

EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 79

Minute No. of 2005 - Minister for Fisheries, Forestry and Conservation

Subject: Fisheries Administration Act 1991
Fisheries (Administration) Amendment Regulations 2005 (No. 1)

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

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

The Regulations enable persons who have expertise in the field of law to be nominated for positions on the Statutory Fishing Rights Allocation Panel (the Panel) and the Australian Fisheries Management Authority (AFMA) Board.

The Panel is established by the *Fisheries Management Act 1991*. Under section 141 of the *Fisheries Management Act 1991*, the members of the Panel are selected according to sections 29 to 41 of the Act and any regulations made for the purposes of those sections. Section 30 of the Act restricts the selection of Panel members to those who have expertise in the fields of: commercial fishing; fishing industry operations other than commercial fishing; fisheries science; natural resource management; marine ecology; economics; business management; or such other fields as are prescribed. The Regulations include the field of law as a prescribed field in the Principal Regulations.

The Panel has the function of reviewing decisions relating to the provisional allocation of Statutory Fishing Rights. The Panel may be required to consider complex fisheries and administrative legislative requirements, provide directions on proceedings before the Panel, run hearings and write up decisions that are reviewable in the Federal Court of Australia. It is appropriate for someone with legal expertise to be able to be selected as a member of the Panel.

The amendment also has the effect of including law as a field of expertise for the selection of nominees for appointment as directors of AFMA. Expertise in the law is seen as a useful skill for directors of the Authority to have.

The Act does not specify any conditions as needing to be met before the power to make the Regulations may be exercised.

Details of the Regulations, which commenced on the day after they are registered on the Federal Register of Legislative Instruments, are set out below.

Regulation 1 provides that the Regulations are named as the *Fisheries (Administration) Amendment Regulations 2005 (No. 1)*.

Regulation 2 provides that the Regulations commence on the day after they are registered.

Regulation 3 provides that Schedule 1 amends the Fisheries (Administration) Regulations.

Schedule 1 Items 1 and 2 are stylistic changes required when amending older instruments. Item 1 updates the name of the Principal Regulations in line with modern drafting practice. The Principal Regulations will now be known as the *Fisheries (Administration) Regulations 1992* instead of the *Fisheries (Administration) Regulations*. Item 2 substitutes *Act* for *the Act*. Item 3 inserts a new regulation prescribing law as a field of expertise for paragraph 30 (1) (h) of the Act. This will enable people with expertise in law to be appointed as a member of the Panel or as a director of AFMA.