

EXPLANATORY STATEMENT

(Issued under the Authority of the Minister for the Environment)

Environment Protection and Biodiversity Conservation Act 1999 (Cth)

Instrument under section 209(1)(b), 209(3)(c) and 209(7)

The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (the **Act**) provides for protection of the environment, especially matters of national environmental significance and the conservation of biodiversity, including protection and conservation of listed migratory species.

Section 209 of the Act provides for a list of migratory species (the **List**) that are included in Appendices to the Bonn Convention, and in the Annexes to the Japan-Australia Migratory Bird Agreement (**JAMBA**), the China-Australia Migratory Bird Agreement (**CAMBA**) or other international agreements approved by the Minister (Republic of Korea-Australia Migratory Bird Agreement (**ROKAMBA**)).

Section 209(3)(c) of the Act provides that the list of migratory species must contain all native species from time to time identified in a list established under, or an instrument made under, an international agreement approved by the Minister for the purposes of subsection (4).

Sections 209(1)(b), 209(3)(c) and 209(7) of the Act provide that the Minister may, by legislative instrument, amend the List as necessary to include all species required to be included in the list under section 209(3). When the ROKAMBA was approved under section 209(3)(c) on 27 February 2007 (F2007L02641), a legislative instrument to amend the List was not completed.

The purpose of this instrument is to amend the List to include two species on the Annex to the ROKAMBA which were not added when that agreement was approved:

- *Calidris minuta*
- *Hirundo daurica*

The following Australian Government, State and Territory agencies were consulted regarding the ROKAMBA, initially in 2002 regarding the intention to develop the ROKAMBA and later in 2006, at which time they were provided with the final text of the Agreement:

- Australian Government Attorney-General's Department;
- Australian Government Department of Immigration and Multicultural Affairs;
- Australian Government Department of Foreign Affairs and Trade;
- Australian Government Department of Communications, Information Technology and the Arts;
- Australian Government Department of Industry, Tourism and Resources;
- Australian Government Department of Defence;
- Australian Government Department of the Prime Minister and Cabinet;
- Australian Government Department of Transport and Regional Services;
- Australian Government Department of the Treasury;
- Australian Government Department of Agriculture, Fisheries and Forestry;
- Department of Primary Industries Water and Environment (Tasmania);
- Department of Primary Industries (Victoria);
- Department for Environment and Heritage (South Australia);
- Department of Conservation and Land Management (Western Australia);
- Department of Environment and Conservation (New South Wales);
- Department of Infrastructure, Planning and Natural Resources (New South Wales);
- Environmental Protection Agency (Queensland);
- Department of Natural Resources, Environment and the Arts (Northern Territory); and
- Environment ACT.

Section 209 of the Act does not require the Minister, when deciding whether to amend the List under section 209(6) of the Act, to obtain and consider advice from the Threatened Species Scientific Committee on the proposed amendment.

This Instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (Cth).

The Instrument is taken to have commenced on 27 February 2007.

The retrospective commencement of this instrument does not contravene subsection 12(2) of the *Legislative Instruments Act 2003* because it does not impose any detriment on a person, or remove any rights from a person, with retrospective effect.

Authority: section 184(1)(b) of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Statement of Compatibility with Human Rights

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

Amendment to the list of migratory species under section 209 of the *Environment Protection and Biodiversity Conservation Act 1999*

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 purpose of this Instrument is to amend the *Environment Protection and Biodiversity Conservation Act 1999* list of migratory species by adding two species.

These species meet the migratory species listing criteria to make them eligible for listing under the EPBC Act (s209(3)(c)) .

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.

Minister for the Environment