

## **EXPLANATORY STATEMENT**

Issued by Authority of the Minister for Agriculture

*Export Control Act 1982*  
*Export Control (Orders) Regulations 1982*

*Export Control (Animals) Amendment (2014 Measures No. 1) Order 2014*

### **Legislative Authority**

The *Export Control Act 1982* provides for the control of the export of certain goods and for related purposes carried out or provided under the Act. This includes the requirements for the preparation in Australia of prescribed goods that are to be exported.

Section 3 of the Act defines ‘prescribed goods’ to mean goods, or goods included in a class of goods, that are declared by the *Export Control (Orders) Regulations 1982* to be prescribed goods for the purposes of the Act.

Regulation 3 provides that the Minister may, by instrument in writing, make orders, not inconsistent with regulations made under the Act, with respect to any matter for or in relation to which provision may be made by regulations made under the Act.

The *Export Control (Animals) Order 2004* (Animals Order) is made under the regulations and regulates the export of live animals (including live-stock) and animal reproductive material and, in particular, the conditions and restrictions on their export. This ensures that importing country requirements are met and, for live animals, that welfare is maintained during transport to the destination country.

### **Purpose**

The purpose of the *Export Control (Animals) Amendment (2014 Measures No. 1) Order 2014* (Amendment Order) is to:

- enable approval of exporter supply chain assurance system (ESCAS) applications on a standalone basis, rather than per consignment through separating the approval of an ESCAS from the approval of a notice of intention to export (NOI) and a consignment risk management plan (CRMP);
- allow for the variation of an ESCAS to apply to all exports to which that ESCAS applies, including those export that have left Australia before the variation has taken effect; and
- broaden the information required when exporters submit an ESCAS for approval on a standalone basis to include ports or ports of arrival as well as the species of live-stock to be exported.

### **Background**

The Animals Order currently requires exporters of live-stock (cattle, buffalo, sheep goats and camelids) for feeder/slaughter purposes to have a system in place to ensure international animal welfare standards are met or exceeded by their supply chain partners, from unloading in the destination country until the animal is slaughtered.

The Animals Order requires that exporters demonstrate compliance with this requirement by providing an ESCAS to the Department of Agriculture (department) along with an NOI and a CRMP for approval with each application to export. The repeat assessment and approval of the same ESCAS submission on a consignment by consignment basis provides no additional

assurance of the supply chain's ability to meet or exceed animal welfare requirements, but takes time and adds cost to the exporter.

Once the consignment is prepared, the exporter applies again for permission from the department to move the prepared consignment to the place of departure, and then, once loaded, applies again for an export permit and health certificate and then the consignment can be legally exported).

Livestock generally remain in facilities in supply chains for 6-9 months for feeder animals, and up to two months for slaughter weight animals. As many exporters send regular weekly or monthly consignments, supply chains generally contain several consignments from an exporter at the same time. However, as the approval of an ESCAS is on a consignment basis, exporters must apply to vary the ESCAS arrangements for each of the previously exported consignments.

### **Impact and Effect**

The Amendment Order will enable exporters to apply to the department for an ESCAS to be assessed on a standalone basis (ie for multiple consignments) as opposed to a consignment by consignment basis. For example, an exporter could obtain one ESCAS approval for multiple consignments for the same supply chain rather than having to seek approval for their ESCAS for each and every consignment on the same supply chain.

It should be noted that the Secretary must not approve an NOI for a proposed export unless they are satisfied that an approved ESCAS applies to the proposed export. The Secretary must also be satisfied that the exporter is in a position to comply with the approved ESCAS when deciding whether to grant a permit for the export of live-stock. This ensures that the prominence of the ESCAS is not diminished with the live-stock export regulatory framework and its policy intent remains.

The amendments will reduce the regulatory burden on industry through reducing the amount of documents that will be required to be submitted to the department when seeking approval to export a consignment of live-stock for feeder and slaughter purposes once the ESCAS for that particular supply chain has been approved. It is also expected that assessment times will be shorter, given as applications to export to markets with an approved ESCAS will no longer have to be reassessed for each consignment.

The number of variation applications will also be reduced as exporters will only need to apply to add or remove facilities from their ESCAS and they will not need to apply to vary past ESCAS consignment approvals, which will result in ongoing commercial certainty for exporters.

### **Consultation**

Peak bodies in the live-stock export industry (Australian Livestock Exporters' Council, Meat & Livestock Australia and Livecorp) have been consulted on the amendments through a roundtable process since April 2014. These peak bodies represent the interests of Australia's cattle, sheep and goat producers in the areas of animal health and welfare, supply chain efficiency and market access and support the amendments.

The Office of Best Practice Regulation (OBPR) has been consulted and advised that a Regulation Impact Statement is not required (OBPR reference 17528).

The Amendment Order is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Amendment Order is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in the Statement of Compatibility with Human Rights.

### **Details of the *Export Control (Animals) Amendment (2014 Measures No. 1) Order 2014***

#### Section 1 – Name

The section provides that the name of the Amendment Order is the *Export Control (Animals) Amendment (2014 Measures No. 1) Order 2014*.

#### Section 2 – Commencement

This section provides for the Amendment Order to commence on 15 November 2014.

#### Section 3 – Authority

This section provides that the Amendment Order is made under the *Export Control (Orders) Regulations 1982*.

#### Section 4 – Schedule(s)

This section provides that each instrument specified in Schedule 1 is amended or repealed as set out in Schedule 1, and any other item in Schedule 1 has effect according to its terms.

#### Schedule 1 – Amendments

### ***Export Control (Animals) Order 2004***

**Items 1 and 2** amend paragraphs 2.02(b) and 2.02(e) of the Animals Order. Section 2.02 provides that export of livestock is prohibited unless the requirements of paragraphs 2.02(a) to 2.02(i) are met.

Paragraph 2.02(b) currently requires that the Secretary to have approved an NOI, a CRMP and an ESCAS for the export before the exporter begins sourcing, transporting or preparing the live-stock for export (subject to subsection 2.43(2)). Item 1 amends this requirement so that, subject to subsection 2.43(2), before the exporter begins sourcing, transporting or preparing the live-stock for export, the Secretary must approve an NOI and a CRMP for the export and an ESCAS that applies to the export.

Paragraph 2.02(e) currently requires an exporter to have complied with the approved NOI, CRMP and ESCAS, to the extent that the ESCAS applies prior to export. Item 2 amends this requirement so that it refers to an approved ESCAS that applies to the export, rather than an individual ESCAS.

The purpose of the amendments is to reflect the separation of the approval of an ESCAS from approvals of an NOI and a CRMP so that ESCAS applications are assessed on a standalone basis, rather than per consignment.

**Item 3** inserts new subparagraph 2.41(2)(b)(xii) in subsection 2.41(2) of the Animals Order which will require that an NOI state the ESCAS that will apply to the proposed export.

The purpose of this amendment is to require that an NOI state the ESCAS that will apply to the proposed export to reflect the separation of the approval of an ESCAS from the approval of an NOI. This ensures that the NOI contains information about the ESCAS that will apply to

the proposed export consistent with the approval of the NOI being contingent on there being an approved ESCAS (see item 12).

**Item 4** substitutes the passage ‘the supply chain that will apply to the proposed export’ in paragraph 2.42A(2)(a) of the Animals Order with ‘a supply chain that will apply to exports of a particular species of live-stock to one or more specified ports’.

The purpose of this amendment is to require that an ESCAS include an outline of the details of the supply chain that will apply to exports of a particular species of live-stock to one or more specified ports (such as the species of animal and destination port or ports) in order to assess the ESCAS on a standalone basis, rather than per consignment.

**Item 5** substitutes subparagraph 2.42A(2)(a)(i) with a new subparagraph 2.42A(2)(a)(i) and new subparagraph 2.42A(2)(a)(ia) in subsection 2.42A(2) of the Animals Order to require that an ESCAS include details of the species of live-stock proposed for export as part of that ESCAS as well as the port or ports of arrival.

The purpose of this amendment is to ensure an ESCAS includes details of the species of live-stock proposed for export and the destination port or ports of arrival so the ESCAS can be assessed on a standalone basis, rather than per consignment.

**Item 6** inserts a reference to subparagraph 2.42A(2)(a)(ia) in subparagraph 2.42A(2)(a)(v) of the Animals Order.

The purpose of this amendment is to ensure that an ESCAS set out details of independent auditing and reporting in relation to the species of live-stock to reflect the insertion of subparagraph 2.42A(2)(a)(ia), which will ensure an ESCAS includes details of the species of live-stock proposed for export so the ESCAS can be assessed on a standalone basis, rather than per consignment.

**Item 7** substitutes ‘an ESCAS that the exporter has given to the Secretary for the purposes of another proposed export’ in subsection 2.42A(3) of the Animals Order with ‘another ESCAS that the Secretary has previously approved’.

The purpose of this amendment is to reflect the change in the assessment of an ESCAS to a standalone basis, permitting exporters to refer the Secretary to ESCAS that the Secretary has previously approved, when submitting an ESCAS for approval.

**Items 8, 9 and 10** amend section 2.43 of the Animals Order which sets out requirements for giving NOIs, CRMPs and ESCASs to the Secretary to separate the requirement to give an ESCAS to the Secretary from the requirement to give an NOI and CRMP to the Secretary.

Item 9 inserts new subsection 2.43(1A) in section 2.43 of the Animals Order, which will require an ESCAS to be given to the Secretary 10 working days before the quarantine or isolation begins for the first export to which the ESCAS will apply or 10 working days before the first export to which the ESCAS will apply, depending on importing country requirements.

Item 8 amends subsection 2.43(1) to remove references to ESCAS as a consequence of the amendments made by item 9.

Item 10 adds a reference to subsection 2.43(1A) in subsection 2.43(2) of the Animals Order to enable the Secretary to accept an ESCAS at any time if the Secretary considers it reasonable to do so in all the circumstances.

The purpose of the amendments is to separate the requirement to give an ESCAS from the requirement to give an NOI and CRMP to the Secretary. However, there is no change in the time periods set out in section 2.43, which continues to be 10 working days, depending on the circumstances.

**Item 11** substitutes subsection 2.44(1) of the Animals Order with an updated subsection 2.44(1).

The purpose of this amendment is to reflect the separation and change in the assessment of an ESCAS, whereby the Secretary may, by notice in writing, require further information pertaining to a proposed export; require further information about an ESCAS; and direct that an NOI or a CRMP be amended, or an ESCAS be varied, in a specified way.

**Item 12** inserts subsection 2.44(2AA) in section 2.44 of the Animals Order which states that the Secretary must not approve an NOI unless the Secretary is satisfied that an approved ESCAS applies to the proposed export to reflect the separation of the approval of an NOI from approvals of an ESCAS for a proposed export.

**Item 13** substitutes subsection 2.44(2A) of the Animals Order with an updated subsection 2.44(2A) which sets out the basis for the Secretary to approve an ESCAS.

New subsection 2.44(2A) enables the Secretary to approve an ESCAS, if satisfied that the ESCAS will ensure the live-stock to which the ESCAS applies will be transported, handled, slaughtered and subjected to any other related operations in accordance with relevant OIE recommendations. This reflects the change in the assessment of an ESCAS on a standalone basis, so that it refers to live-stock to which the ESCAS applies, rather than per consignment.

**Item 14** substitutes ‘the NOI, CRMP and ESCAS,’ in subsection 2.44(3) of the Animals Order with ‘an NOI, a CRMP or an ESCAS’.

The purpose of this amendment is to separate written notices of decisions and reasons for decisions for an ESCAS from those for an NOI and a CRMP to reflect the change in the assessment of an ESCAS to assessment on a standalone basis, rather than per consignment.

**Item 15** substitutes ‘and’ in subsection 2.44(4) of the Animals Order with ‘or’ to separate the Secretary’s ability to approve an NOI and a CRMP subject to a condition from the ability to approve an ESCAS subject to a condition to reflect the change in the assessment of an ESCAS to assessment on a standalone basis, rather than per consignment.

**Item 16** substitutes subsection 2.44(5) of the Animals Order with an updated subsection 2.44(5) that sets out matters to that can form conditions of an ESCAS.

The purpose of this amendment is to expand on the conditions that the Secretary can apply to an ESCAS to include the period for which the ESCAS is approved; and the number of exports to which the ESCAS may apply to reflect the change in the assessment of an ESCAS to a standalone basis, rather than per consignment.

**Item 17** substitutes subsections 2.45(1) and 2.45(2) of the Animals Order with updated subsections 2.45(1) and 2.45(2) and a new subsection 2.45(2A) which set out the effect of an approval of NOIs, CRMPs and ESCASs.

New subsection 2.45(1) provides that approval of an NOI and a CRMP for a proposed export of live-stock is permission for the exporter to prepare to export the live-stock in compliance with the approved NOI and CRMP.

New subsections 2.45(2) and 2.45(2A) provide that approval of an NOI and a CRMP for a proposed export does not oblige the Secretary to grant an export permit and approval of an ESCAS also does not oblige the Secretary to grant an export permit.

The purpose of this amendment is to reflect the separation of the approval of an ESCAS from approvals of an NOI and a CRMP.

**Item 18** substitutes ‘the live-stock’ in paragraph 2.46A(3)(a) of the Animals Order with ‘live-stock to which the approved ESCAS would apply’.

The purpose of this amendment is to ensure the Secretary has the ability to revoke or vary the approval of an ESCAS, if he or she is not satisfied that the live-stock to which the approved standalone ESCAS would apply will be dealt with in accordance with the approved ESCAS.

**Item 19** inserts new subsection 2.46A(4) into section 2.46A of the Animals Order, which provides that a variation of an ESCAS applies in relation to all exports to which that ESCAS applies, including those of which have left Australia before the variation takes effect.

The purpose of this amendment is to ensure that the variation of an ESCAS (including the conditions imposed) applies to exports in progress rather than continuing to be handled under the ESCAS (or its conditions) as it was approved at the time the export began. This will ensure all animals—regardless of when they were exported—are handled in a consistent manner according to the conditions as set or varied. It also ensures that auditing and reporting procedures are not affected by inconsistent conditions which would affect commercial certainty.

**Item 20** substitutes ‘NOI, CRMP and ESCAS’ in subsection 2.47(2) of the Animals Order with ‘NOI and CRMP’ to remove consideration of information in an ESCAS when the Secretary is considering approving export programs for live-stock.

The purpose of this amendment is to reflect that an ESCAS is not a relevant consideration for an approved export program because it does not impact the onshore operations of an approved export program.

**Item 21** substitutes ‘NOI, CRMP and ESCAS’ in paragraph 2.52(3)(a) of the Animals Order with ‘NOI and CRMP’ to require that the declaration by the exporter state that the live-stock has been held in accordance with the NOI and CRMP and Australian Standards for the Export of Live-stock when applying for pre-export inspection is complete.

The purpose of this amendment is to reflect that live-stock have been held in accordance with the approved NOI and CRMP that applies to the export when applying for pre-export inspection.

**Item 22** substitutes ‘the CRMP and the ESCAS’ in paragraph 2.54(3)(b) of the Animals Order with ‘and the CRMP and the approved ESCAS that applies to the export’ to require the authorised officer be satisfied that the exporter has complied with the ESCAS that applies to the export when granting permission to leave for loading.

The purpose of this amendment is to reflect that the exporter has complied with the approved ESCAS that applies to the export when granting permission to leave for loading.

**Item 23** substitutes ‘, CRMP and ESCAS’ in paragraph 2.58(2)(d) of the Animals Order with ‘and CRMP and the approved ESCAS that applies to the export’ to require the declaration by the exporter to state that they have complied with the relevant ESCAS when applying for an export permit.

The purpose of this amendment is to reflect that the exporter has complied with the approved ESCAS that applies to the export when applying for an export.

**Item 24** substitutes ‘ESCAS’ in paragraph 2.58(2)(f) of the Animals Order with ‘approved ESCAS that applies to the export’ to require that the exporter provide a declaration that no relevant circumstances have changed in relation to the approved ESCAS that applies to the export when applying for an export permit.

**Item 25** substitutes ‘, CRMP and ESCAS’ in subparagraph 2.59(1)(c)(iv) of the Animals Order with ‘and CRMP and the approved ESCAS that applies to the export’ to require that the Secretary be satisfied that the exporter has complied with the approved ESCAS that applies to the export when applying for an export permit.

The purpose of this amendment is to reflect that the exporter has complied with the approved ESCAS that applies to the export when applying for an export.

**Item 26** inserts ‘that applies to the export’ after ‘ESCAS’ in subparagraph 2.59(1)(c)(v) of the Animals Order to require that Secretary be satisfied that the exporter is in a position to comply with the approved ESCAS that applies to the export when granting an export permit for the export of live-stock.

**Item 27** substitutes ‘the approved ESCAS’ in paragraph 2.60(1)(d) of the Animals Order with ‘an approved ESCAS that applies to the export’ to enable the Secretary to refuse the granting of an export permit should live-stock be dealt with other than in accordance with the approved standalone ESCAS that applies to the export.

**Item 28** amends paragraphs 3.03(d) of the Animals Order. Section 3.03 provides that export of live-stock by air and the export of live animals (other than live-stock) by any means is prohibited unless the requirements of paragraphs 3.03(a) to 3.03(d) are met.

Paragraph 3.03(d) currently requires that in the case of live-stock to be exported by air, the exporter must obtain approvals of the NOI and the ESCAS and must comply with all conditions to which the approvals are subject. Item 28 amends this requirement so that the exporter must obtain approval of the NOI and an ESCAS that applies to the export and comply with all conditions to which the approvals are subject. This reflects the separation of the approval of an ESCAS from the approval of an NOI so that ESCAS applications are assessed on a standalone basis, rather than per consignment.

**Item 29** inserts new subparagraph 3.04(2)(b)(xiv) into subsection 3.04(2) of the Animals Order which will require that an NOI state the ESCAS that will apply to the proposed export, in the case of a proposed export of live-stock by air.

The purpose of this amendment is to require that an NOI state the ESCAS that will apply to the proposed export, in the case of a proposed export of live-stock by air to reflect the separation of the approval of an ESCAS from the approval of an NOI. This ensures that the NOI contains information about the ESCAS that will apply to the proposed export consistent with the approval of the NOI being contingent on there being an approved ESCAS (see item 38).

**Item 30** substitutes the passage ‘the supply chain that will apply to the proposed export’ in paragraph 3.04A(2)(a) of the Animals Order with ‘a supply chain that will apply to exports of a particular species of live-stock to one or more specified ports,’.

The purpose of this amendment is to require that an ESCAS include an outline of the details of the supply chain that will apply to exports of a particular species of live-stock one or more specified ports (such as the species of animal and destination port or ports) in order to assess the ESCAS on a standalone basis, rather than per consignment.

**Item 31** substitutes subparagraph 3.04A(2)(a)(i) with a new subparagraph 3.04A(2)(a)(i) and new subparagraph 3.04A(2)(a)(ia) in subsection 3.04A(2) of the Animals Order to require that an ESCAS include details of the species of live-stock proposed for export as part of that ESCAS as well as the port or ports of arrival.

The purpose of this amendment is to ensure an ESCAS includes details of the species of live-stock proposed for export and the destination port or ports of arrival so the ESCAS can be assessed on a standalone basis, rather than per consignment.

**Item 32** inserts a reference to subparagraph 3.04A(2)(a)(ia) in subparagraph 3.04A(2)(a)(v) of the Animals Order.

The purpose of this amendment is to ensure that an ESCAS set out details of independent auditing and reporting in relation to the species of live-stock to reflect the insertion of subparagraph 3.04A(2)(a)(ia), which will ensure an ESCAS includes details of the species of live-stock proposed for export so the ESCAS can be assessed on a standalone basis, rather than per consignment.

**Item 33** substitutes ‘an ESCAS, that the exporter has given to the Secretary for the purpose of another proposed export’ in subsection 3.04A(3) of the Animals Order with ‘, an ESCAS that the Secretary has previously approved’.

The purpose of this amendment is to reflect the change in the assessment of an ESCAS to a standalone basis, permitting exporters to refer the Secretary to ESCAS that the Secretary has previously approved, when submitting an ESCAS for approval.

**Items 34, 35 and 36** amend section 3.05 of the Animals Order which sets out requirements for giving NOIs and ESCASs to the Secretary to separate the requirement to give an ESCAS to the Secretary from the requirement to give an NOI to the Secretary.



Item 35 inserts new subsection 3.05(1A) in section 3.05 of the Animals Order, which will require an ESCAS to be given to the Secretary 10 working days before the quarantine or isolation begins for the first export to which the ESCAS will apply or 10 working days before the first export to which the ESCAS will apply, depending on importing country requirements.

Item 34 amends subsection 3.05(1) to remove references to ESCAS as a consequence of the amendments made by item 35.

Item 36 adds a reference to subsection 3.05(1A) in subsection 3.05(2) of the Animals Order to enable the Secretary to accept an ESCAS at any time if the Secretary considers it reasonable to do so in all the circumstances.

The purpose of the amendments is to separate the requirement to give an ESCAS from the requirement to give an NOI to the Secretary. However, there is no change in the time periods set out in section 3.05, which continues to be 10 working days, depending on the circumstances.

**Item 37** repeals subsection 3.07(1) of the Animals Order and substitutes it with an updated subsection 3.07(1).

The purpose of this amendment is to reflect the separation and change in the assessment of an ESCAS, whereby the Secretary may, by notice in writing, require further information pertaining to a proposed export; require further information about an ESCAS; and direct that an NOI be amended, or an ESCAS be varied, in a specified way.

**Item 38** inserts subsection 3.07(2AA) in section 3.07 of the Animals Order which states that the Secretary must not approve an NOI unless the Secretary is satisfied that an approved ESCAS applies to the proposed export to reflect the separation of the approval of an NOI from approvals of an ESCAS for a proposed export.

**Item 39** substitutes subsection 3.07(2A) of the Animals Order with an updated subsection 3.07(2A) which sets out the basis for the Secretary to approve an ESCAS.

New subsection 3.07(2A) enables the Secretary to approve an ESCAS, if satisfied that the ESCAS will ensure the live-stock to which the ESCAS applies will be transported, handled, slaughtered and subjected to any other related operations in accordance with relevant OIE recommendations. This reflects the change in the assessment of an ESCAS on a standalone basis, so that it refers to live-stock to which the ESCAS applies, rather than per consignment.

**Item 40** substitutes ‘the NOI and the ESCAS,’ in subsection 3.07(3) of the Animals Order with ‘an NOI or an ESCAS’.

The purpose of this amendment is to separate written notices of decisions and reasons for decisions for an ESCAS from those for an NOI to reflect the change in the assessment of an ESCAS to assessment on a standalone basis, rather than per consignment.

**Item 41** substitutes subsection 3.07 (5) of the Animals Order with an updated subsection 3.07(5) that sets out matters to that can form conditions of an ESCAS.

The purpose of this amendment is to expand on the conditions that the Secretary can apply to an ESCAS to include the period for which the ESACS is approved; and the number of exports

to which the ESCAS may apply to reflect the change in the assessment of an ESCAS to a standalone basis, rather than per consignment.

**Item 42** substitutes section 3.08 of the Animals Order with an updated section 3.08.

The purpose of this amendment is to make clear that approval of an NOI for a proposed export of live-stock is permission for the exporter to prepare to export the live-stock in compliance with the approved NOI and an approved ESCAS that applies to the export. The amendment also makes clear that approval of an NOI for a proposed export does not oblige the Secretary to grant an export permit and approval of an ESCAS also does not oblige the Secretary to grant an export permit. This reflects the separation of the approval of an ESCAS from approvals of an NOI.

**Item 43** substitutes ‘the live-stock’ in paragraph 3.09A(3)(a) of the Animals Order with ‘live-stock to which the approved ESCAS would apply’.

The purpose of this amendment is to ensure the Secretary has the ability to revoke or vary the approval of an ESCAS, if he or she is not satisfied that the live-stock to which the approved standalone ESCAS would apply will be dealt with in accordance with the approved ESCAS.

**Item 44** inserts new subsection 3.09A(4) into section 3.09A of the Animals Order, which provides that a variation of an ESCAS applies in relation to all exports to which that ESCAS applies, including those of which have left Australia before the variation takes effect.

The purpose of this amendment is to ensure that the variation of an ESCAS (including the conditions imposed) applies to exports in progress rather than continuing to be handled under the ESCAS (or its conditions) as it was approved at the time the export began. This will ensure all animals—regardless of when they were exported—are handled in a consistent manner according to the conditions as set or varied. It also ensures that auditing and reporting procedures are not affected by inconsistent conditions which would affect commercial certainty.

**Item 45** substitutes ‘NOI and ESCAS’ in subsection 3.10(2) of the Animals Order with ‘NOI’ to remove consideration of information in an ESCAS when the Secretary is considering approving export programs for live-stock.

The purpose of this amendment is to reflect that an ESCAS is not a relevant consideration for an approved export program because it does not impact the onshore operations of an approved export program.

**Item 46** substitutes paragraphs 3.15(1)(a) to (c) of the Animals Order with new paragraphs 3.15(1)(a) to (c)

The purpose of this amendment is to remove the requirements for the Secretary to be satisfied that the exporter has given an ESCAS in accordance with section 3.04A, that the Secretary has approved the ESCAS and that the exporter has complied with any conditions of the approval of the ESCAS when granting an export permit.

The extent to which the exporter has complied with the relevant ESCAS when applying for an export permit is not a relevant consideration because the ESCAS does not include onshore operations. However, the Secretary must still be satisfied when granting an export permit for the export of live-stock by air that an approved ESCAS will apply to the export and the

exporter is in a position to comply with the approved ESCAS that applies to the export as per subparagraph 3.15(1)(f)(iii) and 3.15(1)(f)(iv) as inserted by item 47.

**Item 47** inserts new subparagraphs 3.15(1)(f)(iii) and 3.15(1)(f)(iv) in paragraph 3.15(1)(f) of the Animals Order.

The purpose of this amendment is to require that the Secretary be satisfied that an approved ESCAS will apply to the export and the exporter is in a position to comply with the approved ESCAS that applies to the export when granting an export permit for the export of live-stock by air.

**Item 48** removes ‘and’ from paragraph 3.15(1)(i) of the Animals Order as a consequence of the removal of paragraph 3.15(1)(j) by item 49.

**Item 49** repeals paragraph 3.15(1)(j) of the Animals Order as the requirement in that paragraph, that the Secretary must be satisfied that the exporter is in a position to comply with the approved ESCAS has been inserted into paragraph 3.15(1)(f) by item 47.

**Item 50** repeals sections 7.01 to 7.03 of the Animals Order, which are spent and redundant, and inserts a new section 7.01 which provides for transitional arrangements as a result of the making of the Amendment Order.

Subsection 7.01(1) provides that if an exporter has given the Secretary an ESCAS for a proposed export of a species of live stock to a port or ports before 15 November 2014, and the Secretary has not approved the ESCAS prior to 15 November 2014, the exporter is taken to have given the Secretary an ESCAS for a supply chain that will apply to exports of that species of live stock to that port or ports, until the exporter applies to vary that ESCAS, if applicable.

Subsection 7.01(2) provides that an ESCAS approved by the Secretary before 15 November 2014 continues to apply to the consignment of live-stock for which it was approved, but does not apply to any other exports, subject to the transitional arrangements under section 7.01. This subsection ensures that an ESCAS that has been approved by the Secretary applies only to that consignment and cannot be used on a standalone basis (ie for another consignment) subject to the transitional arrangements provided for in subsections 7.01(3), 7.01(4) and 7.01(5).

Subsection 7.01(3) provides that an exporter may request, in writing, the Secretary to vary an ESCAS that was approved before 15 November 2014 so that the approval of the supply chain is not restricted to the consignment for which the ESCAS was originally approved. This subsection provides exporters the opportunity to vary an ESCAS approved before 15 November 2014 so that it can be considered the exporter’s standalone ESCAS for future exports to a particular supply chain.

Subsection 7.01(4) provides that if the Secretary approves the variation mentioned in subsection 7.01(3), the Secretary may also make other variations to the ESCAS. This subsection ensures that an exporter has the ability to make future variations to their standalone ESCAS if the need should arise.

Subsection 7.01(5) provides that it does not matter whether the export of the consignment of live-stock for which the ESCAS was originally approved in subsection 7.01(3) has been completed. This subsection provides exporters the opportunity to vary an ESCAS approved and/or completed before 15 November 2014 so that it can be considered the exporter’s

standalone ESCAS for future exports to a particular supply chain, regardless of whether the export of the consignment has been completed.

**Item 51** substitutes the heading for section 7.05 of the Animals Order with an updated heading to reflect the repeal of section 7.03 by item 50.

**Item 52** removes ‘section 7.03 or’ from section 7.05 of the Animals Order to reflect the repeal of section 7.03 by item 50.

**Item 53** repeals section 7.07 of the Animals Order as it is spent and redundant.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### ***Export Control (Animals) Amendment (2014 Measures No. 1) Order 2014***

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Legislative Instrument**

The purpose of the *Export Control (Animals) Amendment (2014 Measures No. 1) Order 2014* is to:

- enable approval of exporter supply chain assurance system (ESCAS) applications on a standalone basis, rather than per consignment through separating the approval of an ESCAS from the approval of a notice of intention to export (NOI) and a consignment risk management plan (CRMP);
- allow for the variation of an ESCAS to apply to all exports to which that ESCAS applies, including those export that have left Australia before the variation has taken effect; and
- broaden the information required when exporters submit an ESCAS for approval on a standalone basis to include ports or ports of arrival as well as the species of live-stock to be exported.

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon. Barnaby Joyce MP  
Minister for Agriculture**