

EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act 1999

List of Specimens taken to be Suitable for Live Import Amendment (red ruffed lemur) Instrument 2022

Instrument under subparagraphs 303EC(1)(a)(i) and 303EC(1)(a)(iii)

Issued under authority of the Minister for the Environment and Water

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), a live specimen is taken to be suitable for import if it is included in the *List of Specimens Taken to be Suitable for Live Import (29/11/2001)* (Live Import List).

Legislative Background

The Live Import List was established under section 303EB of the EPBC Act and has two parts. Part 1 comprises a list of unregulated specimens exempt from the requirement for an import permit under the EPBC Act. Part 1 of the list must not contain a CITES specimen. Part 2 comprises a list of allowable regulated specimens that can be imported with a permit issued by the Minister, along with notation of any restrictions or conditions attached to the inclusion of a specimen.

Subsection 303EC(1) of the Act relevantly provides that the Minister may, by legislative instrument, amend the Live Import List by:

- including items in a particular part of the list;
- deleting items from a particular part of the list;
- imposing a restriction or condition to which the inclusion of a specimen in Part 2 of the list is subject;
- varying or revoking a restriction or condition to which the inclusion of a specimen in Part 2 of the list is subject; or
- correcting an inaccuracy or updating the name of a species.

Amendments to include an item can be made either on the initiative of the Minister, under section 303ED of the EPBC Act, or by application from a person made under section 303EE of the EPBC Act.

Subsection 303EC(3) of the EPBC Act provides that before amending the list referred to in section 303EB as mentioned in paragraph 303EC(1)(a), the Minister:

- must consult each other Minister or Ministers as the Minister considers appropriate; and
- must consult each other Minister or Ministers of each State and self-governing Territory as the Minister considers appropriate; and

- may consult such other persons and organisations as the Minister considers appropriate.

Further, subsection 303EC(5) of the EPBC Act provides that the Minister must not amend the list referred to in section 303EB by including an item in the list unless:

- the amendment is made following consideration of a relevant report under section 303ED or section 303EE; or
- the amendment is made following consideration of a relevant review under section 303EJ.

Purpose

The purpose of this instrument is to amend Part 2 of the *List of Specimens taken to be Suitable for Live Import (29/11/2001)* to include *Varecia rubra* (Red ruffed lemur) in accordance with section 303EC of the EPBC Act.

The *List of Specimens taken to be Suitable for Live Import Amendment (red ruffed lemur) Instrument 2022* (the Amendment Instrument) amends the Live Import List to include *Varecia rubra* (red ruffed lemur) in Part 2 with the condition: Import for the purposes of conservation breeding in accordance with subsection 303FF(2).

This amendment to the list to include *Varecia rubra* was initiated by an application made to the Minister under section 303EE of the EPBC Act. An assessment of the potential impacts on the environment of the proposed amendments was reported to the Minister, in accordance with subsection 303EE(3).

Consultation

In accordance with paragraph 303EF(2)(b) of the EPBC Act, the draft assessment report was published on the Department of Agriculture, Water and the Environment's website and public comments sought between 17 June and 28 July 2021. No responses were received.

As the stated purpose of the import was to establish the mechanism to allow the import of red ruffed lemurs for a Zoo and Aquarium Association Australasia [ZAA] managed species population ZAA was approached for comment. ZAA advised there was no managed program for this species in Australia.

Consultation concerning the amendment to Part 2 of the Live Import List was also carried out in accordance with paragraph 303EC(3)(c) of the EPBC Act. In this case, the Department of Agriculture, Water and the Environment consulted with relevant Commonwealth, state and territory agencies for the environment, conservation and agriculture between 3 and 31 March 2022. Comments were received from the Tasmanian, Victorian, Queensland, South Australian and NSW Governments supporting the amendment provided the species is imported purely for the purposes of conservation breeding under an agreed, formalised conservation breeding program.

In light of the applicant's stated purpose for seeking the amendment and the comments received from ZAA and the states and territories, the department concluded that any risks of the species establishing a feral population and impacting on the environment would be adequately

mitigated by limiting import of this species to: **Import for the purposes of conservation breeding in accordance with subsection 303FF(2).**

The final assessment report was provided to the Minister. In accordance with paragraph 303EC(5)(a) of the EPBC Act, the Minister considered the report before deciding to amend the list to include *Varecia rubra* in Part 2 of the Live Import List.

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*. It commences the day after registration.

Statement of Compatibility with Human Rights

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

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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 Part 2 of the *List of Specimens taken to be Suitable for Live Import (29/11/2001)* to include *Varecia rubra* (red ruffed lemur) in accordance with section 303EC of the *Environment Protection and Biodiversity Conservation Act 1999*.

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.

The Hon Tanya Plibersek MP
Minister for the Environment and Water