



Statutory Rules 1998 No. ¹ /

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Australian Meat and Live-stock Industry (Export Licensing) Regulations 1998

I, WILLIAM PATRICK DEANE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Australian Meat and Live-stock Industry Act 1997*.

Dated 30 JUN 1998 1998.

WILLIAM DEANE

Governor-General

By His Excellency's Command,

JOHN ANDERSON

Minister for Primary Industries and Energy

Name of Regulations

1. These Regulations are the *Australian Meat and Live-stock Industry (Export Licensing) Regulations 1998*.

Commencement

2. These Regulations commence on 1 July 1998.

Meaning of expressions

3. (1) In these Regulations:

Act means the Australian Meat and Live-stock Industry Act 1997.

person in management and control:

- (a) in relation to an existing meat or live-stock export business—means a person who is taken, under subsection 8 (1) of the Act, to participate in the management or control of the business; or
- (b) in relation to a proposed meat or live-stock export business—means a person who would be taken, under that subsection, to participate, in the management or control of the business.

standards body means a body responsible for setting standards for meat or live-stock for export.

Note The standards bodies are:

- for meat export—AUS-MEAT Ltd; and
- for live-stock export—the Australian Livestock Export Corporation Ltd.

(2) A reference to a relevant standards body is a reference:

- (a) in relation to a meat export business—to a body responsible for setting standards for meat for export; and
- (b) in relation to a live-stock export business—to a body responsible for setting standards for live-stock for export.

(3) Expressions used in these Regulations and in Part 2 of the Act have, unless the contrary intention appears, the same meanings in these Regulations as in that Part.

Meat unfit for human consumption

4. For paragraph 8 (2) (a) of the Act, the following kinds of meat are declared to be meat unfit for human consumption:

- (a) meat that is, or has been, in a container labelled or marked as containing:
 - (i) pet food; or
 - (ii) inedible meat; or
 - (iii) pharmaceutical material; or

- (b) meat that is stained in a way that identifies it as pet food or inedible meat.

Prescribed industry bodies (Act, s 9)

5. For section 9 of the Act, the following bodies are prescribed:

- (a) the Red Meat Advisory Council;
- (b) the Goat Industry Council of Australia;
- (c) the National Meat Association of Australia;
- (d) the Australian Meat Council Ltd;
- (e) the Australian Meat Processor Corporation Ltd;
- (f) the Cattle Council of Australia Inc.;
- (g) the Sheepmeat Council of Australia Inc.;
- (h) the Australian Livestock Exporters' Council Ltd;
- (i) the Australian Lot Feders' Association;
- (j) Meat and Livestock Australia Ltd;
- (k) the Australian Livestock Export Corporation Ltd.

Application for export licence

6. (1) For subsection 11 (1) of the Act, an application for an export licence must be in writing, and must set out:

- (a) the name and address of the applicant; and
- (b) the name and address of each person in management and control; and

Note For the meaning of *person in management and control*, see r 3 (2) and the Act, s 8.

- (c) whether the application is for a licence to export only meat, or only live-stock, or both meat and live-stock; and
- (d) whether the applicant, or any person in management and control in the meat or live-stock export business or proposed meat or live-stock export business, has been charged with an offence against a law of the Commonwealth or a State or Territory; and

- (e) subject to Part VIIC of the *Crimes Act 1914*—whether the applicant, or any person in management and control in the meat or live-stock export business or proposed meat or live-stock export business, has been convicted (within the meaning given by subsection 85ZM (1) of that Act) of an offence against a law of the Commonwealth or a State or Territory.

Note S 85ZM (1) of the *Crimes Act 1914* is as follows:

“(1) For the purposes of this Part, a person shall be taken to have been convicted of an offence if:

- (a) the person has been convicted, whether summarily or on indictment, of the offence;
- (b) the person has been charged with, and found guilty of, the offence but discharged without conviction; or
- (c) the person has not been found guilty of the offence, but a court has taken it into account in passing sentence on the person for another offence.”.

(2) If the applicant is an individual, the application must also set out:

- (a) whether the applicant operates, or intends to operate, the business in partnership with another individual or a body corporate; and
- (b) if the applicant operates, or intends to operate, the business in partnership—the name and address of each partner or proposed partner.

(3) If the applicant is a corporation, the application must also set out:

- (a) its Australian Company Number; and
- (b) whether the applicant is a subsidiary of, or is under the direction or financial control of, a foreign corporation, authority or organisation that has direct or indirect control of the importation of meat or live-stock into the country in which the foreign corporation, authority or organisation was incorporated or established and, if that is so, the name of the foreign corporation, authority or organisation.

(4) An application must include a declaration, signed by the applicant (or, if the applicant is a corporation, a director of the corporation):

- (a) to the effect that the information in the application is true in every material detail; and
- (b) that the person who signs the declaration knows that giving false information is an offence.

Note See s 55 of the Act.

(5) If the Secretary prepares an application form that asks for the information and declaration required by subregulations (1), (2), (3) and (4), and provides a copy of the form free to anybody who asks for it, an application that is not made on a copy of such a form is taken not to have been made.

(6) An application must also be accompanied by:

- (a) a copy of the accreditation certificate issued to the applicant by the relevant standards body; and
- (b) if the applicant is an individual who operates a meat or live-stock export business, or intends to operate a proposed meat or live-stock export business, in partnership—a copy of:
 - (i) the partnership agreement; and
 - (ii) the most recent audited balance sheet and profit and loss account of the partnership business; and
- (c) if the applicant is an individual who does not operate, or intend to operate, a meat or live-stock export business in partnership—a copy of an audited statement (for a period of 12 months ending within 3 months before the date of the application) of the assets and liabilities of the applicant.

(7) The application is not taken to have been made until any application fee payable is paid.

Application fee (Act, s 11 (2))

7. (1) The application fee for a live-stock export licence is \$500.

(2) The application fee for a meat export licence is \$500.

(3) However, if a person applies for both a meat export licence and a live-stock export licence (whether or not at the same time), only 1 application fee is payable.

(4) Also, if a person that is the occupier of a meat processing establishment registered under the *Export Control Act 1982* applies for a meat export licence or a live-stock export licence, no fee is payable.

What the Secretary must have regard to (Act, s 12 (2))

8. For subsection 12 (2) of the Act, the Secretary must have regard to the following matters when satisfying himself or herself about a matter mentioned in subsection 12 (1) of the Act:

- (a) whether the applicant, or any person in management and control in relation to the meat or live-stock export business or proposed meat or live-stock export business to which the application relates, has ever been convicted of an offence against a law of the Commonwealth or a State or Territory;
- (b) whether the applicant or a person in management and control of the business has been charged with an offence against a law of the Commonwealth or a State or Territory;
- (c) if information in the application or in a document accompanying the application is false or misleading in a material detail—whether the applicant, or any person in management and control, knew, or should have known, that the information was false or misleading;
- (d) whether the applicant has been accredited by the relevant standards body;
- (e) if the applicant is an individual—the assets and liabilities of the applicant;
- (f) whether the applicant or any person in management and control of the business owes, or has ever owed, the Commonwealth any amount by way of a fee, charge or levy payable under a law of the Commonwealth, or by way of penalty for failing to pay such a fee, charge or levy;

- (g) whether the applicant or any person in management and control of the business has failed to comply with a condition of an export licence, or with an order made or direction given under the Act;
- (h) whether the applicant or any person in management and control of the business has failed to comply with a condition of a licence of any other kind issued by the Commonwealth, a State or a Territory, or an authority of the Commonwealth, a State or a Territory;
- (i) whether the applicant or any person in management and control of the business has ever been refused an export licence, and if so the reasons for the refusal;
- (j) whether the applicant or any person in management and control of the business has ever been refused a licence of any other kind by the Commonwealth, a State or a Territory, or an authority of the Commonwealth, a State or a Territory, and if so the reasons for the refusal;
- (k) any other relevant matter known to the Secretary.

Further conditions to which licences are subject (Act, s 15)

9. (1) An export licence is subject to the conditions that the holder must:

- (a) permit a person appointed as an auditor by the relevant standards body to audit the holder's quality assurance system; and
- (b) provide any assistance reasonably required by such an auditor; and
- (c) produce to such an auditor any records or documents reasonably required by the auditor; and
- (d) comply with any reasonable request by such an auditor, or the standards body, to take action to correct any deficiencies found by the auditor.

(2) An export licence is subject to the condition that the holder must not export meat or live-stock except in accordance with the quality assurance system accredited by the relevant standards body.

(3) A live-stock export licence is subject to the condition that the holder must have regard to the mandatory animal welfare requirements prescribed by the relevant standards body at all times until exported animals are unloaded at their destination.

(4) An export licence is subject to the condition that, if an event or circumstance of which the holder must inform the Secretary happens, the way in which the holder must inform the Secretary is by:

- (a) completing the form supplied as an application form under subregulation 6 (5), as far as that form relates to the event or circumstance; and
- (b) making the declaration required by subregulation 6 (4).

Note See the Act, s 16. For the events, see r 9 (2).

Events of which licence holder must inform Secretary (Act, s 16)

10. (1) For section 16 of the Act, 7 days is prescribed.

(2) For that section, the following events or circumstances in relation to an export licence are prescribed:

- (a) the licence holder ceases to carry on the meat or live-stock export business to which the licence relates;
- (b) the licence holder, or a person in management and control of the business, is convicted of an offence against a law of the Commonwealth, a State or a Territory;
- (c) a person who has been described to the Secretary, in the application for the licence, as a person in management and control of the business, ceases to be a person in management and control of the business;
- (d) a person who has not been described to the Secretary, in the application for the licence, as a person in management and control of the business, begins to be a person in management and control of the business;
- (e) the licence holder receives notice that the licence holder is no longer regarded as an approved supplier of meat or live-stock by a foreign government importing authority, instrumentality or organisation;

- (f) a change of the licence holder's name;
- (g) a change in the scope of the licence holder's quality assurance system;
- (h) a change in the status of the licence holder's quality assurance system (that is, the system becoming, or ceasing to be, accredited by the relevant standards body).

(3) If the licence holder is a corporation, the following events or circumstances are also prescribed for that section:

- (a) a court orders that it be wound up;
- (b) a resolution is passed that it be wound up voluntarily.

(4) If the licence holder is an individual, the following events or circumstances are also prescribed for that section:

- (a) he or she becomes bankrupt;
- (b) he or she executes a deed of arrangement or a deed of assignment under Part X of the *Bankruptcy Act 1966*;
- (c) if he or she operates the meat or live-stock export business to which the licence relates in partnership:
 - (i) the membership of the partnership is changed; or
 - (ii) the partnership is dissolved.

Renewal of licence (Act, s 22)

11. (1) For subsection 22 (3) of the Act, an application for renewal of a licence must be made in the same way as an application for a new licence.

(2) For subsection 22 (4) of the Act, the application fee for renewal of a licence is the same as if the licence were being applied for for the first time.

Note For that fee, see r 7.

How things seized or samples taken are to be dealt with (Act, s 34 (5))

12. For subsection 34 (5) of the Act, a thing seized under paragraph 34 (2) (b) of the Act, or a sample taken under paragraph 34 (2) (c) of the Act:

- (a) must be labelled, tagged or marked in such a way as to make it identifiable; and
- (b) in the case of a sample—must be held under conditions that are unlikely to affect the result of any analysis of the sample; and
- (c) must be kept in the custody or control of an officer authorised by the Secretary for the purpose until it is despatched to an analyst appointed under subsection 53 (1) of the Act, or until it is destroyed or otherwise disposed of; and
- (d) may be analysed by an analyst appointed under subsection 53 (1) of the Act.

What must be in notice of appointment of nominee (Act, s 52 (3))

13. For subsection 52 (3) of the Act, a notice under subsection 52 (2) of the Act appointing someone as a nominee must contain:

- (a) his or her full name and address; and
- (b) his or her date of birth; and
- (c) if he or she has not been described to the Secretary as a person in management and control of the business in the application for the relevant export licence:
 - (i) whether he or she has been charged with an offence against a law of the Commonwealth, a State or a Territory; and
 - (ii) subject to Part VIIC of the *Crimes Act 1914*—whether he or she has been convicted (within the meaning given by subsection 85ZM (1) of that Act) of such an offence.

**Who can authorise sale or disposal of meat or live-stock
(Act, s 57 (3))**

14. For subsection 57 (3) of the Act, the Secretary or a delegate of the Secretary is prescribed.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

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1998.

1 July /