



## TREASURER

Ref: MC17-005078

Senator John Williams  
Chair  
Senate Regulations and Ordinances Committee  
Suite S1.111  
Parliament House  
CANBERRA ACT 2600

Dear Chair

I refer to the Committee Secretary's letter of 15 June 2017 seeking a further response to a concern with the Explanatory Statement (ES) to the Competition and Consumer (Industry Code–Sugar) Regulations 2017 (the Regulations).

The Committee notes that while the ES refers to an exemption from the Regulatory Impact Statement process, it does not explicitly state that no consultation was undertaken for the Sugar Code. The Committee has requested that the ES be updated to reflect this in order to be technically compliant with the requirements of the *Legislation Act 2003*.

In my previous response to the Committee, I explained that no consultation was undertaken by the Government due to the events within the raw sugar export industry at the time. Given that this information is now on the public record and outlined in the Committee's report, I do not believe updating the ES will provide any additional benefit to stakeholders or interested persons in explaining the operation of the Regulations. I therefore respectfully decline the Committee's request for the ES to be updated.

Thank you for bringing this matter to my attention.

Yours sincerely

The Hon Scott Morrison MP

8 / 8 / 2017




**The Hon Darren Chester MP**  
Minister for Infrastructure and Transport  
*Deputy Leader of the House*  
*Member for Gippsland*

27 JUN 2017

PDR ID: MC17-002929

Senator John Williams  
Chair  
Senate Regulations and Ordinances Committee  
Suite S1.111  
Parliament House  
CANBERRA ACT 2600

  
Dear Senator Williams

Thank you for your letter of 15 June 2017 regarding two instruments included in the Standing Committee on Regulations and Ordinances Delegated Legislation Monitor No 6 of 2017.

**Civil Aviation Order 95.10 Instrument 2017 [F2017L00480]**

The Civil Aviation Safety Authority (CASA) has pointed to the reference to the Australian Airspace Policy Statement being included in a note to paragraph 6.1(d) of Civil Aviation Order 95.10. The note states *Classes of airspace are defined in the Australian Airspace Policy Statement*, clarifying the requirement for the aircraft to be flown in class A, B, C, or D airspace in accordance with the requirements of paragraph 6.4. There is no entry in the Explanatory Statement relating to the content of the note.

CASA has advised that in its view, mention of the Australian Airspace Policy Statement in this way is not an incorporation by reference, but simply a guidance note for where a person can ascertain the scope of the classes of airspace.

**Inspector of Transport Security Regulations 2017 [F2017L00510]**

I have sought advice from the Department of Infrastructure and Regional Development in relation to the Committee's concerns regarding incorporation of and access to Annex 13 of *The Convention of International Civil Aviation* and an amendment to the statement regarding consultation.

The Department has advised that the Explanatory Statement will be replaced to address these issues.

Thank you again for taking the time to write and inform me of your concerns on this matter.

Yours sincerely

**DARREN CHESTER**



ATTORNEY-GENERAL

CANBERRA

10 AUG 2017

MC17-005655

Senator John Williams  
Chair  
Senate Regulations and Ordinances Committee  
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CANBERRA ACT 2600  
[regords.sen@aph.gov.au](mailto:regords.sen@aph.gov.au)

Dear Chair

Wacker

I refer to the letter from the Committee Secretary of the Senate Regulations and Ordinances Committee, dated 15 June 2017, regarding the *Family Law (Superannuation) (Interest Rate for Adjustment Period) Determination 2017* [F2017L00471] (the Determination).

In response to the request from the Committee that I clarify the Determination's status as exempt from disallowance, I can confirm that the Determination is exempt from disallowance, by virtue of table item 3 in section 9 of the *Legislation (Exemptions and Other Matters) Regulation 2015*. An updated version of the Determination and supplementary materials will be published as soon as practicable.

The relevant officer in my Department is Ashleigh Saint, A/g Assistant Secretary, Family Law Branch.

I thank the Committee for writing on this matter.

Yours faithfully

(George Brandis)



The Hon. Barnaby Joyce MP

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Deputy Prime Minister  
Minister for Agriculture and Water Resources  
Minister for Resources and Northern Australia  
Leader of The Nationals  
Federal Member for New England

Ref: MC17-004529

09 AUG 2017

Senator John Williams  
Chair  
Senate Regulations and Ordinances Committee  
Parliament House  
CANBERRA ACT 2600

Dear Chair

I refer to the committee's letter of 15 June 2017 seeking information about scrutiny issues identified in relation to the *Fish Receiver Permits Declaration 2017* [F2017L00400] and the *Small Pelagic Fishery (Closures) Direction Revocation 2017* [F2017L00514].

As noted by the committee, the Explanatory Statement (ES) for the *Fish Receiver Permits Declaration 2017* did not provide any information regarding consultation.

I have been advised by the Australian Fisheries Management Authority (AFMA) that no consultation was undertaken with industry stakeholders. The AFMA Chief Executive Officer has advised my office that there has been no criticism of the fish receiver permits system and on that basis the Authority did not believe it necessary to consult with industry.

The declaration involves only a minor change to remove the requirement to specify the South Tasman Rise Fishery in the declaration.

The purpose of the Declaration principally to continue the management arrangements under the *Fish Receiver Permits Declaration 2007*, which is due to sunset in October 2017. The Declaration specifies the Commonwealth fisheries for which a Fish Receiver Permit is required in order to be the first receiver of fish from a person engaged in commercial fishing in the specified fisheries. Existing Fish Receiver Permits will remain in force under the new Declaration.

AFMA also confirmed that it had consulted with the Office of Best Practice Regulation (OBPR) on the issue. The OBPR assessed the proposed Declaration as machinery in nature and as such, a Regulatory Impact Statement was not required (OBPR ID: 22071).

In regard to the *Small Pelagic Fishery (Closures) Direction Revocation 2017*, the committee identified that despite reference in the ES, the statement of compatibility of the instrument with human rights was not attached.

AFMA has reassured me that the appropriate assessment of the instrument was undertaken in line with section 9 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. AFMA concluded that the instrument was compatible with human rights. Unfortunately, as a result of an administrative oversight the statement was not attached to the ES when the package was provided by AFMA to the Federal Register of Legislation.

Copies of the revised ES for the *Fish Receiver Permits Declaration 2017* to include information about consultation, together with the statement of compatibility with human rights for the *Small Pelagic Fishery (Closures) Direction Revocation 2017*, are enclosed with this letter. AFMA will arrange for these two documents to be registered on the Federal Register of Legislation.

I thank the committee for its consideration of these regulatory instruments and its constructive suggestions. I trust that the information I have provided clarifies the points raised by the committee.

For the future, AFMA has been made aware of the importance of acting on the points the committee has raised in preparing regulatory instruments.

Yours sincerely

Barnaby Joyce MP

Enc:

Revised ES for the *Fish Receiver Permits Declaration 2017*

*Small Pelagic Fishery (Closures) Direction Revocation 2017*: Statement of Compatibility with Human Rights

## **EXPLANATORY STATEMENT**

### **Fish Receiver Permits Declaration 2017**

Issued by the Authority of the Australian Fisheries Management Authority

*Fisheries Management Act 1991*

The Fish Receiver Permits Declaration 2017 (the Declaration) is a legislative instrument for the purposes of the *Legislation Act 2003*. The Declaration replaces the *Fish Receiver Permits Declaration 2007*.

Subsection 91 (1) of the *Fisheries Management Act 1991* (the FM Act) provides that AFMA may, by notice published in the *Gazette*, declare a specified fishery to be a fishery to which fish receiver permits apply. This requirement is satisfied by publishing the Declaration as a legislative Instrument (See s56(1) of the *Legislation Act 2003*).

A fish receiver permit authorises the holder to receive fish from a person engaged in commercial fishing in such fisheries as are specified in a declaration under section 91(1) of the FM Act. Fish receiver permits are granted on application in accordance with section 91 of the FM Act.

#### **Need for the Amendment**

The purpose of the *Fish Receiver Permits Direction 2017* is to largely continue the management arrangements under the *Fish Receiver Permits Declaration 2007* which is due to sunset in October 2017. It is also no longer necessary to specify the South Tasman Rise Fishery in the Declaration so it has been removed.

Fish receiver permits also require the holder to keep records and undertake reporting to AFMA. AFMA assesses that the costs of complying with this requirement will be low. The *Fish Receiver Permits Declaration 2017* commences the day after it is registered on the Federal Register of Legislation.

The declaration will allow fish receiver permits to be granted on application for the following Commonwealth managed fisheries: the Bass Strait Central Zone Scallop Fishery, Coral Sea Fishery, Eastern Tuna and Billfish Fishery, Norfolk Island Offshore Demersal Finfish Fishery, Small Pelagic Fishery, Southern and Eastern Scalefish and Shark Fishery, Southern Bluefin Tuna Fishery, Southern Squid Jig Fishery and Western Tuna and Billfish Fishery.

### **Consultation**

No consultation was undertaken with industry stakeholders as the Declaration involved a minor change that was machinery in nature. The purpose of the Declaration was principally to continue the management arrangements under the *Fish Receiver Permits Declaration 2007*, which is due to sunset in October 2017. The Declaration specifies the Commonwealth fisheries for which a Fish Receiver Permit is required in order to be the first receiver of fish from a person engaged in commercial fishing in the specified fisheries. Existing Fish Receiver Permits remain in force under the new Declaration.

The Office of Best Practice Regulation (OBPR) was consulted to determine the need for a Regulatory Impact Statement. OBPR assessed the instrument as machinery in nature and as such a Regulation Impact Statement was not required for this legislative instrument (OBPR No: 22071).

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

AFMA assesses under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* that this legislative instrument is compatible with human rights. AFMA's Statement of Compatibility is attached as a supporting document.

Details of the declaration are set out below:

#### *Paragraph 1*

Paragraph 1 provides for the name of the declaration to be the *Fish Receiver Permits Declaration 2017*.



*Paragraph 2*

Paragraph 2 provides that the declaration commences the day after it is registered on the Federal Register of Legislation.

*Paragraph 3*

Paragraph 3 provides that the Declaration is repealed on 1 July 2026 unless earlier revoked.

*Paragraph 4*

Paragraph 4 provides for the definition of terms particularly the specified fisheries in the declaration.

*Paragraph 5*

Paragraph 5 lists the Commonwealth fisheries which are the subject of the declaration.

*Paragraph 6*

Paragraph 6 revokes the *Fish Receiver Permits Declaration 2007*.

## **Statement of Compatibility with Human Rights**

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

### **Fish Receiver Permits Declaration 2017**

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 instrument replaces the *Fish Receiver Permits Declaration 2007* which is due to sunset in 2017 and continues the requirements for a person to be the holder of a Fisher Receiver Permit in order to be the first receiver of fish from particular Commonwealth Fisheries.

#### **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.

## **Statement of Compatibility with Human Rights**

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

### **Small Pelagic Fishery (Closures) Direction Revocation 2017**

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 instrument revokes temporal and spatial closure arrangements in the Small Pelagic Fishery.

#### **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.