

EXPLANATORY STATEMENT

Select Legislative Instrument 2013 No. 204

Issued by Authority of the Parliamentary Secretary for Agriculture, Fisheries and Forestry

Fisheries Management Act 1991

*Fisheries Management (International Agreements)
Amendment Regulation 2013 (No. 1)*

Subsection 168(1) of the *Fisheries Management 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.

Subsection 4(1) of the Act defines an international fisheries management measure (IFMM) to mean a measure prescribed by the regulations to give effect to a measure established by an international fisheries management organisation (IFMO). An IFMO is defined under subsection 4(1) to mean a global, regional or subregional fisheries organisation or arrangement prescribed by the regulations.

The *Fisheries Management (International Agreements) Regulations 2009* (the Principal Regulations) were made in October 2009 and amended by the *Fisheries Management (International Agreements) Amendment Regulation 2012 (No. 1)* (the first amendment Regulation). The Principal Regulations prescribe those IFMOs to which Australia is a party and the IFMMs adopted by them.

The purpose of the *Fisheries Management (International Agreements) Amendment Regulation 2013 (No. 1)* (the Regulation) is to update the IFMOs to which Australia is a party to include the South Pacific Regional Fisheries Management Organisation (SPRFMO) and the Southern Indian Ocean Fisheries Agreement (SIOFA). The Regulation also includes amendments to the IFMMs that are currently prescribed and prescribes new IFMMs that have come into force as a result of decisions made at meetings of three IFMOs held since the first amendment Regulation. These IFMOs are the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Indian Ocean Tuna Commission (IOTC) and the Western and Central Pacific Fisheries Commission (WCPFC).

The Principal Regulations enable the Australian Fisheries Management Authority (AFMA), the agency responsible for the management of Commonwealth fisheries, to require foreign boats operating beyond the Australian Fishing Zone and Australian nationals on those boats to comply with IFMMs. Subject to Part 6, Division 5A of the Act, contravention of an IFMM as prescribed by the Principal Regulations, is an offence.

The Principal Regulations also enable AFMA to authorise officials of a foreign country that participates in a prescribed IFMO to board and inspect an Australian-flagged boat on the high seas if there are reasonable grounds to believe

that the boat has been fishing in the waters of a foreign country without authorisation; and to authorise an authority of a foreign country that participates in a prescribed IFMO to investigate an alleged contravention of a prescribed IFMM involving an Australian-flagged boat.

The amendments to the current provisions that prescribe IFMMs and the new provisions prescribing new IFMMs are broadly focused on ensuring that fish stocks or an IFMO's conservation area are accessed and exploited sustainably. Examples include restrictions on specified fishing methods and practices; measures to protect sea birds and turtles and to limit by-catch (the part of a fisher's catch that is returned to the sea or is affected by interaction with the fishing gear) in order to minimise the impacts of fishing activities on the marine environment; and limitations on the transshipment of fish (the transferring of fish caught by one boat to another) to ensure all catch can be monitored and is reported. Updating the Principal Regulations to take account of new IFMOs and IFMMs will strengthen current arrangements for all fishers and ensure that Australia complies with its obligations under international law.

There are no conditions that needed to be satisfied before the power to make the Regulation was exercised.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commenced on the day after it was registered on the Federal Register of Legislative Instruments, other than the amendments in Schedule 2, which commenced on 1 July 2014.

Consultation

The Regulation was developed in consultation with the following stakeholders:

- the Department of Agriculture, Fisheries and Forestry, which has portfolio responsibility and is the lead agency for Australian delegations to WCPFC, IOTC, Southern Indian Ocean Fisheries Agreement (SIOFA) and South Pacific Regional Fisheries Organisation (SPRFMO). Consultation was undertaken throughout the process of developing the Regulation;
- the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC). SEWPaC's Australian Antarctic Division (AAD) is the lead agency for the Australian delegation to CCAMLR. Consultation was undertaken throughout the process of developing the Regulation. AAD requested some minor clarification, which was incorporated;
- the Commonwealth Fisheries Association (CFA), which is the peak industry body for representing fishers operating in Commonwealth managed fisheries. AFMA consulted with the CFA in writing. The CFA advised in response that it had no concerns with the Regulation;
- the Office of Best Practice Regulation (OBPR; ID2013/15059);
- the Office of Parliamentary Counsel (OPC), which provided legislative drafting services for the amendment to the regulations.

Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

The Regulation is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

The details of the Regulation are set out in the Attachment A.

Attachment A

Details of the *Fisheries Management (International Agreements) Amendment Regulation 2013 (No. 1)*

Section 1 – Name of Regulation

This section provides for the Regulation to be cited as the *Fisheries Management (International Agreements) Amendment Regulation 2013 (No. 1)*.

Section 2 – Commencement

This section provides that the Regulation commenced on the day after its registration on the Federal Register of Legislative Instruments, other than the amendments in Schedule 2, which will commence on 1 July 2014.

Section 3 – Authority

This section provides that the Regulation is made under the *Fisheries Management Act 1991*.

Section 4 – Schedules

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

Schedule 1 – Amendments

Schedule 1 amends the *Fisheries Management (International Agreements) Regulations 2009* (the Principal Regulations), updating the prescribed international fisheries management organisations (IFMOs) to which Australia are a party. It also incorporates amendments to international fisheries management measures (IFMMs) that were previously prescribed and prescribes new IFMMs.

Items 1 to 12 amend the table in clause 2.2 that identifies the clause in Schedule 1 that gives effect to each Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) measure listed in the table. The amendments take account of changes in the titles of measures that were previously prescribed, new measures prescribed by the Regulation and a measure that has been repealed.

Items 13 to 20 amend the table in clause 2.3 that identifies the clause in Schedule 2 that gives effect to each Indian Ocean Tuna Commission (IOTC) measure listed in the table. The amendments take account of changes in the titles of measures that are currently prescribed and a measure that has been repealed.

Items 21 and 22 amend the table in clause 2.4 that identifies the clause in Schedule 3 that gives effect to each Western and Central Pacific Fisheries Commission (WCPFC) measure listed in the table. The amendments take account of changes in the title of a measure that were previously prescribed, and a new measure prescribed by the Regulation.

Amendments to Schedule 1 – CCAMLR

Schedule 1 of the Principal Regulations has been amended to update clauses prescribing IFMMs of CCAMLR that have been amended by further decisions of CCAMLR, and to prescribe new CCAMLR IFMMs.

Items 23 to 29 amend the headings to clauses of Schedule 1, providing a consistent heading format in the Principal Regulations.

Item 30 amends clause 8, prescribing CCAMLR Conservation Measure 10-09, *Notification system for transshipment within the Convention Area*, by adding to the list of fisheries specified in the table in clause 8.1 that are subject to this clause.

Item 31 amends the heading to clause 9, providing a consistent heading format in the Principal Regulations.

Item 32 corrects a minor spelling error.

Items 33 to 36 amend the headings to clauses 10 to 13, providing a consistent heading format in the Principal Regulations.

Item 37 amends paragraph 13.4(a), correcting the description in subclause 13.4 of the areas of the CAMLR Convention Area to which the clause applies.

Item 38 amends subclause 13.5, correcting the description in subclause 13.5 of the areas of the CAMLR Convention Area to which the clause does not apply.

Items 39 and 40 amend the headings to clauses 31A and 31B, providing a consistent heading format in the Principal Regulations.

Item 41 inserts a new clause 13BA, prescribing CCAMLR Conservation Measure 22-09 (2011), *Protection of registered vulnerable marine ecosystems in subareas, divisions, small-scale research units or management areas open to bottom fishing*. This clause prohibits bottom fishing in areas with vulnerable marine ecosystems, with the exception of scientific research activities agreed by CCAMLR. If bottom fishing is approved for such scientific research activities, the research must be undertaken in accordance with the Conservation Measures on Bottom Fishing (22-06) and Scientific Research (24-01).

Items 42 and 43 amend the headings to clauses 13C and 14, providing a consistent heading format in the Principal Regulations.

Item 44 amends clause 14, prescribing CCAMLR Conservation Measure 24-01 (2010), *Application of conservation measures to scientific research*, to include

requirements of the measure that were not previously included in the clause. These requirements concern the requirement that the boat be linked to an automated satellite linked vessel monitoring system, that at least 2 scientific observers be carried in specified circumstances, and that the boat cannot be used for scientific research unless the fishing is in accordance Conservation Measure 24-01.

Items 45 to 68 amend the headings to clauses 15 to 37, and 37A, providing a consistent heading format in the Principal Regulations.

Items 69, 70 and 71 amend clause 37A, prescribing CCAMLR Conservation Measure 41-01, *General measures for exploratory fisheries for Dissostichus species in the Convention Area*.

Subclause 37A.1 has been amended to include an additional requirement that persons fishing for *Dissostichus* species (toothfish species) must ensure that sufficient samples are made available to the scientific observer on board. This is to enable collection of all data required by the CCAMLR Scientific Observers Manual for finfish fisheries.

Subclause 37A.2 has been amended to clarify that a person must not fish for *Dissostichus* species if the CCAMLR Secretariat has announced that the catch limit has been reached or has been exceeded.

Clause 37A has been amended to add the requirement that the clause applies subject to any exemptions granted in relation to a fishery by CCAMLR.

Item 72 inserts clauses 37B and 37C.

Clause 37B prescribes CCAMLR Conservation Measure 41-02 (2011), *Limits on the fishery for Dissostichus eleginoides in Statistical Subarea 48.3*. This measure prescribes a number of conditions that apply to persons fishing for *Dissostichus eleginoides* in this part of the CAMLR Convention Area, including: limiting the part of the subarea in which persons may fish, restricting the fishing method to longlines and pots; providing for fishing to cease if the catch limit set by CCAMLR has been reached; and providing for the extension of the fishing seasons.

Clause 37C prescribes CCAMLR Conservation Measure 41-03 (2011), *Limits on the fishery for Dissostichus species in Statistical Subarea 48.4 outside areas of national jurisdiction*, providing that a person must not engage in fishing in this part of the CAMLR Convention Area for *Dissostichus* species outside areas of national jurisdiction. The areas under national jurisdiction are under the national jurisdiction of the United Kingdom.

Items 73, 74 and 75 amend clause 38, prescribing Conservation Measure 41-04 (2010), *Limits on the exploratory fishery for Dissostichus species in Statistical Subarea 48.6*.

The heading to clause 38 has been amended to provide a consistent heading format in the Principal Regulations.

Subclause 38.1 has been repealed and substituted. This subclause previously provided that a person may not use a boat to fish for *Dissostichus* species in this part of the CAMLR Convention Area unless the person is fishing in the exploratory longline fishery in a boat flagged to specified countries. The current subclause refers instead to a flagged boat of a country permitted to do so in accordance with Conservation Measure 41-04. As those countries may change from year to year, the amendment has removed the need to update the clause whenever there is a change in the countries identified in the measure.

Subclauses 38.3 and 38.4 has been repealed and substituted. Subclause 38.3 has been clarified to define the area referred to, being the area in which a person must not fish if the precautionary catch limit for *Dissostichus* species has been caught. Subclause 38.4 has been amended, reflecting a change in the Conservation Measure to increase from 3 to 5 the number of toothfish that must be tagged per green tonne caught, and to remove the requirement to tag skates.

Subclause 38.5 has been added to prescribe that longlines must only be set at night, and in accordance with Conservation Measure 25-02, if a total of 3 seabirds are caught in the fishing season.

Items 76 to 80 amend clause 39, prescribing CCAMLR Conservation Measure 41-05, *Limits on the exploratory fishery for Dissostichus species in Statistical Division 58.4.2*.

The heading to clause 39 has been amended, providing a consistent heading format in the Principal Regulations.

Subclause 39.1 has been repealed and substituted. This subclause previously provided that a person may not use a boat to fish for *Dissostichus* species in this part of the CAMLR Convention Area unless the person is fishing in the exploratory longline fishery in a boat flagged to specified countries. The current subclause refers instead to a flagged boat of a country permitted to do so in accordance with Conservation Measure 41-05. As those countries may change from year to year, the amendment has removed the need to update the clause whenever there is a change in the countries identified in the measure.

Paragraph 39.2(a) has been amended and paragraph 39.2(b) has been repealed, reflecting changes in the Conservation Measure, which are to increase from 3 to 5 the number of toothfish that must be tagged per green tonne caught; and to remove the requirement to tag skates.

Paragraph 39.2(d) has been amended to remove the year “(2008)” in the reference to Conservation Measure 25-02, removing the necessity to amend this clause if no relevant changes are made to the measure.

Subclauses 39.3, 39.4, 39.5 and 39.6 have been repealed. The amendments have: removed inaccuracy in the current clause, by providing that a person cannot fish for *Dissostichus* species in a small scale research unit (SSRU) in this part of the CAMLR Convention Area if the precautionary catch limit for that SSRU has been reached, regardless of how much of the species has been caught in other SSRUs; removed the

definition of fishing season, as this is prescribed in Schedule 1; and removed the prohibition of fishing at a depth lower than 550 metres, as this is now prescribed in Schedule 1, clause 13B.

Items 81 to 84 amend clause 40, prescribing CCAMLR Conservation Measure 41-06, *Limits on the exploratory fishery for Dissostichus species on Elan Bank (Statistical Division 58.4.3a) outside areas of national jurisdiction.*

The heading to clause 40 has been amended, providing a consistent heading format in the Principal Regulations.

Subclauses 40.1 and 40.2 of Schedule 1 have been repealed and substituted.

Subclause 40.1 previously provided that a person may not use a boat to fish for *Dissostichus* species in this part of the CAMLR Convention Area unless the person is fishing in the exploratory longline fishery in a boat flagged to specified countries. The current subclause refers instead to a flagged boat of a country permitted to do so in accordance with Conservation Measure 41-06. As those countries may change from year to year, the amendment has removed the need to update the clause whenever there is a change in the countries identified in the measure.

The current subclause 40.2 specifies more precisely the application of the precautionary catch limit and the prohibition on fishing when that limit is reached.

Paragraph 40.3(a) has been amended and paragraph 40.3(b) has been deleted, reflecting a change in the Conservation Measure to increase from 3 to 5 the number of toothfish that must be tagged per tonne caught, and to remove the requirement to tag skates.

New paragraph 40.3A has been inserted, prescribing seabird mitigation requirements that were not previously included in the Principal Regulations; namely, that fishing for *Dissostichus* species is prohibited in this part of the CAMLR Convention Area if 3 seabirds are caught between the end of a fishing season and the beginning of the next fishing season.

Items 85 to 90 amend clause 41, prescribing CCAMLR Conservation Measure 41-07, *Limits on exploratory fishing for Dissostichus species On BANZARE Bank (Statistical Division 58.4.3b) outside areas of National Jurisdiction.*

The heading to clause 41 has been amended, providing a consistent heading format in the Principal Regulations.

Subclause 41.1 has been repealed and substituted. This subclause previously provided that a person may not use a boat to fish for *Dissostichus* species in this part of the CAMLR Convention Area unless the person is fishing in the exploratory longline fishery in a flagged boat of Japan. The current subclause refers instead to a flagged boat of a country permitted to do so in accordance with Conservation Measure 41-07. As those countries may change from year to year, the amendment has removed the need to update the clause whenever there is a change in the countries identified in the measure.

Subclause 41.2 has been repealed to remove the requirement that only one exploratory longline vessel from each flag State can fish in this part of the CAMLR Convention Area at the one time.

Paragraph 41.3(a) has been amended and paragraph 41.3(b) has been deleted, reflecting a change in the Conservation Measure to increase from 3 to 5 the number of toothfish that must be tagged per tonne caught, and to remove the requirement to tag skates.

Subclause 41.4 has been amended to remove an inaccuracy by providing that a person cannot fish for *Dissostichus* species in a SSRU in this part of the CAMLR Convention Area if the precautionary catch limit for that SSRU has been reached, regardless of how much of the species has been caught in other SSRUs.

Subclause 40.5 has been inserted, prescribing seabird mitigation requirements that were not previously included in the Principal Regulations, namely, that fishing for *Dissostichus* species is prohibited in this part of the CAMLR Convention Area if 3 seabirds are caught between the end of a fishing season and the beginning of the next fishing season.

Subclause 40.6 has been inserted, prescribing that in this fishery, the fishing season is from 1 May to 31 August in a year.

Items 91 to 95 amend clause 42, prescribing CCAMLR Conservation Measure 41-07, *Limits on the exploratory fishery for Dissostichus species in Statistical Subarea 88.1*.

The heading to clause 42 has been amended, providing a consistent heading format in the Principal Regulations.

Subclause 42.1 has been repealed and substituted. This subclause previously provided that a person may not use a boat to fish for *Dissostichus* species in this part of the CAMLR Convention Area unless the person is fishing in the exploratory longline fishery in a flagged boat of specified countries. The current subclause refers instead to a flagged boat of a country permitted to do so in accordance with Conservation Measure 41-09. As those countries may change from year to year, the amendment has removed the need to update the clause whenever there is a change in the countries identified in the measure.

Paragraph 42.2(a) has been amended and paragraph 42.2(b) has been repealed to decrease the rate at which toothfish must be tagged from three to at least one fish per tonne green weight caught in each SSRU, and removing the requirement to tag skates.

Subclause 42.3 has been amended to remove inaccuracy, providing that a person cannot fish for *Dissostichus* species in a SSRU in this part of the CAMLR Convention Area if the precautionary catch limit for that SSRU has been reached, regardless of how much of the species has been caught in other SSRUs.

Subclauses 42.4A and 42.4B have been inserted, prescribing requirements of this Conservation Measure that are not included in the Principal Regulations. Subclause 42.4A provides that a person must not fish for *Dissostichus* species in this part of the

CAMLR Convention Area if the precautionary by-catch limit for skates, rays and Macrourus, as specified in this Conservation Measure, has been reached. Subclause 42.4B provides that a person must not fish for *Dissostichus* species in a SSRU of this part of the CAMLR Convention Area if the precautionary by-catch limit for skates, rays and Macrourus, for that SSRU, or group of SSRUs, specified in this Conservation Measure, has been reached.

Items 96 to 99 amend clause 44, prescribing CCAMLR Conservation Measure 41-10, *Limits on the exploratory fishery for Dissostichus species in Statistical Subarea 88.2*.

The heading to clause 43 has been amended, providing a consistent heading format in the Principal Regulations.

Subclauses 43.1 and 43.2 of Schedule 1 have been repealed and substituted.

Subclause 43.1 previously provided that a person may not use a boat to fish for *Dissostichus* species in this part of the CAMLR Convention Area unless the person is fishing in the exploratory longline fishery in a boat flagged to specified countries. The current subclause refers instead to a flagged boat of a country permitted to do so in accordance with Conservation Measure 41-10. As those countries may change from year to year, the amendment has removed the need to update the clause whenever there is a change in the countries identified in the measure.

The amendments to subclause 43.2 have removed inaccuracy, providing that a person cannot fish for *Dissostichus* species in a SSRU in this part of the CAMLR Convention Area if the precautionary catch limit for that SSRU has been reached, regardless of how much of the species has been caught in other SSRUs.

Paragraph 43.3(b) has been repealed as the tagging of skates is no longer a requirement.

Subclauses 43.4 and 43.5 have been added, prescribing catch limits for by-catch species that were not included in the Principal Regulations, and to prescribe that the period of the fishing season is from 1 December to 31 August in a year.

Items 100 to 103 amend clause 44, prescribing CCAMLR Conservation Measure 41-11, *Limits on the exploratory fishery for Dissostichus species in Statistical Division 58.4.1*.

The heading to clause 44 has been amended, providing a consistent heading format in the Principal Regulations

Subclauses 44.1 and 44.2 of Schedule 1 have been repealed and substituted.

Subclause 44.1 previously provided that a person may not use a boat to fish for *Dissostichus* species in this part of the CAMLR Convention Area unless the person is fishing in the exploratory longline fishery in a boat flagged to specified countries. The current subclause refers instead to a flagged boat of a country permitted to do so in accordance with Conservation Measure 41-11. As those countries may change from

year to year, the amendment has removed the need to update the clause whenever there is a change in the countries identified in the measure.

The amendments to subclause 44.2 have removed inaccuracy. The amended subclause provides that a person cannot fish for *Dissostichus* species in a SSRU in the this part of the CAMLR Convention Area if the precautionary catch limit for that SSRU has been reached, regardless of how much of the species has been caught in other SSRUs.

Paragraph 44.3(a) has been amended, reflecting a change in the Conservation Measure to increase from 3 to 5 the number of toothfish that must be tagged per green tonne caught in each SSRU.

Subclause 44.4 has been amended, prohibiting the discharge of offal in this part of the CAMLR Convention Area.

Item 104 inserts clauses 44A, *Limits on the fishery for Champsocephalus gunnari in Statistical Subarea 48.3*, and 44B, *Limits on the fishery for Champsocephalus gunnari in Statistical Subarea 58.5.2*.

Subclause 44A.1 provides that the clause applies to the portion of Statistical Subarea 48.3 that is not under the jurisdiction of the United Kingdom.

Subclauses 44A.2 to 44A.8 prescribes a number of restrictions on fishing for *Champsocephalus gunnari* (Mackerel icefish) in this part of the fishery:

- the only fishing method allowed is the use of trawls, other than bottom trawls;
- if the catch exceeds specified limits, the boat must move to another location that meets the specified requirements, and must not return for a minimum period to the location where the catch was taken;
- the fishing season will end if the catch limit is reached;
- if the catch of by-catch species exceeds specified limits, the boat must move to another location that meets the specified requirements, and must not return for a minimum period to the location where the catch was taken;
- specified measures must be employed to reduce seabird captures, and if more than 20 seabirds are caught, the person must cease fishing and must not engage in further fishing for *Champsocephalus gunnari* for the remainder of the season;
- at least one scientific observer must be on board during all fishing activities.

Subclause 44B.1 provides that a person may not fish for *Champsocephalus gunnari* in Statistical Subarea 48.5.2. outside national jurisdiction. The part of the Statistical Subarea under national jurisdiction is the area around Heard Island and McDonald Islands, which falls wholly under the national jurisdiction of Australia.

The heading to clause 45 has been amended, providing a consistent heading format in the Principal Regulations.

Items 106 to 108 amend clause 46, prescribing CCAMLR Conservation Measure 51-02, *Precautionary catch limitation on Euphausia superba in Statistical Division 58.4*.

The heading to clause 46 has been amended, providing a consistent heading format in the Principal Regulations.

Item 107 corrects a minor spelling error.

Paragraph 46.1(d) has been repealed, removing the requirement for a boat to carry an observer on board.

Item 109 and 110 amend the headings to clauses 47 and 48, providing a consistent heading format in the Principal Regulations.

Items 111 and 112 amend clause 48, prescribing CCAMLR Conservation Measure 51-04, *General Measure for exploratory fisheries for Euphausia superba in the Convention Area*.

Subclause 48.1 has been repealed and substituted, to remove inaccuracy. The amended clause provides that a person cannot fish in a statistical subarea or division in the CAMLR Convention Area, if CCAMLR has announced that the catch limit for *Euphausia superba* (krill) for that statistical subarea or division has been reached.

Clause 48 has been amended, adding the requirement that the clause applies, subject to any exemptions granted in relation to a fishery by CCAMLR.

Items 113 and 114 amend clause 49, prescribing CCAMLR Conservation Measure 51-06, *General measure for scientific observation in fisheries for Euphausia superba*.

The heading to clause 49 has been amended, providing a consistent heading format in the Principal Regulations.

An additional requirement has been added to the clause. The requirement is that a person using a boat to fish for *Euphausia superba* in the CAMLR Convention Area must ensure that any scientific observer on board the boat has access to sufficient samples to meet the target coverage rate as specified in the Conservation Measure.

Items 115 and 116 amend clause 49A, prescribing CCAMLR Conservation Measure 51-07 (2009), *Interim distribution of the trigger level in the fishery for Euphausia superba in Statistical Subareas 48.1 to 48.4*.

The heading to clause 49A has been amended, providing a consistent heading format in the Principal Regulations.

Subclause 49A.2, which previously specified the trigger levels in the Conservation Measure for each of Statistical Subareas 48.1 to 48.4, has been repealed. This subclause is not necessary, as subclause 49A.1 provides that a person must not fish for *Euphausia superba* in a statistical subarea when the trigger level for that statistical subarea has been reached.

Item 117 repeals clauses 50, 51 and 52, which prescribed CCAMLR Conservation Measures that have lapsed:

- CCAMLR Conservation Measure 51-01, *Limits on the fishery for crab in Statistical Subarea 48.3*;
- CCAMLR Conservation Measure 52-03, *Limits on the exploratory fishery for crab in Statistical Subarea 48.4*; and
- CCAMLR Conservation Measure 91-02, *Protection of the Cape Shirreff CEMP site*.

Item 118 amends the heading to clause 53, providing a consistent heading format in the Principal Regulations.

Amendments to Schedule 2 of the Principal Regulations – IOTC

Schedule 2 of the Principal Regulations has been amended to update clauses prescribing IFMMs of the IOTC that have been amended by further decisions of the IOTC, and prescribing new IOTC IFMMs.

Items 119 to 123 amend the headings to clauses 2 to 5A of Schedule 2, providing a consistent heading format in the Principal Regulations.

Clause 6 of Schedule 2, which prescribed IOTC Resolution 10/03, Recording of Catch, has been repealed. This Resolution and IOTC Resolution 08/04 have been consolidated by IOTC Resolution 12/03, which is prescribed by Schedule 2, clause 9.

Items 125 and 126 prescribe IOTC Resolution 11/05, *Establishment of Programme for transhipment by large scale fishing vessels*.

The heading to clause 7 has been amended, providing a consistent heading format in the Principal Regulations.

Subclause 7.1 has been repealed and substituted to include the following further requirements:

- the application of the clause has been extended to apply to transhipment operations of sharks, as well as of tuna and tuna-like species;
- transhipment is prohibited unless the vessel is a large-scale tuna longline fishing vessel (LSTLV); or a carrier vessel authorised to receive transhipments at sea from LSTLVs;
- LSTLVs must obtain authorisation from their flag State before any transhipment takes place, in accordance with the Resolution;
- the master of a carrier vessel must confirm, before each transhipment takes place, that the LSTLV is: (i) participating in the IOTC programme to monitor transhipments at sea; and (ii) has obtained authorisation for the transhipment from its flag State;
- the master of a carrier vessel must, within 48 hours after the transhipment, transmit the above mentioned documents to the competent authorities of the State where the landing takes place. IOTC transhipment declaration and other information.

Subclause 7.2 has been amended so that it applies to receiving sharks, as well as tuna and tuna-like species in a transhipment operation, consistent with the amendment to subclause 7.1.

Paragraph 7.2(c) has been repealed, as its requirements are included in the amended subclause 7.1.

Clause 9 has been repealed and substituted. Clause 9 now:

- prescribes IOTC Resolution 12/03, *Recording of catch and effort by fishing vessels in the IOTC Area of Competence*, which replaces and consolidates the requirements of Resolutions 08/04 and 10/03 and extends the application of the catch and effort recording requirements of those Resolutions from purse and longline fishing to include additional fishing methods: gillnet, pole and line, handline and trolling; and
- provides that the clause applies, not just to all boats over 24 metres but to all boats under 24 metres where the boat is fishing outside the Exclusive Economic Zone of its flag State.

Items 130 to 132 amend the headings to clause 10, 11 and 12, providing a consistent heading format in the Principal Regulations.

Items 133 to 135 amend clause 13, prescribing IOTC Resolution 09/06, *On marine turtles*.

The heading to clause 13 has been amended, providing a consistent heading format in the Principal Regulations.

Paragraph 13.2(a) has been amended, removing the requirement for a person using a boat to fish in the IOTC Area for tuna and tuna-like species to carry dip-nets (while retaining the requirement to carry line cutters and de-hookers); and specifying that the purpose of carrying this equipment is to facilitate the appropriate handling and prompt release of marine turtles caught or entangled.

Clause 13 includes further specific measures that must be employed to aid the survival and safe return to the water of any marine turtle that is captured.

Items 136 and 137 amend clause 14, prescribing IOTC Resolution 10/12, *Conservation of Thresher Sharks (Family Alopiidae) caught in association with fisheries in the IOTC Agreement Area*.

The heading to clause 14 has been amended, providing a consistent heading format in the Principal Regulations.

Subclause 14.2 is added to clause 14, to provide an exception to the requirement of paragraph 14.1(c) that any carcasses of thresher sharks must not be retained on board. The exception is that scientific observers may collect biological samples from thresher sharks that are dead at haulback, but only if the samples are part of a research project approved in accordance with the Resolution, as given effect to by this clause.

Amendments to Schedule 3 of the Principal Regulations – WCPFC

Schedule 3 of the Principal Regulations have been amended to update clauses prescribing IFMMs of the WCPFC that have been amended by further decisions of the WCPFC, and to prescribe new WCPFC IFMMs.

Items 138 to 150 amend the headings to clauses 2 to 14, providing a consistent heading format in the Principal Regulations.

Items 151 and 152 amend clause 15, prescribing WCPFC Conservation and Management Measure 2009-06, *Conservation and Management Measure on the Regulation of Transshipment*, and adds clause 16.

The heading to clause 15 has been amended, providing a consistent heading format in the Principal Regulations.

Clause 16 has been inserted after clause 15, prescribing an additional requirement, namely, that a person using a boat to conduct transshipment activities in the Eastern High Seas Pocket Special Management Area must report this to the Commission, in the reporting format described in paragraph 2 of Conservation and Management Measure 2010-02.

Amendments to Schedule 3A of the Principal Regulations – CCSBT

Items 153 and 154 amend the headings to clauses 3 and 4, providing a consistent heading format in the Principal Regulations.

Amendments to Schedule 4 of the Principal Regulations – Prescribed Arrangements

Item 155 adds to the arrangements that are under regulation 3.1, two further arrangements to which Australia is a party. These arrangements are the *Southern Indian Ocean Fisheries Agreement* [2012] ATS 21, 21 June 2012; and the *Convention on the Conservation and Management of the High Seas Fisheries Resources in the South Pacific Ocean* [2012] ATS 28, 24 August 2012.

Amendments to Schedule 5 of the Principal Regulations – Prescribed Organisations

Item 156 adds to the organisations that are prescribed under regulation 3.2, the South Pacific Regional Fisheries Management Organisation (SPRFMO). SPRFMO is established in accordance with the *Convention on the Conservation and Management of the High Seas Fisheries Resources in the South Pacific Ocean*.

Schedule 2 - Amendments commencing on 1 July 2014

This Schedule repeals and substitutes clause 8 of Schedule 2 to the Principal Regulations, which previously prescribed IOTC Resolution 10/06, *On Reducing the Incidental catch of Seabirds in Longline fisheries*.

IOTC Resolution 12/06 includes significantly stronger measures to protect seabirds in the Indian Ocean than those required by Resolution 10/06.

The amendments to clause 8 incorporate those stronger measures, which apply to persons using a boat for longline fishing south of 25°S.

Attachment B**Statement of Compatibility with Human Rights**

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

***Fisheries Management (International Agreements) Amendment Regulation 2013
(No. 1)***

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Legislative Instrument amends the *Fisheries Management (International Agreements) Regulations 2009* (the Principal Regulations) to update the international fisheries management organisations (IFMOs) to which Australia is a party and amend or prescribe new international fisheries management measures that have come into force as a result of a number of annual IFMO meetings held in 2011 and 2012.

Human rights implications

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

Conclusion

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

The Hon. Peter Douglas Sidebottom MP
Parliamentary Secretary for Agriculture, Fisheries and Forestry