

# 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 items in the list of exempt native specimens 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 Estuary General Fishery as defined in the New South Wales *Fisheries Management (Estuary General Share Management Plan) Regulation 2006* in force under the New South Wales *Fisheries Management Act 1994*
- 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 Hauling Fishery as defined in the New South Wales *Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006* in force under the New South Wales *Fisheries Management Act 1994*
- 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 Victorian Rock Lobster Fishery, as defined in the Victorian *Rock Lobster Fishery Management Plan 2009* made under the Victorian *Fisheries Act 1995* and *Fisheries Regulations 2009*

and to 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 24 June 2016.

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 24 June 2016. The only effect of this amendment is to extend this date.

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 the Environment 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 the Environment consulted with the NSW Department of Primary Industries and Fisheries Victoria, as the NSW Department of Primary Industries and Fisheries Victoria have management responsibilities for the fisheries concerned.

**Unique Identifying Number:**  
EPBC303DC/SFS/2015/28

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

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

**STATEMENT OF COMPATIBILITY FOR A BILL OR LEGISLATIVE  
INSTRUMENT THAT 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*

**Amendment of List of Exempt Native Specimens**

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 effect of this instrument is to revoke the conditions to which the inclusion of the following items in the list of exempt native specimens 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 Estuary General Fishery as defined in the New South Wales *Fisheries Management (Estuary General Share Management Plan) Regulation 2006* in force under the New South Wales *Fisheries Management Act 1994*
- 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 Hauling Fishery as defined in the New South Wales *Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006* in force under the New South Wales *Fisheries Management Act 1994*
- 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 Victorian Rock Lobster Fishery, as defined in the Victorian *Rock Lobster Fishery Management Plan 2009* made under the Victorian *Fisheries Act 1995* and *Fisheries Regulations 2009*

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 24 June 2016.

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 24 June 2016. The only effect of this amendment is to extend this date.

**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.

**Paul Murphy, Assistant Secretary, Wildlife Trade and Biosecurity Branch (Delegate of the Minister for the Environment)**