



Export Control Legislation Amendment (2014 Measures No. 1) Order 2014

I, Barnaby Joyce, Minister for Agriculture, make the following order.

Dated 17 July 2014

Barnaby Joyce
Minister for Agriculture

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1 Name of order

This order is the *Export Control Legislation Amendment (2014 Measures No. 1) Order 2014*.

2 Commencement

This order commences on the day after it is registered.

3 Authority

This order is made under the *Export Control (Orders) Regulations 1982*.

4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Export Control (Animals) Order 2004

1 Readers guide

Repeal the Readers guide.

2 Section 1.03

Repeal the section.

3 Subsection 1.05(1) (definition of *AMLI Indonesia Order*)

Repeal the definition.

4 Paragraph 2.46A(3)(b)

Repeal the paragraph, substitute:

- (b) the exporter has not complied with any conditions in the approval or in a previous approval under this Order.

5 Subsection 2.60(1)

Omit “have allowed the live-stock concerned”, substitute “allow live-stock”.

6 Paragraph 2.60(1)(a)

Omit “caused”, substitute “may cause”.

7 Paragraphs 2.60(1)(b) and (c)

Omit “have caused”, substitute “may cause”.

8 Section 3.02 (definition of *live animal*)

Repeal the definition, substitute:

live animal means:

- (a) a warm-blooded animal intended to be exported alive; or
- (b) a cold-blooded animal intended to be exported alive if the importing country requires certification by a government agency of the exporting country in relation to any matter about the animal.

Note: For the export of fish and fish products as food, see the *Export Control (Fish and Fish Products) Orders 2005*.

9 Section 3.03

Repeal the section, substitute:

3.03 Prohibition on live animal exports

The export of a live animal is prohibited unless:

- (a) an export permit has been granted, and is in effect, for the export of the animal; and
- (b) the animal is exported to the place specified in the export permit; and
- (c) the exporter complies with any conditions of the export permit; and

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- (d) in the case of live-stock—the exporter has obtained approvals of the NOI and the ESCAS and has complied with all conditions to which the approvals are subject; and
 - (e) in the case of any other live animal—the exporter has obtained approvals of the NOI and has complied with all conditions to which the approvals are subject.

10 Subsection 3.09(2)

Omit “do any 1”, substitute “do one”.

11 Paragraph 3.09A(3)(b)

Repeal the paragraph, substitute:

- (b) the exporter has not complied with any conditions in the approval or in a previous approval under this Order.

12 Subsection 3.16(1)

Repeal the subsection, substitute:

- (1) The Secretary may refuse to grant an export permit if the permit would, if granted, allow an animal:
 - (a) to be carried on a ship or aircraft the condition of which there is reason to believe may cause the health or condition of the animal to deteriorate during an export voyage; or
 - (b) to be consigned to a person whose actions there is reason to believe may cause the health or condition of the animal to deteriorate during export; or
 - (c) to be exported by a person whose actions there is reason to believe may cause the health or condition of the animal to deteriorate during export.

13 Section 4A.03

Omit “AQIS”, substitute “the Department”.

14 Subsection 4A.04(1)

Omit “AQIS”, substitute “Australian Government”.

15 Subsection 4A.04(1) (note 2)

Repeal the note, substitute:

Note 2: In 2014, information about how to undertake the Australian Government Accredited Veterinarian Program could be viewed on the Department’s website (<http://www.daff.gov.au>).

16 Paragraph 4A.07(1)(b)

Omit “AQIS”, substitute “Australian Government”.

17 Subsection 4A.07 (note)

Repeal the note, substitute:

Note: In 2014, a list could be viewed on the Department’s website (<http://www.daff.gov.au>).

18 Section 7.06

Repeal the section.

Export Control (Fees) Orders 2001

19 Order 3

Repeal the order.

20 Suborder 4(1) (definition of *Area Technical Manager*)

Omit “means a”, substitute “means”.

21 Suborder 4J(2)

Repeal the suborder.

22 Suborder 4K(1)

Repeal the suborder.

23 Suborder 4K(3)

Omit “suborder (1)”, substitute “suborder (2)”.

24 Order 54 (note)

Repeal the note, substitute:

Note: *Meat* includes wild game meat, poultry meat, rabbit meat and ratite meat. *Meat products* includes wild game meat products, poultry meat products, rabbit meat products and ratite meat products.

25 Schedule 1A (table item 5, column headed “Fee”)

Omit “\$50.00”, substitute “\$40.00”.

26 Schedule 1B (note before Part 1)

Repeal the note.

27 Part 1 of Schedule 1B

Repeal the Part.

28 Schedule 7 (note)

Repeal the note, substitute:

Note: *Meat* includes wild game meat, poultry meat, rabbit meat and ratite meat. *Meat products* includes wild game meat products, poultry meat products, rabbit meat products and ratite meat products.

Export Control (Prescribed Goods—General) Order 2005

29 Subsection 1.05(1) (definitions of *game animal*, *game meat* and *game meat product*)

Repeal the definitions.

30 Subsection 1.05(1) (definition of *Game, Poultry and Rabbit Meat Orders*)

Repeal the definition.

31 Subsection 1.05(1) (subparagraph (b)(ii) of the definition of government certificate)

Omit “exported; or”, substitute “exported.”.

32 Subsection 1.05(1)

Insert:

rabbit meat has the same meaning as in the *Export Control (Rabbit and Ratite Meat) Orders 1985*.

rabbit meat product has the same meaning as in the *Export Control (Rabbit and Ratite Meat) Orders 1985*.

ratite meat has the same meaning as in the *Export Control (Rabbit and Ratite Meat) Orders 1985*.

ratite meat product has the same meaning as in the *Export Control (Rabbit and Ratite Meat) Orders 1985*.

wild game animal has the same meaning as in the *Export Control (Wild Game Meat and Wild Game Meat Products) Orders 2010*.

wild game meat has the same meaning as in the *Export Control (Wild Game Meat and Wild Game Meat Products) Orders 2010*.

wild game meat product has the same meaning as in the *Export Control (Wild Game Meat and Wild Game Meat Products) Orders 2010*.

33 Subsection 1.07(2)

After “Part 6” insert “, Part 8”.

34 Paragraph 1.07(5)(a)

Omit “clause 3”, substitute “clause 4”.

35 At the end of section 2.01

Add:

(5) Paragraph (4)(g) does not apply to the following goods:

- (a) a live animal within the meaning of Part 3 of the *Export Control (Animals) Order 2004*;
- (b) animal reproductive material within the meaning of that Order.

36 Paragraph 2.02(1)(a)

Repeal the paragraph, substitute:

- (a) prescribed grain as defined in the *Export Control (Plants and Plant Products) Order 2011*; or

37 Subparagraph 3.01(a)(i)

Omit “L”, substitute “litres”.

38 Subparagraph 3.01(a)(ii)

Omit “kg”, substitute “kilograms”.

39 Subsection 3.02(1)

Omit “clear”.

40 Subsections 13.05(1) and (2)

Repeal the subsections.

41 Part 18

Repeal the Part.

Export Control (Rabbit and Ratite Meat) Orders 1985

42 Suborder 5.1

Insert:

Act means the *Export Control Act 1982*.

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

importing country requirement, for a particular country, means a requirement that must be met before prescribed goods may be imported into the country from Australia.

prescribed goods means goods declared to be prescribed goods under suborder 4.2.

43 At the end of suborder 5.1

Add:

Note: A number of expressions used in these Orders are defined in section 3 of the Act, including the following:

- (a) authorised officer;
- (b) establishment;
- (c) food;
- (d) occupier;
- (e) official mark;
- (f) order;
- (g) prescribed goods;
- (h) Secretary;
- (i) trade description.

44 Suborder 5.3

Repeal the suborder, substitute:

5.3 In these Orders, the words “Penal provision” at the foot of a provision indicate that the provision is a penal provision for the purposes of subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

5.4 If a provision mentioned in suborder 5.3 specifies that it is a penal provision of a particular level, the applicable penalty is the penalty specified in the table in paragraph 4(1)(b) of the *Export Control (Orders) Regulations 1982*.

Note: The offence created by a penal provision is one of strict liability. See subregulation 4(2) of the *Export Control (Orders) Regulations 1982*.

45 After order 6

Insert:

6AA Requirements for registered establishments

6AA.1 A person who wishes to apply for registration of an establishment for the preparation or inspection of prescribed goods within the meaning of these Orders 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.

6AA.2 A registered establishment must be operated in accordance with Schedule 3.

Note 1: The occupier of a registered establishment must also comply with the applicable Australian Standards (see order 7).

Note 2: A failure to comply can lead to suspension or cancellation of registration (see Part 4 of the General Order).

6AB Importing country requirements

The occupier of a registered establishment must ensure that prescribed goods prepared for export for food at the establishment comply with relevant importing country requirements.

6AC Transport of prescribed goods

6AC.1 Prescribed goods may be transported between registered establishments only in accordance with orders or instructions from an authorised officer.

6AC.2 If prescribed goods are transported 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.

6AC.3 Goods being transported in accordance with this section are taken to be in a registered establishment.

6AD 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 2 years, a record of:

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

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

46 Order 7

Omit “Orders comply”, substitute “Orders apply”.

47 Paragraph 7(c)

Omit “products - ”, substitute “products—”.

48 Order 7A

Repeal the order.

49 Paragraph 8(c)

Omit “products - ”, substitute “products—”.

50 Order 11 (heading)

Repeal the heading, substitute:

11 Application of stamp to prescribed goods not prepared under supervision

51 Order 15 (heading)

Repeal the heading, substitute:

15 Carton sealing for importing country

52 Order 15

Omit “a foreign”, substitute “an importing”.

53 Paragraphs 15(b) and (e)

Omit “foreign”, substitute “importing”.

54 Order 15

Omit “that foreign”, substitute “that importing”.

55 Orders 25 and 26

Omit “20,”.

56 Order 27

Omit “20 or”.

57 At the end of the Orders

Add:

Schedule 3—Requirements for registered establishments

Note: See order 6AA.

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

- (1) For the purposes of registration, plans or diagrams giving the general structural and operational layout of the establishment must be provided.
- (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 the product.

3 Records to be maintained

Each document that:

- (a) is made by the occupier of a registered establishment or that comes into the occupier's possession; and
- (b) is relevant to whether there is compliance with the applicable requirements of the Act or these Orders;

must be retained for at least 2 years after the document concerned is made by the occupier or comes into the occupier's possession.

Note: For retaining records electronically see subsection 12(2) of the *Electronic Transactions Act 1999*.

4 Structural requirements for establishments preparing prescribed goods

- (1) The premises, equipment, facilities and essential services that are necessary to ensure that operations for the preparation of prescribed goods are conducted in accordance with the requirements of these Orders must be provided at a registered establishment.
- (2) Measuring devices must be provided and used to assess accurately whether the requirements of these Orders are complied with.

Note: For guidance on Australian legal units of measurements and tolerances, see the *National Measurement Act 1960*. For the application of the *National Measurement Act 1960* in relation to contracts, dealings or transactions made or entered into in connection with the exportation of goods, see section 13 of that Act.

- (3) If one or more authorised officers are permanently located at the establishment or are required to be present at the establishment during the preparation of prescribed goods, the following amenities must be provided:
 - (a) an office;
 - (b) a dining room;
 - (c) a change room;
 - (d) a shower room;
 - (e) a toilet room;
 - (f) a rest room where amenities are provided for female authorised officers.
- (4) The amenities must be:
 - (a) separate from, but may be in the same building as, amenities provided for employees; and

- (b) suitable, and suitably and conveniently located; and
 - (c) for the exclusive use of authorised officers.
- (5) An office referred to in paragraph (3)(a) must be equipped with:
- (a) a telephone, a connection to a computer terminal and a lockable metal cabinet; and
 - (b) for each authorised officer requiring the use of the office—a desk, chair and locker; and
 - (c) hand washing and drying facilities (if these are not conveniently located nearby).
- (6) The area within which an authorised officer performs a post mortem inspection must not be encroached upon by equipment or personnel.
- (7) Access must be provided to a prescribed goods examination facility that:
- (a) is located within a refrigerated area; and
 - (b) is maintained at a temperature of not warmer than 10°C during operations.
- (8) The prescribed goods examination facility need not be for the exclusive use of authorised officers, provided they can perform their functions unimpeded while in the facility.
- (9) If prescribed goods are loaded for export at the establishment, the establishment must have a separate and secure storage area for the storage of all prescribed goods retained or held under security.
- (10) The construction and use of the secure storage area must not jeopardise the integrity or security of prescribed goods held in the area.

5 Control systems

The occupier of a registered establishment must:

- (a) identify the importing country requirements for which a government certificate for prescribed goods may be sought; and
- (b) document the control systems used to ensure compliance with:
 - (i) the identified importing country requirements; and
 - (ii) the relevant Australian Standards; and
 - (iii) all requirements necessary for the issue of an export permit or government certificate in relation to prescribed goods.

58 The whole of the Orders

Omit every occurrence of “authorized”, substitute “authorised”.