



# **Export Control Amendment (Streamlining Administrative Processes) Act 2023**

**No. 64, 2023**

**An Act to amend the *Export Control Act 2020*, and  
for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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# Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
<b>Schedule 1—Information management</b>		<b>3</b>
	<i>Export Control Act 2020</i>	3
<b>Schedule 2—Other amendments</b>		<b>15</b>
	Part 1—Amendments	15
	<i>Export Control Act 2020</i>	15
	Part 2—Application provisions	27





# **Export Control Amendment (Streamlining Administrative Processes) Act 2023**

**No. 64, 2023**

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**An Act to amend the *Export Control Act 2020*, and  
for related purposes**

*[Assented to 13 September 2023]*

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *Export Control Amendment (Streamlining  
Administrative Processes) Act 2023*.

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*No. 64, 2023      Export Control Amendment (Streamlining Administrative Processes)  
Act 2023* *1*

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	13 September 2023
2. Schedule 1	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 February 2024 (F2023N00608)
3. Schedule 2	The day after this Act receives the Royal Assent.	14 September 2023

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Schedule 1—Information management

### *Export Control Act 2020*

#### 1 Section 12 (definition of *Commonwealth body*)

After “an authority”, insert “or agency”.

#### 2 Section 12

Insert:

*Commonwealth entity* has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

*de-identified*, in relation to personal information, has the same meaning as in the *Privacy Act 1988*.

#### 3 Section 12

Repeal the following definitions:

- (a) definition of *enforcement body*;
- (b) definition of *enforcement-related activity*.

#### 4 Section 12

Insert:

*entrusted person* means any of the following:

- (a) the Minister;
- (b) the Secretary;
- (c) an APS employee in the Department;
- (d) any other person employed or engaged by the Commonwealth to provide services to the Commonwealth in connection with the Department;
- (e) any other person who is:
  - (i) employed or engaged by the Commonwealth or a body corporate that is established by a law of the Commonwealth; and
  - (ii) in a class of persons specified by rules made for the purposes of this subparagraph.

**5 Section 12 (definition of *protected information*)**

Repeal the definition, substitute:

*protected information* has the meaning given by section 397F.

**6 Section 12**

Insert:

*relevant information* means information obtained or generated by a person in the course of or for the purposes of:

- (a) performing functions or duties, or exercising powers, under this Act; or
- (b) assisting another person to perform functions or duties, or exercise powers, under this Act.

**7 Section 12**

Repeal the following definitions:

- (a) definition of *secondary permissible purpose*;
- (b) definition of *sensitive information*.

**8 Section 12 (definition of *State or Territory body*)**

After “an authority”, insert “or agency”.

**9 Section 12 (definition of *use*)**

Repeal the definition.

**10 Subsection 288(3) (after table item 26)**

Insert:

26A	To use or disclose relevant information	Sections 389 to 394 and 397D
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**11 Subsection 359(1) (after table item 34)**

Insert:

34A	Subsection 397G(6)
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**12 Part 3 of Chapter 11**

Repeal the Part, substitute:

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## Part 3—Information management

### Division 1—Introduction

#### 387 Simplified outline of this Part

Entrusted persons and certain other persons can use or disclose information (referred to as relevant information) obtained or generated under this Act in accordance with this Part.

Entrusted persons and certain other persons may commit an offence or be liable to a civil penalty if they use or disclose protected information other than in accordance with this Part.

Note 1: Each provision in Division 2 provides an authorisation for the purposes of the *Privacy Act 1988* and other laws.

Note 2: Nothing in this Part prevents the Commonwealth from making agreements or other arrangements to impose conditions on the use or disclosure of relevant information by a person or body who obtains the information as a result of a disclosure authorised under Division 2.

### Division 2—Authorised uses and disclosures of relevant information

#### 388 Use or disclosure for the purposes of this Act

- (1) An entrusted person or a person covered by subsection (2) may use or disclose relevant information in the course of or for the purposes of:
  - (a) performing functions or duties, or exercising powers, under this Act; or
  - (b) assisting another person to perform functions or duties, or exercise powers, under this Act.
- (2) The following persons are covered by this subsection:
  - (a) a person employed or engaged by the Commonwealth or a body corporate that is established by a law of the Commonwealth;
  - (b) an authorised officer;

- (c) an approved auditor;
- (d) an approved assessor;
- (e) an accredited veterinarian;
- (f) a nominated export permit issuer;
- (g) an issuing officer.

**389 Disclosure to foreign governments etc. for export, trade and other purposes**

An entrusted person may disclose relevant information to a foreign government, an authority or agency of a foreign government or an international body of an intergovernmental character, for the purposes of:

- (a) the export of goods from Australian territory or export operations; or
- (b) managing Australia's international relations in respect of trade; or
- (c) giving effect to Australia's international obligations.

**390 Use or disclosure for the purposes of certain Acts**

An entrusted person may use or disclose relevant information if the use or disclosure is for the purposes of the administration of this Act or another Act that is administered by the Minister.

**391 Disclosure to a Commonwealth entity**

An entrusted person may disclose relevant information to a Commonwealth entity if the disclosure is for the purposes of assisting the entity to perform its functions or duties or exercise its powers.

**392 Disclosure to a court, tribunal etc.**

- (1) An entrusted person may disclose relevant information to a court exercising federal jurisdiction.
- (2) An entrusted person may disclose relevant information to:
  - (a) a court; or

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(b) a tribunal, authority or person that has the power to require the answering of questions or the production of documents; for the purposes of the enforcement of a law of the Commonwealth or to assist the court, tribunal, authority or person to make or review an administrative decision that is required or authorised to be made under a law of the Commonwealth.

### **393 Disclosure for the purposes of law enforcement**

- (1) An entrusted person may disclose relevant information to a body mentioned in subsection (2) if:
- (a) the entrusted person reasonably believes that disclosing the information is necessary for:
    - (i) the enforcement of the criminal law; or
    - (ii) the enforcement of a law imposing a pecuniary penalty; or
    - (iii) the protection of public revenue; and
  - (b) the functions of the body include that enforcement or protection; and
  - (c) for a body mentioned in paragraph (2)(b) or (d)—the body has undertaken not to use or further disclose the information except in accordance with an agreement that:
    - (i) is in force between the Commonwealth and the State or Territory; and
    - (ii) applies in relation to the information; and
  - (d) for a body mentioned in paragraph (2)(b) or (d)—the entrusted person is satisfied that the information will be used or further disclosed only in accordance with the agreement.
- (2) The bodies are the following:
- (a) a Commonwealth entity;
  - (b) a State or Territory body;
  - (c) the Australian Federal Police;
  - (d) the police force or police service of a State or Territory.

### **394 Use or disclosure for research, policy development or data analysis**

- (1) An entrusted person may:
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- (a) use relevant information; or
  - (b) disclose relevant information to an entrusted person; or
  - (c) disclose relevant information to another person or body;  
for the purposes of the person or body undertaking research, policy development or data analysis to assist the Department with:
  - (d) the administration of this Act; or
  - (e) achieving one or more objects of this Act.
- (2) An entrusted person is not authorised under paragraph (1)(c) to disclose relevant information to:
- (a) another person who is not employed or engaged by the Commonwealth or a body corporate that is established by a law of the Commonwealth; or
  - (b) a body that is not a Commonwealth entity;
- unless:
- (c) the other person or body has undertaken not to use or further disclose the information except in accordance with an agreement that:
    - (i) is in force between the Commonwealth and that person or body; and
    - (ii) applies in relation to the information; and
  - (d) the entrusted person is satisfied that the information will be used or further disclosed only in accordance with the agreement.
- (3) An entrusted person is not authorised under paragraph (1)(c) to disclose relevant information unless the entrusted person is satisfied that:
- (a) in the case of research, policy development or data analysis that could not proceed if personal information were de-identified before the relevant information is disclosed—only the minimum amount of personal information necessary to proceed is disclosed; or
  - (b) otherwise—all reasonable steps have been taken to de-identify any personal information before the relevant information is disclosed.

**395 Use or disclosure of statistics**

An entrusted person may use or disclose relevant information if the information is statistics that are not likely to enable the identification of a person.

**396 Use or disclosure of publicly available information**

An entrusted person may use or disclose relevant information if the information has already been lawfully made available to the public.

**397 Disclosure to person to whom information relates**

An entrusted person may disclose relevant information to the person to whom the information relates.

**397A Use or disclosure with consent**

An entrusted person may use or disclose relevant information that relates to a person if:

- (a) the person has consented to the use or disclosure; and
- (b) the use or disclosure is in accordance with that consent.

**397B Disclosure to person who provided information**

An entrusted person may disclose relevant information to the person who provided the information.

**397C Disclosure to State or Territory body**

The Secretary may disclose relevant information to a State or Territory body if:

- (a) the Secretary reasonably believes that disclosing the information is necessary for the purposes of the administration of a law of a State or Territory; and
- (b) the State or Territory body has undertaken not to use or further disclose the information except in accordance with an agreement that:
  - (i) is in force between the Commonwealth and the State or Territory; and

- (ii) applies in relation to the information; and
- (c) the Secretary is satisfied that the information will be used or further disclosed only in accordance with the agreement.

### **397D Use or disclosure to manage severe and immediate threats**

The Secretary may use or disclose relevant information if the Secretary reasonably believes that:

- (a) using or disclosing the information is necessary to manage a severe and immediate threat to human health, animal health, plant health or the environment; and
- (b) the threat:
  - (i) arises in connection with the export of goods from Australian territory or export operations; or
  - (ii) has the potential to cause harm on a nationally significant scale.

### **397E Use or disclosure authorised by rules**

- (1) A person may use relevant information if:
  - (a) the person is included in a class of persons prescribed by rules made for the purposes of this paragraph; and
  - (b) the use is for a purpose prescribed by rules made for the purposes of this paragraph; and
  - (c) the information is of a kind prescribed by rules made for the purposes of this paragraph; and
  - (d) the use complies with any conditions prescribed by rules made for the purposes of this paragraph.
- (2) A person may disclose relevant information if:
  - (a) the person is included in a class of persons prescribed by rules made for the purposes of this paragraph; and
  - (b) the disclosure is for a purpose prescribed by rules made for the purposes of this paragraph; and
  - (c) the information is of a kind prescribed by rules made for the purposes of this paragraph; and
  - (d) the disclosure complies with any conditions prescribed by rules made for the purposes of this paragraph.

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- (3) Rules made for the purposes of this section must specify the legislative power or powers of the Parliament in respect of which the rules are made.
  - (4) The other provisions of this Division do not limit the rules that may be made for the purposes of this section.

### **Division 3—Protected information**

#### **397F Meaning of *protected information***

- (1) ***Protected information*** means information of any of the following kinds obtained or generated by a person:
    - (a) information (including commercially sensitive information) the disclosure of which could reasonably be expected to found an action by a person (other than the Commonwealth) for breach of a duty of confidence;
    - (b) information the disclosure of which could reasonably be expected to prejudice the prevention, detection, investigation, prosecution or punishment of one or more offences;
    - (c) information the disclosure of which could reasonably be expected to prejudice the security, defence or international relations of Australia;
    - (d) information of a kind prescribed by rules made for the purposes of this paragraph.
- Note 1: The rules are made by the Secretary under section 432. They are a disallowable legislative instrument and are subject to sunseting under the *Legislation Act 2003*.
- Note 2: The Minister may, by legislative instrument, give directions to the Secretary in relation to the performance of the Secretary's functions or the exercise of the Secretary's powers in making rules under section 432 (see subsection 289(1)).
- (2) Before the Secretary makes rules prescribing a kind of information for the purposes of paragraph (1)(d), the Secretary must be satisfied that disclosure of that kind of information would or could reasonably be expected to:
    - (a) prejudice the effective working of the Department; or
    - (b) otherwise harm the public interest.

**397G Offence and civil penalty—use or disclosure of protected information**

*Unauthorised use or disclosure*

- (1) A person contravenes this subsection if:
- (a) the person is, or has been, an entrusted person or a person covered by subsection (2); and
  - (b) the person has obtained or generated information in the course of or for the purposes of:
    - (i) performing functions or duties, or exercising powers, under this Act; or
    - (ii) assisting another person to perform functions or duties, or exercise powers, under this Act; and
  - (c) the information is protected information; and
  - (d) the person uses or discloses the information.

Note: The physical elements of offences against subsections (5) and (6) are set out in this subsection (see section 370).

- (2) The following persons are covered by this subsection:
- (a) a person employed or engaged by the Commonwealth or a body corporate that is established by a law of the Commonwealth;
  - (b) an authorised officer;
  - (c) an approved auditor;
  - (d) an approved assessor;
  - (e) an accredited veterinarian;
  - (f) a nominated export permit issuer.

*Exception—required or authorised by law*

- (3) Subsection (1) does not apply if the use or disclosure of the information is required or authorised by:
- (a) this Act or another law of the Commonwealth; or
  - (b) a law of a State or Territory prescribed by rules made for the purposes of this paragraph.

Note: A defendant bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the *Regulatory Powers Act*).



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*Exception—good faith*

- (4) Subsection (1) does not apply if the person uses or discloses the information in good faith:
- (a) in the purported performance of functions or duties, or the purported exercise of powers, under this Act; or
  - (b) in assisting another person in the purported performance of the other person's functions or duties, or the purported exercise of the other person's powers, under this Act.

Note: A defendant bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the *Regulatory Powers Act*).

*Fault-based offence*

- (5) A person commits an offence if the person contravenes subsection (1).

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

*Strict liability offence*

- (6) A person commits an offence of strict liability if the person contravenes subsection (1).

Penalty: 50 penalty units.

*Civil penalty provision*

- (7) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty: 240 penalty units.

**13 Application, saving and transitional provisions**

- (1) The amendments of the *Export Control Act 2020* made by this Schedule apply in relation to the use or disclosure of relevant information on or after the commencement of this item, whether the relevant information is obtained or generated before, on or after that commencement.
- (2) To avoid doubt, for information that is obtained or generated before the commencement of this item and is protected information within the

meaning of the *Export Control Act 2020* as in force immediately before that commencement:

- (a) the *Export Control Act 2020* as amended by this Schedule applies in relation to such information as if it were relevant information; and
  - (b) a person may satisfy paragraph 397G(1)(b) of that Act, as inserted by this Schedule, in respect of such information; and
  - (c) nothing in this subitem prevents such information from also being protected information within the meaning of section 397F of that Act as inserted by this Schedule.
- (3) Despite the amendments of the *Export Control Act 2020* made by this Schedule, sections 388 to 397 of that Act, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to the use or disclosure, before that commencement, of protected information (within the meaning of that Act as in force immediately before that commencement).

## **Schedule 2—Other amendments**

### **Part 1—Amendments**

#### *Export Control Act 2020*

##### **1 After paragraph 87(2)(a)**

Insert:

- (ab) to make the variation, or give the approval, with additional conditions or variations of conditions; or

##### **2 Subsection 87(2) (note 3)**

Omit “to refuse the application”, substitute “to approve the application with additional conditions or variations of conditions, or to refuse the application,”.

##### **3 Subsection 87(3)**

Omit “the variation, or give the approval,”, substitute “a decision under paragraph (2)(a) or, subject to subsections (4) and (5), paragraph (2)(ab),”.

##### **4 Subsection 87(3)**

Omit “the variation were made or the approval were given”, substitute “the decision is made”.

##### **5 At the end of section 87**

Add:

*Making variation or giving approval with additional conditions or variations of conditions*

- (4) The Secretary may make the variation, or give the approval, with additional conditions or variations of conditions under paragraph (2)(ab) only if the Secretary reasonably believes that the additional conditions or variations of conditions are necessary:
  - (a) to ensure the requirements prescribed by rules made for the purposes of paragraph 79(2)(b) will continue to be met; or
  - (b) to ensure compliance with a condition of the accreditation; or

- (c) to correct a minor or technical error; or
  - (d) for any other reason prescribed by the rules.
- (5) The Secretary must not make a decision under paragraph (2)(ab) unless the Secretary has given a written notice to the manager of the accredited property in accordance with subsection (6).
- (6) The written notice must:
- (a) specify each proposed additional condition or variation of a condition; and
  - (b) specify the grounds for each proposed additional condition or variation of a condition; and
  - (c) request the manager of the property to give the Secretary, within 14 days after the day the notice is given, a written statement showing cause why the proposed additional conditions or variations of conditions should not be made; and
  - (d) include a statement setting out the manager's right to seek a review of a decision made under paragraph (2)(ab).

## **6 Before subsection 88(1)**

Insert:

*Variation or approval*

## **7 At the end of section 88**

Add:

*Variation or approval with additional conditions or variations of conditions*

- (3) If the Secretary makes a variation, or gives an approval, with additional conditions or variations of conditions in relation to the accreditation of a property under paragraph 87(2)(ab), the Secretary must give the manager of the property written notice of the variation or approval.
- (4) The notice must state the following:
- (a) details of the variation or approval;

- (b) if the Secretary varied the conditions of the accreditation as requested in the application under subsection 87(1)—the varied conditions;
- (c) the additional conditions or variations of conditions;
- (d) the date the variation, approval, varied conditions or additional conditions take effect, which must not be before the earlier of the following:
  - (i) the day after any response requested in the written notice (the *show cause notice*) given to the manager under subsection 87(5) is received by the Secretary;
  - (ii) the end of 14 days after the show cause notice was given;
- (e) any other information prescribed by the rules.

Note: The accreditation, as varied, remains in force as provided by section 82.

### **8 Paragraphs 89(1)(a) and (2)(a)**

Omit “subsection 87(2)”, substitute “paragraph 87(2)(a) or 87(2)(ab)”.

### **9 After paragraph 120(2)(a)**

Insert:

- (ab) to make the variation, or approve the alteration, with additional conditions or variations of conditions; or

### **10 Subsection 120(2) (note 3)**

Omit “to refuse the application”, substitute “to approve the application with additional conditions or variations of conditions, or to refuse the application,”.

### **11 Subsection 120(3)**

Omit “the variation or approve the alteration”, substitute “a decision under paragraph (2)(a) or, subject to subsections (4) and (5), paragraph (2)(ab),”.

### **12 Subsection 120(3)**

Omit “the variation were made or the alteration were approved”, substitute “the decision is made”.

### 13 At the end of section 120

Add:

*Making variation or approving alteration with additional conditions or variations of conditions*

- (4) The Secretary may make the variation, or approve the alteration, with additional conditions or variations of conditions under paragraph (2)(ab) only if the Secretary reasonably believes that the additional conditions or variations of conditions are necessary:
  - (a) to ensure the integrity of a kind of prescribed goods covered by the registration; or
  - (b) to ensure:
    - (i) compliance with the requirements of this Act in relation to the export operations and prescribed goods covered by the registration; or
    - (ii) that importing country requirements relating to the export operations and prescribed goods covered by the registration are, or will be, met; or
  - (c) to ensure compliance with a condition of the registration; or
  - (d) to address circumstances relating to the condition of, or the equipment or facilities in, the registered establishment that have changed or will change; or
  - (e) to address circumstances relating to a change to the suitability of the establishment for the export operations covered by the registration; or
  - (f) to correct a minor or technical error; or
  - (g) for any other reason prescribed by the rules.
- (5) The Secretary must not make a decision under paragraph (2)(ab) unless the Secretary has given a written notice to occupier of the establishment in accordance with subsection (6).
- (6) The written notice must:
  - (a) specify each proposed additional condition or variation of a condition; and
  - (b) specify the grounds for each proposed additional condition or variation of condition; and

- (c) request the occupier of the establishment to give the Secretary, within 14 days after the day the notice is given, a written statement showing cause why the proposed additional conditions or variations of conditions should not be made; and
- (d) include a statement setting out the occupier's right to seek a review of a decision made under paragraph (2)(ab).

#### **14 Before subsection 121(2)**

Insert:

*Variation or approval*

#### **15 At the end of section 121**

Add:

*Variation or approval with additional conditions or variations of conditions*

- (4) If the Secretary makes a variation, or approves an alteration, with additional conditions or variations of conditions in relation to the registration of an establishment under paragraph 120(2)(ab), the Secretary must give the occupier of the establishment written notice of the variation or approval.
- (5) The notice must state the following:
  - (a) the details of the variation or approval;
  - (b) if the Secretary varied the conditions of the registration as requested in the application under subsection 120(1)—the varied conditions;
  - (c) the additional conditions or variations of conditions;
  - (d) the date the variation, approval, varied conditions or additional conditions take effect, which must not be before the earlier of the following:
    - (i) the day after any response requested in the written notice (the **show cause notice**) given to the occupier under subsection 120(5) is received by the Secretary;
    - (ii) the end of 14 days after the show cause notice was given;

- (e) any other information prescribed by the rules.
- (6) If the certificate of registration for the establishment needs to be changed to take account of the variation, approval, varied conditions or additional conditions, the Secretary must, within 7 days after making the variation or giving the approval, give the occupier of the establishment a new certificate of registration including the variation, alteration that has been approved, varied conditions or additional conditions.

Note: The registration, as varied, remains in force as provided by section 115.

**16 Subparagraph 122(1)(b)(ii)**

Omit “subsection 120(2)”, substitute “paragraph 120(2)(a) or 120(2)(ab)”.

**17 After paragraph 161(2)(a)**

Insert:

- (ab) to approve the variation, or vary the conditions, with additional conditions or variations of conditions; or

**18 Subsection 161(2) (note 3)**

Omit “to refuse the application”, substitute “to approve the application with additional conditions or variations of conditions, or to refuse the application,”.

**19 After subsection 161(2)**

Insert:

*Approval with additional conditions or variations of conditions*

- (2A) The Secretary may make a decision under paragraph (2)(ab) only if the Secretary reasonably believes that the additional conditions or variations of conditions are necessary:
  - (a) to ensure the integrity of a kind of prescribed goods covered by the approved arrangement; or
  - (b) to ensure that export operations covered by the approved arrangement will be carried out in accordance with the approved arrangement; or



- (c) to ensure compliance with a condition of the approved arrangement; or
  - (d) to address circumstances relating to a kind of export operations carried out in relation to a kind of prescribed goods covered by the approved arrangement that have changed or will change; or
  - (e) to ensure:
    - (i) compliance with the requirements of this Act in relation to the export operations and goods covered by the approved arrangement; or
    - (ii) that importing country requirements relating to the export operations and goods covered by the approved arrangement are, or will be, met; or
  - (f) to correct a minor or technical error; or
  - (g) for any other reason prescribed by the rules.
- (2B) The Secretary must not make a decision under paragraph (2)(ab) unless the Secretary has given a written notice to the holder of the approved arrangement in accordance with subsection (2C).
- (2C) The written notice must:
- (a) specify each proposed additional condition or variation of a condition; and
  - (b) specify the grounds for each proposed additional condition or variation of a condition; and
  - (c) request the holder of the approved arrangement to give the Secretary, within 14 days after the day the notice is given, a written statement showing cause why the proposed additional conditions or variations of conditions should not be made; and
  - (d) include a statement setting out the holder's right to seek review of a decision made under paragraph (2)(ab).

## **20 Before subsection 161(3)**

Insert:

*Refusal*

**21 Before subsection 162(1)**

Insert:

*Approval*

**22 At the end of section 162**

Add:

*Approval with additional conditions or variations of conditions*

- (3) If the Secretary approves a variation of an approved arrangement, or varies the conditions of an approved arrangement, with additional conditions or variations of conditions under paragraph 161(2)(ab), the Secretary must give the holder of the approved arrangement written notice of the approval or variation.
- (4) The notice must state the following:
- (a) if the Secretary approved a variation of the approved arrangement—the details of the variation;
  - (b) if the Secretary varied the conditions of the approved arrangement as requested in the application under subsection 161(1)—the varied conditions;
  - (c) the additional conditions or variations of conditions;
  - (d) the date the variation, varied conditions or additional conditions take effect, which must not be before the earlier of the following:
    - (i) the day after any response requested in the written notice (the *show cause notice*) given to the holder under subsection 161(2B) is received by the Secretary;
    - (ii) the end of 14 days after the show cause notice was given;
  - (e) any other information prescribed by the rules.

Note: The approved arrangement, as varied, remains in force as provided by section 154.

**23 Subparagraphs 163(1)(b)(i) and (ii)**

After “paragraph 161(2)(a)”, insert “or 161(2)(ab)”.

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**24 Subparagraphs 165(2)(e)(i), 171(1)(f)(i) and 179(1)(f)(i)**

Omit “; and”, substitute “; or”.

**25 After subparagraph 199(2)(a)**

Insert:

- (ab) to make the variation with additional conditions or variations of conditions; or

**26 Subsection 199(2) (note 3)**

After “A decision to”, insert “approve the application with additional conditions or variations of conditions or to”.

**27 Subsection 199(3)**

Omit “the variation”, substitute “a decision under paragraph (2)(a) or, subject to subsections (4) and (5), paragraph (2)(ab)”.

**28 At the end of section 199**

Add:

*Variation with additional conditions or variations of conditions*

- (4) The Secretary may make the variation with additional conditions or variations of conditions under paragraph (2)(ab) only if the Secretary reasonably believes that the additional conditions or variations of conditions are necessary:
  - (a) to ensure the integrity of a kind of prescribed goods covered by the licence; or
  - (b) to ensure:
    - (i) compliance with the requirements of this Act in relation to the export operations and prescribed goods covered by the licence; or
    - (ii) that importing country requirements relating to the export operations and prescribed goods covered by the licence are, or will be, met; or
  - (c) to ensure compliance with a condition of the licence; or
  - (d) to correct a minor or technical error; or
  - (e) for any other reason prescribed by the rules.

- (5) The Secretary must not make a decision under paragraph (2)(ab) unless the Secretary has given a written notice to the holder of the licence in accordance with subsection (6).
- (6) The written notice must:
  - (a) specify each proposed additional condition or variation of a condition; and
  - (b) specify the grounds for each proposed additional condition or variation of a condition; and
  - (c) request the holder of the licence to give the Secretary, within 14 days after the day the notice is given, a written statement showing cause why the proposed additional conditions or variations of conditions should not be made; and
  - (d) include a statement setting out the holder's right to seek review of a decision made under paragraph (2)(ab).

**29 Before subsection 200(1)**

Insert:

*Variation*

**30 At the end of section 200**

Add:

*Variation with additional conditions or variations of conditions*

- (4) If the Secretary makes a variation with additional conditions or variations of conditions under paragraph 199(2)(ab), the Secretary must give the holder of the licence written notice of the variation.
- (5) The notice must state the following:
  - (a) details of the variation;
  - (b) if the Secretary varied the conditions of the licence as requested in the application under subsection 199(1)—the varied conditions;
  - (c) the additional conditions or variations of conditions;
  - (d) the date the variation, varied conditions or additional conditions take effect, which must not be before the earlier of the following:

- (i) the day after any response requested in the written notice (the *show cause notice*) given to the holder under subsection 199(5) is received by the Secretary;
  - (ii) the end of 14 days after the show cause notice was given;
  - (e) any other information prescribed by the rules.
- (6) If the export licence needs to be changed to take account of the variation, varied conditions or additional conditions, the Secretary must, within 7 days after making the variation, give the holder of the licence a new export licence including the variation, varied conditions or additional conditions.

Note: The export licence, as varied, remains in force as provided by section 194.

### **31 After subparagraph 372(2)(a)(v)**

Insert:

- (va) the *Primary Industries Levies and Charges Collection Act 1991*;

### **32 Subsection 381(1) (after table item 6)**

Insert:

6A	To make a variation or give an approval with additional conditions or variations of conditions in relation to the accreditation of a property	Paragraph 87(2)(ab)	The manager of the property
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### **33 Subsection 381(1) (after table item 22)**

Insert:

22A	To make a variation or approve an alteration with additional conditions or variations of conditions in relation to the registration of an establishment	Paragraph 120(2)(ab)	The occupier of the establishment
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**34 Subsection 381(1) (after table item 38)**

Insert:

38A	To approve a variation of an approved arrangement or vary conditions of an approved arrangement with additional conditions or variations of conditions	Paragraph 161(2)(ab)	The holder of the approved arrangement
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**35 Subsection 381(1) (after table item 56)**

Insert:

56A	To make a variation with additional conditions or variations of conditions in relation to an export licence	Paragraph 199(2)(ab)	The holder of the export licence
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## **Part 2—Application provisions**

### **36 Definitions**

In this Part:

*amending Part* means Part 1 of this Schedule.

*commencement day* means the day this Schedule commences.

*Export Control Act* means the *Export Control Act 2020*.

### **37 Application—application for variation of accreditation**

- (1) This item applies if the Secretary had not made a decision in relation to an application made under section 87 of the Export Control Act before the commencement day.
- (2) Sections 87 and 88 of the Export Control Act, as amended by the amending Part, apply in relation to the application and the decision.

### **38 Application—application for variation of registration**

- (1) This item applies if the Secretary had not made a decision in relation to an application made under section 120 of the Export Control Act before the commencement day.
- (2) Sections 120 and 121 of the Export Control Act, as amended by the amending Part, apply in relation to the application and the decision.

### **39 Application—application for variation of approved arrangement**

- (1) This item applies if the Secretary had not made a decision in relation to an application made under section 161 of the Export Control Act before the commencement day.
- (2) Sections 161 and 162 of the Export Control Act, as amended by the amending Part, apply in relation to the application and the decision.

**40 Application—application for variation of export licence**

- (1) This item applies if the Secretary had not made a decision in relation to an application made under section 199 of the Export Control Act before the commencement day.
- (2) Sections 199 and 200 of the Export Control Act, as amended by the amending Part, apply in relation to the application and the decision.

**41 Application—fit and proper person test**

- (1) This item applies if the Secretary had not made a decision in relation to an application made under section 111, 116, 120, 150, 155, 190 or 195 of the Export Control Act before the commencement day.
- (2) Subparagraph 372(2)(a)(va) of the Export Control Act, as inserted by the amending Part, applies in relation to the application and the decision.

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*[Minister's second reading speech made in—  
House of Representatives on 30 November 2022  
Senate on 9 February 2023]*

(127/22)