



Australian Meat and Live-stock Corporation Amendment Act 1982

No. 46 of 1982

An Act to amend the *Australian Meat and Live-stock Corporation Act 1977*, and for related purposes

[Assented to 9 June 1982]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

1. (1) This Act may be cited as the *Australian Meat and Live-stock Corporation Amendment Act 1982*.

(2) The *Australian Meat and Live-stock Corporation Act 1977*¹ is in this Act referred to as the Principal Act.

Commencement

2. This Act shall come into operation on a date to be fixed by Proclamation.

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Objects

3. Section 4 of the Principal Act is amended—
- (a) by inserting in paragraph (1) (a) “, and to protect and further the interests of the industry in relation to,” after “control”;
 - (b) by inserting in paragraph (1) (b) “, and to protect and further the interests of the industry in relation to,” after “control”; and
 - (c) by inserting in paragraph (1) (c) “, and to protect and further the interests of the industry in relation to,” after “promote”.

Interpretation

4. Section 5 of the Principal Act is amended—
- (a) by inserting after the definition of “approved bank” the following definition:
 - “ ‘authorized officer’ means a person appointed under section 47D to be an authorized officer;”;
 - (b) by inserting after the definition of “Corporation” the following definition:
 - “ ‘covering’ includes any stopper, glass, bottle, vessel, box, container, capsule, case, frame or wrapper;”;
 - (c) by inserting after the definition of “Deputy Chairman” the following definition:
 - “ ‘document’ includes any written or printed matter, any map, plan or photograph, and any article or thing that has been so treated in relation to any sounds or visual images that those sounds or visual images are capable, with or without the aid of some other device, of being reproduced from the article or thing, and includes a copy of any such matter, map, plan, photograph, article or thing;”;
 - (d) by inserting after the definition of “edible offal” the following definitions:
 - “ ‘examine’ includes count, measure, weigh, grade or gauge;
 - “ ‘export licence’ means a meat export licence or live-stock export licence;”;
 - (e) by omitting the definition of “licensee”;
 - (f) by inserting after the definition of “live-stock” the following definition:
 - “ ‘live-stock export licence’ means a licence granted under section 16B to export live-stock from Australia, and includes such a licence that has been renewed under section 16Q;”;
 - (g) by inserting after the definition of “meat” the following definition:
 - “ ‘meat export licence’ means a licence granted under section 16B to export meat from Australia, and includes such a licence that has been renewed under section 16Q;”;

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- (h) by inserting after the definition of “member” the following definitions:
- “ ‘offence against this Act’ includes—
 - (a) an offence against the regulations;
 - (b) an offence against section 6, 7 or 7A of the *Crimes Act* 1914 in relation to an offence against this Act or the regulations; and
 - (c) an offence against sub-section 86 (1) of the *Crimes Act* 1914 by virtue of paragraph (a) of that sub-section, being an offence in relation to an offence against this Act or the regulations;
- “ ‘premises’ includes land;”; and
- (j) by adding at the end thereof the following definition:
- “ ‘the industry’ means the Australian meat and live-stock industry.”.

5. After section 5 of the Principal Act the following sections are inserted in Part I:

Crown to be bound

“5A. This Act binds the Crown in right of the Commonwealth, of each of the States and of the Northern Territory.

Application of Act outside Australia

“5B. This Act applies both within and outside Australia.”.

Insertion of Division heading

6. Before section 6 of the Principal Act the following heading is inserted in Part II:

“Division 1—General”.

Functions of Corporation

7. Section 7 of the Principal Act is amended—
- (a) by omitting from sub-paragraph (d) (ii) “the meat industry” and substituting “the industry”; and
 - (b) by omitting from sub-paragraph (e) (i) “section 11” and substituting “Division 2 and sections 47, 47H, 50 and 50B”.

Trading power

8. Section 9 of the Principal Act is amended—
- (a) by omitting from paragraph (1) (a) “or” (last occurring);
 - (b) by adding at the end of sub-section (1) the following word and paragraph:
 - “; or (c) enter into transactions in relation to—
 - (i) the purchase of meat or live-stock; or

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- (ii) the export, or sale for export, of meat or live-stock owned by the Corporation, including transactions by way of meat futures contracts or live-stock futures contracts.”; and
- (c) by omitting sub-section (4) and substituting the following sub-section:
 - “(4) The Corporation shall not—
 - (a) enter into transactions by way of meat futures contracts or live-stock futures contracts; or
 - (b) engage in trade otherwise than in a manner that accords with commercial practice,except with the approval of the Minister.”.

Repeal of sections 10 to 14 (inclusive)

9. (1) Sections 10 to 14 (inclusive) of the Principal Act are repealed.

(2) Notwithstanding anything contained in section 16J of the Principal Act as amended by this Act, the Corporation may, without complying with the requirements of that section, make orders under that section for the purpose of giving effect to a scheme of a kind referred to in sub-section 13 (1) of the Principal Act that was being, or could have been, operated by the Corporation under section 13 of the Principal Act immediately before the commencement of this Act.

10. After section 16 of the Principal Act the following Division is inserted in Part II:

“Division 2—Control by Corporation of export of meat and live-stock

Interpretation

“16A. (1) In this Division, unless the contrary intention appears, ‘relevant offence’ means—

- (a) an offence against this Act;
- (b) an offence against any other law of the Commonwealth, or against a law of a State or Territory, that is punishable by imprisonment for a period of 12 months or more; or
- (c) any other offence against a law of the Commonwealth, or of a State or Territory, that is prescribed for the purposes of this paragraph.

“(2) A reference in this Division to meat (other than the reference (last occurring) in sub-section (4) and the reference in paragraph (5) (b)) does not include a reference to meat of a kind that is declared by the regulations to be, for the purposes of this Act, meat unfit for human consumption.

“(3) For the purposes of this Division, a person shall be taken to be a person who participates, or a person who would participate, in the

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management or control of the meat or live-stock export business, or proposed meat or live-stock export business, of another person if—

- (a) he has or would have, as the case may be, authority to direct the operations, or an important or substantial part of the operations, of the business or proposed business; or
- (b) he has or would have, as the case may be, authority to direct a person who has or would have, as the case may be, authority of the kind referred to in paragraph (a) in the exercise of that authority or proposed authority.

“(4) A reference in this Division to the meat export business, or proposed meat export business, of a person includes a reference to any operations carried out or proposed to be carried out, as the case may be, by the person for or in connection with the slaughtering of animals, the dressing of animal carcasses or the treatment, packing, carriage, handling or storage of meat, being operations that—

- (a) are or are proposed to be, as the case may be, carried out as part of the business or proposed business; or
- (b) are or are proposed to be, as the case may be, carried out, in whole or in part, in connection with the business or proposed business.

“(5) Where—

- (a) a corporation (in this sub-section referred to as ‘the relevant corporation’) is the holder of, or an applicant for, a meat export licence;
- (b) a corporation that is related to the relevant corporation carries out, or proposes to carry out, operations (in this sub-section referred to as ‘the relevant operations’) for or in connection with the slaughtering of animals, the dressing of animal carcasses or the treatment, packing, carriage, handling or storage of meat; and
- (c) the relevant operations are or are proposed to be, as the case may be, carried out, in whole or in part, in connection with the meat export business, or proposed meat export business, of the relevant corporation,

the relevant operations shall, for the purposes of this Division, be deemed to be operations carried out or proposed to be carried out, as the case may be, by the relevant corporation as part of its meat export business or proposed meat export business, as the case may be.

“(6) For the purposes of sub-section (5), the question whether corporations are related to each other shall be determined in the same manner as that question would be determined under the *Companies Act* 1981.

“(7) In sub-sections (5) and (6), ‘corporation’ means a corporation within the meaning of the *Companies Act* 1981.

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Grant of export licence

“16B. (1) Subject to this Division, the Corporation may grant to a person a licence, in writing, to export meat from Australia or to export live-stock from Australia.

“(2) Nothing in sub-section (1) shall be taken to prevent—

- (a) the granting to a person of both a licence to export meat from Australia and a licence to export live-stock from Australia; or
- (b) the issuing of directions under section 16H for the purpose of restricting the kind of meat or live-stock export business, as the case may be, that the holder of an export licence is to be permitted to carry on under the conditions to which the licence is subject.

Application for licence

“16C. (1) An application for a meat export licence or live-stock export licence shall—

- (a) be in writing;
- (b) set out the name and address of each person whom the Corporation is required to consider for the purposes of paragraph 16D (1) (c);
- (c) contain such other information, and such matters, as are prescribed; and
- (d) be accompanied by such documents as are prescribed.

“(2) Where a person has furnished information or a document to the Corporation in connection with an application for an export licence and, before the application is granted or refused—

- (a) a change occurs so that, in relation to a matter, the information ceases to be, or the particulars stated in the document cease to be, correct; or
- (b) the person becomes aware that, in relation to a matter, the information was not, or the particulars stated in the document were not, correct,

the person shall, within 7 days after the occurrence of the change or his becoming so aware, as the case may be, furnish to the Corporation, in writing, correct particulars of the matter.

“(3) A person who fails, without reasonable excuse, to comply with sub-section (2) is guilty of an offence punishable, on conviction, by a fine not exceeding \$2,000 or imprisonment for 12 months, or both.

Requirements for grant of licence

“16D. (1) The Corporation shall not grant a meat export licence or live-stock export licence unless it is satisfied that—

- (a) where the applicant is an individual, the applicant is—
 - (i) a person of integrity;
 - (ii) competent to hold such a licence; and
 - (iii) a person of sound financial standing;

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- (b) where the applicant is a body corporate, the applicant is—
 - (i) a body corporate of integrity;
 - (ii) competent to hold such a licence; and
 - (iii) a body corporate of sound financial standing;
- (c) each person who participates or would participate, as the case may be, in the management or control of the meat or live-stock export business or proposed meat or live-stock export business, as the case may be, of the applicant is a person of integrity;
- (d) the applicant is, and is likely to continue to be, able to comply with the conditions to which the licence, if granted, would be subject; and
- (e) the granting of the licence to the applicant would not, for any other reason, be contrary to the interests of the industry.

“(2) In determining for the purposes of this section whether a person is a person of integrity or a body corporate is a body corporate of integrity, the Corporation shall have regard to—

- (a) any conviction (whether before or after the commencement of this section) of the person or body corporate, as the case may be, of a relevant offence (not being an offence committed more than 10 years before the making of the application);
- (b) where information or a document furnished to the Corporation by or on behalf of the person or body corporate was false or misleading—whether the person or body corporate, as the case may be, knew, or should have known, that the information or document was false or misleading;
- (c) any failure by the person or body corporate, as the case may be, to comply with sub-section 16C (2);
- (d) the reputation of the person or body corporate, as the case may be, in the industry, for reliability in business dealings;
- (e) such matters (if any) as are prescribed for the purposes of this sub-section; and
- (f) such other matters as it considers relevant.

“(3) In determining for the purposes of this section whether an applicant for a meat export licence or live-stock export licence is competent to hold such a licence, the Corporation shall have regard to—

- (a) the extent of the applicant’s previous involvement in the industry;
- (b) the knowledge, experience and skill of the persons who participate or would participate, as the case may be, in the management or control of the meat or live-stock export business or proposed meat or live-stock export business, as the case may be, of the applicant;
- (c) the kind of meat or live-stock export business, as the case may be, that the applicant would be permitted to carry on under the conditions to which the licence, if granted, would be subject;

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- (d) such matters (if any) as are prescribed for the purposes of this sub-section; and
- (e) such other matters as it considers relevant.

“(4) In determining for the purposes of this section whether an applicant for a meat export licence or live-stock export licence is a person of sound financial standing or a body corporate of sound financial standing, the Corporation shall have regard to—

- (a) the assets and liabilities of the applicant;
- (b) the business operations being, and proposed to be, carried out by the applicant;
- (c) the kind of meat or live-stock export business, as the case may be, that the applicant would be permitted to carry on under the conditions to which the licence, if granted, would be subject;
- (d) such matters (if any) as are prescribed for the purposes of this sub-section; and
- (e) such other matters as it considers relevant.

Refusal to grant application for licence

“16E. (1) Where the Corporation refuses to grant an application for an export licence, the Corporation shall, by notice in writing served on the applicant, inform him of the refusal.

“(2) Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Corporation refusing applications for export licences.

“(3) Where an application for an export licence has not been determined within 2 months after the making of the application, the Corporation shall, for the purposes of sub-section (2), be deemed to have refused the application.

Licence subject to condition that holder inform Corporation of certain events

“16F. An export licence is subject to the condition that, if—

- (a) the holder of the licence is convicted of a relevant offence;
- (b) in the case of an export licence held by an individual—
 - (i) the holder of the licence—
 - (A) becomes bankrupt; or
 - (B) executes a deed of assignment, or deed of arrangement, under Part X of the *Bankruptcy Act* 1966; or
 - (ii) a composition is accepted in relation to the holder of the licence under Part X of the *Bankruptcy Act* 1966;
- (c) in the case of an export licence held by a body corporate—
 - (i) an order is made for the winding up of the holder of the licence;
 - (ii) a provisional liquidator is appointed in relation to the holder of the licence;

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- (iii) a compromise or arrangement is made between the holder of the licence and its creditors;
- (iv) a receiver or manager enters into possession, or assumes control, of any property of the holder of the licence; or
- (v) the holder of the licence is placed under official management;
- (d) a person who participates in the management or control of the meat or live-stock export business, as the case may be, of the holder of the licence is convicted of a relevant offence;
- (e) a person specified in the application for the licence, in any application for renewal of the licence or in any particulars furnished to the Corporation in pursuance of this section as participating in the management or control of the meat or live-stock export business, as the case may be, of the holder of the licence ceases so to participate;
- (f) a person not specified in the application for the licence, in any application for renewal of the licence or in any particulars furnished to the Corporation in pursuance of this section as participating in the management or control of the meat or live-stock export business, as the case may be, of the holder of the licence commences so to participate;
or
- (g) a prescribed event occurs,

the holder of the licence shall, within 30 days after the occurrence of the conviction or other event, as the case may be, furnish to the Corporation particulars, in writing, of the conviction or other event, as the case may be.

Meat export licence subject to condition regarding slaughtering on account of owner

“16G. (1) A meat export licence is subject to the condition that, if the owner of live-stock so requests, the holder of the licence shall slaughter and treat the live-stock, or cause the live-stock to be slaughtered and treated, on account of the owner on a weight and grade basis for submission for export at the rates, and on the conditions, specified in orders made, or directions given to the holder of the licence, for the purposes of this section under section 16H.

“(2) In this section, ‘owner’, in relation to live-stock, means an owner who caused the live-stock to be bred or fattened on land owned or occupied by him.

Licence also subject to compliance with orders and directions under this section

- “16H. (1) The Corporation—
- (a) may make orders, not inconsistent with this Act or the regulations, to be complied with by the holders of export licences; and
 - (b) may, by instrument in writing, issue directions, not inconsistent with this Act or the regulations, to be complied with by the holder of an export licence.

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“(2) Without limiting the generality of sub-section (1), orders made under this section, and directions issued under this section, may make provision with respect to any matter relating to, or incidental to—

- (a) the quality, standard and grading of meat and live-stock;
- (b) the purchase of meat and live-stock;
- (c) the terms and conditions of the sale of meat and live-stock, including terms and conditions relating to price;
- (d) the carriage, handling and storage of meat and live-stock;
- (e) the sale and distribution of meat and live-stock after export;
- (f) the keeping of records; and
- (g) the measures to be taken to ensure compliance with orders made under this section or section 16J, 16K or 16L or directions issued under this section.

“(3) Without limiting the generality of sub-section (1), orders made under this section, and directions issued under this section—

- (a) may prohibit (either absolutely or unless specified conditions are complied with) the export, or sale for export, of meat or live-stock by reference to any one or more of the following matters:
 - (i) quantity;
 - (ii) quality, standard, grade or class;
 - (iii) the countries or places to which the meat or live-stock, as the case may be, is not to be exported;
 - (iv) the persons to whom, or the authorities or organizations to which, the meat or live-stock, as the case may be, is not to be exported or sold for export;
 - (v) any other matter that the Corporation considers appropriate; and
- (b) may require the holder of an export licence to do any one or more of the following:
 - (i) obtain the prior approval of the Corporation for each export, or each export of a specified kind, to be made by the holder of the licence;
 - (ii) make declarations to the Corporation, including declarations with respect to meat or live-stock that has or have been exported, or is proposed or are proposed to be exported, from Australia;
 - (iii) furnish information, returns or documents to the Corporation, including information, returns or documents with respect to sales, or orders for the supply, of meat or live-stock.

“(4) Where a direction issued under this section is inconsistent with an order made under this section or section 16J, 16K or 16L, the direction shall prevail and the order shall, to the extent of inconsistency, be of no force or effect.

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“(5) An export licence is subject to the condition that the holder of the licence shall comply with—

- (a) orders made under this section; and
- (b) such directions issued under this section (if any) as are from time to time given to him.

“(6) The Corporation shall, in exercising the powers conferred on it by this section, comply with such directions (if any) as are from time to time given to it, in writing, by the Minister.

“(7) The Minister is not entitled to give a direction to the Corporation with respect to a particular holder of an export licence.

“(8) The Minister shall cause a copy of any directions given to the Corporation under sub-section (6) to be published in the *Gazette*.

Meat quotas

“16J. (1) Where restrictions are imposed, or will, in the opinion of the Corporation, be imposed, by a country outside Australia on the quantity of meat, or the quantity of meat of any quality, standard, grade or class, that may be exported to that country or to a place in that country, the Corporation may prepare orders that it proposes to make under this section for the purpose of giving effect to a scheme formulated by it for allocating, among the holders of meat export licences, quotas of the total quantity of meat, or quotas of the total quantity of meat of that quality, standard, grade or class, that may be exported from Australia to that country or place.

“(2) Orders made under this section may make provision, not inconsistent with this Act or the regulations, with respect to any matter relating to, or incidental to, the giving of effect to a scheme of a kind referred to in sub-section (1) and, without limiting the generality of the foregoing, may make provision for and in relation to—

- (a) the period for which the quotas are to operate;
- (b) the method of allocating quotas;
- (c) the transfer of a quota or a part of a quota; and
- (d) the surrender or cancellation of a quota or part of a quota.

“(3) Where the Corporation prepares orders that it proposes to make under this section for the purpose of giving effect to a scheme of a kind referred to in sub-section (1), it shall serve on each holder of a meat export licence a notice, in writing, that—

- (a) sets out the terms of the proposed orders; and
- (b) specifies a reasonable period (in sub-sections (4), (5) and (7) referred to as ‘the relevant period’) as the period within which representations may be made to the Corporation in relation to the proposed orders.

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“(4) The holder of a meat export licence may, within the relevant period, make representations, in writing, to the Corporation in relation to the proposed orders.

“(5) Where representations in relation to the proposed orders are received, within the relevant period, from the holders of meat export licences, the Corporation shall consider the representations and determine, by instrument in writing, what amendments (if any) of the proposed orders should be made in respect of the representations.

“(6) Where the Corporation makes a determination under sub-section (5) in relation to the proposed orders—

- (a) if the determination provides for amendment of the proposed orders—the Corporation may, with the approval of the Minister, make orders in the same terms as the proposed orders as so amended; or
- (b) if the determination does not provide for amendment of the proposed orders—the Corporation may, with the approval of the Minister, make orders in the same terms as the proposed orders.

“(7) Where no representations in relation to the proposed orders are received, within the relevant period, from the holders of meat export licences, the Corporation may make orders in the same terms as the proposed orders.

“(8) Where the Corporation—

- (a) makes orders under this section for the purpose of giving effect to a scheme of a kind referred to in sub-section (1); and
- (b) is subsequently satisfied that it has ceased to be necessary or desirable for the scheme to be given effect to,

the Corporation shall make an order revoking those orders.

“(9) The Corporation, for the purpose of making alterations of a minor or formal nature, may, with the approval of the Minister, make orders varying orders made under this section.

“(10) A meat export licence is subject to the condition that the holder of the licence shall comply with orders made by the Corporation under this section.

“(11) Nothing in this section shall be taken to require orders made under this section for the purpose of giving effect to a scheme of a kind referred to in sub-section (1) to provide for the allocation of a quota to each holder of a meat export licence.

Contracts for shipment of meat or live-stock

“16K. (1) The Corporation may, with the approval of the Minister, make orders, not inconsistent with this Act or the regulations, in accordance with which contracts for the carriage of meat or live-stock, by sea, from Australia to countries and places outside Australia are to be made by the holders of meat export licences or live-stock export licences, as the case may be.

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“(2) Orders made under this section—

- (a) may make provision with respect to any matter relating to, or incidental to, the carriage of meat and live-stock, by sea, to countries and places outside Australia and, without limiting the generality of the foregoing, may make provision for and in relation to—
 - (i) the persons who may carry meat and live-stock, by sea, to countries and places outside Australia;
 - (ii) the charges payable for the carriage of meat and live-stock, by sea, to countries and places outside Australia; and
 - (iii) the carriage, handling and storage of meat and live-stock before it is carried by sea; and
- (b) may be of general application or may relate only to the carriage of meat or live-stock, or meat or live-stock of any class, to particular countries or places.

“(3) An export licence is subject to the condition that the holder of the licence shall comply with orders made by the Corporation under this section.

Restriction of persons who may export to certain markets

“16L. (1) Where the Corporation is satisfied that—

- (a) a person, authority or organization is, by virtue of being the purchaser of all, or substantially all, of the meat or live-stock, or of the meat or live-stock of any quality, standard, grade or class, exported to a country or place outside Australia or for any other reason, in a position to set the prices paid for all, or substantially all, of the meat or live-stock, or of the meat or live-stock of that quality, standard, grade or class, exported from Australia to that country or place; and
- (b) it is necessary or desirable, for the purpose of ensuring that Australian live-stock producers receive a fair return in respect of meat or live-stock, or meat or live-stock of that quality, standard, grade or class, exported from Australia to that country or place, for it to exercise the powers conferred on it by this section,

the Corporation may, with the approval of the Minister, make such orders, being orders not inconsistent with this Act or the regulations, with respect to the export of meat or live-stock, or of meat or live-stock of that quality, standard, grade or class, as the case may be, from Australia to that country or place as it considers necessary or desirable for that purpose, and, without limiting the generality of the foregoing, may prohibit (either absolutely or unless specified conditions are complied with) the export, or sale for export, of meat or live-stock, or of meat or live-stock of that quality, standard, grade or class, as the case may be, from Australia to that country or place by—

- (c) any person other than the Corporation; or
- (d) any person other than a specified holder of a meat export licence or live-stock export licence or specified holders of meat export licences or live-stock export licences, as the case may be.

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“(2) An export licence is subject to the condition that the holder of the licence shall comply with orders made under this section.

Orders by Corporation

“16M. (1) Sections 48, 49, 49A and 50 of the *Acts Interpretation Act 1901* apply in relation to orders made under sections 16H, 16J, 16K and 16L as if, in those first-mentioned sections, references to regulations were references to such orders.

“(2) Orders made under sections 16H, 16J, 16K and 16L shall be deemed not to be statutory rules within the meaning of the *Statutory Rules Publication Act 1903*, but sub-sections 5 (3) to (3C) (inclusive) of that Act apply in relation to such orders in like manner as they apply in relation to statutory rules.

“(3) For the purposes of the application of section 5 (3B) of the *Statutory Rules Publication Act 1903* in accordance with sub-section (2), the reference in that first-mentioned sub-section to the Minister of State for Administrative Services shall be read as a reference to the Minister of State for Primary Industry.

Directions by Corporation

“16N. (1) Where a notice setting out the terms of directions issued under section 16H to the holder of an export licence is served, personally or by post, telegram or telex, on the holder of the licence, the directions shall, for the purposes of sub-section 16G (1) and paragraph 16H (5) (b), be deemed to have been given to the holder of the licence.

“(2) Applications may be made to the Administrative Appeals Tribunal for review of directions issued by the Corporation under section 16H.

Duration of licence

“16P. An export licence—

- (a) comes into force on such date as is specified in the licence or, if no date is so specified, the date on which it is granted; and
- (b) subject to this Division, remains in force for such period (being a period of not less than 1 year) as is specified in the licence but may be renewed in accordance with section 16Q.

Renewal of licence

“16Q. (1) The holder of a meat export licence or live-stock export licence may, not earlier than 3 months and not later than 1 month before the licence is due to expire, apply to the Corporation for the renewal of the licence.

“(2) The Corporation may extend the period within which an application for the renewal of an export licence may be made, whether or not the period has expired.

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“(3) An application for the renewal of a meat export licence or live-stock export licence shall—

- (a) be in writing;
- (b) contain such information, and such matters, as are prescribed; and
- (c) be accompanied by such documents as are prescribed.

“(4) Where the holder of a meat export licence or live-stock export licence duly applies to the Corporation for the renewal of the licence, the Corporation, unless it has determined by virtue of paragraph 16S (1) (d) that the licence not be renewed, shall, by instrument in writing, renew the licence.

“(5) Subject to this Division, an export licence that has been renewed continues in force for such period (being a period of not less than 1 year) as is specified in the instrument by which the licence is renewed, but may be further renewed in accordance with this section.

“(6) A renewal of an export licence shall not take effect if the licence is cancelled by virtue of paragraph 16S (1) (c) on or before the date on which it would, apart from the renewal, expire.

“(7) Where an export licence has been suspended under section 16R or sub-section 16S (1), this section applies to and in relation to the licence as if the licence had not been suspended, but the renewal of the licence does not have any force or effect until the licence ceases to be suspended.

“(8) Application may be made to the Administrative Appeals Tribunal for review of decisions of the Corporation made for the purposes of sub-section (2).

Notice to licence holder to show cause

“16R. (1) Where the Corporation has reasonable grounds for believing, in relation to a meat export licence or live-stock export licence, that—

- (a) in the case of a meat export licence or live-stock export licence held by an individual, the holder of the licence has ceased to be—
 - (i) a person of integrity;
 - (ii) competent to hold such a licence; or
 - (iii) a person of sound financial standing;
- (b) in the case of a meat export licence or live-stock export licence held by a body corporate, the holder of the licence has ceased to be—
 - (i) a body corporate of integrity;
 - (ii) competent to hold such a licence; or
 - (iii) a body corporate of sound financial standing;
- (c) a person who has commenced to participate in the management or control of the meat or live-stock export business, as the case may be, of the holder of the licence is not a person of integrity;

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- (d) a person who participates in the management or control of the meat or live-stock export business, as the case may be, of the holder of the licence has ceased to be a person of integrity;
- (e) information or a document furnished to the Corporation in connection with the application for the licence was false or misleading and, but for the information or document being false or misleading, the licence would not have been granted;
- (f) the holder of the licence failed to comply with sub-section 16C (2) in relation to the application for the licence and, but for the failure so to comply, the licence would not have been granted; or
- (g) the holder of the licence has contravened or failed to comply with a condition to which the licence is subject,

the Corporation may serve a notice, in writing, under this section on the holder of the licence.

“(2) In determining for the purposes of this section and section 16S in relation to an export licence whether a person has ceased to be a person of integrity or a body corporate has ceased to be a body corporate of integrity, the Corporation shall have regard to—

- (a) any conviction, after the granting of the licence, of the person or body corporate, as the case may be, of a relevant offence;
- (b) where a declaration made, or information or a return or document furnished, to the Corporation, after the granting of the licence, by or on behalf of the person or body corporate, as the case may be, was false or misleading—whether the person or body corporate, as the case may be, knew, or should have known, that the declaration, information, return or document, as the case may be, was false or misleading;
- (c) the reputation of the person or body corporate, as the case may be, in the industry, for reliability in business dealings;
- (d) such matters (if any) as are prescribed for the purposes of this sub-section; and
- (e) such other matters as it considers relevant.

“(3) In determining for the purposes of this section and section 16S whether the holder of a meat export licence or live-stock export licence has ceased to be competent to hold such a licence, the Corporation shall have regard to—

- (a) the knowledge, experience and skill of the persons who participate in the management or control of the meat or live-stock export business, as the case may be, of the holder of the licence;
- (b) the kind of meat or live-stock export business, as the case may be, that the holder of the licence is permitted to carry on under the conditions to which the licence is subject;
- (c) such matters (if any) as are prescribed for the purposes of this sub-section; and

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(d) such other matters as it considers relevant.

“(4) In determining for the purposes of this section and section 16S whether the holder of a meat export licence or live-stock export licence has ceased to be a person of sound financial standing or a body corporate of sound financial standing, the Corporation shall have regard to—

- (a) the assets and liabilities of the holder of the licence;
- (b) the business operations being carried out by the holder of the licence;
- (c) the kind of meat or live-stock export business, as the case may be, that the holder of the licence is permitted to carry on under the conditions to which the licence is subject;
- (d) such matters (if any) as are prescribed for the purposes of this sub-section; and
- (e) such other matters as it considers relevant.

“(5) In determining for the purposes of this section and section 16S whether a person who has commenced to participate in the management or control of the meat or live-stock export business, as the case may be, of the holder of an export licence is a person of integrity, the Corporation shall have regard to—

- (a) any conviction (whether before or after the commencement of this section) of the person of a relevant offence (not being an offence committed more than 10 years before the person commenced so to participate);
- (b) where information or a document furnished to the Corporation by or on behalf of the person was false or misleading—whether the person knew, or should have known, that the information or document was false or misleading;
- (c) the reputation of the person, in the industry, for reliability in business dealings;
- (d) such matters (if any) as are prescribed for the purposes of this sub-section; and
- (e) such other matters as it considers relevant.

“(6) A notice under this section to the holder of an export licence shall—

- (a) state the grounds on which the Corporation formed the belief by virtue of which the notice is given; and
- (b) include a statement to the effect that, if the holder of the licence wishes, he may, within 14 days after the day on which the notice is served on him, furnish to the Corporation a statement, in writing, showing cause why the licence should not be dealt with under sub-section 16S (1).

“(7) A notice under this section to the holder of an export licence may, if it appears to the Corporation to be necessary or desirable, in the interests of the industry, to suspend the licence under this section, state that the licence is suspended.

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“(8) Where a notice under this section to the holder of an export licence states that the licence is suspended, the licence is suspended from the time when the notice is served on the holder of the licence.

“(9) Where an export licence is suspended under this section—

- (a) the Corporation may at any time revoke the suspension; and
- (b) if the licence has not been dealt with under sub-section 16S (1) within the period of 60 days after the day on which the licence is suspended—the suspension lapses at the expiration of that period.

“(10) Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Corporation to suspend export licences under this section.

Powers of Corporation in relation to licence

“16S. (1) Where the Corporation—

- (a) has served a notice under section 16R on the holder of an export licence; and
- (b) is satisfied in relation to the licence, after considering any statement furnished in pursuance of sub-section 16R (6) by the holder of the licence in relation to the notice, as to any of the matters mentioned in paragraphs 16R (1) (a) to (g) (inclusive),

the Corporation may, by notice in writing served on the holder of the licence—

- (c) cancel the licence;
- (d) if the licence is about to expire—determine that the licence not be renewed;
- (e) in a case where the licence is not already suspended—suspend the licence for such period as is specified in the notice given under this sub-section;
- (f) in a case where the licence is already suspended—further suspend the licence for such period as is specified in the notice given under this sub-section; or
- (g) reprimand the holder of the licence.

“(2) Where the Corporation—

- (a) has served a notice under section 16R on the holder of an export licence; and
- (b) decides not to take any further action in the matter,

the Corporation shall, by notice in writing served on the holder of the licence, inform the holder of the licence of that decision, and, if the licence is suspended under that section, revoke the suspension.

“(3) The period for which the Corporation may suspend or further suspend an export licence under sub-section (1) may be a period expiring after the day on which the licence, if not renewed, would expire.

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“(4) Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Corporation under sub-section (1).

Cancellation of licence at request of holder

“16T. The Corporation shall cancel an export licence if the holder of the licence requests it, in writing, to do so.

Statement to be included in certain notices

“16U. (1) A notice referred to in sub-section 16E (1), 16N (1), 16R (8) or 16S (1) shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision to which the notice relates by or on behalf of any person or persons whose interests are affected by the decision.

“(2) A failure to comply with sub-section (1) in relation to a decision shall not be taken to affect the validity of that decision.”.

11. Section 47 of the Principal Act is repealed and the following sections are substituted:

Inspection

“47. (1) The function of an authorized officer under this section is to ascertain whether the provisions of this Act and the regulations, and the conditions to which export licences are subject, have been complied with.

“(2) A reference in sub-section (1) to ascertaining whether the provisions of this Act have been complied with includes a reference to ascertaining whether an offence against this Act has been committed.

“(3) For the purposes of performing the function of an authorized officer under this section or exercising a power of an authorized officer under section 47A, an authorized officer may, with such assistance as he thinks necessary—

- (a) enter registered premises;
- (b) with the consent of the occupier or in pursuance of a warrant granted under sub-section (6), enter any other premises;
- (c) board or enter any vehicle, ship or aircraft;
- (d) stop and detain any vehicle, ship or aircraft;
- (e) search any premises, vehicle, ship or aircraft;
- (f) break open any hold or compartment or any container or other receptacle (including any place that could be used as a receptacle);
- (g) inspect and examine any premises, vehicle, ship, aircraft, matter or thing;
- (h) secure any premises, vehicle, ship, aircraft, matter or thing;
- (j) take samples of any matter or thing (including parts of premises, vehicles, ships or aircraft); or
- (k) take extracts from, and make copies of, any document.

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“(4) Samples of any matter or thing taken in accordance with sub-section (3) shall be dealt with as prescribed.

“(5) An authorized officer may make application to a Justice of the Peace for a warrant authorizing the authorized officer to enter premises other than registered premises.

“(6) If, on an application under sub-section (5), the Justice of the Peace is satisfied, by information on oath or affirmation, that it is reasonably necessary that the authorized officer should, for the purpose of exercising the powers of an authorized officer under this section or section 47A, have access to the premises to which the application relates, the Justice of the Peace may grant a warrant authorizing the authorized officer, with such assistance as he thinks necessary, to enter the premises during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of exercising the powers of an authorized officer under this section or section 47A.

“(7) A warrant under sub-section (6) shall specify a date after which the warrant ceases to have effect.

“(8) Where an authorized officer proposes to search or detain a vehicle, ship or aircraft, he shall, if there is a person in charge of the vehicle, ship or aircraft, produce his identity card for inspection by that person and, if he fails to do so, he is not authorized to search or detain that vehicle, ship or aircraft.

“(9) In this section, ‘registered premises’ means premises that are registered, or are part of an establishment that is registered, under the regulations made under the *Export Control Act* 1982.

Seizure

“47A. (1) An authorized officer may seize—

(a) any meat or live-stock that he believes on reasonable grounds is meat, or are live-stock, in respect of which an offence against this Act has been committed; and

(b) any matter or thing that he believes on reasonable grounds will afford evidence of the commission of an offence against this Act,

and may retain the meat or live-stock, or the matter or thing, until the expiration of a period of 60 days after the seizure or, if proceedings for such an offence in respect of the meat or live-stock, or in respect of which the matter or thing may afford evidence, are instituted within that period, until the proceedings (including any appeal to a court in relation to those proceedings) are terminated.

“(2) The power under sub-section (1) to seize meat includes a power to seize any coverings in which the meat is contained.

“(3) The Corporation may authorize any meat or live-stock, or any matter or thing, seized under sub-section (1) to be released to the owner, or to the person from whose possession the meat was or the live-stock were, or the

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matter or thing was, seized, either unconditionally or on such conditions as the Corporation thinks fit, including, in the case of meat or live-stock, conditions as to the giving of security for payment of the value of the meat or live-stock if it is or they are, as the case may be, forfeited under section 50C.

Obstructing authorized officers

“47B. A person shall not, without reasonable excuse, obstruct or hinder an authorized officer in the exercise of his powers under this Act.

Penalty: \$1,000 or imprisonment for 6 months, or both.

Persons to assist authorized officers

“47C. (1) Subject to sub-section (2), the owner, or person in charge, of any vehicle, ship or aircraft boarded or entered by an authorized officer, and the owner or occupier of any premises entered by an authorized officer, under section 47 shall, if requested by an authorized officer to do so, provide reasonable assistance to the authorized officer for the purpose of the exercise of his powers under that section or section 47A in relation to that vehicle, ship or aircraft or those premises.

Penalty: \$1,000 or imprisonment for 6 months, or both.

“(2) Where an authorized officer makes a request of a person under this section, the authorized officer shall produce his identity card for inspection by that person and, if the authorized officer fails to do so, that person is not obliged to comply with the request.

Authorized officers

“47D. The Corporation may, by instrument in writing, appoint a person, or persons included in a class of persons, to be an authorized officer or authorized officers, as the case may be, for the purpose of the exercise by that person or those persons of the powers of an authorized officer under this Act or of such of those powers as are specified in the instrument.

Identity cards

“47E. (1) The Corporation may cause to be issued to an authorized officer an identity card in a form approved by the Corporation, by instrument in writing.

“(2) Where a person in possession of an identity card issued to him under sub-section (1) ceases to be an authorized officer, he shall forthwith return the identity card to the Corporation and, if he fails to do so, he is guilty of an offence punishable on conviction by a fine not exceeding \$100.

Protection of authorized officers and other persons

“47F. (1) An authorized officer is not liable to any action, suit or proceeding for or in relation to an act done or omitted to be done in good faith in the exercise or purported exercise of any power or authority conferred on him by this Act.

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“(2) A person who is requested by an authorized officer, whether under section 47C or otherwise, to provide assistance to that officer in the exercise or purported exercise of any power or authority conferred on him by this Act is not liable to any action, suit or proceeding for or in relation to an act done or omitted to be done in good faith in the provision, or purported provision, of that assistance.

Corporation may require information or documents

“47G. (1) The Corporation may, by notice, in writing, served on a person, require the person to furnish to the Corporation, within such reasonable time as is specified in the notice, such information and documents with respect to—

- (a) the industry;
- (b) the meat or live-stock business of that person or any other person;
- (c) any meat or live-stock that has or have been, or is proposed or are proposed to be, exported from Australia; or
- (d) the holder of an export licence,

as is or are specified in the notice.

“(2) A person shall not, without reasonable excuse, fail or neglect duly to furnish information or a document that he is required to furnish by virtue of a notice under sub-section (1).

Penalty: \$2,000 or imprisonment for 12 months, or both.

“(3) A person is not excused from furnishing information or a document that he is required to furnish by virtue of a notice under sub-section (1) on the ground that the information or the furnishing of the document, as the case may be, might tend to incriminate him or make him liable to a penalty, but the information or the furnishing of the document, as the case may be, is not admissible in evidence against him in proceedings other than proceedings for an offence against section 50A.

Nominees

“47H. (1) A declaration required to be made, or information or a return or document required to be furnished, to the Corporation, for the purposes of this Act, by the holder of an export licence shall be made or furnished, as the case may be, only by—

- (a) the holder of the licence; or
- (b) an individual appointed, for the time being, under this section to be a nominee of the holder of the licence.

“(2) The holder of an export licence—

- (a) may, by notice furnished to the Corporation, appoint an individual to be his nominee; and
- (b) may, by a subsequent notice furnished to the Corporation, terminate the appointment.

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“(3) A notice under sub-section (2) shall—

- (a) be in writing; and
- (b) contain such information, and such matters, as are prescribed.

“(4) Where an individual appointed, for the time being, under this section to be a nominee of the holder of an export licence makes a declaration, or furnishes information or a return or document, to the Corporation, that declaration, information, return or document, as the case may be, shall, for the purposes of this Act (including any proceedings for an offence against this Act), be deemed to be made or furnished as the case may be, on behalf of, and with the knowledge and consent of, the holder of the licence.

“(5) Notwithstanding any other provision of this Act or any other Act, a person who is convicted of an offence against this Act by reason of the operation of sub-section (4) shall not be subject to a penalty of imprisonment.

“(6) A declaration made, or information or a return or document furnished, to the Corporation for the purpose of complying with the conditions to which an export licence is subject shall, for the purposes of sub-sections (1) and (4), be taken to be a declaration required to be made, or information or a return or document required to be furnished, as the case may be, to the Corporation, for the purposes of this Act, by the holder of the licence.

Evidence of analyst

“47J. (1) The Corporation may, by instrument in writing, appoint appropriately qualified persons to be analysts for the purposes of this Act.

“(2) Subject to sub-section (4), a certificate of an analyst appointed under sub-section (1) stating that he has analysed or examined a substance and stating the results of his analysis or examination is, for the purposes of this Act (including any proceedings for an offence against this Act), admissible in evidence as *prima facie* evidence of the facts stated in the certificate and of the correctness of the results of the analysis or examination.

“(3) For the purposes of this section, a document purporting to be a certificate referred to in sub-section (2) shall, unless the contrary is proved, be deemed to be such a certificate.

“(4) A certificate referred to in sub-section (2) shall not be received in evidence in pursuance of that sub-section in any proceedings for an offence against this Act unless the person charged has been given a copy of the certificate together with reasonable notice of the intention of the prosecutor to produce the certificate as evidence in the proceedings.

“(5) Where, in pursuance of sub-section (2), a certificate of an analyst appointed under sub-section (1) is admitted in evidence, the person charged may require the analyst to be called as witness for the prosecution and the analyst may be cross-examined as if he had given evidence of the matters in the certificate.

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Service of notices

“47K. (1) Service of a notice under this Act (other than a notice referred to in sub-section 16N (1)) that is required or permitted to be served on a person by the Corporation shall be effected by serving the notice, personally or by post, on the person.

“(2) A notice under this Act that is posted, as a letter, to a person at the last address of the person known to the Corporation shall, for the purposes of the application of section 29 of the *Acts Interpretation Act* 1901, be deemed to be properly addressed to the person.”.

Annual report and financial statements

12. (1) Section 49 of the Principal Act is amended by omitting from sub-section (2) “sub-section 11 (3)” and substituting “sub-section 16H (6)”.

(2) Notwithstanding the amendment made by sub-section (1), section 49 of the Principal Act continues to apply in relation to directions given under sub-section 11 (3) of the Principal Act before the commencement of this Act as if that amendment had not been made.

13. Section 50 of the Principal Act is repealed and the following sections are substituted:

Export of meat or live-stock without export licence, &c.

“50. (1) Where a person (other than the Corporation) who is not the holder of a meat export licence exports meat from Australia, the person is guilty of an offence.

“(2) Sub-section (1) does not apply in relation to meat of a kind that is declared by the regulations to be, for the purposes of this Act, meat unfit for human consumption.

“(3) Where a person (other than the Corporation) who is not the holder of a live-stock export licence exports live-stock from Australia, the person is guilty of an offence.

“(4) The holder of an export licence who, without reasonable excuse (proof of which lies upon him), contravenes or fails to comply with a condition to which the licence is subject is guilty of an offence.

“(5) An offence against this section is punishable, on conviction, by a fine not exceeding \$100,000 or imprisonment for a period not exceeding 5 years, or both.

“(6) An offence against this section is an indictable offence.

“(7) Notwithstanding that an offence against this section is an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

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“(8) Where, in accordance with sub-section (7), a court of summary jurisdiction convicts a person of an offence against this section, the penalty that the court may impose is a fine not exceeding \$5,000 or imprisonment for a period not exceeding 12 months, or both.

False information, &c.

“50A. A person shall not make a declaration, or furnish information or a return or document, to the Corporation that is, to his knowledge, false or misleading in a material particular.

Penalty: \$2,000 or imprisonment for 12 months, or both.

Person falsely holding himself out to be the holder of licence, &c.

“50B. (1) A person who is not the holder of an export licence shall not hold himself out to be the holder of an export licence.

“(2) A person (other than the Corporation) who is not a holder of a meat export licence shall not represent that he is able to export meat from Australia.

“(3) A person (other than the Corporation) shall not make a contract for the carriage of meat, by sea, to a country or place outside Australia unless the person—

- (a) is the holder of a meat export licence; or
- (b) makes the contract as the agent of the holder of a meat export licence.

“(4) Sub-sections (2) and (3) do not apply in relation to meat of a kind that is declared by the regulations to be, for the purposes of this Act, meat unfit for human consumption.

“(5) A person (other than the Corporation) who is not the holder of a live-stock export licence shall not represent that he is able to export live-stock from Australia.

“(6) A person (other than the Corporation) shall not make a contract for the carriage of live-stock, by sea, to a country or place outside Australia unless the person—

- (a) is the holder of a live-stock export licence; or
- (b) makes the contract as the agent of the holder of a live-stock export licence.

Penalty: \$5,000 or imprisonment for 12 months, or both.

Forfeiture of goods

“50C. (1) Where a court convicts a person of an offence against this Act in respect of any meat or live-stock, the court may order the forfeiture to the Commonwealth of the meat or live-stock.

“(2) The forfeiture of any meat under sub-section (1) extends to the forfeiture of any covering in which the meat is contained.

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“(3) Any meat or live-stock forfeited under this section may be sold, or otherwise disposed of, as a person prescribed for the purposes of this sub-section thinks fit.

Certain offences punishable on summary conviction

“50D. An offence against section 16C, 47G, 50A or 50B is punishable on summary conviction.”.

Regulations

14. Section 52 of the Principal Act is amended—

(a) by omitting paragraph (a); and

(b) by omitting from paragraph (d) “\$500” and substituting “\$1,000”.

NOTE

1. No. 67, 1977, as amended. For previous amendments, see No. 36, 1978; No. 76, 1979; No. 167, 1980; Nos. 61 and 150, 1981; and No. 48, 1982.