

EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 171

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

Australian Meat and Live-Stock (Quotas) Act 1990

Australian Meat and Live-stock Industry Act 1997

Dairy Produce Act 1986

Agriculture, Fisheries and Forestry Legislation Amendment (Quota Fees) Regulations 2011 (No. 1)

Section 9 of the *Australian Meat and Live-stock (Quotas) Act 1990* (**Quotas Act**), section 74 of the *Australian Meat and Live-stock Industry Act 1997* (**AMLI Act**) and section 126 of the *Dairy Produce Act 1986* (**Dairy Act**) provide that the Governor-General may make regulations prescribing all matters that are required or permitted by those Acts to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to those Acts.

Section 6 of the Quotas Act provides that where a limitation has been imposed on goods exported to a specific country, the Secretary of the Department of Agriculture, Fisheries and Forestry (**Secretary**) may grant meat quotas on application by a holder of an export licence (**licensee**) and on payment of the prescribed fee.

Section 27 of the AMLI Act provides for the establishment of a quota system for the export of meat products to regulated markets. Paragraph 28(3)(b) of the AMLI Act provides that the Secretary may vary a meat export quota on application by the holder of the quota and on payment of the prescribed fee.

Part V of the Dairy Act provides for the establishment of a regulatory system for the export of regulated dairy produce to regulated dairy markets. Section 54(2)(b) of the Dairy Act provides that regulations made for the purpose of establishing such a system can cover the payment of fees to the Commonwealth in relation to an application made by a person for the export of regulated dairy produce to regulated dairy markets.

Subregulation 4(1) of the *Australian Meat and Live-stock (Quotas) Regulations 2000* (**Quotas Regulations**) prescribes the fee payable for the allocation of quota for the purposes of paragraph 6(2)(a) of the Quotas Act.

Subregulation 3A(1) of the *Australian Meat and Live-stock Industry Regulations 1998* (**AMLI Regulations**) prescribes the fee for the variation of quota for the purposes of paragraph 28(3)(b) of the AMLI Act.

Subregulation 2.13(2) of the *Dairy Produce Regulations 1986* (**Dairy Regulations**) prescribes the fee payable for the exclusive right to access an annual allocation of quota under subregulation 2.10. Subregulation 2.23(2) prescribes the fee payable for the exclusive right to access first-come-first-serve quota under subregulation 2.21. Subregulations 2.28(2) and 2.35(2) prescribe the fees payable for the right to export consignment quota to the European Union (EU) or the United States (US) respectively.

The *Agriculture, Fisheries and Forestry Legislation Amendment (Quota Fees) Regulations 2011 (No. 1)* (**Quota Fees Regulations**) increase the level of fees paid by Australian exporters to access meat and dairy quota entitlements to ensure the ongoing full cost recovery of the quota administration process. The Quota Fees Regulations increase the fee for accessing meat quota to 0.26 of a cent a kilogram (equivalent to \$2.60 a tonne) of in-quota red meat product exported to the European Union (EU) and the United States (US). The Quota Fees Regulations increase the fee for accessing dairy quota to 1.4 cents a kilogram/litre (equivalent to \$14 a tonne) of in-quota dairy product exported to the EU and the US.

The fee increases are required to off-set declining fee revenue, caused by a drop in shipments of red meat and dairy quota products to the EU and the US. The current fee rates, 0.2 of a cent a kilogram (equivalent to

\$2 a tonne) for meat and 0.7 of a cent a kilogram (equivalent to \$7 a tonne) for dairy, are not sufficient to cover the ongoing costs of quota administration.

The Quota Fees Regulations increase the meat quota access fee for the 2012-13 quota year, and future years, in relation to the EU high quality beef quota, which is the only quota currently administered by the Department of Agriculture, Fisheries and Forestry (**the Department**) on a financial year basis. The Quota Fees Regulations increase the quota access fees for the 2012 quota year, and future years, for all quotas administered by the Department on a calendar year basis. Quotas currently administered on a calendar year basis are the EU sheep and goat meat quota, the US beef quota and all World Trade Organization and US Free Trade Agreement dairy quotas.

In 2011 the department consulted the meat and dairy industries about the necessary fee rates for future quota years based on projected revenue from fees and the budgeted costs of quota administration. Cost Recovery Impact Statements detailing the fee increases have been certified by the Secretary of the Department following consultation with industry and the Department of Finance and Deregulation.

The Office of Best Practice Regulation considered that the amendments made by the Quota Fees Regulations are machinery in nature and therefore a Regulatory Impact Statement is not required (identification number 12563).

The Quota Fees Regulations commence on the day after registration.

Details of the Quota Fees Regulations are set out in the [Attachment](#).

The Quota Fees Regulations are legislative instruments for the purposes of the *Legislative Instruments Act 2003*.

**DETAILS OF THE AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT
(QUOTA FEES) REGULATIONS 2011 (NO. 1)**

Regulation 1 – Name of Regulations

This regulation describes the name of the regulations as the Agriculture, Fisheries and Forestry Legislation Amendment (Quota Fees) Regulations 2011 (No. 1)

Regulation 2 — Commencement

The regulations commence on the day after they are registered.

Regulation 3 — Amendment of *Australian Meat and Live-stock Industry Regulations 1998*

This regulation explains that Schedule 1 to the regulation makes amendments to the *Australian Meat and Live-stock Industry Regulations 1998*.

Regulation 4 — Amendment of *Australian Meat and Live-stock (Quotas) Regulations 2000*

This regulation explains that Schedule 2 to the regulation makes amendments to the *Australian Meat and Live-stock (Quotas) Regulations 2000*.

Regulation 5 — Amendment of *Dairy Produce Regulations 1986*

This regulation explains that Schedule 3 to the regulation makes amendments to the *Dairy Produce Regulations 1986*.

Schedule 1 — Amendment of *Australian Meat and Live-stock Industry Regulations 1998*

[1] Regulation 3 Definitions

This amendment inserts a definition of *quota year*. For a quota to export high quality beef to the European Union, the quota year is a financial year beginning on 1 July, and, for clarity, ending on 30 June. For quota to export any other type of goods, as defined by the *Australian Meat and Live-stock Industry Act 1997* and the *Australian Meat and Live-Stock (Quotas) Act 1990*, the quota year is a calendar year beginning on 1 January, and for clarity, ending on 31 December.

[2] Subregulation 3A (1) Quota variation fee

This amendment specifies that for the quota year commencing on 1 July 2011, the fee per kilogram of quota to export high quality beef to the European Union is 0.2 of a cent. For subsequent quota years, the amendment specifies that the fee per kilogram of quota to export high quality beef to the European Union is 0.26 of a cent.

This amendment states that for the quota year commencing on 1 January 2011, the fee per kilogram of quota to export any other kind of goods is 0.2 of a cent. For subsequent quota years, the amendment specifies that the fee per kilogram of quota to any other kind of goods is 0.26 of a cent.

Schedule 2 — Amendment of *Australian Meat and Live-stock (Quotas) Regulations 2000*

[1] Regulation 3 Definitions

This amendment inserts a definition of *quota year*. For a quota to export high quality beef to the European Union, the quota year is a financial year beginning on 1 July. For quota to export any other type of goods, as defined by the *Australian Meat and Live-stock Industry Act 1997* and the *Australian Meat and Live-Stock (Quotas) Act 1990*, the quota year is a calendar year beginning on 1 January.

[2] Subregulation 4 (1) Quota fee

This amendment specifies that for the quota year commencing on 1 July 2011, the fee per kilogram of quota to export high quality beef to the European Union is 0.2 of a cent. For subsequent quota years, the amendment specifies that the fee per kilogram of quota to export high quality beef to the European Union is 0.26 of a cent.

This amendment states that for the quota year commencing on 1 January 2011, the fee per kilogram of quota to export any other kind of goods is 0.2 of a cent. For subsequent quota years, the amendment specifies that the fee per kilogram of quota to any other kind of goods is 0.26 of a cent.

Schedule 3 — Amendment of the Dairy Produce Regulations 1986

[1] Subregulation 2.13 (2) Payment of fee for allocated annual quota

This amendment clarifies that the fee for each kilogram of quota allocated to a dairy manufacturer under regulation 2.10 for the quota year commencing on 1 January 2011 is 0.7 of a cent. The amendment increases the fee for each kilogram of quota allocated to a dairy manufacturer under regulation 2.10 for the quota year commencing on 1 January 2012, and each subsequent quota year to 1.4 cents.

The subregulation clarifies that the fee applied to quota for the export of creams and ice cream to the US under the Australia-US Free Trade Agreement is a fee per litre—rather than a fee per kilogram—of quota.

[2] Subregulation 2.23 (2) Payment of fee for allocation of First-Come-First-Serve (**FCFS**) quota

This amendment clarifies that the fee for each kilogram of FCFS quota allocated to a dairy manufacturer under regulation 2.21 for the quota year commencing on 1 January 2011 is 0.7 of a cent. The amendment increases the fee for each kilogram of FCFS quota allocated to a dairy manufacturer under regulation 2.21 for the quota year commencing on 1 January 2012, and each subsequent quota year to 1.4 cents.

The subregulation clarifies that the fee applied to quota for the export of creams and ice cream to the US under the Australia-US Free Trade Agreement is a fee per litre—rather than a fee per kilogram—of quota.

The subregulation notes that allocated quota will not be able to be used in relation to consignments under Division 2.5 (Export approvals) until the fee has been paid.

[3] Subregulation 2.28 (2) Grant of approval to export

This amendment clarifies that the fee for each kilogram of EU dairy consignment quota made under regulation 2.27 and approved for export under regulation 2.28 for the quota year commencing on 1 January 2011 is 0.7 of a cent. The amendment increases the fee for each kilogram of EU dairy consignment quota applied for under regulation 2.27 and approved for export under regulation 2.28 for the quota year commencing on 1 January 2012, and each subsequent quota year to 1.4 cents.

[4] Subregulation 2.35 (2) Grant of approval to export

This amendment clarifies that the fee for each kilogram of US dairy consignment quota made under regulation 2.34 and approved for export under regulation 2.35 for the quota year commencing on 1 January 2011 is 0.7 of a cent. The amendment increases the fee for each kilogram of US dairy consignment quota applied for under regulation 2.34 and approved for export under regulation 2.35 for the quota year commencing on 1 January 2012, and each subsequent quota year to 1.4 cents.

The subregulation clarifies that the fee applied to quota for the export of creams and ice cream to the US under the Australia-US Free Trade Agreement is a fee per litre—rather than a fee per kilogram—of quota.