

EXPLANATORY STATEMENT

Issued by the authority of the delegate of the Secretary of the Department of
Agriculture, Fisheries and Forestry

Australian Meat and Live-stock Industry Act 1997

Australian Meat and Live-stock Industry (Standards) Amendment Order 2006 (No. 3)

Sub-paragraph 17(1)(a) of the *Australian Meat and Live-stock Industry Act 1997* ('the Act') provides that the Secretary may make written orders, not inconsistent with the regulations, to be complied with by the holders of export licences. Subsection 17(5) of the Act provides that a live-stock export licence is subject to the condition that the holder must comply with orders made under section 17 of the Act.

The *Australian Meat and Live-stock Industry (Standards) Order 2005* ('the Standards Order') states that the holder of an export licence for live-stock must not export live-stock except in accordance with the *Australian Standards for the Export of Livestock*. The latest version of the *Australian Standards for the Export of Livestock* is Version 2 of September 2006. This version of the *Australian Standards for the Export of Livestock* was given legislative force by an amendment to the Standards Order made by the *Australian Meat and Live-stock Industry (Standards) Amendment Order 2006 (No. 1)* ('the First Amendment Order').

The *Australian Meat and Live-stock Industry (Standards) Amendment Order 2006 (No. 2)* ('the Second Amendment Order') was intended to replace the First Amendment Order. The making of the Second Amendment Order arose from the need to specify in greater detail the arrangements for the delayed commencement of part of the latest version of the *Australian Standards for the Export of Livestock* in the Northern Territory. However, there is some doubt that the Second Amendment Order had the intended legal effect of undoing the amendments made by the First Amendment Order because of the operation of section 15 of the *Legislative Instruments Act 2003* ('the LIA'). Section 15 of the LIA provides that the repeal of an instrument does not affect the operation of the repealed instrument unless a contrary intention appears. The difficulty with the Second Amendment Order was that it failed to express a contrary intention to prevent the operation of the First Amendment Order. As a result, the amendments proposed to the Standards Order in relation to the arrangements for the delayed commencement of part of the latest version of the *Australian Standards for the Export of Livestock* in the Northern Territory were misdescribed and could not be implemented.

The purpose of the *Australian Meat and Live-stock Industry (Standards) Amendment Order 2006 (No. 3)* ('the Third Amendment Order') is to address the doubt that has arisen about the legal effectiveness of the Second Amendment Order by:

- revoking the Second Amendment Order; and
- replacing the amendments to the Standards Order made by the First Amendment Order regarding the arrangements for the delayed commencement of the latest version of the *Australian Standards for the Export of Livestock* in the Northern Territory with amendments that provide more detail.

The Third Amendment Order leaves intact the work done by the First Amendment

Order in respect of the incorporation of the latest version of the *Australian Standards for the Export of Livestock* with effect on and from 25 September 2006 in the Standards Order.

The Third Amendment Order is a legislative instrument for the purposes of the LIA. Consultation was not undertaken for the making of the Amendment Order, as the Amendment Order is of a minor or machinery nature and does not substantially alter existing arrangements.

Details of the Amendment Order are set out below:

Section 1

Section 1 provides that the name of the Order is the *Australian Meat and Live-stock Industry (Standards) Amendment Order 2006 (No. 3)*.

Section 2

Section 2 provides that the Order commences on the day after it is registered.

Section 3

Section 3 revokes *Australian Meat and Live-stock Industry (Standards) Amendment Order 2006 (No. 2)*.

Section 4

Section 4 provides that Schedule 1 amends the *Australian Meat and Live-stock Industry (Standards) Order 2005*.

Schedule 1 Amendment

Item 1

This item amends subsection 3(1) of the *Australian Meat and Live-stock Industry (Standards) Order 2005* by inserting new subsections (2) and (3).

Subsection 3(2) provides that despite subsection (1), which prohibits the export of live-stock except in accordance with the *Australian Standards for the Export of Livestock* (Version 2, September 2006) ('the new Standards'), the requirement in the Note after subparagraph (c)(i) of Standard S1.9 of the new Standards does not apply in relation to cattle and buffalo from the Northern Territory sourced for export as slaughter or feeder animals until 1 January 2007. The effect of this subsection is to delay the application of this part of the new Standards in the Northern Territory until 1 January 2007.

Subsection 3(3) provides that despite subsection (1), for the period 28 September 2006 to 31 December 2006 (inclusive), the requirement in the Note after S1.9 of the *Australian Standards for the Export of Live-stock* ('the old Standards') published by the Department and in force on 1 July 2005 applies to cattle and buffalo from the Northern Territory sourced for export as slaughter or feeder animals. A Note after subsection 3(3) refers readers to the location of the old Standards on the Department's

website.

This transitional arrangement is necessary to give the Northern Territory sufficient time to train people as competent pregnancy testers to meet the requirement set out in the Note to Standard S1.9 of the new Standards. The Note states that “A declaration must be made in writing by the registered veterinarian or competent pregnancy tester who pregnancy tested the cattle or buffalo.”