

## **EXPLANATORY STATEMENT**

Issued by the authority of the Parliamentary Secretary for Agriculture, Fisheries and Forestry

*Export Control (Fees) Amendment Orders 2011 (No. 3)*

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

### **Legislative Authority**

Pursuant to section 25 of the *Export Control Act 1982* (the Act) and regulation 3 of the *Export Control (Orders) Regulations 1982* (the Regulations), the *Export Control (Fees) Orders 2001* (the Principal Orders) impose fees in connection with the performance of services by the Secretary, delegates of the Secretary and authorised officers in connection with the provision of export certification. The fees are applied in relation to eggs, egg products, fish and fish products.

### **Purpose**

The proposed Orders amend the Principal Orders to:

- extend the application of the Principal Orders to inspection services and additional inspection services;
- make fees payable by the person to whom the service is provided (an establishment, company or an individual);
- inserts a new Schedule of fees for service rates for all inspection and audit services performed in respect of eggs and egg products and fish and fish products; and
- amend references to an export permit, government certificate, replacement certificate and any other document to clarify the use and fee of each document.

New export inspection and certification arrangements will be implemented for the fish and egg export sector from 1 January 2012. The implementation of the new service delivery arrangements requires the introduction of a new cost recovery arrangement to ensure that the costs of services remain appropriately recovered from the beneficiaries of those services.

These orders provide authority for the imposition of fees-for-service to recover the cost of delivering export inspection and certification services for the program. The fees contained within these orders form part of the new cost recovery arrangement and are complemented by registration charges made under the *Export Inspection (Establishment Registration Charges) Regulations 1985*.

Together these fees and charges provide a new cost recovery arrangement which fully recovers the cost of services and supports the new service delivery arrangements.

## Consultation

To assist exporters through a transition to full cost recovery the Australian Government provided a \$127.4 million Export Certification Reform Package for the Meat, Seafood, Dairy, Grain, Horticulture and Live Animal Export industries to:

- reform service delivery
- upgrade IT systems
- review and modernise export legislation
- reduce costs for industry and the Australian Quarantine and Inspection Service (AQIS)
- maintain and work to improve market access

Joint Industry-AQIS Ministerial Taskforces (MTFs) for the dairy, fish, grain, horticulture, live animal and meat export industries were set up to deliver the reforms.

Consultation with the fish export industry primarily occurred through the Fish MTF. Consultation with the egg export industry occurred through face to face meetings with exporters. AQIS also provided an information pack to all fish and egg export registered facilities for comment which outlined the new cost recovery arrangements, including the rates of charge that will apply under these arrangements.

The Office of Best Practice Regulation was consulted in relation to the proposed cost recovery arrangements for fish and egg exports and determined that a Risk Impact Statement was not required. A Cost Recovery Impact Statement was approved by the Department of Finance and Deregulation.

## Details

### Order 1

This order provides that the name of the Orders is the *Export Control (Fees) Amendment Orders 2011 (No. 3)*.

### Order 2

This order provides that the Orders commence on 1 January 2012.

### Order 3

This order provides that Schedule 1 amends the *Export Control (Fees) Orders 2001*.

### Schedule 1

Item 1 substitutes the previous heading and inserts a new heading to read 'Imposition of fees for inspection services and additional inspection services'.

The purpose of the amendment is to extend the application of the Principal Orders to inspection services and additional inspection services to reflect the new cost recovery arrangement.

Item 2 inserts the words ‘inspection services and’ after ‘are imposed for’ in suborder 4J (1).

The purpose of the amendment is to extend the application of the Principal Orders to inspection services and additional inspection services. The provision previously applied to only additional inspection services.

‘Inspection service’ is defined in section 3 of the Principal Orders as a service performed by an authorised officer employed by an agency of the Commonwealth, and includes an auditing service.

Item 3 inserts the words ‘inspection services or’ after ‘apply to’ in suborder 4J (2).

The purpose of the amendment is to extend the application of the Principal Orders to both inspection services and additional inspection services.

Item 4 substitutes the previous suborder 4J (3) and inserts a new suborder 4J (3) to make general export fees payable by the person to whom the service is provided. Under the Principal Orders, general export fees are payable by an occupier of an establishment only.

Items 5 and 6 omit the words ‘in respect of an establishment’.

The purpose of the amendment is to impose shift loading fees and overtime fees in respect of all inspection services without limiting its application to an establishment. These fees can be imposed in respect to an establishment, a company or an individual.

Item 7 substitutes the previous suborder 4K (3) and inserts a new suborder 4K (3) to read ‘A fee imposed by suborder (1) is payable by the person to whom the service is provided’.

The purpose of the amendment is to make shift loading and overtime fees payable by the person to whom the service is provided, similar to the amendment for general export fees (see Item 4).

Item 8 substitutes the previous title and inserts a new title to read ‘Fees for inspection services and additional inspection services imposed by Part 1AA’.

The purpose of the amendment is to reflect the new Schedule which now includes fees-for-service rates for all inspection and audit services performed in respect of eggs and egg products and fish and fish products.

Items 9, 11 and 13 insert the words ‘inspection services or’ after ‘for’.

The purpose of the amendment is to extend the application of the Principal Orders to both inspection services and additional inspection services.

Items 10, 12 and 14 omit the fee of \$40.00 and insert an increased fee of \$50.00 per quarter hour.

The proposed increased fee covers inspection and audit services that are necessarily performed to meet Australian export requirements and the requirements of importing countries. The fee also covers a range of additional services provided at the request of a company or individual.

Under the new arrangement, fees will be payable by the company or individual to whom the service is provided.

Item 15 substitutes existing overtime fees with new increased fees in items 3 and 4.

Overtime fees apply to the provision of all services, including export certification services that are provided outside of AQIS' normal working hours. Quarter hourly rates apply where the services are provided continuously with services provided within the normal span of hours. Minimum charges apply where services are not provided continuously with the officer's normal duty.

The new overtime rates reflect the increased cost of services since the fees were last adjusted in December 2009.

The overtime loading fees in subparagraphs (a) (i), (ii) and (iii) of item 3 (eggs and egg products) and item 4 (fish and fish products) are increased to \$16.45, \$21.93 and \$27.41 per quarter hour respectively.

Subparagraphs (b) (i), (ii) and (iii) of item 3 and item 4, which set a minimum charge for the provision of overtime services not continuous with officers' ordinary hours of work and is less than 3 hours, apply new rates of \$197.40 (and \$16.45 for the quarter hour), \$263.16 (and \$21.93 for the quarter hour) and \$328.92 (and \$27.41 for the quarter hour) respectively. The fees for overtime services not continuous with ordinary duty have been recalculated to provide a set minimum charge for these services.

Items 16 and 19 omit the words 'or an export permit and government certificate together'.

The purpose of the amendment is to clarify the use and fee of the different types of documents mentioned (export permit, government certificate, replacement certificate and any other document). The amendment seeks to have each paragraph refer to one document only for ease of reference.

Under the new cost recovery arrangement certification fees will apply for each export permit, government certificate, replacement certificate or any other document. Under the previous arrangements fees were imposed for an export permit only. The extension of these charges to export certificates is necessary to meet the increasing request for export certification since the cost recovery arrangements were last reviewed in December 2009.

Item 17 and 20 omit the fee of '\$40' and inserts a new fee of '\$33.00' for use of AQIS' Export Documentation System (EXDOC).

Under the new cost recovery arrangement, certification fees apply to recover costs associated with the provision of all export certification and documentation services.

Adjusted rates of charge are introduced to reflect the cost of services under the new service delivery arrangements.

Item 18 and 21 omit the words and brackets '(other than one issued with an export permit)' and inserts new subparagraphs to read 'by EXDOC \$33' and 'otherwise \$100.00'.

The purpose of the amendment is to clarify the use and fee of the different types of documents mentioned (export permit, government certificate, replacement certificate and any other document). The amendment seeks to have each paragraph refer to one document only for ease of reference and reflect the appropriate cost of service under the new service delivery arrangement.