

EXPLANATORY STATEMENT

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

Environment Protection and Biodiversity Conservation Act 1999

Instrument under section 209(1)(b)

The *Environment Protection and Biodiversity Conservation Act 1999* (the Act) places certain obligations on the Commonwealth to protect and conserve migratory species, including a requirement for the establishment and maintenance of a list of migratory species under paragraph 209(1)(a) of the Act.

Paragraph 209(3)(a) of the Act requires that the list of migratory species include all native species that are from time to time included in the appendices to the Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention).

The purpose of this Instrument is to amend the list of migratory species, pursuant to paragraph 209(1)(b) of the Act, so that the list includes all species required to be included under paragraph 209(3)(a), following amendments to Appendix I and II of the Bonn Convention agreed to at the 11th Conference of the Parties, held in Quito, Ecuador on 9 November 2014.

Nine species were added to Appendix I and/or II for which Australia is a range state, and are thus required to be added to the migratory species list under the Act. These species are: Narrow Sawfish (*Anoxypristis cuspidata*), Dwarf Sawfish (*Pristis clavata*), Green Sawfish (*Pristis zijsron*), Largetooth Sawfish (*Pristis pristis*), Silky Shark (*Carcharhinus falciformis*), Reef Manta Ray (*Manta alfredi*), Pygmy Devil Ray (*Mobula eregoodootenkee*), Japanese Devil Ray (*Mobula japanica*) and Bentfin Devil Ray (*Mobula thurstoni*).

The Australian Government Department of the Environment consulted the following Australian Government and State and Territory agencies, commercial and recreational fishing organisations and environmental non-government organisations in 2014 regarding the proposed listings to Appendix I and II of the Bonn Convention:

- Australian Government Department of Agriculture;
- Australian Fisheries Management Authority;
- Australian Government Department of Foreign Affairs and Trade;
- Australian Government Attorney-General's Department;
- Department of Agriculture, Fisheries and Forestry (Queensland);
- Department of Environment and Heritage Protection (Queensland);
- Office of Environment and Heritage (New South Wales);
- Department of Primary Industries (New South Wales);
- Department of Environment and Primary Industries (Victoria);
- Department of Primary Industries, Parks, Water and Environment (Tasmania);
- Department of Environment, Water and Natural Resources (South Australia);

- Department of Primary Industries and Regions (South Australia);
- Department of Parks and Wildlife (Western Australia);
- Department of Fisheries (Western Australia);
- Department of Primary Industries and Fisheries (Northern Territory);
- Commonwealth Fisheries Association;
- Game Fishing Association of Australia;
- Recfish Australia;
- Australian National Sportfishing Association;
- Australian Recreational Fishing Foundation;
- Victorian Recreational Fishing Peak Body;
- Tasmanian Association for Recreational Fishing;
- National Seafood Industry Alliance;
- Seafood Industry Victoria;
- Cairns Marine;
- Migratory Wildlife Network;
- Humane Society International;
- Australian Marine Conservation Society;
- Whales Alive;
- World Wide Fund for Nature;
- International Fund for Animal Welfare;
- Wilderness Society;
- Birds Australia;
- Wetlands International;
- Australasian Wader Studies Group;
- Whale and Dolphin Conservation Society;
- TRAFFIC (the wildlife trade monitoring network).

All Australian Government agencies and State and Territory environment and fisheries management agencies that responded to the Department were supportive of the inclusion of four species of Sawfish, three species of Mobula Rays, the Reef Manta Ray and the Silky Shark in the Appendices to the Convention. Broad support for including these nine species in the Appendices was also received from the majority of the fishing organisations and environment non-government organisations consulted.

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

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

Authority: section 209(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 so that the list includes all species required to be included under section 209(3)(a), following amendments to the Appendices to the Convention on the Conservation of Migratory Species (Bonn Convention). The amendments become effective on the day after the Legislative Instrument is registered on the Federal Register of Legislative Instruments.

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