

## EXPLANATORY STATEMENT

(Issued by the authority of the delegate for the Minister for the Environment and Water)

*Environment Protection and Biodiversity Conservation Act 1999*

### **Environment Protection and Biodiversity Conservation List of CITES Species Amendment (2025/002) Instrument 2025**

#### **Legislative Authority**

The *Environment Protection and Biodiversity Conservation Act 1999* (the Act) provides for the protection of the environment, including wildlife that may be adversely affected by trade, and the implementation of Australia's international environmental responsibilities.

Subsection 303CA(1) provides that the Minister must, by legislative instrument, establish a list of species under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (the Convention) for the purposes of the Act. Under subsection 303CA(3) of the Act, the list must include all species from time to time included in any of Appendices I, II and III to the Convention. Subsections 303CA(9)(b) and (c) of the Act together provide that the Minister may amend the list, as necessary, so that it includes all species required to be included in the list under subsection 303CA(3) and so that the notations in the list are consistent with the Convention. Under subsection 303CA(9)(a), the Minister may also correct an inaccuracy or update the name of a species.

Under Article XVI, paragraph 3 of the Convention, a Party which has submitted a species for inclusion in Appendix III may withdraw it at any time by notification to the Secretariat which shall communicate the withdrawal to all Parties. The withdrawal shall take effect 30 days after the date of such communication.

#### **Purpose of the instrument**

The purpose of the *Environment Protection and Biodiversity Conservation List of CITES Species Amendment (2025/002) Instrument 2025* (Legislative Instrument) is to amend the *List of CITES Species for the Purposes of the Act (29/11/2001)* (the List) to omit a number of species and make an editorial change to remove a duplicate heading.

Notification to the Parties 2025/002 (dated 8 January 2025) advised that China has withdrawn species listed under Appendix III to the Convention. In accordance with the provisions of Article XVI, paragraph 3, of the Convention the withdrawal will take effect 30 days after the date of the notification that is on 7 February 2025.

The species that are being omitted from the list are *Mauremys iversoni*, *Mauremys megalcephala*, *Mauremys pritchardi*, *Ocadia glyphistoma*, *Ocadia philippeni*, and *Sacalia pseudocellata*. No action is required in relation to *Mauremys megalcephala* as it was removed from the CITES List in 2017 to reflect changes in nomenclature adopted by the Conference of the Parties at its 17<sup>th</sup> meeting in 2016.

This amendment is considered to have no practical impact for Australia. Australia did not undertake any stakeholder consultation as Australia is not a range state for the species covered by the listing request (that is, they do not occur naturally in Australia). Further, these species cannot be legally imported to Australia under the Act, as they are not listed in the *List of Specimens Taken to be Suitable for Live Import (29/11/2001)* made under section 303EB of the Act.

The Legislative Instrument also makes an editorial change to the List to remove a duplication of the heading 'Family: Gekkonidae'.

### **Consultation**

The action is consistent with Australia's strong commitment to the Convention and international cooperation for the protection and conservation of wildlife more generally.

The Office of Impact Analysis has determined that detailed analysis is not required under the Australian Government's Policy Impact Analysis Framework, as the species proposed for withdrawal from Appendix III are not native to Australia and are not in traded in Australia.

The amendment comes into force on 7 February 2025.

The Legislative Instrument updating the List to omit the species was made prior to the Joint Standing Committee on Treaties (JSCOT) reporting on the amendment. All CITES Parties are required to implement amendments to the Appendices through their domestic legislation within 30 days of a Party being advised of a withdrawal through a Notification. Undertaking the required regulatory action within the specified timeframes is required for Australia to meet its obligations as a Party to the Convention.

The Department of Foreign Affairs and Trade has been consulted on the amendment. Following the receipt of advice, the Minister for the Environment and Water wrote to the Foreign Minister and the Attorney-General, advising of the proposed amendments to Appendix III and seeking the assistance of the Foreign Minister to refer the matter to the JSCOT.

This update to the List is in accordance with Australia's international commitment to implement the Convention. The amendment put into effect by this Legislative Instrument is considered to have minor impact on Australia.

### **Details**

Details of the Legislative Instrument are set out in **Attachment A**.

### **Operation and commencement**

This update to the List is a Legislative Instrument for the purposes of the *Legislation Act 2003* (Legislation Act).

The Legislative Instrument commences in Australia the day after the registration, with the effect of withdrawing *Mauremys iversoni*, *Mauremys pritchardi*, *Ocadia glyphistoma*, *Ocadia philippeni*, and *Sacalia pseudocellata*, from the List.

The Legislative Instrument also has the effect of deleting the duplicated heading ‘Family: Gekkonidae’.

### **Other**

Section 42 of the Legislation Act (disallowance of Legislative Instruments) does not apply (see *Legislation (Exemptions and Other Matters) Regulation 2015*, section 10, item 15). As the Legislative Instrument is not disallowable, a statement of compatibility is not required under subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* (subsection 15J(2) of the Legislation Act).

Section 12, item 24 of the *Legislation (Exemptions and Other Matters) Regulation 2015* provides that instruments made under section 303CA of the EPBC Act are exempt from sunseting. This Legislative Instrument facilitates Australia’s compliance with international obligations, in particular CITES. Amendments to the List are required in order to comply with Australia’s international obligations under the Convention. The exemption from sunseting therefore ensures continuity in Australia’s compliance with obligations under international law. Furthermore, the assessment of whether to include species on the List are decisions of a technical and scientific nature.

Moreover, the Legislative Instrument is subject to automatic self-repeal under section 48A of the Legislation Act, as the sole purpose is to amend the List. Therefore, the exemption from sunseting would have no practical effect since the instrument will have self-repealed well prior to end of the ordinary 10-year sunset period.

**Details of the Environment Protection and Biodiversity Conservation List of CITES Species Amendment (2025/002) Instrument 2025**

**Section 1**

This section provides that the name of the Legislative Instrument is the *Environment Protection and Biodiversity Conservation List of CITES Species Amendment (2025/002) Instrument 2025*.

**Section 2 – Commencement**

This section provides that the Legislative Instrument commences the day after registration. Schedule 1 to the instrument commences the day after registration.

**Section 3 – Authority**

This section provides that the Legislative Instrument is made under subsection 303CA(9) of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). The purpose is to amend the *List of CITES Species for the Purposes of the Act (29/11/2001)*.

**Section 4 – Schedules**

This section is a machinery clause which has the effect that the Principal Instrument (i.e. the List) is amended as set out in the applicable items in Schedule 1, and any other item in Schedule 1 to the Instrument has effect according to its terms.

**Schedule 1 – Amendments**

Schedule 1 sets out the amendments to the List.

**Item 1**

Item 1 amends the List under the heading Phylum: Chordata (Chordates), Class: Reptilia, Order: Testudines, Family: Geoemydidae, to omit the following species from the appropriate position:

- (a) *Mauremys iversoni* (Iverson's Pond Turtle, Fujian Pond Turtle)
- (b) *Mauremys pritchardi* (Pritchard's Pond Turtle, Lashio Pond Turtle)
- (c) *Ocadia glyphistoma* (Guangxi Stripe-necked Turtle)
- (d) *Ocadia philippeni* (Philippen's Stripe-necked Turtle)
- (e) *Sacalia pseudocellata* (False-eyed Turtle)

**Item 2**

Item 1 amends the List under the heading Phylum: Chordata (Chordates), Class: Reptilia, Order: Squamata, Suborder: Sauria to omit a duplicate line containing a family name:

- (a) Family: Gekkonidae