

EXPLANATORY STATEMENT

Issued by the Minister for Agriculture, Fisheries and Forestry

Export Control (Fees) Amendment Orders 2011 (No. 1)

made under the *Export Control (Orders) Regulations 1982*

Legislative Authority

Pursuant to section 25 of the *Export Control Act 1982 (Cth)* (the Act) and regulation 3 of the *Export Control (Orders) Regulations 1982* (the Regulations), the *Export Control (Fees) Orders 2001* (the Principal Orders) impose fees in connection with the performance of services by the Secretary, delegates of the Secretary and authorised officers.

Purpose

Proposed new service delivery arrangements have been developed for export meat – the Australian Export Meat Inspection System will introduce significant changes to the inspection system at establishments registered to prepare meat and meat products for export for food. Currently, AQIS provides on-plant veterinarians, food safety meat assessors and meat inspectors (to undertake inspection and disposition functions) to registered establishments. Under the new service delivery model, AQIS will continue to provide a registered establishment with on-plant veterinarians and food safety meat assessors. However, the inspection and disposition functions that were previously carried out by AQIS employees will be performed by AQIS authorised officers (AAOs) who may either be government employees or employees or contractors of the occupiers of the registered establishment.

The purpose of the *Export Control (Fees) Amendment Orders 2011 (No. 1)* (Amendment Orders) are to implement a revised charging regime based on the new service delivery arrangements that will ensure a return to full cost recovery. These Amendment Orders complement amendments to the *Export Inspection (Establishment Registration Charges) Regulations* which introduce revised registration charges for meat establishments.

Consultation

Since 2001 the Australian Government has provided a 40 percent contribution towards the cost of providing export inspection and certification services to the meat, grain, fish, dairy, live animal, horticulture and organic export industries. In November 2009 the Government announced an Export Certification Reform Package (ECRP) of \$127.4 million over a nineteen month period to 30 June 2011. The aim of the package is to:

- reform service delivery
- upgrade information technology systems
- reduce costs for industry and the Australian Quarantine and Inspection Service (AQIS) and
- maintain and work to improve market access.

The Meat Export Ministerial Task Force (MTF) was formed in April 2009 to explore alternative service delivery arrangements for AQIS meat inspection with the aim of promoting efficiencies and improving productivity. The MTF comprises representatives of the Australian Meat Industry Council and the Department of Agriculture, Fisheries and Forestry.

The department has consulted extensively with the MTF on the revised fees and charges. The department has also prepared a Cost Recovery Impact Statement (CRIS).

The Office of Best Practice Regulation has been consulted in relation to the Amendment Orders and advised that a Regulatory Impact Statement is not required.

Details

Order 1 provides that the name of the Amendment Orders is the *Export Control (Fees) Amendment Orders (No. 1)*.

Order 2 provides that the Amendment Orders commence on a day notified by the Minister in the *Gazette* for the purpose of the Amendment Orders.

Order 3 provides that Schedule 1 amends the Principal Orders.

Schedule 1 – Amendments

Item 1 substitutes a new definition for inspection service to clarify that an inspection service is performed by an authorised officer employed by an agency of the Commonwealth, and includes an auditing service. Under the new service delivery model, AQIS will continue to provide a registered establishment with on-plant veterinarians and the minimum number of authorised officers required to satisfy importing country requirements. However, the other inspection and disposition functions that were previously carried out by AQIS employees will be performed by AQIS authorised officers (AAOs) who may either be government employees or employees or contractors of the occupiers of the registered establishment.

Item 2 inserts a new note after Order 4AA(1) to clarify that if an inspection service is performed by an employee of an agency of the Commonwealth, where that service could otherwise be performed by an individual who is not an employee of an agency of the Commonwealth, then it is considered an additional inspection service. If an establishment chooses to utilise Commonwealth government-employed authorised officers to perform a service that could be performed by an AAO who is not a government employee, this is considered an additional inspection service and attracts a higher fee.

Item 3 omits meat and meat products from Order 4H which covers general export fees. A new Part has been created in the Orders to provide for meat and meat products.

Item 4 omits Order 4I – Imposition of fees for inspection services which previously applied to meat and meat products. The imposition of fees for inspection services for meat and meat products is now covered in Order 55.

Item 5 inserts a new Part 11 – Fees for meat and meat products. Order 54 provides that this part applies in respect of meat and meat products.

Order 55 provides for fees for particular services. Schedule 7 provides the rates for inspection services, inspection services allocated to an establishment under an arrangement with the Secretary, shift loading and overtime fees and fees for issuing documents.

Order 55(2) is similar to Order 4I(2) (which previously applied to meat and meat products) and provides that the Secretary may enter into a written arrangement with the occupier of an establishment for inspection services to be allocated by AQIS to the establishment on a monthly or annual basis as specified in the agreement. Establishments will no longer be offered an arrangement based on a daily or weekly arrangement but may still purchase these services on a per-quarter hour basis if required.

Order 55(3) replicates the previous Order 4I(3) provisions which applied to meat and meat products. The Order provides that the Secretary may alter the basis of the allocation in the arrangement if the Secretary is satisfied that the altered allocation better represents the usage of inspection services at the establishment.

Order 55(4) is similar to the previous Order 4I(4) provisions with the exceptions that the arrangements are not operated on a daily or weekly basis.

Orders 55(5) and 55(6) replicate the previous Orders 4I(5) and 4I(6) provisions. If the Secretary has entered into a written arrangement with the occupier of the establishment for the allocation of services, occupier of the establishment is not required to pay the per quarter hour fees that are provided in suborder (1). Suborder (6) clarifies that the fees are payable by the occupier of the establishment.

Orders 55A replicates the previous Order 4K for the imposition of shift loading fees and overtime fees for the purposes of meat and meat products. The fee rates are specified in Schedule 7 – Parts 3 and 4 respectively.

Order 55B replicates the previous Order 4L – Shutdown. If the occupier of a registered establishment gives 2 weeks or more written notice to the Secretary that inspection services that are allocated on a monthly basis are not required for a certain period, no fee is imposed for this period and the monthly fees imposed are reduced proportionately. If less than 2 weeks notice is given, the fee imposed is unaffected. This does not apply to inspection services allocated on an annual basis.

Order 55C is similar to the previous Order 4M in relation to industrial action. If inspection services are not performed in respect of an establishment because of industrial action by Commonwealth government-employed authorised officers, the fee imposed for those services is reduced proportionately for each day or part day the inspection services are not performed.

Order 55D replicates the previous Order 4N – Industrial action by other workers and clarifies that if industrial action takes place by workers other than Commonwealth government-employed authorised officers, the fees imposed are not affected.

Order 55E replicates the previous Order 4P with respect to insufficient notice of change to allocation. If an occupier gives less than 4 weeks notice that they require reduced inspection services, fees continue to be imposed until the earlier of the following: the services are allocated to another establishment or at the end of 4 weeks after the notice is given.

Order 55F is similar to the previous Order 4Q in relation to insufficient notice of termination of inspection services. If an occupier gives less than 2 weeks notice that they require termination of inspection services, fees continue to be imposed until the earlier of the following: the services are allocated to another establishment or at the end of 4 weeks after the notice is given.

Order 55G replicates the previous Order 4R for the application of documentation fees for meat and meat products. The fees are specified in Part 5 of Schedule 7.

Item 6 omits Schedule 1 – Fees imposed by Part 1AA. This Schedule related to the fees that were provided in Order 4I – Imposition of fees for inspection services, which has also been omitted. Schedule 1 has been replaced by Schedule 7 in the Amendment Orders.

Item 7 omits the note in Schedule 1A as meat and meat products will now be included in Schedule 7.

Item 8 omits item 3 in Schedule 1A as meat and meat products will now be included in Schedule 7.

Item 9 substitutes a revised Schedule 1B which previously provided for shift loading fees for meat and meat products and overtime fees for meat and meat products, eggs or egg products, fish or fish products and milk or milk products. Shift loading fees for meat and meat products have been relocated from this Schedule to Part 3 of Schedule 7. Overtime fees for meat and meat products have also been removed from this Schedule and placed in Part 4 of Schedule 7. The rates of overtime for eggs or egg products, fish or fish products and milk or milk products remain unchanged.

Items 10 and 11 omit the note and Item 4 from Schedule 1C – Fees for issuing documents as meat and meat products have been moved from this Schedule to Part 5 of Schedule 7.

Item 12 inserts a new Schedule 7 into the Orders which contains the meat and meat products fees for inspection services, fees for inspection services pursuant to an arrangement with the Secretary, shift loading, overtime fees and documentation fees.

Part 1 of Schedule 7 provides for fees for inspection services. The previous fees were split between general hourly fees and fees for additional inspection services. These fees have been combined into one fee for inspection that covers both the general

inspection fee and the additional inspection services fee. The hourly fee for inspection services performed by an authorised officer who is not a veterinarian or area technical manager has increased from \$80 per hour for the general fee to \$30 per quarter hour or part thereof. The additional inspection service fee has increased from \$79 per hour to \$30 per quarter hour. The hourly fee for inspection services performed by a veterinarian who is not an area technical manager has increased from \$127 per hour to \$39 per quarter hour or part thereof. The additional inspection service fee provided by an Area Technical Manager has increased from \$215 per hour to \$108 per quarter hour or part thereof. The increase in cost reflects the higher costs associated with providing the workforce, including pay increases arising from enterprise agreements since the last amendment to fees and charges.

Part 2 of Schedule 7 provides for fees for inspection services pursuant to an arrangement with the Secretary. These fees are now provided on a monthly and annual basis only. For inspection services of an authorised officer who is not a veterinarian has increased from \$9,041 per month to \$10,681 per month and \$99,444 per year to \$117,489 per year. This fee covers the government employed authorised officers allocated to the establishment to satisfy importing country requirements. The increase in costs reflects the higher costs associated to the provision of the workforce, including pay increases arising from enterprise agreements and indirect costs incurred by the Commonwealth since the last amendment to fees and charges.

The fees for inspection services provided by a veterinarian have increased from \$14,472 per month to \$16,582 per month and \$159,188 per year to \$182,384 per year. This increase in cost reflects the higher costs associated with providing the workforce, including pay increases arising from enterprise agreements since the last amendment to fees and charges.

Part 2 also inserts two new fees for the provision of inspection services of an authorised office who is not a veterinarian, allocated to an establishment on a monthly or annual basis to perform additional inspection services. The fees for this service are \$12,920 per month and \$142,119 per year. If an establishment chooses to utilise Commonwealth government-employed authorised officers to perform a service that could be performed by an AAO who is not a government employee, this is considered an additional inspection service and attracts a higher fee. The fee takes into account the full cost of providing and maintaining a workforce to cover the additional services that establishments may request.

Parts 3 and 4 provides for shift loading fees and overtime fees for both authorised officers who are not veterinarians, and veterinarians. The fees have increased by approximately 40-50 percent due to the higher costs associated with providing the workforce.

Part 5 provides the fees for issuing documents. The fees for issuing documents remain unchanged.