

EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 126

Issued by the Minister for Agriculture, Fisheries and Forestry

Primary Industries and Energy Research and Development Act 1989

Fisheries Research and Development Corporation Amendment Regulations 2010
(No. 1)

Section 149 of the *Primary Industries and Energy Research and Development Act 1989* (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 8 of the Act provides for research and development corporations (RDCs) to be established and named by way of regulations. In accordance with section 8 of the Act, the Fisheries Research and Development Corporation (the FRDC) was established in respect of the fishing industry by the *Fisheries Research and Development Corporation Regulations 1991* (the Principal Regulations).

Subsection 5(1) of the Act allows a levy to be attached to an RDC by way of regulations for raising research funds. Section 4(A) of the Principal Regulations attaches the levy imposed by section 5 of the *Fishing Levy Act 1991* to the FRDC for this purpose.

Subsection 5(3) of the Act requires that, if a levy is attached to an RDC by way of regulation, then the regulations must declare the whole or a specified proportion of the levy to be the research component of the levy.

The Regulations amend the Principal Regulations to declare the proportion of the annual fishing levies collected by the Australian Fisheries Management Authority (AFMA) that are to be directed to the FRDC in the 2009–2010 financial year.

AFMA collects levies from the fishing industry through the annual fishing levy regulations. These levies are made up of two major components: the recoverable costs of fisheries management that are attributable to the fishing industry's activities; and a contribution made to the FRDC for fishery research and development purposes.

The proportion of the fishing levies directed to FRDC varies annually, as the value of the fishing research and the fisheries management components are derived from independent sources. The fishing research component is derived from the gross value of production of Commonwealth managed fisheries as determined by the Minister for the relevant financial year, while the fisheries management component are derived from the costs borne by AFMA in managing the fisheries. As such, the Principal Regulations require amendment on an annual basis.

The research component of the fishing levy collected by AFMA is then paid to the FRDC by the Department of Agriculture, Fisheries and Forestry.

The Regulations commenced on the day after they were registered on the Federal Register of Legislative Instruments.

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

Consultation with industry on the Regulations was not conducted due to the administrative and mechanical nature of the calculation of the research component of the levy, which implements existing government policy.

The Regulations

Details of the Regulations are below.

Regulation 1 – sets out that the Regulations are to be referred to as the *Fisheries Research and Development Corporation Amendment Regulations 2010 (No. 1)*.

Regulation 2 – sets out that the Regulations shall commence on the day after they are registered.

Regulation 3 – states that the Regulations amend the *Fisheries Research and Development Corporation Regulations 1991*. The amendment inserts an additional subregulation under regulation 4A to update the research component of the levy for the 2009–10 financial year. A new subregulation is inserted every financial year to enable the collected funds to be paid to FRDC.

Schedule 1 [1] – subregulation 4A (2) sets the research component of the levies. This schedule provides the authority to collect payments of levy received prior to the creation of the regulation, so that the FRDC can receive the entire research component collected since 1 July 2009.