

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Agriculture, Fisheries and Forestry

Export Control Act 1982

Export Control (Organic Produce Certification) Amendment Orders 2005 (No. 1)

Subsection 25(1) of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or for giving effect to the Act.

Regulation 3 of the *Export Control (Orders) Regulations 1982* (“the Regulations”) provides that the Minister may, by instrument in writing, make orders, not inconsistent with regulations made under the Act, with respect to any matter for or in relation to which provision may be made by regulations made under the Act.

The *Export Control (Organic Produce Certification) Orders* (“the Principal Orders”) identify the conditions and restrictions on the export of organic produce for the purposes of section 7 of the Act.

The purpose of the *Export Control (Organic Produce Certification) Amendment Orders 2005 (No. 1)* (“the Amendment Orders”) is to amend the Principal Orders to:

- replace references to the *Prescribed Goods(General) Orders 1985* with the references to the corresponding provision of the *Export Control (Prescribed Goods—General) Order 2005* which will come into effect on 1 July 2005; and
- ensure the correct relationship between the *Export Control (Prescribed Goods—General) Order 2005* and the Principal Orders.

Consultation was not undertaken for the making of the Amendment Orders because the amendments are of a minor or machinery nature and do not substantially alter existing arrangements. For the same reason, the Office of Regulation Review advised that a regulation impact statement is not required.

Details of *Export Control (Organic Produce Certification) Amendment Orders 2005 (No. 1)* are set out below:

Order 1

This order provides that the name of these amending Orders is the *Export Control (Organic Produce Certification) Amendment Orders 2005*.

Order 2

This order provides that these Orders commence on 1 July 2005.

Order 3

This order provides that Schedule 1 amends the *Export Control (Organic Produce Certification) Orders*.

Schedule 1 Amendments

[1] Suborder 1.04. (1), the Note

This amendment replaces a reference to the *Prescribed Goods (General) Orders* with a reference to the *Export Control (Prescribed Goods—General) Order 2005*.

[2] Suborder 1.04. (2)

This amendment replaces the references to the *Prescribed Goods (General) Orders* with the corresponding references to the *Export Control (Prescribed Goods—General) Order 2005*.

This amendment differs from the current provisions in the following respects.

- The *Export Control (Prescribed Goods—General) Order 2005* does not retain the linkage with the conditions and restrictions on export that were set out in order 10 and 11 of the *Prescribed Goods (General) Orders 1985*. As a result these requirements cannot be incorporated in this amendment. However the key condition and restriction on the export of organic produce is the requirement for certification. This is already provided for in the Principal Orders.
- The *Export Control (Prescribed Goods—General) Order 2005* does not retain the packing and trade description requirements and the approval of substances provisions of the *Prescribed Goods (General) Orders 1985*. As a result these requirements cannot be incorporated in this amendment.
- The *Export Control (Prescribed Goods—General) Order 2005* does not retain the delegation provisions of the *Prescribed Goods (General) Orders 1985*. These do not need to be included as part of this amendment as provisions for delegation are now relocated in the *Export Control Act 1982*.
- The amendment makes a clear link with organic produce that is for export.

- The amendment expresses more precisely the interrelationship of the fit and proper person criteria of the *Export Control (Prescribed Goods—General) Order 2005* and the Principal Orders.

[3] Suborder 3.01. (2)

This amendment replaces the reference to the provision for the criteria for fit and proper persons in the *Prescribed Goods (General) Orders 1985* with the corresponding reference in the *Export Control (Prescribed Goods—General) Order 2005*.

[4] Suborder 3.05. (2)

This amendment replaces the reference to the provision for the criteria for fit and proper persons in the *Prescribed Goods (General) Orders 1985* with the corresponding reference in the *Export Control (Prescribed Goods—General) Order 2005*.

[5] Order 4.01.

This amendment replaces the reference to reconsideration and review provisions of the *Prescribed Goods (General) Orders 1985* with the corresponding reference in the *Export Control (Prescribed Goods—General) Order 2005*. The current access to reconsideration and review is unchanged.