



# **Export Control (Plants and Plant Products) Order 2011**

made under regulation 3 of the

*Export Control (Orders) Regulations 1982*

## **Compilation No. 6**

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## About this compilation

### This compilation

This is a compilation of the *Export Control (Plants and Plant Products) Order 2011* that shows the text of the law as amended and in force on 23 June 2020 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# Contents

<b>Part 1—Preliminary</b>	1
1 Name of Order .....	1
3 Declaration of prescribed goods (section 3 of the Act) .....	1
4 Order to be read with Prescribed Goods (General) Order .....	1
5 Interpretation .....	1
6 Meaning of <i>prescribed grain</i> .....	5
7 Secretary may determine required tests and certificates .....	5
<b>Part 2—Conditions on export of prescribed goods</b>	6
8 No export unless this Order complied with .....	6
9 Basic conditions for export of prescribed goods .....	6
<b>Part 2A—Accredited properties</b>	8
<b>Division 1—Application for accreditation</b>	8
9A Application for accreditation of property .....	8
9B Secretary must decide whether to accredit property .....	8
9C Conditions of accreditation .....	9
9D Notice of decision .....	9
9E Period of effect of accreditation .....	10
<b>Division 2—Renewal of accreditation</b>	11
9F Application to renew accreditation of property .....	11
9G Secretary must decide whether to renew accreditation .....	11
9H Conditions of renewed accreditation .....	12
9J Notice of decision .....	12
<b>Division 3—Variation of accreditation</b>	14
<b>Subdivision A—Application by manager</b>	14
9K Application by manager for variation of accreditation or approval of alteration of property .....	14
9L Notice of decision .....	15
9M Certain variations must not be made unless approved .....	15
<b>Subdivision B—Variation by Secretary</b>	16
9N Secretary may make variations in relation to accreditation .....	16
9P Notice of variation .....	17
<b>Division 4—Suspension of accreditation</b>	18
<b>Subdivision A—Suspension requested by manager</b>	18
9R Manager may request suspension .....	18
9S Request to revoke suspension .....	18
<b>Subdivision B—Suspension by Secretary</b>	19
9T Grounds for suspension—general .....	19
9TA Grounds for suspension—overdue relevant Commonwealth liability .....	20
9TB Other grounds for suspension .....	21
9U Notice of suspension .....	21
9UA Period of suspension .....	21
9UB Revocation of suspension .....	22
<b>Subdivision C—Other provisions</b>	22
9V Effect of suspension .....	22

9W	Suspended operations must not be carried out during suspension period .....	22
<b>Division 5—Revocation of accreditation</b>		<b>23</b>
<b>Subdivision A—Revocation requested by manager</b>		<b>23</b>
9X	Manager may request revocation .....	23
<b>Subdivision B—Revocation by Secretary</b>		<b>23</b>
9Y	Grounds for revocation—general.....	23
9YA	Grounds for revocation—overdue relevant Commonwealth liability .....	24
9YB	Other grounds for revocation .....	25
9Z	Notice of revocation.....	25
<b>Subdivision C—Other provisions</b>		<b>26</b>
9ZA	Secretary may require action to be taken after accreditation revoked .....	26
<b>Division 6—Obligations of managers of accredited properties</b>		<b>27</b>
9ZB	Conditions of accreditation must not be contravened .....	27
9ZC	Additional or corrected information in relation to application for accreditation etc.....	27
9ZD	Notice of event or change in circumstances .....	27
9ZE	Notice of person ceasing to be manager of accredited property .....	28
<b>Division 7—Applications for accreditation etc.</b>		<b>29</b>
9ZF	Applications to which this Division applies.....	29
9ZG	Requirements for applications.....	29
9ZH	Additional or corrected information.....	29
9ZJ	Dealing with applications.....	30
<b>Part 3—Registered establishments</b>		<b>31</b>
<b>Division 1—General</b>		<b>31</b>
10	Requirements for registered establishments .....	31
11	Preparation and inspection must take place in registered establishment .....	31
12	Transport of prescribed goods.....	31
13	Records of dates of packaging .....	31
<b>Division 2—Small horticultural products registered establishments</b>		<b>32</b>
13A	Secretary may determine that a registered establishment is a small horticultural products registered establishment for a financial year .....	32
<b>Part 4—Notice of intention to export</b>		<b>35</b>
14	Notice of intention to export prescribed goods .....	35
15	Exporter to be responsible for goods.....	35
16	Certificates of analysis.....	35
<b>Part 5—Inspection for export compliance</b>		<b>36</b>
17	Inspection for export compliance.....	36
18	Duration of export compliance.....	36
19	Goods to be re-inspected.....	37
20	Resubmission of goods .....	37
21	Segregation of goods.....	37
<b>Part 6—Packaging and trade descriptions</b>		<b>38</b>
22	Packaging and other materials to be clean .....	38
23	Characteristics of packaging and other materials .....	38
24	Trade description to contain certain information .....	38

---

<b>Part 7—Exporting in packages</b>	39
25    When goods may be packaged for export .....	39
<b>Part 8—Exporting in containers</b>	40
26    Container approvals .....	40
27    Issue of container approval .....	40
28    Period of container approval .....	40
29    Cancellation of container approval .....	41
30    Surrender of container approval .....	41
31    Sealing and identification of empty containers .....	41
<b>Part 9—Exporting in bulk vessels</b>	42
<b>Division 1—Surveys of bulk vessels</b>	42
32    Arrangements for bulk vessel to be surveyed before loading .....	42
33    Obligations of marine surveyor .....	42
34    Acceptance of marine surveyor’s certificate .....	42
<b>Division 2—Vessel approvals</b>	43
35    When bulk vessel may be loaded .....	43
36    Application for vessel approval .....	43
37    Vessel approval .....	43
38    Period of vessel approval .....	43
39    Suspension of vessel approval .....	44
40    Revocation of suspension of vessel approval .....	44
40A    Cancellation of vessel approval .....	44
<b>Part 10—Export permit</b>	46
41    Export permit .....	46
<b>Part 11—Phytosanitary and other Certification</b>	47
42    Certificate as to condition in respect of prescribed goods .....	47
43    Certificates and other information .....	47
44    Offence of issuing false certificate .....	47
<b>Part 12—Miscellaneous</b>	48
45    Secretary may require audits .....	48
45A    Powers of auditors .....	48
46    Assistance to be provided .....	49
47    Electronic communications .....	49
48    Alteration of notice after certification .....	49
<b>Part 13—Transitional</b>	50
<b>Division 2—Transitional provisions relating to the Export Control (Plants and Plant Products) Order 2011</b>	50
50    Transitional .....	50
<b>Division 3—Transitional provisions relating to the Export Control (Plants and Plant Products) Amendment (Accredited Properties) Order 2018</b>	51
50A    Definitions for this Division .....	51
51    Meaning of <i>export listed property</i> .....	51
52    Properties that were export listed properties immediately before commencement day .....	51

---

53	Applications for listing made before commencement day .....	51
54	Applications to renew listing made before commencement day .....	52
55	Applications to vary listing made before commencement day .....	52
56	Requests to suspend listing made before commencement day .....	53
57	Requests to revoke listing made before commencement day .....	53
58	Penal provisions .....	53
59	Prescribed goods produced or prepared before commencement day and exported on or after that day .....	54
<b>Schedule 1—Marine surveyors’ qualifications</b>		<b>55</b>
1	Marine surveyors’ qualifications .....	55
<b>Schedule 2—Inspection of prescribed goods</b>		<b>56</b>
<b>Part 1—Preliminary</b>		<b>56</b>
1	Interpretation .....	56
2	Tolerances for pests and contaminants .....	56
3	Sampling rate .....	56
<b>Part 2—Prescribed goods in bulk</b>		<b>57</b>
4	Treatment of rejected goods .....	57
5	Site of inspection .....	57
6	Sampling rate .....	57
7	Undue delay after detecting insects .....	57
8	Re-presentation of goods .....	57
9	Screening of goods .....	57
10	Blending of goods .....	58
<b>Part 3—Prescribed goods inspected for phytosanitary certification</b>		<b>59</b>
11	Inspection .....	59
12	Re-inspection of consignments where shipment delayed .....	59
<b>Part 4—Treatment of rejected prescribed goods</b>		<b>60</b>
13	Insect infestation .....	60
14	Use of insecticides, fumigants and other products .....	60
15	Contaminants .....	60
<b>Schedule 3—Requirements for registered establishments</b>		<b>61</b>
1	Application for registration .....	61
2	Requirements for plans and specifications .....	61
3	Alterations, extensions and rearrangements to establishments .....	61
4	Records to be maintained .....	61
5	Structural requirements for establishments preparing prescribed goods .....	61
6	Operational and hygiene requirements for establishments preparing prescribed goods .....	62
<b>Schedule 4—Container inspection for issue of container approval</b>		<b>63</b>
1	Empty container inspection .....	63
2	Place of inspection .....	63
3	Assistance to be given to authorised officers .....	63
4	Inspection procedures for empty containers .....	63

5	Live insects, being <i>Trogoderma</i> spp., found in a container.....	63
6	Treatment of empty containers.....	63
<b>Schedule 5—Bulk vessel inspection for issue of vessel approval</b>		<b>65</b>
1	Parts of a bulk vessel which must be inspected.....	65
2	What an authorised officer must inspect for .....	65
3	Inspections away from a wharf .....	65
4	Inspection procedure.....	65
5	On entering a hold.....	66
6	Bulk vessels' stores and general galley areas.....	66
7	Treatments .....	66
8	Reporting of conditions of the bulk vessel.....	66
9	Issuing the vessel approval .....	67
10	Live insects, being <i>Trogoderma</i> spp., found in a bulk vessel.....	67
<b>Schedule 6—Requirements relating to issuing of phytosanitary certificate</b>		<b>68</b>
1	Inspection.....	68
2	Certification .....	68
3	Responsibility of exporter.....	68
4	Conditions of issuance .....	68
5	Forms of certificates .....	68
6	Importing country requirements.....	69
7	Name of authorised officer .....	69
8	Disinfestation or disinfection treatment .....	69
9	Additional declarations .....	69
10	Signature.....	69
11	Other endorsements .....	70
12	Description of the consignment .....	70
13	Name of goods.....	70
14	Consignee's name and address.....	70
15	Point of entry .....	71
16	Quality statements.....	71
17	Number of copies to be issued .....	71
18	Copy required by the Secretary.....	71
19	Re-exports from Australia.....	71
20	Re-inspection of delayed consignments.....	72
<b>Endnotes</b>		<b>73</b>
<b>Endnote 1—About the endnotes</b>		<b>73</b>
<b>Endnote 2—Abbreviation key</b>		<b>74</b>
<b>Endnote 3—Legislation history</b>		<b>75</b>
<b>Endnote 4—Amendment history</b>		<b>76</b>





## Part 1—Preliminary

### 1 Name of Order

This Order is the *Export Control (Plants and Plant Products) Order 2011*.

### 3 Declaration of prescribed goods (section 3 of the Act)

The following are declared to be prescribed goods for the definition of *prescribed goods* in section 3 of the Act:

- (a) prescribed grain;
- (b) hay and straw;
- (c) fresh fruit;
- (d) fresh vegetables;
- (e) plants or plant products (other than narcotic goods) for which a phytosanitary certificate or any other official certificate is required by an importing country authority.

### 4 Order to be read with Prescribed Goods (General) Order

This Order is read as one with the General Order.

- Note: The General Order provides for matters including:
- certain general exemptions (Part 2);
  - specific exemptions granted by the Secretary (Part 3);
  - registration of registered establishments (Part 4);
  - electronic transmission of documents (Part 5);
  - export permits (Part 6);
  - certificates (Part 8);
  - official marks (Part 13);
  - sampling and analysis (Part 14).

### 5 Interpretation

5.1 In this Order, unless the contrary intention appears:

*accredited property* means a property that is accredited under Part 2A.

*Act* means the *Export Control Act 1982*.

*apple* has the same meaning as in Part 3 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

*approved* means approved by the Secretary by instrument in writing.

Note: This can include writing in electronic form. An approved form is a document in either paper or electronic format approved by the Secretary.

Section 5

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**authorised officer**, in a provision of this Order, means a person who has been appointed under section 20 of the Act as an authorised officer for that provision in the relevant circumstances.

**avocado** has the same meaning as in Part 4 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

**bulk vessel** means a ship in which it is intended to transport prescribed goods in bulk.

**cherry** has the same meaning as in Part 5 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

**citrus** has the same meaning as in Part 7 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

**consignment** means a quantity of prescribed goods assembled at the same place and intended for export at the same time to the same country.

**container** means a container for prescribed goods that:

- (a) is designed for use as a unit of cargo handling equipment in the transport of the goods by aircraft or ship, including a shipping container; and
- (b) effectively protects the goods from relevant pests and contamination; and
- (c) is intended to be used for goods that require the protection offered by the containers because they are not in smaller quantities in protective packaging.

**contaminant** means any foreign matter, whether organic or inorganic, that is included in, on, or with prescribed goods, and includes soil, leaves, or stems.

**cost-recovery charge** means:

- (a) a fee provided by the *Export Control (Fees) Order 2015*; or
- (b) a charge imposed by:
  - (i) the *Export Charges (Imposition—Customs) Act 2015*; or
  - (ii) the *Export Charges (Imposition—Excise) Act 2015*; or
  - (iii) the *Export Charges (Imposition—General) Act 2015*; or
- (c) a late payment fee relating to a fee described in paragraph (a) or a charge described in paragraph (b).

**cut flowers** includes processed cut flowers.

**disease** means any abnormal condition of, or in, prescribed goods arising from, caused by, or due to the presence, operation, development or growth of any insect, fungus, bacterium, phytoplasma, parvo-virus, virus or other parasite.

**export compliant**—see section 17.

**fresh**, in relation to fruits or vegetables, means fruits or vegetables that have not been canned, frozen, dried, or processed in any other manner that changes their basic characteristics.

**fresh vegetables** includes herbs, mushrooms, cured onions, and sprouts.

**fumigation** means treatment with poisonous gas (not including the use of contact insecticides propelled by carbon dioxide), smoke generators, fogging or spraying.

**General Order** means the *Export Control (Prescribed Goods—General) Order 2005*.

**hay and straw** means a pasture or cereal plant, (whether whole or after harvesting seed) that is cut and dried.

**horticultural products** has the same meaning as in the *Export Charges (Imposition—Customs) Regulation 2015*.

**importing country authority** for a consignment of goods, means the authority which is responsible for regulating the import of goods into the country to which they are being exported.

**importing country requirement**, in relation to prescribed goods that are to be imported into a country from Australia, means a requirement of that country that must be met before the goods may be imported into that country from Australia.

**IPPC** means the International Plant Protection Convention of the Food and Agriculture Organization of the United Nations.

**kiwi fruit** means a fruit of the species *Actinidia deliciosa*.

**manager** of a property means the person who is responsible for the day-to-day management of the property.

**marine surveyor** means a surveyor who is qualified in accordance with Schedule 1.

**master**, in relation to a bulk vessel, means the person who has command of, or is in charge of, the vessel.

**melon** has the same meaning as in Part 31 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

**narcotic goods** has the same meaning as in the *Customs Act 1901*.

**occupier**:

- (a) in relation to a registered establishment, means the person in whose name an establishment used to prepare prescribed goods for export is registered; and
- (b) in relation to an unregistered establishment, means the person in charge of operations at the establishment.

**package** means the principal covering in which prescribed goods are packed.

**passed as export compliant**—see section 17.

Section 5

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**pear** has the same meaning as in Part 3 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

**pest** means a live or viable species, strain, or biotype of plant or animal life, or a pathogenic agent, that is injurious or potentially injurious to plants or plant products.

**phytosanitary certificate** means a certificate issued in accordance with Article V of the IPPC or at the request of an importing country authority.

**prescribed goods** means the goods declared to be prescribed goods by section 3.

**prescribed goods for consumption** means prescribed goods that may be consumed by humans or livestock with or without further processing.

**prescribed grain**—see section 6.

**property** has the same meaning as premises.

Note: For **premises**, see section 3 of the Act.

**re-export phytosanitary certificate** means a certificate issued in accordance with Article V of the IPPC or at the request of an importing country authority for the purpose of re-export.

**registered establishment** means premises registered under the General Order for the preparation of prescribed goods within the meaning of this Order.

**relevant Commonwealth liability** means a cost-recovery charge that is due and payable.

**stone fruit** has the same meaning as in Part 15 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

**strawberry** has the same meaning as in Part 16 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

**table grapes** has the same meaning as in Part 20 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

**treatment** means any treatment that is useful or necessary for the control or eradication of pests, including:

- (a) any dismantling, repairing, cleaning or deodorising; or
- (b) the application of any substance; or
- (c) fumigation; or
- (d) the controlling of atmosphere or temperature; or
- (e) repacking.

- 5.2 If in this Order the words ‘*Penal provision*’ are set out at the foot of a provision of a section, the provision is taken to provide that it is a penal provision for the purposes of subregulation 4(1) of the *Export Control (Orders) Regulations 1982* and, if that provision specifies that it is a penal provision of a particular level, the applicable penalty is that specified in that subregulation.

Note: The offence created by such a penal provision is one of strict liability. See subregulation 4(2) of the *Export Control (Orders) Regulations 1982*. For strict liability, see section 6.1 of the *Criminal Code Act 1995*.

## 6 Meaning of *prescribed grain*

6.1 For this Order, the following are *prescribed grain*:

- (a) **barley**—whole grain of *Hordeum vulgare* (whether 2-row or 6-row), but not including hulled, milled or malted grain of that kind;
- (b) **canola**—whole seed of *Brassica napus* var; *napus* cv; ‘Canola’;
- (c) **chickpeas**—seed (whole or split) of *Cicer arietinum*;
- (d) **dried field peas**—dried seeds of the species *Pisum sativum* that are angular or spherical in shape, and not of the varieties known as processing peas, vegetable peas, garden peas or peas in pod;
- (e) **faba beans**—seed (whole or split) of *Vicia faba*;
- (f) **lentils**—seed (whole or split) of *Lens culinaris*;
- (g) **lupins**—seed (whole or split) of *Lupinus angustifolius* or *Lupinus albus*;
- (h) **mung beans**—whole seeds of the species *Vigna radiata* or *Vigna mungo*, including varieties, and synonyms;
- (i) **oats**—grain (whole or clipped) of *Avena sativa* or *Avena strigosa*, but not including rolled, crushed, milled, hulled or kiln-dried grain of that kind;
- (j) **sorghum**—whole unmilled seed of *Sorghum bicolor*;
- (k) **soybeans**—whole unmilled seed of *Glycine max*;
- (l) **split vetch**—split seed of *Vicia sativa*;
- (m) **wheat**—whole unmilled grain of *Triticum aestivum* or *Triticum durum* or *Triticum tauschii*;
- (n) **whole vetch**—seed (whole or broken) of *Vicia sativa*, but not including split seed of *Vicia sativa*.

Note: For paragraphs (l) and (n), split vetch seeds are a particular form of vetch seeds and are not the same as whole vetch seeds that have been broken (for example, in the course of harvesting or transport).

6.2 A reference to a species of plant in a paragraph of subsection 6.1 includes every cultivated subspecies, variety and cultivar of the species and every cross of which a plant of the species is a parent, unless the paragraph limits the reference to a particular subspecies, cultivar or cross.

## 7 Secretary may determine required tests and certificates

The Secretary may determine that specified tests or certificates are required for:

- (a) specified prescribed goods; or
- (b) specified prescribed goods for export to specified countries.

## Part 2—Conditions on export of prescribed goods

### 8 No export unless this Order complied with

- 8.1 The export of prescribed goods (other than split vetch) is prohibited unless the conditions or restrictions specified in this Order are complied with.
- 8.2 The export of split vetch is prohibited absolutely.

Note: Subsection 8(1) of the *Export Control Act 1982* makes it an offence for a person to export prescribed goods the export of which is prohibited, and subsection 8(3) makes it an offence for a person to export prescribed goods in contravention of the applicable conditions or restrictions (see sections 17 and 18 of the Act).

### 9 Basic conditions for export of prescribed goods

- 9.1 A consignment of prescribed goods must not be exported unless the conditions set out in the following subsections are met.

#### *Accredited property*

- 9.1A If the Secretary requires the goods to be produced or prepared at an accredited property for the purpose of meeting importing country requirements relating to the goods:
- (a) the goods must have been produced or prepared at an accredited property; and
  - (b) the accreditation of the property must have covered the production or preparation of the goods for export to the relevant importing country; and
  - (c) at the time of the inspection of the goods for export compliance under Part 5, the accreditation of the property in relation to the production or preparation of the goods for export to the relevant importing country must not have been suspended or revoked.

#### *Registered establishment*

- 9.2 The goods must have been prepared in a registered establishment in accordance with Part 3.

#### *Inspection of goods*

- 9.3 The goods must have been passed as export compliant in accordance with Part 5.
- 9.4 If a trade description is attached to the goods—the description must comply with Part 6.

#### *Packages, containers and vessels*

- 9.5 Any packaging or other material with the goods must comply with Part 6.

- 9.6 If the goods are to be exported in packages—the packages must comply with Part 7.
- 9.7 If the goods are to be exported in a container—an authorised officer must have inspected the container and issued a container approval in accordance with Part 8.
- 9.8 If the goods are to be exported in bulk in a bulk vessel:
- (a) a marine surveyor must have inspected the vessel and issued a certificate in relation to the part where the goods will be stowed in accordance with Division 1 of Part 9; and
  - (b) an authorised officer must have inspected the vessel and issued a vessel approval in accordance with Division 2 of Part 9.

*Notices, export permits and phytosanitary certificates*

- 9.9 A notice of intention to export must have been lodged for the consignment in accordance with Part 4.
- 9.10 An authorised officer must have issued an export permit for the consignment in accordance with Part 10.
- 9.11 If a phytosanitary or other certificate is required for the goods—an authorised officer must have issued the certificate in accordance with Part 11.

## Part 2A—Accredited properties

### Division 1—Application for accreditation

#### 9A Application for accreditation of property

9A.1 The manager of a property may apply to the Secretary to accredit the property for a kind of operations (including production and preparation) in relation to a kind of prescribed goods.

Note: An application may relate to a part of a property (see the definition of *property* in subsection 5.1 of this Order and paragraph (c) of the definition of *premises* in section 3 of the Act).

9A.2 An application:

- (a) may relate to more than one kind of operations and more than one kind of prescribed goods; and
- (b) may, but is not required to, specify one or more places to which the prescribed goods are to be exported.

Note 1: The export of particular kinds of prescribed goods may be prohibited unless the goods have been produced or prepared at an accredited property (see subsections 9.1 and 9.1A).

Note 2: Division 7 sets out requirements for applications.

#### 9B Secretary must decide whether to accredit property

9B.1 On receiving an application under section 9A to accredit a property, the Secretary must, unless the application has been withdrawn, decide either:

- (a) to accredit the property; or
- (b) to refuse to accredit the property.

Note 1: See section 9ZJ for matters relating to dealing with applications.

Note 2: If the application is to accredit the property for more than one kind of operations in relation to more than one kind of prescribed goods for export to more than one place, the Secretary may decide to accredit the property for some or all of those kinds of operations in relation to some or all of those kinds of prescribed goods for export to some or all of those places.

Note 3: A decision to refuse to accredit a property for a kind of operations in relation to a kind of prescribed goods is a reviewable decision (see Part 16 of the General Order).

9B.2 The Secretary may accredit the property for a kind of operations in relation to a kind of prescribed goods and, if applicable, a specified place to which the prescribed goods may be exported if the Secretary is satisfied, having regard to any matter that the Secretary considers relevant, that:

- (a) prescribed goods produced or prepared at the property will meet relevant importing country requirements; and
- (b) the conditions of the accreditation will be complied with; and
- (c) either:



- (i) all cost-recovery charges of the manager of the property, or relating to the property, have been paid; or
- (ii) if any cost-recovery charges of the manager of the property, or relating to the property, have not been paid—the non-payment is due to exceptional circumstances.

9B.3 If the Secretary accredits the property, the Secretary may, if the Secretary considers it appropriate, set an expiry date for the accreditation.

Note: If an expiry date for the accreditation is not set under this subsection, the accreditation remains in force unless it is revoked (see subsection 9E.1).

### 9C Conditions of accreditation

9C.1 It is a condition of a property's accreditation for a kind of operations in relation to a kind of prescribed goods that relevant importing country requirements in relation to the operations and the goods are met.

9C.2 The accreditation of a property is also subject to any additional conditions that the Secretary considers appropriate and that are specified in the notice given to the applicant under subsection 9D.1.

Note 1: The accreditation of a property may be suspended or revoked if a condition of the accreditation is contravened (see sections 9T and 9Y).

Note 2: The manager of an accredited property may commit an offence if a condition of the accreditation is contravened (see section 9ZB).

Note 3: Division 6 sets out additional obligations of the manager of an accredited property.

### 9D Notice of decision

9D.1 If the Secretary accredits a property, the Secretary must give the applicant a written notice stating the following information:

- (a) the accreditation number allocated to the property;
- (b) each kind of operations and each kind of prescribed goods covered by the accreditation;
- (c) if applicable, each place to which a kind of prescribed goods covered by the accreditation may be exported;
- (d) the date when the accreditation takes effect;
- (e) that the accreditation remains in force indefinitely or the expiry date for the accreditation;
- (f) any additional conditions of the accreditation.

9D.2 If the Secretary decides not to accredit a property for a kind of operations in relation to a kind of prescribed goods, the Secretary must give the applicant written notice of the decision. The notice must include:

- (a) the reasons for the decision; and
- (b) a statement that the applicant may apply for reconsideration and review of the decision under Part 16 of the General Order.

**Part 2A** Accredited properties

**Division 1** Application for accreditation

**Section 9E**

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9D.3 A failure to give notice of a decision as required by subsection 9D.2 does not affect the validity of the decision.

**9E Period of effect of accreditation**

9E.1 If there is no expiry date for the accreditation of a property, the accreditation remains in force unless it is revoked under Division 5.

9E.2 If there is an expiry date for the accreditation of a property (including an accreditation that has been renewed under Division 2), the accreditation remains in force until that expiry date unless:

- (a) the accreditation is renewed under Division 2 on or before that date; or
- (b) the accreditation is revoked under Division 5 before that date.

## **Division 2—Renewal of accreditation**

### **9F Application to renew accreditation of property**

9F.1 This section applies in relation to an accredited property (including a property in relation to which a suspension is in effect under Division 4) if there is an expiry date for the accreditation.

9F.2 The manager of the property may apply to the Secretary to renew the accreditation of the property.

Note: Division 7 sets out requirements for applications.

9F.3 An application for renewal:

- (a) may relate to more than one kind of operations and more than one kind of prescribed goods; and
- (b) may, but is not required to, specify one or more places to which the prescribed goods are to be exported.

9F.4 An application for renewal of the accreditation of a property must be made:

- (a) at least 28 days before the expiry date for the accreditation; or
- (b) if the Secretary allows a longer period—within that longer period.

9F.5 If an application for renewal of the accreditation of a property is made after the period applying under subsection 9F.4:

- (a) the application is taken to be an application to accredit the property; and
- (b) Division 1 applies in relation to the application; and
- (c) the other provisions of this Division do not apply in relation to the application.

### **9G Secretary must decide whether to renew accreditation**

9G.1 On receiving an application under section 9F to renew the accreditation of a property, the Secretary must decide either:

- (a) to renew the accreditation; or
- (b) to refuse to renew the accreditation.

Note 1: See section 9ZJ for matters relating to dealing with applications.

Note 2: If the application is to renew the accreditation of the property for more than one kind of operations in relation to more than one kind of prescribed goods for export to more than one place, the Secretary may decide to renew the accreditation for some or all of those kinds of operations in relation to some or all of those kinds of prescribed goods for export to some or all of those places.

Note 3: A decision to refuse to renew the accreditation of a property for a kind of operations in relation to a kind of prescribed goods is a reviewable decision (see Part 16 of the General Order).

9G.2 The Secretary may refuse to renew the accreditation of the property for a kind of operations in relation to a kind of prescribed goods and, if applicable, a specified place to which the prescribed goods may be exported if the Secretary is not

## Section 9H

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satisfied, having regard to any matter that the Secretary considers relevant, of one or more of the following:

- (a) prescribed goods produced or prepared at the property will meet relevant importing country requirements;
- (b) the conditions of the accreditation have been, and are being, complied with;
- (c) the manager of the property has complied with:
  - (i) the requirements of the Act and this Order; and
  - (ii) the requirements of any other instrument in force under the Act that applies in relation to the accreditation and the operations and prescribed goods covered by the accreditation;
- (d) either:
  - (i) all cost-recovery charges of the manager of the property, or relating to the property, have been paid; or
  - (ii) if any cost-recovery charges of the manager of the property, or relating to the property, have not been paid—the non-payment is due to exceptional circumstances.

9G.3 If the Secretary renews the accreditation of the property, the Secretary may, if the Secretary considers it appropriate, set an expiry date for the accreditation.

Note: If an expiry date for the accreditation is not set under this subsection, the accreditation remains in force unless it is revoked (see subsection 9E.1).

## 9H Conditions of renewed accreditation

If the Secretary renews the accreditation of a property, the accreditation is subject to:

- (a) the condition referred to in subsection 9C(1); and
- (b) any additional conditions that the Secretary considers appropriate and that are specified in the notice given to the applicant under subsection 9J.1.

Note 1: The accreditation of a property may be suspended or revoked if a condition of the accreditation is contravened (see sections 9T and 9Y).

Note 2: The manager of an accredited property may commit an offence if a condition of the accreditation is contravened (see section 9ZB).

Note 3: Division 6 sets out additional obligations of the manager of an accredited property.

## 9J Notice of decision

9J.1 If the accreditation of a property is renewed, the Secretary must give the applicant a written notice stating the information referred to in subsection 9D.1.

9J.2 If the Secretary decides not to renew the accreditation of a property for a kind of operations in relation to a kind of prescribed goods, the Secretary must give the applicant written notice of the decision. The notice must include:

- (a) the reasons for the decision; and
- (b) a statement that the applicant may apply for reconsideration and review of the decision under Part 16 of the General Order.

9J.3 A failure to give notice of a decision as required by subsection 9J.2 does not affect the validity of the decision.

## **Division 3—Variation of accreditation**

### **Subdivision A—Application by manager**

#### **9K Application by manager for variation of accreditation or approval of alteration of property**

- 9K.1 The manager of an accredited property may apply to the Secretary:
- (a) to vary the accreditation in relation to any of the following matters (including by adding or removing any of those matters):
    - (i) kinds of operations;
    - (ii) kinds of prescribed goods;
    - (iii) if applicable, places to which prescribed goods are to be exported; or
  - (b) to approve a variation of the accreditation so that it covers an alteration (other than a minor alteration) of the property; or
  - (c) to vary the conditions of the accreditation; or
  - (d) to vary the particulars relating to the accreditation to make a minor change to a matter (including to correct a minor or technical error).

Note: Division 7 sets out requirements for applications. A single application may be made to make or approve a variation in relation to the accreditation of a property and to renew the accreditation of the property.

- 9K.2 For the purposes of paragraph 9K.1(b), a minor alteration of an accredited property is an alteration that does not or is not likely:
- (a) to make the property unhygienic; or
  - (b) to result in a contravention of a condition of the accreditation of the property.

9K.3 An application under subsection 9K.1 to make or approve a variation in relation to the accreditation of a property must be made at least 28 days before the variation is intended to take effect.

- 9K.4 If the Secretary receives an application under subsection 9K.1 to make a variation or give an approval, the Secretary must decide:
- (a) to make the variation or give the approval; or
  - (b) to refuse to make the variation or give the approval.

Note 1: See section 9ZJ for matters relating to dealing with applications.

Note 2: A decision to refuse the application is a reviewable decision (see Part 16 of the General Order).

- 9K.5 The Secretary may make the variation, or give the approval, if the Secretary is satisfied, having regard to any matter that the Secretary considers relevant, that:
- (a) prescribed goods produced or prepared at the property will meet relevant importing country requirements; and
  - (b) the conditions of the accreditation have not been, and are not being, contravened; and

- (c) the manager of the property has not contravened:
  - (i) the requirements of the Act and this Order; or
  - (ii) the requirements of any other instrument in force under the Act that applies in relation to the accreditation and the operations and prescribed goods covered by the accreditation.

Note: The manager of an accredited property may commit an offence if:

- (a) an alteration (other than a minor alteration) of the property is made; and
- (b) the alteration has not been approved, or the manager has not been given notice of the approval (see section 9M).

## 9L Notice of decision

9L.1 If the Secretary makes a variation or gives an approval in relation to the accreditation of a property under paragraph 9K.4(a), the Secretary must give the manager of the property written notice of the variation or approval.

9L.2 The notice must state the following:

- (a) details of the variation or approval;
- (b) if the variation is of the conditions of the accreditation—the varied conditions;
- (c) the date the variation or approval takes effect.

Note: The accreditation, as varied, remains in force as provided by section 9E.

9L.3 If the Secretary decides to refuse an application under paragraph 9K.4(b), the Secretary must give the applicant written notice of the decision. The notice must include:

- (a) the reasons for the decision; and
- (b) a statement that the applicant may apply for reconsideration and review of the decision under Part 16 of the General Order.

9L.4 A failure to give notice of a decision as required by subsection 9L.3 does not affect the validity of the decision.

## 9M Certain variations must not be made unless approved

9M.1 The manager of an accredited property contravenes this subsection if:

- (a) the property is altered; and
- (b) the alteration is not a minor alteration within the meaning of subsection 9K.2; and
- (c) either:
  - (i) the alteration was not approved under paragraph 9K.4(a); or
  - (ii) the alteration was approved under paragraph 9K.4(a) but the Secretary has not given the manager notice of the approval under subsection 9L.1.

Note: The Secretary may suspend or revoke the accreditation of the property if the manager contravenes this subsection (see paragraphs 9T.1(g) and 9Y.1(g)).

9M.2 The manager of an accredited property must not contravene subsection 9M.1.

Section 9N

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*Level 5 penal provision*

**Subdivision B—Variation by Secretary**

**9N Secretary may make variations in relation to accreditation**

9N.1 The Secretary may do any of the following in relation to the accreditation of a property:

- (a) vary any aspect of the accreditation, including so that it does not cover:
  - (i) a kind of operations; or
  - (ii) a kind of prescribed goods; or
  - (iii) if applicable, a place to which prescribed goods may be exported;
- (b) vary the conditions of the accreditation (including by imposing new conditions);
- (c) if there is no expiry date for the accreditation—set an expiry date;
- (d) if there is an expiry date for the accreditation:
  - (i) vary the expiry date; or
  - (ii) vary the accreditation so that it remains in force indefinitely.

Note: Certain decisions under this subsection are reviewable decisions (see subsection 9N.6 of this section and Part 16 of the General Order).

9N.2 The Secretary may make a variation in relation to the accreditation of a property under paragraph 9N.1(a), (b) or (c), or set an earlier expiry date for the accreditation under subparagraph 9N.1(d)(i), only if the Secretary reasonably believes that:

- (a) prescribed goods produced or prepared at the property are not meeting, or will not meet, relevant importing country requirements; or
- (b) a condition of the accreditation has been, or is being, contravened; or
- (c) the manager of the property has contravened:
  - (i) the requirements of the Act or this Order; or
  - (ii) the requirements of any other instrument in force under the Act that applies in relation to the accreditation and the operations and prescribed goods covered by the accreditation; or
- (d) a different person has become, or is to become, the manager of the property; or
- (e) it is necessary to do so:
  - (i) to take account of an event or circumstance notified under section 9ZD or 9ZE; or
  - (ii) to correct a minor or technical error.

9N.3 The Secretary must not make a variation in relation to the accreditation of a property under paragraph 9N.1(a), (b) or (c), or set an earlier expiry date for the accreditation under subparagraph 9N.1(d)(i), unless the Secretary has given a written notice to the manager of the property in accordance with subsection 9N.5.



9N.4 However, a notice is not required to be given under subsection 9N.3 if the Secretary reasonably believes that the grounds for making the proposed variation are serious and urgent.

Note: If the grounds for making a variation of the accreditation of a property are serious and urgent, the Secretary must give the manager of the property notice of the variation under subsection 9P.1.

9N.5 A notice under subsection 9N.3 must:

- (a) specify each proposed variation; and
- (b) specify the grounds for each proposed variation; and
- (c) request the manager of the property to give the Secretary, within 14 days after the day the notice is given, a written statement showing cause why the proposed variation should not be made; and
- (d) include a statement setting out the manager's right to seek review of a decision to make the variation.

*Certain decisions are not reviewable decisions*

9N.6 None of the following is an initial decision for the purposes of Part 16 of the General Order:

- (a) a decision under paragraph 9N.1(a), (b) or (c) to vary an aspect of the accreditation of a property on a ground referred to in paragraph 9N.2(e);
- (b) a decision under subparagraph 9N.1(d)(i) to set a later expiry date for the accreditation of a property;
- (c) a decision under subparagraph 9N.1(d)(ii) to vary the accreditation of a property so that it remains in force indefinitely.

## **9P Notice of variation**

9P.1 If the Secretary makes a variation in relation to the accreditation of a property under subsection 9N.1, the Secretary must give the manager of the property written notice of the variation.

9P.2 The notice must state the following:

- (a) details of the variation;
- (b) if the variation is of the conditions of the accreditation—the varied conditions and any new conditions;
- (c) if the variation is of the period of effect of the accreditation:
  - (i) the expiry date, or the varied expiry date, for the accreditation; or
  - (ii) that the accreditation remains in force indefinitely;
- (d) the date the variation takes effect.

9P.3 If the manager was given a notice (a *show cause notice*) under subsection 9N.3, the variation must not take effect before the earlier of the following:

- (a) the day after any response to the request is received by the Secretary;
- (b) the end of 14 days after the show cause notice was given.

Note: The accreditation, as varied, remains in force as provided by section 9E.

Section 9R

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## **Division 4—Suspension of accreditation**

### **Subdivision A—Suspension requested by manager**

#### **9R Manager may request suspension**

- 9R.1 The manager of an accredited property may request the Secretary to suspend the accreditation of the property in relation to a kind of operations and a kind of prescribed goods and, if applicable, a place to which the prescribed goods may be exported.
- 9R.2 A request under subsection 9R.1 may relate to more than one kind of operations or more than one kind of prescribed goods and, if applicable, more than one place.
- 9R.3 A request under subsection 9R.1 must:
- (a) be in writing; and
  - (b) state each kind of operations and each kind of prescribed goods and, if applicable, each place in relation to which the accreditation is to be suspended; and
  - (c) specify the reason for the suspension.
- 9R.4 If the Secretary receives a request from the manager of an accredited property under subsection 9R.1, the Secretary must, by written notice to the manager, suspend the accreditation as requested, with effect on the day specified in the notice.

#### **9S Request to revoke suspension**

- 9S.1 If the accreditation of a property is suspended under section 9R, the manager of the property may request the Secretary to revoke the suspension.
- 9S.2 A request under subsection 9S.1 must:
- (a) be in writing; and
  - (b) state the reason for the request; and
  - (c) be accompanied by any information or documents in support of the request.
- 9S.3 If the Secretary receives a request from the manager of an accredited property under subsection 9S.1, the Secretary may:
- (a) if the Secretary is satisfied that the reasons for the suspension no longer exist and there is no reason why the suspension should not be revoked—revoke the suspension by written notice to the manager; or
  - (b) in any other case:
    - (i) suspend the accreditation of the property under section 9T; or
    - (ii) revoke the accreditation of the property under section 9Y.

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## **Subdivision B—Suspension by Secretary**

### **9T Grounds for suspension—general**

9T.1 The Secretary may suspend the accreditation of a property in relation to one or more kinds of operations and one or more kinds of prescribed goods and, if applicable, one or more places to which the prescribed goods may be exported if the Secretary reasonably believes that:

- (a) the integrity of prescribed goods covered by the accreditation cannot be ensured; or
- (b) a condition of the accreditation has been, or is being, contravened; or
- (c) the manager of the property:
  - (i) failed to comply with a direction given to the manager by an authorised officer or the Secretary; or
  - (ii) failed to comply with a request by an authorised officer to provide information or a document; or
  - (iii) failed to comply with a request made by an auditor under section 45A; or
  - (iv) failed to provide assistance to an auditor as required by section 46; or
- (d) the manager of the property has engaged in conduct that:
  - (i) intimidated a person performing functions or exercising powers under the Act or this Order; or
  - (ii) hindered or prevented a person from performing functions or exercising powers under the Act or this Order; or
- (e) a false, misleading or incomplete statement was made in an application under this Part; or
- (f) false, misleading or incomplete information or documents were given to the Secretary or to another person performing functions or exercising powers under the Act or this Order; or
- (g) the manager of the property has contravened:
  - (i) the requirements of the Act or this Order; or
  - (ii) the requirements of any other instrument in force under the Act that applies in relation to the accreditation and the operations and prescribed goods covered by the accreditation.

Note 1: A suspension must not be for more than 12 months (see section 9UA).

Note 2: Part 16 of the General Order (which deals with reconsideration and review of decisions) applies to a decision under this subsection.

#### *Notice of proposed suspension*

9T.2 The Secretary must not suspend the accreditation of a property under subsection 9T.1 unless the Secretary has given a written notice to the manager of the property in accordance with subsection 9T.4.

9T.3 However, a notice is not required to be given under subsection 9T.2 if the Secretary reasonably believes that the grounds for the proposed suspension are serious and urgent.

## Section 9TA

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Note: If the grounds for suspending the accreditation of a property are serious and urgent, the Secretary must give the manager of the property notice of the suspension under subsection 9U.1.

9T.4 A notice under subsection 9T.2 must:

- (a) specify each kind of operations and each kind of prescribed goods and, if applicable, each place in relation to which the accreditation is proposed to be suspended; and
- (b) specify the grounds for the proposed suspension; and
- (c) request the manager of the accredited property to give the Secretary, within 14 days after the day the notice is given, a written statement showing cause why the accreditation should not be suspended as proposed; and
- (d) include a statement setting out the manager's right to seek review of a decision to suspend the accreditation.

### **9TA Grounds for suspension—overdue relevant Commonwealth liability**

9TA.1 The Secretary may suspend the accreditation of a property in relation to all kinds of operations and all kinds of prescribed goods if:

- (a) a relevant Commonwealth liability of the manager of the property, or relating to the property, is more than 30 days overdue; and
- (b) the Secretary has given a written notice to the person (the *debtor*) who is liable to pay the relevant Commonwealth liability in accordance with subsection 9TA.2; and
- (c) within 8 days after the notice is given:
  - (i) the relevant Commonwealth liability has not been paid; or
  - (ii) the debtor has not entered into an arrangement with the Secretary to pay the relevant Commonwealth liability.

Note 1: A suspension must not be for more than 12 months (see section 9UA).

Note 2: Part 16 of the General Order (which deals with reconsideration and review of decisions) applies to a decision under this subsection.

9TA.2 A notice under subsection 9TA.1 must:

- (a) state that a relevant Commonwealth liability of the debtor in relation to an accredited property is more than 30 days overdue; and
- (b) state that the Secretary may suspend the accreditation of the property for all kinds of operations in relation to all kinds of prescribed goods if, within 8 days after the notice is given:
  - (i) the relevant Commonwealth liability is not paid; or
  - (ii) the debtor has not entered into an arrangement with the Secretary to pay the relevant Commonwealth liability; and
- (c) include a statement setting out the debtor's right to seek review of a decision to suspend the accreditation of the property.

*Secretary may direct that activities not be carried out*

9TA.3 If the Secretary suspends the accreditation of a property under subsection 9TA.1, the Secretary may refuse to carry out, or direct a person not to carry out,

specified activities or kinds of activities in relation to the debtor under this Act until the relevant Commonwealth liability has been paid.

*Action under this section does not affect liability to pay relevant Commonwealth liability*

9TA.4 Action by the Secretary under this section does not affect the liability of the debtor to pay the relevant Commonwealth liability.

### **9TB Other grounds for suspension**

The Secretary may suspend the accreditation of a property in relation to all kinds of operations and all kinds of prescribed goods if:

- (a) the Secretary:
  - (i) receives a notice from the person in whose name the property is accredited under section 9ZE; or
  - (ii) otherwise becomes aware that the person in whose name the property is accredited has ceased to be the manager of the property; and
- (b) another person has become the manager of the property.

### **9U Notice of suspension**

9U.1 If the Secretary decides to suspend the accreditation of a property under this Subdivision, the Secretary must give the manager of the property a written notice stating:

- (a) that the accreditation of the property is to be suspended, for the period specified in the notice, in relation to all or specified kinds of operations and all or specified kinds of prescribed goods and, if applicable, all or specified places to which prescribed goods may be exported; and
- (b) the reasons for the suspension; and
- (c) the date the suspension is to start; and
- (d) the period of the suspension; and
- (e) that the manager may apply for reconsideration and review of the decision under Part 16 of the General Order.

9U.2 If the manager was given a notice (a *show cause notice*) under subsection 9T.2, the suspension must not start before the earlier of the following:

- (a) the day after any response to the request to show cause included in the notice is received by the Secretary;
- (b) the end of 14 days after the show cause notice was given.

### **9UA Period of suspension**

9UA.1 A suspension of the accreditation of a property under this Subdivision must not be for more than 12 months.

**Part 2A** Accredited properties

**Division 4** Suspension of accreditation

**Section 9UB**

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9UA.2 The Secretary may vary the period of a suspension under this Subdivision by written notice to the manager of the property. However, the total period of the suspension must not be more than 12 months.

Note: Part 16 of the General Order (which deals with reconsideration and review of decisions) applies to a decision to extend the period of a suspension.

**9UB Revocation of suspension**

The Secretary may revoke a suspension of the accreditation of a property under this Subdivision by written notice to the manager of the property.

**Subdivision C—Other provisions**

**9V Effect of suspension**

If the accreditation of a property is suspended wholly or in part under Subdivision A or B:

- (a) the accreditation of the property remains in force while it is suspended; and
- (b) the requirements of the Act, this Order and any other instrument in force under the Act that applies in relation to the accreditation and the operations and prescribed goods covered by the accreditation (including the conditions of the accreditation) must be complied with while the accreditation is suspended.

**9W Suspended operations must not be carried out during suspension period**

If the manager of an accredited property receives a notice under subsection 9R.4 or 9U.1 stating that the accreditation of the property has been, or is to be, suspended in relation to all or specified kinds of operations and all or specified kinds of prescribed goods and, if applicable, all or specified places to which goods may be exported, the manager must ensure that operations are not carried out in relation to which the accreditation is suspended.

*Level 5 penal provision*

## **Division 5—Revocation of accreditation**

### **Subdivision A—Revocation requested by manager**

#### **9X Manager may request revocation**

9X.1 The manager of an accredited property (including a property in relation to which a suspension is in effect under Division 4) may request the Secretary to revoke the accreditation of the property.

Note: If the manager does not wish to revoke the accreditation of the property in relation to all kinds of operations and all kinds of prescribed goods, the manager may apply to vary the accreditation under Subdivision A of Division 3.

9X.2 A request under subsection 9X.1 must be in writing.

9X.3 If the Secretary receives a request from the manager of an accredited property under subsection 9X.1, the Secretary must, by written notice to the manager, revoke the accreditation of the property, with effect on the day specified in the notice.

9X.4 Subsection 9X.3 does not apply if, before the request under subsection 9X.1 was made, the Secretary:

- (a) had given the manager of the property a notice under subsection 9Y.2 in relation to the accreditation; and
- (b) had not decided whether to revoke the accreditation or not.

### **Subdivision B—Revocation by Secretary**

#### **9Y Grounds for revocation—general**

9Y.1 The Secretary may revoke the accreditation of a property (including a property in relation to which a suspension is in effect under Division 4) if the Secretary reasonably believes that:

- (a) the integrity of prescribed goods covered by the accreditation cannot be ensured; or
- (b) a condition of the accreditation has been, or is being, contravened; or
- (c) the manager of the property:
  - (i) failed to comply with a direction given to the manager by an authorised officer or the Secretary; or
  - (ii) failed to comply with a request by an authorised officer to provide information or a document; or
  - (iii) failed to comply with a request made by an auditor under section 45A; or
  - (iv) failed to provide assistance to an auditor as required by section 46; or
- (d) the manager of the property has engaged in conduct that:
  - (i) intimidated a person performing functions or exercising powers under the Act or this Order; or

## Section 9YA

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- (ii) hindered or prevented a person from performing functions or exercising powers under the Act or this Order; or
- (e) a false, misleading or incomplete statement was made in an application under this Part; or
- (f) false, misleading or incomplete information or documents were given to the Secretary or to another person performing functions or exercising powers under the Act or this Order; or
- (g) the manager of the property has contravened:
  - (i) the requirements of the Act or this Order; or
  - (ii) the requirements of any other instrument in force under the Act that applies in relation to the accreditation and the operations and prescribed goods covered by the accreditation.

Note: Part 16 of the General Order (which deals with reconsideration and review of decisions) applies to a decision under this subsection.

### *Notice of proposed revocation*

9Y.2 The Secretary must not revoke the accreditation of a property under subsection 9Y.1 unless the Secretary has given a written notice to the manager of the property in accordance with subsection 9Y.4.

9Y.3 However, a notice is not required to be given under subsection 9Y.2 if the Secretary reasonably believes that the grounds for the proposed revocation are serious and urgent.

Note: If the grounds for revoking the accreditation of a property are serious and urgent, the Secretary must give the manager of the property notice of the revocation under subsection 9Z.1.

9Y.4 A notice under subsection 9Y.2 must:

- (a) specify the grounds for the proposed revocation; and
- (b) request the manager of the accredited property to give the Secretary, within 14 days after the day the notice is given, a written statement showing cause why the accreditation should not be revoked; and
- (c) include a statement setting out the manager's right to seek review of a decision to revoke the accreditation.

## **9YA Grounds for revocation—overdue relevant Commonwealth liability**

9YA.1 The Secretary may revoke the accreditation of a property if:

- (a) the accreditation is suspended under subsection 9TA.1 for non-payment of a relevant Commonwealth liability; and
- (b) within 90 days after the start of the suspension:
  - (i) the relevant Commonwealth liability had not been paid; or
  - (ii) the person (the *debtor*) who is liable to pay the relevant Commonwealth liability had not entered into an arrangement with the Secretary to pay the relevant Commonwealth liability.

Note: Part 16 of the General Order (which deals with reconsideration and review of decisions) applies to a decision under this subsection.



*Secretary may direct that activities not be carried out*

- 9YA.2 If the Secretary revokes the accreditation of a property under subsection 9YA.1, the Secretary may refuse to carry out, or direct a person not to carry out, specified activities or kinds of activities in relation to the debtor under this Act until the relevant Commonwealth liability has been paid.

*Action under this section does not affect liability to pay relevant Commonwealth liability*

- 9YA.3 Action by the Secretary under this section does not affect the liability of the debtor to pay the relevant Commonwealth liability.

### **9YB Other grounds for revocation**

*Person ceases to manage property*

- 9YB.1 The Secretary may revoke the accreditation of a property if the Secretary:
- (a) receives a notice from the former manager of the property under section 9ZE; or
  - (b) otherwise becomes aware that the person in whose name the property is accredited has ceased to be the manager of the property.

- 9YB.2 The Secretary may act under subsection 9YB.1 whether or not another person has become the manager of the property.

*Property becomes a registered establishment*

- 9YB.3 The Secretary may revoke the accreditation of a property if the property is, or becomes, a registered establishment.

### **9Z Notice of revocation**

- 9Z.1 If the Secretary decides to revoke the accreditation of a property under this Subdivision, the Secretary must give the manager of the property a written notice stating:
- (a) that the accreditation of the property is to be revoked; and
  - (b) the reasons for the revocation; and
  - (c) the date the revocation is to take effect; and
  - (d) that the manager may apply for reconsideration and review of the decision under Part 16 of the General Order.
- 9Z.2 If the manager was given a notice (a **show cause notice**) under subsection 9Y.2, the revocation must not take effect before the earlier of the following:
- (a) the day after any response to the request to show cause included in the notice is received by the Secretary;
  - (b) the end of 14 days after the show cause notice was given.

Section 9ZA

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**Subdivision C—Other provisions**

**9ZA Secretary may require action to be taken after accreditation revoked**

9ZA.1 This section applies if:

- (a) a person was given notice of revocation of the accreditation of a property under subsection 9X.3 or 9Z.1; or
- (b) the accreditation of the property was revoked under Subdivision A or B of this Division.

9ZA.2 The Secretary may, in writing, direct the person to take specified action, within a specified period after the accreditation is revoked, in relation to the operations and prescribed goods that were covered by the accreditation. The action must be action that is necessary for the purpose of achieving one or more objects of the Act or this Order.

9ZA.3 A direction to a person under subsection 9ZA.2 must state that, if the person fails to comply with the direction, the person could commit an offence against the *Export Control (Orders) Regulations 1982*.

9ZA.4 A person who is given a direction under subsection 9ZA.2 must comply with the direction.

*Level 5 penal provision*

## **Division 6—Obligations of managers of accredited properties**

### **9ZB Conditions of accreditation must not be contravened**

The manager of an accredited property (including a property in relation to which a suspension is in effect under Division 4) must ensure that the conditions of accreditation of the property are not contravened.

*Level 5 penal provision*

### **9ZC Additional or corrected information in relation to application for accreditation etc.**

9ZC.1 The manager of an accredited property must comply with subsection 9ZC.2 if the manager becomes aware that information included in an application made by the manager under this Part, or information or a document given to the Secretary in relation to such an application, was incomplete or incorrect.

9ZC.2 The manager of the property must, as soon as practicable, give the Secretary additional or corrected information, to the extent that it is relevant to assessing whether:

- (a) the requirements of the Act or this Order in relation to a matter covered by the accreditation of the property have been, are being, or will be complied with; or
- (b) importing country requirements in relation to a matter covered by the accreditation of the property have been, are being, or will be met.

Note 1: A person may commit an offence if the person makes a false or misleading statement in an application or provides false or misleading information or documents (see sections 136.1, 137.1 and 137.2 of the *Criminal Code*).

Note 2: The Secretary may suspend or revoke the accreditation of the property if the manager fails to comply with this subsection (see paragraphs 9T.1(g) and 9Y.1(g)).

*Level 3 penal provision*

### **9ZD Notice of event or change in circumstances**

The manager of an accredited property must notify the Secretary, in writing, as soon as practicable after any of the following events or circumstances occurs:

- (a) there is a change in the manager's business structure;
- (b) if the manager is an individual—the individual enters into a personal insolvency agreement under Part X of the *Bankruptcy Act 1966*;
- (c) if the manager is a corporation—the corporation:
  - (i) enters into administration (within the meaning of section 435C of the *Corporations Act 2001*); or
  - (ii) is to be wound up (whether by a court or voluntarily);
- (d) there is a change in the trading name, business address or contact details of the manager;

**Part 2A** Accredited properties

**Division 6** Obligations of managers of accredited properties

**Section 9ZE**

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- (e) a condition of the accreditation is contravened;
- (f) any other event or circumstance that relates to a matter covered by the accreditation.

Note: If a person ceases to be the manager of an accredited property, the person must notify the Secretary in accordance with section 9ZE.

*Level 5 penal provision*

**9ZE Notice of person ceasing to be manager of accredited property**

If the person in whose name a property is accredited (the *former manager*) ceases to be the manager of the property, the former manager (or another person who is legally authorised to act on behalf of the former manager) must, as soon as practicable after the cessation, notify the Secretary, in writing, of that fact. The notice must also include contact details for the person giving the notice.

Note: If the person in whose name a property is accredited ceases to be the manager of the property, the accreditation of the property may be suspended under section 9TB or revoked under subsection 9YB.1.

*Level 3 penal provision*

## **Division 7—Applications for accreditation etc.**

### **9ZF Applications to which this Division applies**

This Division applies in relation to the following applications:

- (a) an application under Division 1 to accredit a property;
- (b) an application under Division 2 to renew the accreditation of a property;
- (c) an application under Subdivision A of Division 3:
  - (i) to make a variation in relation to the accreditation of a property; or
  - (ii) to approve a variation of the accreditation of a property so that it covers an alteration of the property.

### **9ZG Requirements for applications**

9ZG.1 An application must:

- (a) be made:
  - (i) in a manner, approved, in writing, by the Secretary; and
  - (ii) within such period (if any) specified, in writing, by the Secretary; and
- (b) if the Secretary has approved a form for making the application:
  - (i) include the information required by the form; and
  - (ii) be accompanied by any documents required by the form.

Note: A person may commit an offence if the person makes a false or misleading statement in the application or provides false or misleading information or documents (see sections 136.1, 137.1 and 137.2 of the *Criminal Code*).

9ZG.2 The Secretary may accept any information or document previously given to the Secretary in connection with an application made under this Order or the General Order, or a notice of intention to export a consignment of prescribed goods given under this Order, as satisfying any requirement to give that information or document under subsection 9ZG.1.

9ZG.3 An application is taken not to have been made if the application does not comply with the requirements referred to in subsection 9ZG.1 for the application.

9ZG.4 To avoid doubt, the Secretary may approve:

- (a) different forms for applications relating to different kinds of properties, operations or prescribed goods; or
- (b) a single form for more than one kind of application.

### **9ZH Additional or corrected information**

9ZH.1 A person who has made an application must comply with subsection 9ZH.2 if the person becomes aware that information included in the application, or information or a document given to the Secretary in relation to the application, was incomplete or incorrect.

## Section 9ZJ

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9ZH.2 The person must, as soon as practicable, give the Secretary additional or corrected information, to the extent that it is relevant to the Secretary's consideration of the application.

Note: A person may commit an offence if the person makes a false or misleading statement in an application or provides false or misleading information or documents (see sections 136.1, 137.1 and 137.2 of the *Criminal Code*).

*Level 3 penal provision*

### **9ZJ Dealing with applications**

9ZJ.1 For the purpose of making a decision in relation to an application, the Secretary may do any of the following:

- (a) request the applicant, or another person who the Secretary considers may have information or documents relevant to the application or the applicant, to give the Secretary further specified information or documents relevant to the application or the applicant;
- (b) request consent to enter premises of the applicant or of another person:
  - (i) to inspect, examine or evaluate the premises and operations carried out in relation to prescribed goods to which the application relates; or
  - (ii) to take samples of prescribed goods, or from equipment used in operations, to which the application relates; or
  - (iii) to take photographs of prescribed goods, or of equipment used in operations, to which the application relates;
- (c) request consent to allow a person with appropriate qualifications or expertise to assist the Secretary in doing a thing under paragraph (b);
- (d) request the applicant, or a person with appropriate qualifications or expertise, to provide a demonstration of operations carried out in relation to goods to which the application relates;
- (e) test, or analyse, any samples taken under subparagraph (b)(ii);
- (f) arrange for another person, with appropriate qualifications or expertise, to test, or analyse, any samples taken under subparagraph (b)(ii).

9ZJ.2 A request under subsection 9ZJ.1 must:

- (a) be in writing; and
- (b) specify the period within which the request must be complied with.

## **Part 3—Registered establishments**

### **Division 1—General**

#### **10 Requirements for registered establishments**

- 10.1 A person who wishes to apply for registration of an establishment for the preparation or inspection of prescribed goods within the meaning of this Order must comply with Schedule 3.

Note 1: Applications for registration are made under Part 4 of the General Order.

Note 2: Section 3 of the *Export Control Act 1982* contains a definition of preparation in relation to prescribed goods.

- 10.2 A registered establishment must be operated in accordance with Schedule 3.

Note: A failure to comply can lead to suspension or cancellation of registration (see Part 4 of the General Order).

#### **11 Preparation and inspection must take place in registered establishment**

Prescribed goods intended for export may not be presented for inspection under Part 5 unless:

- (a) they were prepared in a registered establishment; and
- (b) they are presented for inspection in a registered establishment.

#### **12 Transport of prescribed goods**

- 12.1 Goods may be transported between registered establishments only in accordance with orders and instructions from an authorised officer.
- 12.2 If prescribed goods are despatched to another registered establishment where the export permit is to be issued, a transfer certificate for the goods may be issued by an authorised officer in a form approved by the Secretary.
- 12.3 Goods being transported in accordance with this section are taken to be in a registered establishment.

#### **13 Records of dates of packaging**

If prescribed goods originate from different registered establishments and are repacked at another registered establishment, the occupier of that other registered establishment must keep, for at least two years, a record of:

- (a) the packing dates; and
- (b) the establishments at which the goods were originally packed.

Note: See clause 4 of Schedule 3 for record keeping requirements to be met by an occupier of a registered establishment.

## Division 2—Small horticultural products registered establishments

### 13A Secretary may determine that a registered establishment is a small horticultural products registered establishment for a financial year

- (1) The occupier, or (if there are 2 or more occupiers) the occupiers jointly, of an establishment may apply, in writing, to the Secretary for a determination under subsection (6) that the establishment is a small horticultural products registered establishment for a financial year (the *relevant financial year*) if:
- (a) the establishment is to be used, in the relevant financial year, only for operations associated with the production and preparation for export of one or more kinds of horticultural products (the *relevant horticultural products*) referred to in column 1 of the table in subsection (2); and
  - (b) the occupier is the grower, or (if applicable) the occupiers are the growers, of the relevant horticultural products; and
  - (c) either:
    - (i) for an application in relation to a registered establishment—the occupier is not, or (if applicable) none of the occupiers are, an occupier in relation to any other registered establishment; or
    - (ii) for an application in relation to an establishment that is not a registered establishment—the occupier is not, or (if applicable) none of the occupiers are, an occupier in relation to a registered establishment; and
  - (d) the total amount of a kind of horticultural product referred to in column 1 of any of items 1 to 13 of the table in subsection (2) that are to be produced and prepared at the establishment for export in the relevant financial year will not exceed the total amount referred to in column 2 of the item relating to that kind of horticultural product; and
  - (e) the total amount of all horticultural products, other than those referred to in column 1 of any of items 1 to 13 of the table in subsection (2), that are to be produced and prepared at the establishment for export in the relevant financial year will not exceed the total amount referred to in column 2 of item 14 of that table.
- (1A) If the occupier, or (if applicable) the occupiers, of an establishment that is not a registered establishment wish to make an application in relation to the establishment under subsection (1), the application must be made at the same time as the application for registration of the establishment is made.
- Note: See Schedule 3 to this Order and Part 4 of the General Order in relation to applications for registration of an establishment.
- (2) The following table sets out:
- (a) for paragraph (1)(a)—kinds of horticultural products; and
  - (b) for paragraphs (1)(d) and (e)—the total amounts (in tonnes) for export for those kinds of horticultural products for a financial year.



<b>Horticultural products and total amounts for export in a financial year</b>		
<b>Item</b>	<b>Column 1 Horticultural products</b>	<b>Column 2 Total amount (in tonnes) for export in a financial year</b>
1	Apples or pears (or both)	400
2	Citrus	400
3	Stone fruit (except cherries)	400
4	Table grapes	400
5	Mangoes	100
6	Cherries	30
7	Melons	10
8	Avocados	5
9	Kiwi fruit	5
10	Either, or both, of the following: (a) strawberries; (b) berries to which Part 25 of Schedule 22 to the <i>Primary Industries Levies and Charges Collection Regulations 1991</i> applies	5
11	Leafy vegetables	10
12	Vegetables other than leafy vegetables	100
13	Cut flowers	5
14	All other kinds of horticultural products	5

- (3) For subsection (1), a person is a grower of relevant horticultural products if the person:
- (a) has a right to, or interest in, the horticultural products; and
  - (b) contributes labour and capital to the production and preparation of the horticultural products.
- (4) An application by the occupier, or (if applicable) the occupiers, of an establishment under subsection (1) must be accompanied by a written declaration by the occupier, or (if applicable) the occupiers, stating the matters referred to in paragraphs (1)(a) to (e).
- (5) The Secretary may request, in writing, further information from an applicant that the Secretary considers is relevant to making a decision whether or not to make a determination under subsection (6).
- (6) The Secretary may determine, in writing, that a registered establishment is a small horticultural products registered establishment for a financial year if:
- (a) an application is made under subsection (1) by the occupier, or (if applicable) the occupiers, of the establishment; and
  - (b) the application is accompanied by a declaration in accordance with subsection (4); and
  - (c) the Secretary is satisfied that the declaration is correct.

**Part 3** Registered establishments

**Division 2** Small horticultural products registered establishments

**Section 13A**

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Note: A decision to refuse to make a determination under this subsection is reviewable under Part 16 of the General Order.

- (7) For the purpose of deciding whether to make a determination under subsection (6) in relation to a registered establishment for a financial year, the Secretary may take into account:
- (a) the amount (in tonnes) of the relevant horticultural products produced and prepared at the establishment for export in previous financial years; and
  - (b) any other relevant information.

Note: If a determination is in force for a registered establishment for a financial year under subsection (6), the charge payable in relation to the registered establishment for the financial year, under the *Export Charges (Imposition—General) Regulation 2015* or the *Export Charges (Imposition—Customs) Regulation 2015*, is the charge set out in item 4 of the table in subsection 11(1) of the relevant regulation.

## **Part 4—Notice of intention to export**

### **14 Notice of intention to export prescribed goods**

- 14.1 For section 6 of the Act, a notice of intention to export prescribed goods must:
- (a) be in an approved form; and
  - (b) identify the exporter; and
  - (c) specify the tests and certificates that are requested for the goods, as well as those that are required under section 7; and
  - (d) be completed by the exporter or an agent of the exporter in a manner that will enable an authorised officer to identify the goods; and
  - (e) be given to an authorised officer by a person who intends to export the goods in sufficient time to allow any necessary inspections and the issue of the export permit and any necessary certificates.
- 14.2 The notice of intention to export must include a declaration by the person giving notice:
- (a) that sections that apply to the goods have been complied with; and
  - (b) that the information contained in the notice is true and correct; and
  - (c) as to how conditions or restrictions imposed by the importing country in relation to the goods will be complied with.
- 14.3 The approved form may require any other information the Secretary considers relevant.

### **15 Exporter to be responsible for goods**

The person identified as the exporter in a notice of intention to export is responsible for ensuring that sections that apply to the prescribed goods are complied with from the time the declaration specified in subsection 14.2 is made until the time the goods are exported.

### **16 Certificates of analysis**

- 16.1 The owner, processor or exporter of prescribed goods, or an agent of any of them, must provide to an authorised officer, at the time of inspection of the goods, such certificates of analysis in respect of the goods as are approved by the Secretary.
- 16.2 If the Secretary permits the analysis of a sample, the analysis must be made in accordance with an approved method.

## Part 5—Inspection for export compliance

### 17 Inspection for export compliance

- 17.1 An authorised officer may declare a consignment of prescribed goods to be *passed as export compliant* if he or she is satisfied that:
- (a) the goods, together with the places and any bins, receptacles or elements of a transport system in which they are stored or carried:
    - (i) are free of pests, including any pest for which a declaration of freedom is required by any relevant importing country authority; and
    - (ii) contain no contaminants above the relevant levels specified in or under this Order; and
  - (b) any necessary certificates under Part 11 can properly be issued in relation to the goods.
- 17.2 The authorised officer must satisfy himself or herself on the basis of inspection or sampling of the goods in accordance with Schedule 2 and, where necessary, re-inspection after treatments have been carried out.
- 17.3 The authorised officer must:
- (a) specify a period of not more than 28 days during which the goods may remain passed as export compliant; and
  - (b) make a record in a way approved by the Secretary.
- 17.4 In addition to subsection 17.3, the authorised officer may specify one or more additional periods during which the goods may remain passed as export compliant. An additional period must not exceed the period specified by the Secretary under subsection 17.5.
- 17.5 The Secretary must determine, in writing, the length of an additional period, or additional periods, during which the goods may remain passed as export compliant. The Secretary may determine different lengths for different additional periods.
- 17.6 If the authorised officer specifies one or more periods during which the goods may remain passed as export compliant, the authorised officer:
- (a) must specify the first additional period before the end of the period specified under paragraph 17.3(a); and
  - (b) must specify any further additional period before the end of the last period specified by the authorised officer; and
  - (c) must make a record of each additional period in an approved way.

### 18 Duration of export compliance

Prescribed goods that have been passed as export compliant cease to be passed as export compliant if:

- (a) the goods are not stored in a registered establishment; or

- (b) an authorised officer requires them to be re-inspected; or
- (c) the period specified under paragraph 17.3(a), or an additional period specified under subsection 17.4, expires.

## **19 Goods to be re-inspected**

Section 6.09 of the General Order applies in relation to prescribed goods that cease to be passed as export compliant.

## **20 Resubmission of goods**

- 20.1 This section applies when prescribed goods that:
- (a) were presented for inspection to an authorised officer who refused to declare them to be passed as export compliant; or
  - (b) have ceased to be passed as export compliant under section 18;
- are resubmitted for inspection by an authorised officer.
- 20.2 The exporter or packer must:
- (a) advise the authorised officer in writing that the goods are being resubmitted for inspection; and
  - (b) provide evidence that any further preparation, treatment or processing operations that have been undertaken in relation to the goods have resulted in the goods being suitable for export; and
  - (c) hold the goods under such conditions of security as are considered necessary by an authorised officer.
- 20.3 Prescribed goods that have been treated with an insecticide or fumigant must not be re-presented for inspection:
- (a) until after the safety precautions (including exposure or airing periods) specified on the registered label have been observed; or
  - (b) in the absence of such information, as approved by the Secretary.

## **21 Segregation of goods**

Prescribed goods to which section 19 applies must be dealt with in a manner that clearly distinguishes the goods from goods which are export compliant.

## Part 6—Packaging and trade descriptions

### 22 Packaging and other materials to be clean

Subject to this Order, materials to be used as packaging materials for prescribed goods and other materials applied to prescribed goods at the time of packaging:

- (a) must be unused and clean; or
- (b) if designed for multiple use and previously used—must have been cleaned and re-conditioned to the satisfaction of an authorised officer.

### 23 Characteristics of packaging and other materials

Subject to this Order, materials to be used as packaging materials for prescribed goods and other materials applied to prescribed goods at the time of packaging:

- (a) must be used in a manner that is unlikely to place the integrity of the prescribed goods at risk; and
- (b) must be sufficiently strong to withstand the handling ordinarily incurred by the materials during transit to the final destination; and
- (c) must be otherwise appropriate to the goods.

### 24 Trade description to contain certain information

24.1 When a trade description is applied to prescribed goods, the export of those goods is prohibited unless that trade description is adequate and accurate.

24.2 A trade description applied to goods is *adequate* for this section if it:

- (a) contains sufficient information to enable the goods to be readily identified; and
- (b) is not ambiguous or unclear; and
- (c) satisfies any particular requirements under this Order relating to the application of trade descriptions; and
- (d) satisfies any requirements of the importing country.

24.3 A trade description applied to goods is *accurate* for this section if it correctly describes the goods.

24.4 The trade description applied to prescribed goods must contain sufficient information, as approved by the Secretary, to enable the importing country authority to clear the goods.

## **Part 7—Exporting in packages**

### **25 When goods may be packaged for export**

- 25.1 A person must not pack prescribed goods into packages for export unless:
- (a) the goods have been passed as being export compliant; or
  - (b) an authorised officer has agreed to the use of a method approved by the Secretary for inspecting the goods, or appropriate samples of the goods, for export compliance after packing.
- 25.2 For this section, prescribed goods are in *packages for export* when they are in the receptacles in which they will be exported, being receptacles that:
- (a) have been approved by the Secretary for prescribed goods of that type; or
  - (b) an authorised officer has approved, in the circumstances in which the goods will be transported, as sufficient to protect the goods effectively during export.

## Part 8—Exporting in containers

### 26 Container approvals

A person must not load prescribed goods intended for export into a container unless an authorised officer has issued a container approval for the container.

### 27 Issue of container approval

- 27.1 An authorised officer must inspect a container in accordance with Schedule 4 for the purpose of considering whether to issue a container approval.
- 27.2 The authorised officer must issue a container approval to the person intending to load prescribed goods intended for export into the container, if he or she is satisfied that:
- (a) the container will not infest or infect the goods with pests; and
  - (b) any cargo already loaded into the container will not infest or infect the goods with pests; and
  - (c) no material is present in the container that is likely to harbour pests; and
  - (d) no material is present in the container that is likely to contaminate the goods; and
  - (e) the container is not in a condition that could result in the infestation or infection of the goods.
- 27.3 The authorised officer must record a container approval in a way approved by the Secretary.

### 28 Period of container approval

- 28.1 A container approval is valid for 90 days after the day on which it is issued.
- 28.2 In addition to subsection 28.1, the authorised officer may specify one or more additional periods during which the container approval is valid. An additional period must not exceed the period specified by the Secretary under subsection 28.3.
- 28.3 The Secretary must determine, in writing, the length of an additional period, or additional periods, during which the container approval is valid. The Secretary may determine different lengths for different additional periods.
- 28.4 If the authorised officer specifies one or more periods during which the container approval is valid, the authorised officer:
- (a) must specify the first additional period before the end of the period mentioned in subsection 28.1; and
  - (b) must specify any further additional period before the end of the last period specified by the authorised officer; and
  - (c) must make a record of each additional period in an approved way.



**29 Cancellation of container approval**

If an authorised officer believes that the conditions of a container have changed since the container approval was issued under subsection 27.2:

- (a) the authorised officer may cancel the approval; and
- (b) if the approval is cancelled, the authorised officer must notify:
  - (i) the person to whom the approval was issued; and
  - (ii) any other person to whom a paper version of the approval was given; as soon as practicable after cancelling the approval, that the approval has been cancelled.

**30 Surrender of container approval**

If a container approval is cancelled, each person to whom a paper version of the approval was given must surrender:

- (a) the paper version; and
  - (b) any copy of the paper version in his or her possession;
- to an authorised officer as soon as practicable after being notified of the cancellation.

*Level 4 penal provision*

**31 Sealing and identification of empty containers**

- 31.1 If a container that is approved under section 27 is not to be loaded immediately, the authorised officer must seal the container with a tamper-evident seal and apply an inspection sticker that includes the identification number of the authorised officer.
- 31.2 If a container has been sealed after inspection, the person responsible for the prescribed goods that are to be loaded into the container:
  - (a) must not load the container unless the seal is intact; and
  - (b) must not remove or obliterate the inspection sticker.

*Level 2 penal provision*

## Part 9—Exporting in bulk vessels

### Division 1—Surveys of bulk vessels

#### 32 Arrangements for bulk vessel to be surveyed before loading

If a bulk vessel is intended to carry prescribed goods for consumption, the shipowner or shipowner's agent must provide an authorised officer with a declaration, approved by the exporter of the goods, that a named marine surveyor has, or surveyors have, been appointed to survey the vessel.

#### 33 Obligations of marine surveyor

33.1 A marine surveyor appointed under section 32 must survey the bulk vessel with a view to establishing whether the vessel is suitable to carry the prescribed goods for consumption in the holds or areas of the vessel proposed.

33.2 If the marine surveyor is satisfied that the vessel:

- (a) is free of conditions that could result in contaminating, wetting or imparting an odour to the prescribed goods for consumption; and
- (b) is a suitable vessel to carry the prescribed goods for consumption in the areas proposed;

the marine surveyor may issue a certificate to that effect, and if it is in paper form, give the certificate and a copy to the master of the vessel.

33.3 The marine surveyor must not issue a certificate if he or she is not so satisfied.

*Level 4 penal provision*

#### 34 Acceptance of marine surveyor's certificate

For the purpose of issuing a vessel approval under section 37, an authorised officer may accept a certificate referred to in section 33 only if the name of the marine surveyor issuing the certificate appears in a declaration under section 32.

## **Division 2—Vessel approvals**

### **35 When bulk vessel may be loaded**

A person must not load prescribed goods intended for export in bulk into a bulk vessel unless a vessel approval has been issued under this Part to load the vessel.

### **36 Application for vessel approval**

An application for an approval to load a bulk vessel must be in an approved form.

### **37 Vessel approval**

- 37.1 On receiving an application for a vessel approval, an authorised officer must:
- (a) check whether a certificate in relation to the vessel has been issued by a marine surveyor under subsection 33.2 if it is intended to load prescribed goods for consumption into the vessel; and
  - (b) inspect the vessel in accordance with Schedule 5 to ensure that there are no pests, or infestible residues that could harbour pests or diseases, or conditions that could permit cross-infestation.
- 37.2 The authorised officer must issue a vessel approval to the person who made the application if he or she is satisfied that:
- (a) the cargo spaces and other parts of the vessel, or any cargo already loaded in the vessel, are not likely to infest or infect the goods with pests; and
  - (b) no material is present in the cargo spaces or other parts of the vessel that is likely to harbour pests or diseases.
- 37.3 The authorised officer must record a vessel approval in a way approved by the Secretary.

### **38 Period of vessel approval**

- 38.1 A vessel approval is valid for 28 days after the day on which it is issued.
- 38.2 In addition to subsection 38.1, the authorised officer may specify one or more additional periods during which the vessel approval is valid. An additional period must not exceed the period specified by the Secretary under subsection 38.3.
- 38.3 The Secretary must determine, in writing, the length of an additional period, or additional periods, during which the vessel approval is valid. The Secretary may determine different lengths for different additional periods.
- 38.4 If the authorised officer specifies one or more periods during which the vessel approval is valid, the authorised officer:
- (a) must specify the first additional period before the end of the period mentioned in subsection 38.1; and

## Section 39

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- (b) must specify any further additional period before the end of the last period specified by the authorised officer; and
- (c) must make a record of each additional period in an approved way.

### 39 Suspension of vessel approval

#### *Suspension*

- 39.1 If an authorised officer believes that the conditions on a vessel have changed since a vessel approval was issued for the vessel:
- (a) the authorised officer may suspend the approval; and
  - (b) if the approval is suspended, the authorised officer must notify:
    - (i) the person to whom the approval was issued; and
    - (ii) any other person to whom a paper version of the approval was given; as soon as practicable after suspending the approval, that the approval has been suspended.
- 39.2 If the vessel approval is suspended, an authorised officer may inspect the vessel.

#### *Surrender of vessel approval*

- 39.3 If a vessel approval is suspended, each person to whom a paper version of the approval was given must surrender:
- (a) the paper version; and
  - (b) any copy of the paper version in his or her possession;
- to an authorised officer as soon as practicable after being notified of the suspension.

#### *Level 4 penal provision*

### 40 Revocation of suspension of vessel approval

If an authorised officer is satisfied that the suspension of a vessel approval is no longer justified (whether or not the authorised officer has inspected the vessel), the authorised officer:

- (a) must revoke the suspension as soon as practicable; and
- (b) must notify:
  - (i) the person to whom the approval was issued; and
  - (ii) any other person to whom a paper version of the approval was given; as soon as practicable after revoking the suspension, that the suspension has been revoked; and
- (c) must return a paper version of the approval to any person who has surrendered it under subsection 39.3.

### 40A Cancellation of vessel approval

If an authorised officer inspects a vessel for which a vessel approval has been suspended and is satisfied, having regard to the vessel's condition, that the

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Section 40A

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conditions on the vessel that have changed, as mentioned in subsection 39.1, have not been rectified, the authorised officer:

- (a) must cancel the vessel approval; and
- (b) must notify:
  - (i) the person to whom the approval was issued; and
  - (ii) any other person to whom a paper version of the approval was given; as soon as practicable after cancelling the approval, that the approval has been cancelled.

## Part 10—Export permit

### 41 Export permit

41.1 Part 6 of the General Order applies in relation to the grant of an export permit in respect of prescribed goods.

41.2 The export of prescribed goods is prohibited unless an export permit for the export of the goods is in force.

Note: As to the period of validity of permits and the circumstances in which permits may be revoked, see sections 6.04 and 6.05 of the General Order.

## **Part 11—Phytosanitary and other Certification**

### **42 Certificate as to condition in respect of prescribed goods**

If an exporter requires a certificate as to the condition of prescribed goods for which an export permit has been granted, the export permit is taken to be that certificate, except where separate certification is required to meet the requirements of an importing country authority.

### **43 Certificates and other information**

- 43.1 If a certificate is required, an exporter must submit to an authorised officer:
- (a) such information in relation to the prescribed goods as the authorised officer requires; and
  - (b) a declaration of where and when the goods may be inspected; and
  - (c) any necessary certificates of analysis.
- 43.2 In relation to all prescribed goods for which a phytosanitary certificate is required, an exporter must, at the time the notice of intention to export is submitted, provide to an authorised officer details of all requirements that are to be certified on the certificate.
- 43.3 An inspection of prescribed goods for which a phytosanitary certificate is required must be carried out in accordance with Schedule 2.
- 43.4 Schedule 6 sets out requirements relating to the issuing of phytosanitary certificates.

### **44 Offence of issuing false certificate**

A person other than an authorised officer must not issue a phytosanitary certificate or a document purporting to be a phytosanitary certificate.

*Level 5 penal provision*

## Part 12—Miscellaneous

### 45 Secretary may require audits

- 45.1 The Secretary may require the following matters to be audited by a qualified person (in this Part called an *auditor*) for compliance with the Act and this Order:
- (aa) operations carried out at an accredited property or covered by the accreditation of the property;
  - (a) the operation of a registered establishment, including the work of authorised officers relating to the establishment;
  - (b) operations for the export of prescribed goods;
  - (c) operations for the certification of prescribed goods;
  - (d) the work of an authorised officer.
- 45.2 The Secretary may specify the scope of an audit.
- 45.3 An audit may be unannounced.
- 45.4 The auditor must give the person responsible for a matter being audited a copy of the report of the audit.
- 45.5 For this section, a *qualified person* is an authorised officer who:
- (a) is an employee of an agency of the government of the Commonwealth or of a State or Territory; and
  - (b) the Secretary is satisfied has the necessary skills and experience to perform the audit required, and will do so objectively, fairly and accurately.

### 45A Powers of auditors

- 45A.1 For the purpose of conducting an audit under this Part, an auditor may do anything the auditor considers necessary, including the following:
- (a) request a person who the auditor reasonably believes has information or documents that are relevant to the audit to answer questions, provide information in writing, or produce the documents;
  - (b) take samples of goods, or from equipment or other things used in operations in relation to prescribed goods for export or other operations, to which the audit relates;
  - (c) take, test or analyse samples of goods, or from equipment or other things used in operations in relation to prescribed goods for export or other operations, to which the audit relates;
  - (d) arrange for another person with appropriate qualifications or expertise to take, test or analyse samples of goods, or from equipment or other things used in operations in relation to prescribed goods for export or other operations, to which the audit relates.



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Note: A person may commit an offence if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code*).

45A.2 An auditor:

- (a) may make copies of, or take extracts from, a document produced under paragraph 45A.1(a); and
- (b) for that purpose, may remove the document from the place where it was produced.

## **46 Assistance to be provided**

- 46.1 The manager of an accredited property, the occupier of an establishment or the exporter (as the case requires) must provide such assistance required by an auditor as is reasonably necessary to enable the auditor to perform the audit of the relevant operations.
- 46.2 Without limiting the generality of section 46.1, the manager, occupier or exporter must:
- (a) provide information to the auditor on request (including explanations and documents) and operate any equipment; and
  - (b) allow an auditor to:
    - (i) observe and interview employees, agents or contractors; and
    - (ii) observe any procedures; and
    - (iii) use equipment for the purpose of accessing, examining, testing, sampling, recording or reproducing any documents or other thing; and
    - (iv) bring equipment onto the premises at which the audit is being conducted for the purposes of the audit.

## **47 Electronic communications**

The Secretary may determine in writing electronic methods for electronic notification and certification under this Order.

## **48 Alteration of notice after certification**

- 48.1 A person must not alter, add to or delete a certificate or permit under this Order except in accordance with subsection 48.2.

*Level 2 penal provision*

- 48.2 An authorised officer may alter the details of a certificate or permit that has been issued under this Order if the authorised officer is satisfied that any details mentioned in the certificate or permit have changed, otherwise than in a way that is material to the issuing of the certificate or permit.

*Level 2 penal provision*

**Part 13** Transitional

**Division 2** Transitional provisions relating to the Export Control (Plants and Plant Products) Order 2011

Section 50

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**Part 13—Transitional**

**Division 2—Transitional provisions relating to the Export Control  
(Plants and Plant Products) Order 2011**

**50 Transitional**

50.1 Despite the repeals effected by section 49:

- (a) any instrument in force or any approval given under orders referred to in that section remains in force according to its tenor as if it had been made, issued or given under this Order; and
- (b) if a person was an approved inspector under an approved arrangement under a repealed instrument:
  - (i) the arrangement continues to operate on its terms; and
  - (ii) the person is taken to be an authorised officer, with the same powers and in the same circumstances as the approved inspector, until the arrangement ceases.

50.2 For subparagraph 50.1(b)(ii), if the Secretary is satisfied that the term of an arrangement should be extended to effect a satisfactory transition, the arrangement is taken to cease at the end of any extension approved by the Secretary.

## **Division 3—Transitional provisions relating to the Export Control (Plants and Plant Products) Amendment (Accredited Properties) Order 2018**

### **50A Definitions for this Division**

In this Division:

*commencement day* means the day the *Export Control (Plants and Plant Products) Amendment (Accredited Properties) Order 2018* commences.

### **51 Meaning of *export listed property***

- 51.1 For the purposes of this Division, an *export listed property* is a property that was listed by the Department before the commencement day as meeting importing country requirements relating to one or more kinds of operations in relation to one or more kinds of prescribed goods for export to one or more places.
- 51.2 However, a property is not an *export listed property* for the purposes of this Division if the listing of the property was suspended immediately before the commencement day.

### **52 Properties that were export listed properties immediately before commencement day**

- 52.1 This section applies in relation to a property that was an export listed property immediately before the commencement day.
- 52.2 The property is taken to be accredited under Part 2A for each kind of operations in relation to each kind of prescribed goods and, if applicable, each place that was covered by the listing (the *previous listing*) of the property.
- 52.3 If the previous listing of the property was given subject to one or more conditions, the accreditation of the property has effect subject to those conditions.
- 52.4 The accreditation of the property is taken to have an expiry date. The expiry date for the accreditation is the last day of the period of 12 months beginning on the day the previous listing of the property took effect.

Note: The accreditation may be renewed under Division 2 of Part 2A.

### **53 Applications for listing made before commencement day**

- 53.1 This section applies if:
- (a) before the commencement day the manager of a property had made an application to the Department for the property to be listed as an export listed property; and
  - (b) no decision on the application had been made before that day.

**Part 13** Transitional

**Division 3** Transitional provisions relating to the Export Control (Plants and Plant Products) Amendment (Accredited Properties) Order 2018

**Section 54**

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- 53.2 The application is taken to be an application made to the Secretary under subsection 9A.1 to accredit the property for each kind of operations in relation to each kind of prescribed goods and, if applicable, each place specified in the application.
- 53.3 The application is taken:
- (a) to be an application in relation to which Division 7 of Part 2A applies; and
  - (b) to comply with the requirements referred to in subsection 9ZG.1.

**54 Applications to renew listing made before commencement day**

- 54.1 This section applies in relation to a property if:
- (a) immediately before the commencement day, the property was an export listed property; and
  - (b) before that day the manager of the property had made an application to the Department to renew the listing of the property for one or more kinds of operations in relation to one or more kinds of prescribed goods and, if applicable, one or more places covered by the listing; and
  - (c) no decision on the application had been made before that day.
- 54.2 The application is taken to be an application made to the Secretary under subsection 9F.2 to renew the accreditation of the property for each kind of operations in relation to each kind of prescribed goods and, if applicable, each place specified in the application.

Note: The property is taken to be an accredited property (see subsection 52.2).

- 54.3 The application is taken:
- (a) to be an application in relation to which Division 7 of Part 2A applies; and
  - (b) to comply with the requirements referred to in subsection 9ZG.1.

**55 Applications to vary listing made before commencement day**

- 55.1 This section applies in relation to a property if:
- (a) immediately before the commencement day, the property was an export listed property; and
  - (b) before that day the manager of the property had made an application to the Department:
    - (i) to vary a matter covered by the listing of the property; or
    - (ii) to approve an alteration of the property; or
    - (iii) to vary the conditions of the listing; or
    - (iv) to vary the particulars relating to the listing to make a minor change to a matter; and
  - (c) no decision on the application had been made before that day.
- 55.2 The application is taken to be an application made to the Secretary under subsection 9K.1 to vary the accreditation of the property as specified in the application.

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Note: The property is taken to be an accredited property (see subsection 52.2).

55.3 The application is taken:

- (a) to be an application in relation to which Division 7 of Part 2A applies; and
- (b) to comply with the requirements referred to in subsection 9ZG.1.

## **56 Requests to suspend listing made before commencement day**

56.1 This section applies in relation to a property if:

- (a) immediately before the commencement day, the property was an export listed property; and
- (b) before that day the manager of the property had, in writing, requested the Department to suspend the listing of the property in relation to one or more kinds of operations and one or more kinds of prescribed goods and, if applicable, one or more places covered by the listing; and
- (c) the request had not been dealt with before that day.

56.2 The request is taken to be a request made to the Secretary under subsection 9R.1 to suspend the accreditation of the property in relation to each kind of operations and each kind of prescribed goods and, if applicable, each place specified in the application.

Note: The property is taken to be an accredited property (see subsection 52.2).

## **57 Requests to revoke listing made before commencement day**

57.1 This section applies in relation to a property if:

- (a) immediately before the commencement day, the property was an export listed property; and
- (b) before that day the manager of the property had, in writing, requested the Department to revoke the listing of the property; and
- (c) the request had not been dealt with before that day.

57.2 The request is taken to be a request made to the Secretary under subsection 9X.1 to revoke the accreditation of the property.

Note: The property is taken to be an accredited property (see subsection 52.2).

## **58 Penal provisions**

58.1 Each of the following provisions in Part 2A has effect during the period of 12 months beginning on the commencement day as if the reference to *Level 5 penal provision* were omitted:

- (a) subsection 9M.2;
- (b) section 9W;
- (c) subsection 9ZA.4;
- (d) section 9ZB;
- (e) section 9ZD.

**Part 13** Transitional

**Division 3** Transitional provisions relating to the Export Control (Plants and Plant Products) Amendment (Accredited Properties) Order 2018

**Section 59**

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58.2 Each of the following provisions in Part 2A has effect during the period of 12 months beginning on the commencement day as if the reference to *Level 3 penal provision* were omitted:

- (a) subsection 9ZC.2;
- (b) section 9ZE;
- (c) subsection 9ZH.2.

**59 Prescribed goods produced or prepared before commencement day and exported on or after that day**

59.1 This section applies if:

- (a) a consignment of prescribed goods is to be exported to a place on or after the commencement day; and
- (b) the prescribed goods were produced or prepared before that day; and
- (c) the condition set out in subsection 9.1A is required to be met in relation to the prescribed goods.

59.2 Subsection 9.1A has effect in relation to the prescribed goods as if:

- (a) a reference to an accredited property included a reference to an export listed property; and
- (b) a reference to the accreditation of the property included a reference to the listing of the property.

## **Schedule 1—Marine surveyors' qualifications**

(definition of *marine surveyor* in section 5)

### **1 Marine surveyors' qualifications**

- 1.1 A marine surveyor becomes *qualified* for the purposes of this Order if he or she:
- (a) holds either:
    - (i) a Certificate of Competency as Master Class 1 (Unrestricted) or its current equivalent; or
    - (ii) a Diploma in Marine Surveying which includes a module on dry bulk cargoes issued by a nationally accredited training establishment; and
  - (b) has inspected at least 10 bulk vessels, while in the company of a qualified marine surveyor conducting a survey for suitability to carry prescribed goods for consumption, over a maximum period of 2 years.
- 1.2 A person who has been qualified for 3 years or more ceases to be qualified if he or she has not surveyed at least 3 bulk vessels during the past 3 years for suitability to carry prescribed goods for consumption.

## Schedule 2—Inspection of prescribed goods

(sections 6, 17 and 43)

### Part 1—Preliminary

#### 1 Interpretation

In this Schedule:

**sub-sample** means a quantity of prescribed goods that is drawn from a consignment of the goods in a manner that ensures that the total quantity drawn is:

- (a) in the same proportion to the total quantity of the consignment as 2.25 litres is to 33.33 tonnes; or
- (b) sufficient to enable an inspection to be made.

#### 2 Tolerances for pests and contaminants

- 2.1 A nil tolerance for live pest infestations must be applied to all prescribed goods presented for inspection.
- 2.2 Despite subclause 2.1, if a pest is non-injurious and is not a quarantine pest of an importing country, the Secretary may specify variations to the nil tolerance for the pest.
- 2.3 A nil tolerance for all vermin, including rodents, and their waste, must be applied to all prescribed goods presented for inspection.
- 2.4 Despite subclause 2.3, the Secretary may specify variations to the nil tolerances for specified goods.
- 2.5 A tolerance level for contaminants may be specified by the Secretary or by the importing country in relation to prescribed goods.
- 2.6 If during routine examination of prescribed goods other contaminating material is detected, this must be reported by an authorised officer to the person responsible for the goods.

#### 3 Sampling rate

Sampling must be undertaken in accordance with the directions of the Secretary.



## **Part 2—Prescribed goods in bulk**

### **4 Treatment of rejected goods**

- 4.1 This clause applies if prescribed goods are rejected for reasons that will respond to treatment.
- 4.2 If there is an approved method of treating the goods, the goods must not be re-presented for inspection unless they have been treated using an approved method.
- 4.3 If there is no approved method of treating the goods, the goods must not be re-presented for inspection unless they have been treated.

### **5 Site of inspection**

The site of inspection must be in a position which is well lit, free of environmental hazards (including dust and fumigant gases) and which will allow an authorised officer to draw and examine samples without risk to his or her personal safety.

### **6 Sampling rate**

The required sampling rate for bulk prescribed grain is 2.25 litres of product per 33.33 tonnes or equivalent.

### **7 Undue delay after detecting insects**

Should unnecessary delay occur between the discovery of insects and stopping of the stream flow, an export permit or phytosanitary certificate must not be issued for that tonnage of goods loaded after rejection was notified to a responsible person, unless the goods are discharged.

Note: See section 17.

### **8 Re-presentation of goods**

Re-presented goods must be inspected in the normal manner and rejected if live insects or other unsatisfactory conditions are present.

### **9 Screening of goods**

- 9.1 Screening of prescribed goods is not taken to be sufficient for the removal of live insects.
- 9.2 Goods must be screened to remove large contaminants when automatic sampling is in use.

Clause 10

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9.3 For the purpose of subclause 9.2, screenings must be available for examination by the authorised officer during and at the end of each working day.

**10 Blending of goods**

10.1 Blending of prescribed goods rejected for insect infestation is not permitted.

10.2 Despite subclause 10.1, blending is permitted in the case of contaminants.

10.3 If blending is being carried out during the pre-weighing or loading of a ship and blended goods are rejected, all cells or other sources feeding the blend must be included in the rejection.

## **Part 3—Prescribed goods inspected for phytosanitary certification**

### **11 Inspection**

- 11.1 Inspection procedures for prescribed goods being loaded in bulk into bulk vessels' holds and containers must be carried out in accordance with a method approved by the Secretary.
- 11.2 Inspection procedures for bagged consignments of prescribed goods must be carried out in accordance with a method approved by the Secretary.

### **12 Re-inspection of consignments where shipment delayed**

- 12.1 Subject to subclause 12.2, re-inspection of a consignment is not required until the end of the period during which the prescribed goods are passed as export compliant.  
Note: Section 17 explains this period.
- 12.2 If a foreign country authority specifies a maximum time that may elapse between inspection and export and that time has elapsed before export takes place, an exporter may request a further inspection and issue of another certificate.
- 12.3 Re-inspection must be carried out by inspecting and sub-sampling surface layers without the need to discharge bulk vessels or containers, except where the integrity of the consignment has not been maintained.

## Part 4—Treatment of rejected prescribed goods

### 13 Insect infestation

13.1 If prescribed goods have an insect infestation, they must be treated using an approved method.

Note: Each method will be appropriate to the prescribed goods, the insect and the degree of infestation. A particular approved method may include one or more of the following:

- (a) treatment with an insecticide;
- (b) fumigation;
- (c) use of a controlled atmosphere.

13.2 If a method of treatment would require or permit the use of an insecticide, a fumigant or another product, the Secretary must not approve the method unless the Secretary is satisfied that:

- (a) the insecticide, fumigant or other product is registered for that use under a law of the Commonwealth, a State or a Territory; or
- (b) registration under such a law is not required.

### 14 Use of insecticides, fumigants and other products

14.1 An insecticide, a fumigant or another product that is used on prescribed goods as part of an approved method under clause 13 must:

- (a) be used in accordance with its registered label (if a registered label is required); and
- (b) be acceptable to the importing country; and
- (c) be approved by the exporter.

14.2 Goods that have been treated with an insecticide, a fumigant or another product as part of an approved method under clause 13 must not be presented, or re-presented, for inspection until the whole of the approved method has been completed.

Note: An approved method may include an airing period or another safety precaution that is to happen after the goods have been treated with the insecticide, fumigant or other product.

### 15 Contaminants

15.1 For contaminants for which a nil tolerance applies, cleaning of the prescribed goods must be carried out to remove the contaminating material, if the goods are to be re-presented for export.

15.2 For contaminants for which a numerical tolerance applies, cleaning or blending of the prescribed goods to below the permitted tolerance may be carried out.

15.3 Contamination that has occurred on the outsides of bags or other packages may be removed by brushing or other mechanical means if approved by the Secretary.

## **Schedule 3—Requirements for registered establishments**

(section 10)

### **1 Application for registration**

An application for registration of an establishment under the General Order must be completed and returned to an authorised officer in the State or Territory in which the establishment is located, together with plans and specifications of the establishment.

### **2 Requirements for plans and specifications**

- 2.1 For the purposes of registration, plans or diagrams giving the general structural and operational layout of the establishment must be provided.
- 2.2 Plans must be sufficiently detailed to allow evaluation of the establishment and must include:
  - (a) a locality map showing the site in relation to the local area; and
  - (b) a site plan showing all salient features of the site and adjoining sites including location of the establishment; and
  - (c) a floor plan of processing areas, showing all permanent fixtures and layout of equipment; and
  - (d) a product flow chart, and main features of product.

### **3 Alterations, extensions and rearrangements to establishments**

Notice of changes to a registered establishment that may result in residual infestation problems or that may affect sampling and inspection of prescribed goods must be submitted in accordance with clause 1.

### **4 Records to be maintained**

The occupier of a registered establishment must:

- (a) keep, for at least two years, records of cleaning and pest control measures in sufficient detail to enable an authorised officer to monitor the effectiveness of pest control measures; and
- (b) keep, for at least two years, records of receivals and loadings, and make them available to an authorised officer upon request.

### **5 Structural requirements for establishments preparing prescribed goods**

- 5.1 An establishment in which prescribed goods are prepared or inspected for export must be designed and constructed to allow all operations for which the

Clause 6

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establishment may be registered to be carried out efficiently, effectively and hygienically.

- 5.2 Without limiting clause 5.1, the design and construction of the establishment must, as appropriate:
- (a) provide adequate ventilation where treatments are carried out; and
  - (b) allow effective cleaning of floors and surrounds in the product handling areas; and
  - (c) minimise harbourage for pests or diseases; and
  - (d) minimise the possibility of contamination of the prescribed goods during preparation; and
  - (e) allow effective cleaning of the plant and equipment used in the preparation or handling of the prescribed goods; and
  - (f) provide handwashing and toilet facilities; and
  - (g) make provision for the disposal of all waste material, including both liquids and solids, in an efficient and hygienic manner.
- 5.3 Equipment provided for the fumigation or treatment of prescribed goods must be constructed, tested, maintained and operated in accordance with applicable local government, State, Territory and Commonwealth regulations.
- 5.4 The occupier of the establishment must provide suitable facilities for the safe and effective inspection of prescribed goods, in accordance with any requirements set by the Secretary.

## **6 Operational and hygiene requirements for establishments preparing prescribed goods**

- 6.1 The operator of a registered establishment must:
- (a) maintain the establishment in a hygienic condition in order to control pests (including rodents and other vermin, and weeds) and prevent cross-contamination of prescribed goods; and
  - (b) have a defined program of hygiene and pest control.
- 6.2 Any of the following must be stored and handled in a way that ensures that it does not in any way contaminate, infest or provide a source of infestation of prescribed goods or of an area used for their preparation or storage, or of anything that may come into contact with them:
- (a) material likely to provide a source of contamination or infestation:
  - (b) rodenticides, fumigants, fungicides, insecticides or other toxic substances.
- 6.3 Animals (including birds and rodents) must not be present in the establishment where preparation of prescribed goods takes place.
- 6.4 Handwashing facilities and toilet facilities must be kept in a clean and sanitary condition at all times.
- 6.5 Establishments handling edible products must comply with the applicable State and Territory laws relating to food handling.

## **Schedule 4—Container inspection for issue of container approval**

(section 27)

### **1 Empty container inspection**

The following types of inspection are required for empty containers:

- (a) in the case of containers for prescribed grain and prescribed goods for consumption—an authorised officer must inspect the container for pests, infestible residues, contaminants and other conditions that could affect the goods;
- (b) in any other case—an authorised officer must inspect the container system unit to ensure that there are no pests, or residues that could harbour pests, or conditions which could cause cross-infestation.

### **2 Place of inspection**

Containers may be inspected at any place where there are adequate facilities for the inspection.

### **3 Assistance to be given to authorised officers**

The person responsible for a container must give all reasonable assistance to an authorised officer, including moving, opening and closing units and providing ladders or other necessary equipment.

### **4 Inspection procedures for empty containers**

- 4.1 When containers are inspected prior to transport, the units must be sealed and identified in accordance with section 31.
- 4.2 All parts of the interiors and exteriors of the containers may be inspected for the purposes of clause 6.

### **5 Live insects, being *Trogoderma* spp., found in a container**

If live insects, being *Trogoderma* spp., are found in a container:

- (a) the container must be rejected; and
- (b) an authorised officer must order the container to be treated using an approved method.

### **6 Treatment of empty containers**

The authorised officer must be satisfied that:

- (a) there are no live pests in the container; and

**Schedule 4** Container inspection for issue of container approval

Clause 6

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- (b) any infestible residues have been removed, including those behind any lining or panels; and
- (c) any non-infestible residues will not contaminate the prescribed goods.



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## **Schedule 5—Bulk vessel inspection for issue of vessel approval**

(section 37)

### **1 Parts of a bulk vessel which must be inspected**

An authorised officer must inspect the following:

- (a) holds or areas where the prescribed goods will be stored; and
- (b) other areas from which it is possible that cross-infestation or contamination of the goods could occur; and
- (c) other cargo from which it is possible that cross-infestation or contamination of the goods could occur.

### **2 What an authorised officer must inspect for**

An authorised officer must inspect a bulk vessel for the presence of any of the following:

- (a) pests, including rodents and other vermin; and
- (b) contaminants; and
- (c) any other matter required by the Secretary.

### **3 Inspections away from a wharf**

3.1 An authorised officer may:

- (a) agree to inspect away from a wharf if he or she is satisfied that this is suitable; but
- (b) may decline to leave shore, or to start or continue inspections, if weather or other conditions are such that he or she considers it unsafe to do so.

3.2 The authorised officer may discontinue inspection when the results of the inspection indicate that a bulk vessel will have to be brought to shore for cleaning or treatment and recommence inspection after berthing.

### **4 Inspection procedure**

4.1 On boarding the bulk vessel, an authorised officer must obtain from the master all information required to assess the suitability of the vessel to enable the loading of prescribed goods.

4.2 The authorised officer must require a ship's officer to accompany the authorised officer during the inspection to ensure the provision of all assistance necessary.

Clause 5

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## 5 On entering a hold

- 5.1 On entering a hold, an authorised officer may examine all sites that may harbour infestible residues, insects or rodents.
- 5.2 If the authorised officer believes that assistance or equipment is required to safely inspect an area in the hold that would otherwise be inaccessible, the master must make available:
  - (a) sufficient crew to allow the authorised officer to inspect the area safely; and
  - (b) all equipment that is necessary to allow the authorised officer to inspect the area safely.
- 5.4 If it is not possible to gain access to an area and the authorised officer suspects that there are insects or residues in the area, the authorised officer may order cleaning of the area.
- 5.5 The authorised officer must be satisfied that all residues have been removed.

## 6 Bulk vessels' stores and general galley areas

- 6.1 Wet stores and refrigerated or chilled stores need not be inspected, unless there is reason to believe that these areas may have become infested with pests.
- 6.2 It is necessary to inspect areas in the bulk vessel where stores are handled and food is prepared only when substantial insect infestation or insects suspected to be *Trogoderma* spp. have been detected during the course of inspection of dry stores.

## 7 Treatments

- 7.1 If a pest or infestible residue has been found on a bulk vessel, the authorised officer must:
  - (a) notify the responsible person of the detection of the pest or infestible residue; and
  - (b) require that the level of the pest or infestible residue be reduced to the level specified by the authorised officer.
- 7.2 The notification must be by way of an approved form.
- 7.3 The responsible person must:
  - (a) complete the approved form with the details of the treatment that has occurred; and
  - (b) return the form to the authorised officer.

## 8 Reporting of conditions of the bulk vessel

The results of the inspection of the bulk vessel must be reported on an approved form and include details of the particular chemical used in any treatment of the cargo spaces of the ship.

## **9 Issuing the vessel approval**

- 9.1 An authorised officer must indicate on a vessel approval the time at which the officer determines that the holds comply with the requirements of this Order.
- 9.2 The time shown must be when inspection of the holds has been completed and the responsible ship's officer was informed of this.
- 9.3 This time must not be altered.

## **10 Live insects, being *Trogoderma* spp., found in a bulk vessel**

If live insects, being *Trogoderma* spp., are found in a bulk vessel:

- (a) the bulk vessel must be rejected; and
- (b) an authorised officer must order the vessel to be treated using an approved method.

## **Schedule 6—Requirements relating to issuing of phytosanitary certificate**

(section 43)

### **1 Inspection**

For the purposes of the issuing of a phytosanitary certificate, inspection must be carried out by an authorised officer.

### **2 Certification**

Manually issued phytosanitary certificates may be altered by an authorised officer and, if an alteration is made, the authorised officer must sign the certificate adjacent to the alteration and:

- (a) insert beneath that signature that officer's identity number; or
- (b) apply in close proximity to that signature an impression of the official mark of the Department.

### **3 Responsibility of exporter**

- 3.1 The exporter must request the necessary inspection and certification if an importing country authority so requires.
- 3.2 It is the responsibility of the exporter to comply with the requirements of the importing country authority and the authorities of any country through which the consignment may transit or trans ship.

### **4 Conditions of issuance**

- 4.1 Certification must be provided if it can be verified that an importing country requirement for such certification exists.
- 4.2 Certificates must be addressed to an importing country authority unless the Secretary determines otherwise.
- 4.3 Phytosanitary certificates must not be issued or used for commercial purposes but they may include details of an associated Letter of Credit number, date and the party to whom the Letter of Credit is given.

### **5 Forms of certificates**

- 5.1 Subject to subclause 5.3, the form of certificate must be the international model specified by the IPPC.
- 5.2 Subject to subclause 5.3, in the case of re-exports the IPPC model re-export certificate must be used.

- 5.3 Bilingual and trilingual certificates must only be used to meet the specific requirements of an importing country authority.

## **6 Importing country requirements**

- 6.1 If a phytosanitary certificate is required but an importing country authority has not prescribed specific conditions for the goods concerned, the tolerances specified under clause 2 of Schedule 2 apply.
- 6.2 The Secretary must determine whether certificates should be issued in cases where the requirements of an importing country authority are not known.

## **7 Name of authorised officer**

- 7.1 The name of the authorised officer who inspected the consignment, or the most senior of the authorised officers, must be included in the certificate.
- 7.2 If the name is hand-written on a paper certificate, it must be in block letters.

## **8 Disinfestation or disinfection treatment**

- 8.1 Treatments not supervised by an authorised officer may be added to the certificate if the exporter submits a written declaration certifying the details of the treatment carried out.
- 8.2 Any space on a paper certificate not used to record treatments must be struck out.

## **9 Additional declarations**

- 9.1 Additional declarations relating to such matters as:
- (a) freedom from weed seeds;
  - (b) specific pests; or
  - (c) pest or fumigation treatment applied;
- may be included when such declarations are specified by an importing country authority, or are included in import permits, and when the matter can be verified by an authorised officer.
- 9.2 If no requirement for an additional declaration appears in the requirements of an importing country authority, evidence from that authority must be produced before consideration can be given to its endorsement.
- 9.3 If no additional declarations are given, the phytosanitary certificate must state 'no additional declaration'. On a paper certificate, any spaces not used for such declarations must be struck out.

## **10 Signature**

- 10.1 All paper certificates issued, including any copies of those certificates, must bear an authorised officer's signature and the official mark of the Department.

Clause 11

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- 10.2 When certificates are signed by an authorised officer other than the person who inspected the goods, records must exist to confirm inspection of the goods and that the matters attested to in the certificate are correct.
- 10.3 For subclause 10.1, if a complete paper certificate is generated from a computer system that stores the authoritative records, the signature and official mark may be facsimiles.

## 11 Other endorsements

- 11.1 If an importing country authority requires endorsement of phytosanitary certificates by its representatives in Australia as a precondition for import of the goods to which the certificate relates, adequate time must be allowed for inspection prior to shipment.
- 11.2 Phytosanitary certificates must not be submitted to a commercial body for endorsement.

## 12 Description of the consignment

- 12.1 Sufficient detail must be provided in a certificate to allow the consignment to be readily identified.
- 12.2 Container numbers must be included.
- 12.3 Import and export permit numbers may be indicated if these are known.
- 12.4 For a paper version of a certificate that has more than one sheet
- (a) the sheets must be securely attached together; and
  - (b) each sheet must have the number of the phytosanitary certificate and the name and address of the exporter; and
  - (c) each sheet must include the official mark of the Department and the signature of the same authorised officer.
- 12.5 For a paper version of a certificate that has spaces for the details, any spaces not used must be struck out.

## 13 Name of goods

- 13.1 Both the common and botanical name of the goods must appear on the certificate for prescribed goods.
- 13.2 If for miscellaneous goods of complex composition a botanical name is not appropriate, a general term or the description appearing on the packages may be used.

## 14 Consignee's name and address

The name and address of the consignee must be specified on the certificate when possible but, if the consignee is not known, 'To order' is to be specified.

**15 Point of entry**

The point of entry must be specific to the country of import and, if possible, the actual place of importation.

**16 Quality statements**

Information such as details of purity and viability of seeds or statements attesting to the quality of the goods must not be included, unless required by the importing country authority.

**17 Number of copies to be issued**

- 17.1 If a paper version of the phytosanitary certificate is used for the goods, it must be the original.
- 17.2 Additional certified copies of the phytosanitary certificate may be provided to the exporter, at the discretion of the Secretary.

**18 Copy required by the Secretary**

- 18.1 A copy of each paper phytosanitary certificate must be forwarded to the Secretary.
- 18.2 A copy of a paper import permit issued by an importing country authority must be forwarded with the phytosanitary certificate to the Secretary.

**19 Re-exports from Australia**

- 19.1 Re-export phytosanitary certificates must be issued for prescribed goods re-exported from Australia if phytosanitary certification is required by an importing country authority and:
- (a) the goods are accompanied by a phytosanitary certificate issued by the country of origin and complying with the requirements of a foreign country authority;
  - (b) the identity of the goods can be established; and
  - (c) the consignment has not been exposed to infestation while in Australia.
- 19.2 A re-export certificate must not be issued for:
- (a) goods that were required to be exported from Australian territory under the *Biosecurity Act 2015* or the *Biosecurity Regulation 2016*; or
  - (b) goods that were rejected for entry into Australia under the *Quarantine Act 1908*, as in force before 16 June 2016;
- unless the goods meet the requirements of the importing country.
- 19.3 If imported goods in transit or in bond through Australian ports en route to other destinations have not been formally cleared as imports into Australia, they will not be issued with a re-export phytosanitary certificate.

Clause 20

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- 19.4 If imported goods are subsequently exported as part of a larger consignment containing Australian prescribed goods, the goods may be covered under the general phytosanitary certificate issued for the consignment, provided that:
- (a) any additional declarations required by an importing country authority can be satisfied by product inspection; and
  - (b) the certificate indicates that the consignment is a product of Australia and the other country.
- 19.5 If the additional declaration requires endorsements relating to growing conditions or treatments in the original exporting country, certification must not be provided.
- 19.6 If imported goods not accompanied by a phytosanitary certificate are to be exported, a re-export phytosanitary certificate must be issued for the goods provided that:
- (a) a reference to the phytosanitary certificate of the country of origin is deleted from the re-export phytosanitary certificate; and
  - (b) the words 'Phytosanitary Certificate from the Country of Origin not Available' are appended to the certifying statement; and
  - (c) the amendments in paragraphs (a) and (b) are subject to the provisions of paragraphs 2(a) and (b) of this Schedule; and
  - (d) an exporter declares the country of origin of the goods; and
  - (e) no additional declaration is given which cannot be verified by an authorised officer.

## 20 Re-inspection of delayed consignments

- 20.1 Re-inspection of prescribed goods is necessary if:
- (a) the time between inspection and export exceeds 28 days; or
  - (b) the maximum time between inspection and export permitted by the importing country is exceeded.
- 20.2 If the period exceeds 28 days, re-inspection must be carried out to assess whether the originally issued certificate remains valid.
- 20.3 If delays are likely to occur in the shipment of consignments after phytosanitary inspection has taken place, appropriate measures must be instituted by the exporter to ensure that the goods are not subject to infestation or infection (including cross-infestation or cross-infection) or contamination before shipment.
- 20.4 If, after re-inspection in accordance with subclause 20.2, the original phytosanitary certificate is not valid, the exporter must surrender all paper copies of the certificate to an authorised officer.
- 20.5 If re-inspection is requested by the exporter, the consignment must not be re-inspected unless all paper copies of the original phytosanitary certificate have been surrendered to an authorised officer.



## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

## Endnote 3—Legislation history

<b>Name</b>	<b>FRLI registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Export Control (Plants and Plant Products) Order 2011	30 Sept 2011 (F2011L02005)	1 Oct 2011 (s 2)	
Export Control (Plants and Plant Products) Amendment (2014 Measures No. 1) Order 2014	23 Apr 2014 (F2014L00434)	1 May 2014 (s 2)	—
Export Control (Plants and Plant Products) Amendment (Registered Establishments) Order 2015	30 Nov 2015 (F2015L01885)	1 Dec 2015 (s 2(1) item 1)	—
Export Control (Plants and Plant Products) Amendment (Re-export Certificates) Order 2016	4 May 2016 (F2016L00640)	16 June 2016 (s 2(1) item 1)	—
Export Control (Plants and Plant Products) Amendment (Small Horticultural Products Registered Establishments) Order 2017	31 May 2017 (F2017L00626)	1 June 2017 (s 2(1) item 1)	—
Export Control (Plants and Plant Products) Amendment (Accredited Properties) Order 2018	24 Sept 2018 (F2018L01337)	25 Sept 2018 (s 2(1) item 1)	—
Export Control Legislation Amendment (Certification of Narcotic Exports) Order 2020	29 June 2019 (F2020L00814)	Sch 1 (items 1, 2): 23 June 2020 (s 2(1) item 1)	—

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**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
Readers guide .....	rep F2014L00434
<b>Part 1</b>	
s 2 .....	rep LA s 48D
s 3 .....	am F2020L00814
s 5 .....	am F2014L00434; F2015L01885; F2017L00626; F2018L01337; F2020L00814
s 6 .....	am F2014L00434
<b>Part 2</b>	
s 9 .....	am F2018L01337
<b>Part 2A</b>	
Part 2A .....	ad F2018L01337
<b>Division 1</b>	
s 9A .....	ad F2018L01337
s 9B .....	ad F2018L01337
s 9C .....	ad F2018L01337
s 9D .....	ad F2018L01337
s 9E .....	ad F2018L01337
<b>Division 2</b>	
s 9F .....	ad F2018L01337
s 9G .....	ad F2018L01337
s 9H .....	ad F2018L01337
s 9J .....	ad F2018L01337
<b>Division 3</b>	
<b>Subdivision A</b>	
s 9K .....	ad F2018L01337
s 9L .....	ad F2018L01337
s 9M .....	ad F2018L01337
<b>Subdivision B</b>	
s 9N .....	ad F2018L01337
s 9P .....	ad F2018L01337
<b>Division 4</b>	
<b>Subdivision A</b>	
s 9R .....	ad F2018L01337
s 9S .....	ad F2018L01337
<b>Subdivision B</b>	
s 9T .....	ad F2018L01337
s 9TA .....	ad F2018L01337
s 9TB .....	ad F2018L01337

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 9U .....	ad F2018L01337
s 9UA .....	ad F2018L01337
s 9UB.....	ad F2018L01337
<b>Subdivision C</b>	
s 9V .....	ad F2018L01337
s 9W .....	ad F2018L01337
<b>Division 5</b>	
<b>Subdivision A</b>	
s 9X.....	ad F2018L01337
<b>Subdivision B</b>	
s 9Y .....	ad F2018L01337
s 9YA .....	ad F2018L01337
s 9YB.....	ad F2018L01337
s 9Z.....	ad F2018L01337
<b>Subdivision C</b>	
s 9ZA.....	ad F2018L01337
<b>Division 6</b>	
s 9ZB .....	ad F2018L01337
s 9ZC.....	ad F2018L01337
s 9ZD.....	ad F2018L01337
s 9ZE .....	ad F2018L01337
<b>Division 7</b>	
s 9ZF .....	ad F2018L01337
s 9ZG.....	ad F2018L01337
s 9ZH.....	ad F2018L01337
s 9ZJ .....	ad F2018L01337
<b>Part 3</b>	
<b>Division 1</b>	
Division 1 heading.....	ad F2015L01885
<b>Division 2</b>	
Division 2 .....	ad F2015L01885
s 13A .....	ad F2015L01885
	am F2017L00626
<b>Part 5</b>	
s 17 .....	am F2014L00434
s 18 .....	am F2014L00434
<b>Part 7</b>	
s 25 .....	am F2014L00434
<b>Part 8</b>	
s 26 .....	am F2014L00434

## Endnote 4—Amendment history

Provision affected	How affected
s 27 .....	am F2014L00434
s 28 .....	rs F2014L00434
s 29 .....	rs F2014L00434
s 30 .....	rs F2014L00434
<b>Part 9</b>	
<b>Division 1</b>	
s 32 .....	am F2014L00434
s 33 .....	am F2014L00434
<b>Division 2</b>	
s 35 .....	am F2014L00434
s 36 .....	rs F2014L00434
s 37 .....	am F2014L00434
s 38 .....	rs F2014L00434
s 39 .....	rs F2014L00434
s 40 .....	rs F2014L00434
s 40A .....	ad F2014L00434
<b>Part 12</b>	
s 45 .....	am F2014L00434; F2018L01337
s 45A .....	ad F2018L01337
s 46 .....	am F2018L01337
s 48 .....	am F2014L00434
<b>Part 13</b>	
Part 13 heading.....	ed C5
Division 1 heading.....	ad F2018L01337
	ed C5
s 49 .....	rep LA s 48C
<b>Division 2</b>	
Division 2 heading.....	ad F2018L01337
<b>Division 3</b>	
Division 3 .....	ad F2018L01337
s 50A .....	ad F2018L01337
s 51 .....	ad F2018L01337
s 52 .....	ad F2018L01337
s 53 .....	ad F2018L01337
s 54 .....	ad F2018L01337
s 55 .....	ad F2018L01337
s 56 .....	ad F2018L01337
s 57 .....	ad F2018L01337
s 58 .....	ad F2018L01337
s 59 .....	ad F2018L01337

## Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Schedule 1</b>	
Schedule 1 .....	am F2014L00434
<b>Schedule 2</b>	
Schedule 2 .....	am F2014L00434
<b>Schedule 4</b>	
Schedule 4 .....	am F2014L00434
<b>Schedule 5</b>	
Schedule 5 .....	am F2014L00434
<b>Schedule 6</b>	
Schedule 6 .....	am F2016L00640

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