge such fees as are reasonable in respect of work done, services provided or information given by the Authority.
- (2) A fee:

- (a) must not be such as to amount to taxation; and
- (b) is payable to the Commonwealth.

#### **94A Exemption from tax**

The Authority is not liable to pay tax under any law of the Commonwealth or of a State or Territory.

#### **94B The AFMA Special Account**

- (1) The AFMA Special Account is established by this section.
- (2) The Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

#### **94C Credits to the AFMA Special Account**

There must be credited to the AFMA Special Account the following:

- (a) adjusted levy amounts within the meaning of subsection 94E(1);
- (b) amounts of any fee paid to the Commonwealth in respect of work done, services provided or information given by the Authority (see section 94);
- (c) amounts equal to money received by the Commonwealth in relation to property paid for with money from the Account;
- (d) amounts equal to amounts of any gifts given or bequests made for the purposes of the Account.

Note: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a Special Account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the Special Account), then amounts may be debited against the appropriation for that item and credited to that Special Account.

#### **94D Purposes of the AFMA Special Account**

- (1) This section sets out the purposes of the AFMA Special Account.
- (2) Amounts standing to the credit of the Account may be debited for the following purposes:

Section 94E

---

- (a) in payment or discharge of the costs, expenses or other obligations incurred in the performance or exercise of the functions or powers of the Authority;
- (b) in payment of any remuneration and allowances payable to any person under this Act;
- (c) meeting the expenses of administering the Account.

**94E Adjusted levy amounts**

- (1) The *adjusted levy amounts* to be credited to the AFMA Special Account under paragraph 94C(a) are the amounts worked out using the formula:

Levy amount – Deductible component

where:

*deductible component*, in relation to a levy amount, means:

- (a) if, as a result of the receipt by the Commonwealth of the levy amount, an amount (the *research component*) is required to be paid under subparagraph 30A(1)(a)(i) or (ii) of the *Primary Industries Research and Development Act 1989* to an R & D Corporation (within the meaning of that Act) established in respect of the fishing industry—an amount equal to the research component; or
- (b) if the levy amount is an amount referred to in paragraph (e) of the definition of *levy amount*—an amount equal to so much (if any) of the levy amount as is determined by the Minister to be an amount paid to the Commonwealth for the right to engage in fishing in the AFZ; or
- (c) if a part of the levy amount is prescribed for the purposes of this paragraph—an amount equal to the part so prescribed.

*levy amount* means all of the following amounts received by the Commonwealth after the commencement of this section:

- (a) an amount received by the Commonwealth as levy imposed by the *Fisheries Levy Act 1984*;
- (b) an amount received by the Commonwealth as levy imposed by the *Fishing Levy Act 1991*;

Section 94E

---

- (c) an amount received by the Commonwealth as levy imposed by the *Foreign Fishing Licences Levy Act 1991*;
  - (d) an amount received by the Commonwealth as charge imposed by the *Statutory Fishing Rights Charge Act 1991*;
  - (e) an amount received by the Commonwealth as mentioned in the *Fisheries Agreements (Payments) Act 1991*;
  - (f) an amount received by the Commonwealth in repayment of a loan made under a fisheries adjustment program or a fisheries restructuring program;
  - (g) an amount received by the Commonwealth as a penalty under section 112 of the *Fisheries Management Act 1991*;
  - (h) an amount received by the Commonwealth as a fee under regulations made under paragraph 168(2)(e) of the *Fisheries Management Act 1991*;
- other than an amount that is declared by the regulations not to be a levy amount for the purposes of this section.
- (2) A determination made under paragraph (b) of the definition of ***deductible component*** in subsection (1) is not a legislative instrument.

## Part 3—The Fishing Industry Policy Council

### Division 1—Preliminary

#### 95 Interpretation

In this Part, unless the contrary intention appears:

*body* includes any body of persons whether incorporated or otherwise.

*Chairperson* means the Chairperson of the Council.

*Council* means the Fishing Industry Policy Council established by section 96.

*Council report* means a report given to the Minister in the performance of a function referred to in section 98.

*member* means a member of the Council and includes the Chairperson and a Deputy of a member of the Council.

*working group* means a working group of the Council established under section 109.

## **Division 2—Establishment, functions and powers of Council**

### **96 Establishment of Council**

A Fishing Industry Policy Council is established.

### **97 Objectives**

The Council, in the performance of its functions, must pursue the objectives of:

- (a) facilitating an exchange of views between persons having an interest in the industry on matters affecting the industry; and
- (b) developing a unified approach to matters affecting the industry.

### **98 Functions of Council**

- (1) The functions of the Council are:
  - (a) to inquire into, and to report to the Minister on, matters affecting the well-being of the industry; and
  - (b) to inquire into, and to report to the Minister on, matters referred to it by the Minister in relation to the industry; and
  - (c) to develop, and to submit to the Minister, recommendations, guidelines and plans for measures consistent with the principles of ecologically sustainable development designed to safeguard or further the interests of the industry; and
  - (d) to consult, and co-operate, with other persons and organisations in matters affecting the industry; and
  - (e) such other functions (if any) as are conferred upon the Council by the regulations.
- (2) Where a report of a working group is submitted to the Council under subsection 109(7), the Council may adopt the report, with or without amendments, as the report of the Council for the purposes of paragraph (1)(a) or (b).

Section 99

---

- (3) Without limiting the generality of subsection (1), the Council, in the performance of its functions, may take into account any matter raised at an industry conference convened under section 100.

**99 Powers of Council**

The Council has power to do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions.

**100 Industry conferences**

- (1) The Chairperson may, from time to time as he or she considers appropriate, convene conferences of persons concerned with the industry.
- (2) The Chairperson must convene a conference under subsection (1) whenever he or she is directed to do so by the Council.
- (3) The purpose of convening a conference is:
- (a) to assist the Council in identifying matters of concern to the industry; and
  - (b) to promote a better understanding of problems within the industry; and
  - (c) to foster a consensus on policies to be instituted to safeguard the interests of the industry.
- (4) A conference is to be convened at a time and place determined by the Chairperson.
- (5) Persons entitled to attend a conference are:
- (a) the members of the Council; and
  - (b) such other persons concerned with the industry as the Chairperson invites.
- (6) The Chairperson is to preside at all conferences.



### **101 Publication of Council reports**

- (1) Where a Council report is given to the Minister, the Minister is to cause it to be made public in such a way or in such ways as he or she considers appropriate.
- (2) Without limiting the generality of subsection (1), the Minister, in his or her discretion, may cause a Council report to be made public by causing it to be laid before each House of the Parliament.
- (3) Where the Minister is satisfied that the publication of a Council report would be contrary to the public interest, the Minister may, in his or her discretion:
  - (a) refrain from publication of the report until the Minister is satisfied that the publication would not be contrary to the public interest; or
  - (b) if the Minister is satisfied it is possible to do so without the report being misleading—publish the report with such deletions as he or she considers necessary to protect the public interest.
- (4) Where the Minister publishes a Council report with deletions, the Minister must make it publicly known that the report was published with deletions.
- (5) Where the Minister has published a Council report with deletions, the Minister must publish the report without those deletions by causing it to be made public in such a way, or in such ways, as the Minister considers appropriate, if and when the Minister becomes satisfied that the publication of the report without deletions would not be contrary to the public interest.
- (6) The Council must not:
  - (a) make public a Council report that has not been published by the Minister under subsection (1), paragraph (3)(b) or subsection (5); or
  - (b) make public a draft of a Council report that has not been so published or that was last so published with deletions; or
  - (c) if a Council report was last published by the Minister with deletions—make a report public without those deletions.

**Part 3** The Fishing Industry Policy Council

**Division 2** Establishment, functions and powers of Council

Section 101

---

- (7) Where a member disagrees with a finding or recommendation to be included in a Council report, the report must include a statement of the views of that member in respect of that finding or recommendation and must identify the member holding those views.
- (8) In subsection (6):  
*report* includes part of a report.

## **Division 3—Constitution and meetings of Council**

### **102 Constitution of Council**

- (1) The Council is to consist of the following members:
  - (a) the Chairperson;
  - (b) the Chairperson of the Commission;
  - (c) the Chairperson of the Fisheries Research and Development Corporation;
  - (d) a representative of National Fishing Industry Training Council Limited nominated by that body;
  - (e) a representative of the fish catching sector of the industry nominated by the peak industry body;
  - (f) a representative of the fish processing and fish marketing sectors of the industry nominated by the peak industry body;
  - (g) a person representing persons who engage in recreational fishing;
  - (h) a person representing persons having an interest in environmental aspects of the industry;
  - (i) a person representing persons having an interest in consumer aspects of the industry;
  - (j) such other persons (if any) as represent such other bodies or organisations connected with the industry as are specified by the Minister in the instrument of appointment.
- (2) The members hold office on a part-time basis.
- (3) The members, other than a member referred to in paragraph (1)(b) or (c), are to be appointed by the Minister and hold office for such period, not exceeding 3 years, as is specified in the instrument of appointment but are eligible for re-appointment in accordance with this Act.
- (4) The following persons are not eligible for appointment to the Council:
  - (a) commissioners of the Commission other than the Chairperson of the Commission;

Section 103

---

- (b) persons (other than a person referred to in paragraph (1)(b) or (c)) who, if appointed, would hold office for more than 3 consecutive terms.
- (5) The members hold office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, in writing, by the Minister.
- (6) The performance of the functions, and the exercise of the powers, of the Council are not affected by reason only of vacancies in its membership.

**103 Acting Chairperson**

The Minister may appoint a person to act in the office of Chairperson:

- (a) during a vacancy in the office of Chairperson (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the Chairperson is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

**104 Deputies of members**

- (1) The Minister may, if requested by a person, body or organisation referred to in paragraph 102(1)(b), (c), (d), (e), (f), (g), (h), (i) or (j), appoint a person to be the Deputy of a member referred to in that paragraph.
- (2) The Minister must, if requested by the person or body that nominated a person to be the Deputy of a member, terminate the appointment of that person.
- (3) A Deputy of a member may resign by giving to the Minister a signed notice of resignation.
- (4) The Deputy of a member is entitled to attend a meeting of the Council that is not attended by the member of whom he or she is the Deputy and, while so attending, is taken to be a member.

- (5) The appointment of a Deputy of a member, and anything done by or in relation to a Deputy of a member, is not invalid merely because:
- (a) there is a defect or irregularity in connection with the Deputy's appointment; or
  - (b) the occasion for the person to act under this section had not arisen or had ceased.

### **105 Resignation of members**

A member may resign by giving to the Minister a signed notice of resignation.

### **106 Termination of appointments etc.**

- (1) The Minister must, at the request of the body concerned, terminate the appointment of a member referred to in paragraph 102(1)(d), (e) or (f) nominated to represent the body.
- (2) The Minister may:
  - (a) terminate the appointment of an appointed member for misbehaviour or physical or mental incapacity; or
  - (b) on the ground of misbehaviour or physical or mental incapacity—give a written direction that a member, other than an appointed member, is not entitled to attend meetings of the Council or receive allowances under section 111.
- (3) If:
  - (a) a member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
  - (b) a member fails, without reasonable excuse, to comply with section 107; or
  - (c) the Chairperson is absent except with the leave of the Minister from 3 consecutive meetings of the Council; or

Section 107

---

- (d) a member other than the Chairperson is absent, except with the leave of the Chairperson, from 3 consecutive meetings of the Council;

the Minister must:

- (e) in the case of an appointed member—terminate the appointment of the member concerned; or
- (f) in the case of a member other than an appointed member—give a written direction that the member is not entitled to attend meetings of the Council or receive allowances under section 111.

- (4) In this section:

*appointed member* means a member other than a member referred to in paragraph 102(1)(b) or (c).

**107 Disclosure of interests**

- (1) Where:

- (a) a member has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Council; and
- (b) the interest could conflict with the proper performance of the member's duties in relation to the consideration of the matter;

the member must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Council.

- (2) A disclosure under subsection (1) must be recorded in the minutes of the meeting.

**108 Meetings**

- (1) The Chairperson:

- (a) may convene such meetings of the Council as he or she considers necessary for the efficient performance of its functions; and

- (b) must convene a meeting of the Council on receipt of a written request signed by at least 4 members.
- (2) Meetings of the Council are to be held at such places and at such times as the Chairperson determines.
- (3) The Chairperson is to preside at all meetings of the Council at which he or she is present.
- (4) If the Chairperson is not present at a meeting of the Council, the members present are to appoint one of their number to preside at the meeting.
- (5) At a meeting of the Council, a quorum is constituted by 5 members.
- (6) A question arising at a meeting of the Council is to be decided by a majority of the votes of the members present and voting.
- (7) At a meeting of the Council, the member presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (8) The Council must keep minutes of its proceedings.
- (9) The Council may invite a person to attend a meeting of the Council for the purposes of advising or informing it on any matter.

## Division 4—Working groups of Council

### 109 Working groups of Council

- (1) Subject to this section, the Council may establish such working groups as it considers necessary for the performance of its functions to provide advice to it upon such matters as are specified by the Council.
- (2) A working group is to consist of such persons, whether members or not, as the Council considers fit.
- (3) The Chairperson of the Council is to appoint one of the persons on each working group to be the Chairperson of that working group.
- (4) The Council may determine:
  - (a) the manner in which a working group is to perform its functions; and
  - (b) the procedure to be followed at or in relation to meetings of a working group, including matters with respect to:
    - (i) the convening of meetings of the working group; and
    - (ii) the number of members of the working group who are to constitute a quorum; and
    - (iii) the selection of a member of the working group to preside at meetings of the working group at which the Chairperson of the working group is not present; and
    - (iv) the manner in which questions arising at a meeting of the working group are to be decided.
- (5) A working group is to continue in existence, if it is not earlier dissolved by the Council, for the period of 6 months after its establishment or for that period as extended under subsection (6).
- (6) Where the Council considers it desirable to do so, the Council may, by resolution, determine that the period of 6 months, or that period as previously extended by virtue of the operation of this subsection, is to be extended or further extended by a period of 6 months immediately following the period so referred to or that period as previously so extended.



- (7) Where the Council establishes a working group to provide advice to it on a matter, the working group must prepare a written report and, as soon as practicable, submit that report to the Council for its consideration.
- (8) Where a member of a working group disagrees with a finding or recommendation of the majority of the working group, the report of the working group must include a statement of the views of that member.

### **110 Disclosure of interests of members of working groups**

- (1) Where:
  - (a) a member of a working group has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the working group; and
  - (b) the interest could conflict with the proper performance of the member's duties in relation to the consideration of the matter;the member must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the working group.
- (2) A disclosure under subsection (1) must be recorded in the minutes of the meeting.

## Division 5—Miscellaneous

### 111 Remuneration and allowances

- (1) The Chairperson is to be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination is in operation, the Chairperson is to be paid such remuneration as is prescribed.
- (2) The Chairperson is to be paid such allowances as are prescribed.
- (3) Subsections (1), (2), (4) and (5) have effect subject to the *Remuneration Tribunal Act 1973*.
- (4) A member (other than the Chairperson of the Council or the Chairperson of the Commission) is to be paid such travelling allowance as is prescribed in relation to the performance of his or her duties as a member.
- (5) A member of a working group (including the Chairperson of the working group) is to be paid such travelling allowance as is prescribed in relation to the performance of his or her duties as a member of the working group.
- (6) The following offices are not public offices within the meaning of the *Remuneration Tribunal Act 1973*:
  - (a) member of the Council (other than the Chairperson);
  - (b) member of a working group.

### 112 Arrangements relating to staff etc.

- (1) The Chairperson of the Council is to arrange with the Secretary of the Department for the services of officers and employees of the Department, and for facilities of the Department, to be made available to the Council.
  - (2) While a person is performing services for the Council under such an arrangement, that person is to perform his or her functions and duties in accordance with the directions of the Council and not otherwise.
-

**113 Annual report**

- (1) The Council must, as soon as practicable after 30 June in each year, prepare and give to the Minister a report of its operations during the year that ended on that 30 June.
- (2) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.
- (3) For the purposes of subsection (1), if this section does not come into operation on 1 July in any year, that subsection has effect in relation to the period commencing on the day on which this section comes into operation and ending on the 30 June next following that day as if that period were a period of one year ending on that 30 June.

## **Part 4—Miscellaneous**

### **114 Regulations**

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed in carrying out or giving effect to this Act.

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history
- Endnote 5—Uncommenced amendments
- Endnote 6—Modifications
- Endnote 7—Misdescribed amendments
- Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

### Abbreviation key—Endnote 2

The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

### Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

## Endnotes

Endnote 1—About the endnotes

---

### **Modifications—Endnote 6**

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

### **Misdescribed amendments—Endnote 7**

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

### **Miscellaneous—Endnote 8**

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

**Endnote 2—Abbreviation key**

|  |                                     |
|--|-------------------------------------|
| ad = added or inserted                                     | pres = present                      |
| am = amended   | prev = previous                     |
| c = clause(s)  | (prev) = previously                 |
| Ch = Chapter(s)  | Pt = Part(s)                        |
| def = definition(s)  | r = regulation(s)/rule(s)           |
| Dict = Dictionary  | Reg = Regulation/Regulations        |
| disallowed = disallowed by Parliament                      | reloc = relocated                   |
| Div = Division(s)  | renum = renumbered                  |
| exp = expired or ceased to have effect                     | rep = repealed                      |
| hdg = heading(s)   | rs = repealed and substituted       |
| LI = Legislative Instrument                                | s = section(s)                      |
| LIA = <i>Legislative Instruments Act 2003</i>              | Sch = Schedule(s)                   |
| mod = modified/modification                                | Sdiv = Subdivision(s)               |
| No = Number(s)   | SLI = Select Legislative Instrument |
| o = order(s)   | SR = Statutory Rules                |
| Ord = Ordinance  | Sub-Ch = Sub-Chapter(s)             |
| orig = original  | SubPt = Subpart(s)                  |
| par = paragraph(s)/subparagraph(s)<br>/sub-subparagraph(s) |                                     |

## Endnotes

### Endnote 3—Legislation history

---

### Endnote 3—Legislation history

| <b>Act</b>   | <b>Number and year</b> | <b>Assent</b> | <b>Commencement</b>   | <b>Application, saving and transitional provisions</b> |
|--|------------------------|---------------|---|--|
| Fisheries Administration Act 1991                                    | 161, 1991              | 10 Nov 1991   | 3 Feb 1992 ( <i>see Gazette</i> 1992, No. GN1)  | —  |
| Primary Industries and Energy Legislation Amendment Act (No. 2) 1994 | 129, 1994              | 21 Oct 1994   | s. 3: Royal Assent ( <i>a</i> )   | —  |
| Fisheries Legislation Amendment Act 1997                             | 120, 1997              | 7 July 1997   | 7 July 1997   | Sch. 1 (item 12)                                       |
| Audit (Transitional and Miscellaneous) Amendment Act 1997            | 152, 1997              | 24 Oct 1997   | Schedule 2 (items 784–793): 1 Jan 1998 ( <i>see Gazette</i> 1997, No. GN49)   | —  |
| Primary Industries and Energy Legislation Amendment Act (No. 1) 1998 | 102, 1998              | 30 July 1998  | 30 July 1998  | —  |
| Fisheries Legislation Amendment Act (No. 1) 1999                     | 143, 1999              | 3 Nov 1999    | Schedule 1: 16 Dec 1999 ( <i>see Gazette</i> 1999, No. S623)<br>Schedule 2: 11 Dec 2001 ( <i>see Gazette</i> 2001, No. S485)<br>Remainder: Royal Assent | —  |
| Corporate Law Economic Reform Program Act 1999                       | 156, 1999              | 24 Nov 1999   | Schedule 10 (item 84): 13 Mar 2000 ( <i>see Gazette</i> 2000, No. S114)<br>( <i>b</i> )   | —  |



## Endnote 3—Legislation history

| <b>Act</b>  | <b>Number and year</b> | <b>Assent</b> | <b>Commencement</b>  | <b>Application, saving and transitional provisions</b> |
|---|------------------------|---------------|--|--|
| Fisheries Legislation Amendment Act (No.1) 2000   | 50, 2000               | 3 May 2000    | Schedules 1 and 2: 1 Aug 2000 ( <i>see Gazette</i> 2000, No. S415)<br>Remainder: Royal Assent  | —  |
| Fisheries Legislation Amendment (Compliance and Deterrence Measures and Other Matters) Act 2004 | 28, 2004               | 1 Apr 2004    | Schedule 1: 6 Aug 2004 ( <i>see Gazette</i> 2004, No. S321)<br>Remainder: Royal Assent         | Sch. 1 (item 6)  |
| Fisheries Legislation Amendment (High Seas Fishing Activities and Other Matters) Act 2004       | 29, 2004               | 2 Apr 2004    | Schedules 1 and 2: 20 Aug 2004 ( <i>see Gazette</i> 2004, No. S343)<br>Remainder: Royal Assent | —  |
| Financial Framework Legislation Amendment Act 2005  | 8, 2005                | 22 Feb 2005   | Schedule 2 (items 119–123, 174): Royal Assent  | Sch. 2 (item 174)                                      |
| Fisheries Legislation Amendment (International Obligations and Other Matters) Act 2005          | 99, 2005               | 6 July 2005   | Schedule 1 (items 1, 2): 7 July 2005   | —  |
| Fisheries Legislation Amendment (Cooperative Fisheries Arrangements and Other Matters) Act 2006 | 8, 2006                | 23 Mar 2006   | 23 Mar 2006  | —  |
| Fisheries Legislation Amendment Act 2007  | 104, 2007              | 28 June 2007  | Schedule 1: 26 July 2007   | —  |

## Endnotes

### Endnote 3—Legislation history

| <b>Act</b>   | <b>Number and year</b> | <b>Assent</b> | <b>Commencement</b>   | <b>Application, saving and transitional provisions</b> |
|--|------------------------|---------------|---|--|
| Fisheries Legislation Amendment (New Governance Arrangements for the Australian Fisheries Management Authority and Other Matters) Act 2008 | 36, 2008               | 24 June 2008  | Schedule 1 (items 1–82, 135–156): 1 July 2008                         | Sch. 1 (items 135–156)                                 |
| Fisheries Legislation Amendment Act (No. 2) 2010   | 137, 2010              | 7 Dec 2010    | Schedule 1: 4 Jan 2011  | —  |
| Acts Interpretation Amendment Act 2011   | 46, 2011               | 27 June 2011  | Schedule 2 (items 606–618) and Schedule 3 (items 10, 11): 27 Dec 2011 | Sch. 3 (items 10, 11)                                  |
| Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2013   | 17, 2013               | 27 Mar 2013   | Schedule 4: 28 Mar 2013   | —  |
| Fisheries Legislation Amendment Act (No. 1) 2013   | 27, 2013               | 28 Mar 2013   | Schedule 1 (items 10, 11): 25 Apr 2013                                | —  |
| Rural Research and Development Legislation Amendment Act 2013  | 146, 2013              | 13 Dec 2013   | Sch 2 (item 2): Royal Assent  | —  |
| Statute Law Revision Act (No. 1) 2014  | 31, 2014               | 27 May 2014   | Sch 6 (items 15, 16, 23): 24 June 2014                                | Sch 6 (item 23)  |

(a) The *Fisheries Administration Act 1991* was amended by section 3 only of the *Primary Industries and Energy Legislation Amendment Act (No. 2) 1994*, subsection 2(1) of which provides as follows:

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

---

Endnote 3—Legislation history

- (b) The *Fisheries Administration Act 1991* was amended by Schedule 10 (item 84) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2)(c) of which provides as follows:
- (2) The following provisions commence on a day or days to be fixed by Proclamation:
- (c) the items in Schedules 10, 11 and 12.

## Endnotes

### Endnote 4—Amendment history

---

### Endnote 4—Amendment history

---

| <b>Provision affected</b>         | <b>How affected</b>   |
|-----------------------------------|---|
| <b>Part 1</b>                     |   |
| s. 4 .....                        | am. No. 129, 1994; No. 120, 1997; No. 29, 2004; No. 8, 2005; No. 8, 2006; No. 36, 2008; No. 137, 2010; No. 27, 2013             |
| <b>Part 2</b>                     |   |
| <b>Division 1</b>                 |   |
| s. 6 .....                        | am. No. 120, 1997; No. 143, 1999; No. 29, 2004; No. 8, 2006   |
| s. 6A.....                        | ad. No. 8, 2006   |
| s. 7 .....                        | am. Nos. 120 and 152, 1997; No. 143, 1999; No. 50, 2000; No. 29, 2004; No. 99, 2005; No. 104, 2007; No. 137, 2010; No. 27, 2013 |
| Note to s. 7(1) .....             | ad. No. 152, 1997   |
|                                   | rep. No. 36, 2008   |
| ss. 8, 9.....                     | am. No. 36, 2008  |
| s. 10 .....                       | rs. No. 36, 2008  |
| Note to s. 10(1) .....            | ad. No. 152, 1997   |
|                                   | rep. No. 36, 2008   |
| ss. 10A–10C.....                  | ad. No. 36, 2008  |
| <b>Division 2</b>                 |   |
| Heading to Div. 2 of Part 2 ..... | rs. No. 36, 2008  |
| s. 11 .....                       | rs. No. 36, 2008  |
| <b>Division 3</b>                 |   |
| Heading to Div. 3 of Part 2 ..... | ad. No. 36, 2008  |
| Div. 3 of Part 2.....             | rep. No. 36, 2008   |
| s. 12 .....                       | am. No. 120, 1997; No. 104, 2007  |
|                                   | rs. No. 36, 2008  |
| s. 13 .....                       | am. No. 36, 2008; No 31, 2014   |
| Note to s 13(6).....              | ad No 31, 2014  |
| s. 14 .....                       | rs. No. 36, 2008  |
|                                   | am. No. 46, 2011  |
| Note to s. 14.....                | ad. No. 46, 2011  |
| s. 15 .....                       | rs. No. 36, 2008  |

## Endnote 4—Amendment history

| <b>Provision affected</b>         | <b>How affected</b>                            |
|-----------------------------------|--|
| s. 16 .....                       | rep. No. 36, 2008                              |
| s. 17 .....                       | am. No. 36, 2008                               |
| Subhead. to s. 18(1) .....        | ad. No. 36, 2008                               |
| s. 18 .....                       | am. No. 36, 2008                               |
| s. 19 .....                       | am. No. 36, 2008                               |
| s. 20 .....                       | rep. No. 152, 1997<br>ad. No. 36, 2008         |
| s. 21 .....                       | am. No. 152, 1997; No. 156, 1999; No. 36, 2008 |
| s. 22 .....                       | am. No. 36, 2008                               |
| <b>Division 4</b>                 |  |
| Heading to Div. 4 of Part 2 ..... | ad. No. 36, 2008                               |
| s. 23 .....                       | am. No. 36, 2008                               |
| Note to s. 23(2) .....            | ad. No. 36, 2008                               |
| s. 24 .....                       | rs. No. 36, 2008                               |
| s. 25 .....                       | rs. No. 36, 2008                               |
| ss. 26, 27 .....                  | rep. No. 36, 2008                              |
| ss. 28, 29 .....                  | am. No. 129, 1994<br>rep. No. 36, 2008         |
| ss. 30–42 .....                   | rep. No. 36, 2008                              |
| Div. 4 of Part 2 .....            | rep. No. 36, 2008                              |
| ss. 43–46 .....                   | rep. No. 36, 2008                              |
| s. 47 .....                       | am. No. 102, 1998<br>rep. No. 36, 2008         |
| ss. 48, 49 .....                  | rep. No. 36, 2008                              |
| s. 50 .....                       | am. No. 102, 1998<br>rep. No. 36, 2008         |
| ss. 51–53 .....                   | rep. No. 36, 2008                              |
| <b>Division 5</b>                 |  |
| s. 54 .....                       | am. No. 137, 2010                              |
| s. 55 .....                       | am. No. 36, 2008                               |
| s. 56 .....                       | am. No. 137, 2010                              |
| s. 58 .....                       | am. No. 120, 1997                              |

## Endnotes

### Endnote 4—Amendment history

---

| <b>Provision affected</b>         | <b>How affected</b>                           |
|-----------------------------------|---|
| s. 60 .....                       | am. No. 36, 2008                              |
| s. 61 .....                       | am. No. 46, 2011                              |
| Note to s. 61.....                | ad. No. 46, 2011                              |
| s. 64 .....                       | am. No. 152, 1997                             |
|                                   | rs. No. 36, 2008                              |
| s. 64A.....                       | ad. No. 152, 1997                             |
|                                   | rs. No. 36, 2008                              |
| ss. 64B–64D.....                  | ad. No. 36, 2008                              |
| s. 65A.....                       | ad. No. 36, 2008                              |
| s. 66 .....                       | am. No. 36, 2008                              |
| s. 67 .....                       | am. No. 120, 1997; No. 28, 2004; No. 36, 2008 |
| <b>Division 6</b>                 |   |
| Heading to Div. 6 of Part 2 ..... | rs. No. 36, 2008                              |
| s. 68 .....                       | rs. No. 36, 2008                              |
| s. 69 .....                       | am. No. 36, 2008                              |
| ss. 70, 71 .....                  | rep. No. 36, 2008                             |
| s. 72 .....                       | am. No. 36, 2008                              |
| s. 77 .....                       | am. No. 36, 2008                              |
| Div. 8 of Part 2.....             | rep. No. 36, 2008                             |
| s. 80 .....                       | am. No. 129, 1994; No. 120, 1997              |
|                                   | rep. No. 36, 2008                             |
| s. 81 .....                       | am. No. 129, 1994                             |
|                                   | rep. No. 36, 2008                             |
| s. 82 .....                       | rep. No. 36, 2008                             |
| ss. 83, 84 .....                  | am. No. 8, 2005                               |
|                                   | rep. No. 36, 2008                             |
| ss. 85, 86 .....                  | rep. No. 36, 2008                             |
| <b>Division 9</b>                 |   |
| s. 87 .....                       | am. No. 50, 2000                              |
|                                   | rs. No. 36, 2008                              |
| Heading to s. 88.....             | rs. No. 152, 1997                             |
|                                   | rep. No. 36, 2008                             |

## Endnote 4—Amendment history

| <b>Provision affected</b> | <b>How affected</b>             |
|---------------------------|---------------------------------|
|                           | ad. No. 137, 2010               |
| s. 88 .....               | am. No. 152, 1997               |
|                           | rep. No. 36, 2008               |
|                           | ad. No. 137, 2010               |
| Note to s. 88(2) .....    | rep. No. 152, 1997              |
| s. 88A.....               | ad. No. 8, 2005                 |
|                           | rep. No. 36, 2008               |
| s. 89 .....               | am. No. 36, 2008                |
| s. 91 .....               | am. No. 120, 1997; No. 8, 2006  |
|                           | am. No. 36, 2008                |
| s. 92 .....               | am. No. 102, 1998               |
|                           | rs. No. 36, 2008                |
|                           | am. No. 17, 2013                |
| s. 93 .....               | rs. No. 36, 2008                |
|                           | am. No. 137, 2010; No. 17, 2013 |
| s. 93A.....               | ad. No. 104, 2007               |
|                           | rep. No. 36, 2008               |
| s. 94 .....               | rs. No. 36, 2008                |
| s. 94A.....               | ad. No. 36, 2008                |
| s. 94B.....               | ad. No. 36, 2008                |
| s. 94C.....               | ad. No. 36, 2008                |
| s. 94D.....               | ad. No. 36, 2008                |
| s. 94E.....               | ad. No. 36, 2008                |
|                           | am No 146, 2013                 |
| <b>Part 3</b>             |                                 |
| <b>Division 3</b>         |                                 |
| s. 102 .....              | am. No. 36, 2008                |
| s. 103 .....              | am. No. 46, 2011                |
| Note to s. 103.....       | ad. No. 46, 2011                |
| <b>Division 5</b>         |                                 |
| s. 111 .....              | am. No. 36, 2008                |

## Endnotes

Endnote 5—Uncommenced amendments [none]

---

**Endnote 5—Uncommenced amendments [none]**

**Endnote 6—Modifications [none]**

**Endnote 7—Misdescribed amendments [none]**

**Endnote 8—Miscellaneous [none]**