

# EXPLANATORY STATEMENT

## *Environment Protection and Biodiversity Conservation Act 1999*

Amendment of the List of Exempt Native Specimens in accordance with Section 303DC

Section 303DB of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides for the establishment of a list of exempt native specimens. Specimens included in the list are exempt from the trade control provisions that apply to regulated native specimens.

The effect of this instrument is to revoke the conditions to which the inclusion of the following item in the list of exempt native specimens on 27 February 2009 is subject:

- Specimens that are or are derived from fish or invertebrates, other than specimens that belong to species listed under Part 13 of the EPBC Act, taken in the New South Wales Ocean Trawl Fishery, as defined in the Fishery Management Strategy for the Ocean Trawl Fishery made under the New South Wales *Fisheries Management Act 1994*

and impose the following conditions to which the inclusion of the specimens in the list is subject:

- the specimen, or the fish or invertebrate from which it is derived, was taken lawfully; and
- the specimens are included in the list until 19 April 2012.

Revoking the conditions and imposing the above conditions to which the inclusion of the specimens in the list of exempt native specimens is subject will allow continued export of these specimens until 19 April 2012.

In determining to include the specimens in the list of exempt native specimens regard was had to the Australian Government's *Guidelines for the Ecologically Sustainable Management of Fisheries – 2<sup>nd</sup> Edition*. Those guidelines establish the criteria for assessment of the ecological sustainability of the relevant fishery's management arrangements.

Subsection 303DC(3) of the EPBC Act provides that before amending the list, the Minister for Sustainability, Environment, Water, Population and Communities must consult such other Commonwealth minister or ministers and such other minister or ministers of each state and self-governing territory, as the minister considers appropriate. The minister may also consult with such other persons and organisations as the minister considers appropriate. In this instance, the Delegate of the Minister for Sustainability, Environment, Water, Population and Communities consulted with the New South Wales Department of Primary Industries as the department has management responsibilities for the fishery concerned. In addition, the proposal to amend the list of exempt native specimens was advertised on the Department of Sustainability, Environment, Water, Population and Communities' website and comment was invited from interested people for a period of 24 business days. All comments received were taken into account in the decision to include specimens derived from the fishery in the list of exempt native specimens.

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

This legislative instrument does not engage any of the applicable rights or freedoms. 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*.

The instrument commenced on the day after it was registered on the Federal Register of Legislative Instruments.

Unique Identifying Number:  
EPBC303DC/SFS/2012/12