

EXPLANATORY STATEMENT

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

Export Control Act 1982

Export Control (Meat and Meat Products) Amendment Orders 2005 (No. 2)

Section 3 of the *Export Control Act 1982* (“the Act”) defines “prescribed goods” to mean goods, or goods included in a class of goods, that are declared by the regulations to be prescribed goods for the purposes of the Act. Section 7 of the Act provides that the regulations may prohibit the export of prescribed goods from Australia absolutely or to a specified place or unless specified conditions or restrictions are complied with or to a specified place unless conditions or restrictions are complied with.

Subsection 14(1) of the Act provides that a person shall not, in contravention of the regulations, manufacture, possess or taken certain other action in relation to official marks and official marking devices. Subsection 14 (2) specifies that a maximum penalty of 5 years imprisonment applies to a contravention of subsection 14(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. The matters that the regulations may make provision for include:

- under paragraph 25(2)(f) of the Act, the prescribing of penalties not exceeding 50 penalty units for offences against the regulations; and
- under paragraph 25(2)(g) of the Act, subject to subsection 25(3) of the Act, empowering the Minister to make orders, not inconsistent with the regulations, with respect to any matter for or in relation to which provision may be made by the regulations.

Subsection 25(3) of the Act states that an order shall not be made prescribing any penalty for an offence.

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 (Meat and Meat Products) Orders 2005* (“the Principal Orders”) identify the conditions and restrictions on the export of meat and meat products for the purposes of section 7 of the Act. The Principal Orders also make provision for a range of matters that may be necessary to ensure the requirements of the Act are met including

inspections, dispositions, audit, registration approval of arrangements, issue of certificates and official marks.

The Principal Orders are to commence on 1 July 2005. The *Export Control (Prescribed Goods—General) Order 2005* is also to commence on that date.

The purpose of the *Export Control (Meat and Meat Products) Amendment Orders 2005 (No. 2)* is to amend the Principal Orders to:

- remove any overlap between the provisions of the *Export Control (Prescribed Goods—General) Order 2005* which prohibit the manufacture, possession, application or use of official marks and official marking devices and similar provisions in the Principal Orders; and
- correct typographical errors that have been identified.

The Office of Regulation Review have advised that a Regulation Impact Statement is not mandatory as the proposed amendments are of a minor or machinery nature and do not substantially alter existing arrangements.

Details of *Export Control (Meat and Meat Products) Amendment Orders 2005 (No. 2)* are set out below:

Order 1

1. This order provides that the name of these amending Orders is the *Export Control (Meat and Meat Products) Amendment Orders 2005 (No. 2)*.

Order 2

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

Order 3

3. This order provides that Schedule 1 amends the *Export Control (Meat and Meat Products) Orders 2005*.

Schedule 1 Amendments

[1] Order 64

This amendment remove any overlap between the provisions of the *Export Control (Prescribed Goods—General) Order 2005* which prohibit the manufacture, possession and application or use of official marks and official marking devices and similar provisions in the Principal Orders. This is achieved by suborder 64.1 of this amendment which adopts section 13.18 of the *Export Control (Prescribed Goods—General) Order 2005*. At the same time the

matters now covered in section 13.18 have been removed from the Principal Orders by this amendment.

In order to ensure that the current position under the Principal Orders is retained it is necessary to ensure that the manufacture, possession etc of an official marking device for use for meat and meat products may be undertaken by an authorized officer, a person acting under the direction of an authorized officer or where permitted under an approved arrangement. This is provided for in the amendment in suborder 64.2.

In order to ensure that the current position under the Principal Orders is retained it also necessary to insert the additional prohibition (currently set out in paragraph 64.3(b) of the Principal Orders) on altering or interfering with an official mark applied to meat or meat products for export for food. The prohibition applies unless the alteration of interference is undertaken by an authorized officer, a person acting under the direction of an authorized officer or is permitted under an approved arrangement. This is provided for in the amendment in suborder 64.3.

[2] Suborder 66.2

The effect of this amendment and amendment [3] is to correct a typographical error.

[3] Paragraph 66.2(a)

The effect of this amendment and amendment [2] is to correct a typographical error.

[4] Schedule 1, subclause 12.2 second time appearing

This amendment corrects a clerical error by removing a suborder which was not removed in a previous amendment and therefore in effect appears twice.

[5] Schedule 5, paragraph 8.2(a)

This amendment ensures that both of the relevant references to the Australian Meat Standard are inserted.

[6] Schedule 5, subclause 20.2

This amendment is required as a consequence of amendment [1] and replaces the reference to suborder 64.3 of the Principal Orders with a reference to the new provision of Schedule 6 (see amendment [9]) which contains the relevant matters that were previously referred to in suborder 64.3 of the Principal Orders.

[7] Schedule 6, paragraph 1.2(b)

This amendment corrects a punctuation error which had resulted in a previous amendment being regarded as misdescribed and therefore unable to be incorporated.

[8] Schedule 6, paragraph 1.2(k), Note 1

This amendment corrects an error which had resulted in a previous amendment being regarded as misdescribed and therefore unable to be incorporated.

[9] Schedule 6, clause 15

This amendment is required as a consequence of amendment [1]. The amendment inserts into clause 15 the relevant matters that were previously referred to in suborder 64.3 of the Principal Orders.

[10] Schedule 10, Table of contents, clause 16

This amendment inserts the correct heading for clause 16.

[11] Schedule 10, Table of contents, clause 30

This amendment inserts the correct heading for clause 30.