

EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act 1999

List of Specimens taken to be Suitable for Live Import Amendment (Names of Twenty-four Species of Freshwater Fish) Instrument 2023

Instrument under subparagraph 303EC (1)(b)

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

Under the *Environment Protection and Biodiversity Conservation Act 1999* (the Act), a live specimen is allowed to be imported only if it is included in the 'List of specimens taken to be suitable for live import' (Live Import List).

Background

The Live Import List was established in accordance with s303EB of the Act and has 2 Parts. Part 1 comprises a list of unregulated specimens exempt from the requirement for an import permit under the Act. Part 1 of the list must not contain a CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) 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.

Purpose of the instrument

In accordance with s303EC(1)(b) of the Act, the purpose of this instrument is to update the names of 24 species of aquarium fish on Part 1 of the List:

- *Andinoacara pulcher*, the Blue acara, is currently listed on Part 1 of the Live Import List with the scientific name '*Aequidens pulcher*'. As a result, the scientific name on the Live Import List needs to be updated to *Andinoacara pulcher*. The common name on the Live Import List needs to be updated to blue acara.

- *Barbodes everetti*, the Clown barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius everetti*'. As a result, the scientific name on the Live Import List needs to be updated to *Barbodes everetti*. The common name on the Live Import List needs to be updated to clown barb.
- *Barbodes lateristriga*, the Spanner barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius lateristriga*'. As a result, the scientific name on the Live Import List needs to be updated to *Barbodes lateristriga*. The common name on the Live Import List needs to be updated to spanner barb.
- *Barbodes semifasciolatus*, the Golden Barb or Chinese Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius semifasciolatus*'. As a result, the scientific name on the Live Import List needs to be updated to *Barbodes semifasciolatus*. The common name on the Live Import List needs to be updated to golden barb, Chinese barb.
- *Dawkinsia arulius*, the Longfin Barb or Arulius Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius arulius*'. As a result, the scientific name on the Live Import List needs to be updated to *Dawkinsia arulius*. The common name on the Live Import List needs to be updated to longfin barb, Arulius barb.
- *Dawkinsia filamentosa*, the Black Spot Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius filamentosus*'. As a result, the scientific name on the Live Import List needs to be updated to *Dawkinsia filamentosa*. The common name on the Live Import List needs to be updated to blackspot barb.
- *Desmopuntius hexazona*, a Tiger Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius hexazona*'. As a result, the scientific name on the Live Import List needs to be updated to *Desmopuntius hexazona*. The common name on the Live Import List needs to be updated to tiger barb.
- *Desmopuntius pentazona*, the Five-banded Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius pentazona*'. As a result, the scientific name on the Live Import List needs to be updated to *Desmopuntius pentazona*. The common name on the Live Import List needs to be updated to five-banded barb.
- *Epalzeorhynchus kalopterum*, the Flying Fox, is currently listed on Part 1 of the Live Import List with the scientific name '*Epalzeorhynchus kalopterus*'. As a result, the scientific name on the Live Import List needs to be updated to *Epalzeorhynchus kalopterum*. The common name on the Live Import List needs to be updated to flying fox.
- *Haludaria fasciata*, the Melon Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius fasciata*' with the common name 'Striped Barb'. As a result, the scientific name on the Live Import List needs to be updated to *Haludaria fasciata*, and the common name updated to melon barb.

- *Laubuka laubuca*, the Indian Hatchet Fish, is currently listed on Part 1 of the Live Import List with the scientific name '*Laubuca laubuca*'. As a result, the scientific name on the Live Import List needs to be updated to *Laubuka laubuca*. The common name on the Live Import List needs to be updated to Indian hatchet fish.
- *Leiognathus ruconius*, the Deep pugnose ponyfish, is currently listed on Part 1 of the Live Import List with the scientific name '*Secutor ruconius*'. As a result, the scientific name on the Live Import List needs to be updated to *Leiognathus ruconius*. The common name on the Live Import List needs to be updated to deep pugnose ponyfish.
- *Lepidiolamprologus meeli*, an African cichlid with no common name, is currently listed on Part 1 of the Live Import List with the scientific name '*Neolamprologus meeli*'. As a result, the scientific name on the Live Import List needs to be updated to *Lepidiolamprologus meeli*.
- *Oliotius oligolepis*, the Checkered Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius oligolepis*'. As a result, the scientific name on the Live Import List needs to be updated to *Oliotius oligolepis*. The common name on the Live Import List needs to be updated to checkered barb.
- *Pethia conchonius*, the Rosy Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius conchonius*'. As a result, the scientific name on the Live Import List needs to be updated to *Pethia conchonius*. The common name on the Live Import List needs to be updated to rosy barb.
- *Pethia cumingii*, Cummings Barb, Two Spot Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius cumingii*'. As a result, the scientific name on the Live Import List needs to be updated to *Pethia cumingii*. The common name on the Live Import List needs to be updated to Cummings barb, two spot barb.
- *Pethia nigrofasciata*, the Ruby Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius nigrofasciatus*'. As a result, the scientific name on the Live Import List needs to be updated to *Pethia nigrofasciata*. The common name on the Live Import List needs to be updated to ruby barb.
- *Pethia ticto*, the Ticto Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius ticto*'. As a result, the scientific name on the Live Import List needs to be updated to *Pethia ticto*. The common name on the Live Import List needs to be updated to Ticto barb.
- *Puntigrus partipentazona*, a Tiger Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius partipentazona*'. As a result, the scientific name on the Live Import List needs to be updated to *Puntigrus partipentazona*. The common name on the Live Import List needs to be updated to tiger barb.
- *Puntigrus tetrazona*, the Tiger Barb, Sumatra Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius tetrazona*'. As a result, the scientific

name on the Live Import List needs to be updated to *Puntigrus tetrazona*. The common name on the Live Import List needs to be updated to tiger barb, Sumatra barb.

- *Striuntius lineatus*, the Striped Barb, is currently listed on Part 1 of the Live Import List with the scientific name '*Puntius lineatus*'. As a result, the scientific name on the Live Import List needs to be updated to *Striuntius lineatus*. The common name on the Live Import List needs to be updated to striped barb.
- *Sturisomatichthys panamense*, the Armoured catfish, is currently listed on Part 1 of the Live Import List with the scientific name '*Sturisoma panamense*'. As a result, the scientific name on the Live Import List needs to be updated to *Sturisomatichthys panamense*. The common name on the Live Import List needs to be updated to armoured catfish
- *Systemus asoka*, the Asoka Barb, is currently listed with the scientific name '*Puntius asoka*'. As a result, the scientific name on the Live Import List needs to be updated to *Systemus asoka*. The common name on the Live Import List needs to be updated to Asoka barb.
- *Trichopodus trichopterus*, the Golden Gourami, Three Spot Gourami, is currently listed on Part 1 of the Live Import List with the scientific name '*Trichogaster trichopterus*'. As a result, the scientific name on the Live Import List needs to be updated to *Trichopodus trichopterus*. The common name on the Live Import List needs to be updated to golden gourami, three spot gourami.

Consultation

There are no consultation requirements under the Act for correcting an inaccuracy or updating the name of a species under s 303EC(b) of the Act.

Under section 17 of the *Legislation Act 2003* the delegate is required to be satisfied that appropriate and reasonably practicable consultation has been undertaken prior to making the Legislative Instrument. A report detailing the name changes was published on the Department of Climate Change, Energy, the Environment and Water's website and public comments sought between 2 November 2022 and 15 December 2022. One response was received, from the South Australian government, in support of the name changes.

The department has also confirmed the accuracy of the updated names with databases of international organisations with expertise in species taxonomy.

The instrument does not include new items or remove items from the Live Import List. It only applies to make amendments of a scientific and technical nature. In accordance with section 17 of the *Legislation Act 2003*, the Delegate was satisfied that it was not necessary to undertake further consultation on this instrument.

Commencement and operation

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

Subsection 303EC(6) of the EPBC Act provides that an instrument made under subsection 303EC(b) is not subject to disallowance. Instruments of this type are made to apply corrections and updates to the nomenclature of species. These changes are informed by expert taxonomy and do not have policy significance outside of ensuring that the Live Import List is accurate. As such, instruments of this type would benefit little from the scrutiny process.

This Legislative Instrument was made by the delegate of the Minister for the Environment and Water, under a delegation pursuant to section 515 of the Act.

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 1 of the List of Specimens taken to be Suitable for Live Import (29/11/2001) to update the names of twenty-four species of aquarium fish 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.

Dwaine McMaugh

Delegate of the Minister for the Environment and Water