

EXPLANATORY STATEMENT

Issued by Authority of the Deputy Prime Minister and Minister for Agriculture and Water Resources

Export Control Act 1982

Export Control (Animals) Amendment (2017 Measures No. 1) Order 2017

Legislative Authority

The Governor-General may make regulations under section 25 of the *Export Control Act 1982* (the Act). Under regulation 3 of the *Export Control (Orders) Regulations 1982* (the Regulations), the Minister may make orders, not inconsistent with regulations made under the Act. The *Export Control (Animals) Order 2004* (the Animals Order) is made under regulation 3 of the Regulations.

Under subsection 33(3) of the Acts Interpretation Act 1901, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Purpose

The purpose of the *Export Control (Animals) Amendment (2017 Measures No.1) Order 2017* (the Amendment Order) is to amend the Animals Order to extend the period of registration of premises for holding and assembling live-stock for export from one year to five years, to extend the period of accreditation of veterinarians for live-stock export from one year to five years and to streamline reporting requirements for registered premises by removing the need to supply extraneous information on applications.

Background

The export of animals from Australia is governed by the Animals Order. The vast majority of animals exported are live-stock, defined in section 1.05 of the Animals Order as cattle, sheep, goats, deer, buffalo and camelids (camels, llamas, alpacas and vicuñas), and including the young of any of these animals.

Division 2.2 of the Animals Order provides for the registration of premises for holding and assembling live-stock for export. Section 2.09 of the Animals Order provides that registration of such premises has effect for one year from the date of notice of registration. As at 8 June 2017 there were 83 registered premises in Australia.

Part 4A of the Animals Order provides for the accreditation of veterinarians for live-stock export. Section 4A.05 provides that the period of accreditation is one year from the date of the notice of accreditation. As at 8 June 2017 there were 113 veterinarians accredited under these provisions.

Impact and Effect

The Amendment Order extends the period of registration of premises for the holding and assembling of live-stock for export from one to five years and the period of accreditation of veterinarians for live-stock export from one to five years. Extension of registration and

accreditation from one to five years will not have any adverse effect on the wider community but will reduce the burden of making annual applications and the associated costs. Applicants will pay one application fee of \$600 every five years, instead of paying \$600 every year, saving them \$2400 over five years. This will reduce red tape and improve efficiency for the Department of Agriculture and Water Resources (the department) and its clients. Annual audits will continue for registered premises to ensure that compliance issues are identified and managed.

The Animals Order already provides for both the cancellation of registration of registered premises, and the suspension of accreditation of veterinarians, in appropriate circumstances.

The Amendment Order streamlines reporting requirements of registered premises by removing the need to provide extraneous information such as topographical maps and meteorological information. These matters are better assessed as part of the annual audit and inspection process than by submitting documentation.

Consultation

Representatives of key stakeholders have been consulted and approve of the amendments. The department consulted with the Australian Livestock Exporters' Council (ALEC), LiveCorp and with a number of clients, including live-stock exporters, owners of registered premises and Australian Accredited Veterinarians. All supported the changes. The department also consulted Animals Australia and the RSPCA who had no objection to the amendments.

The department consulted with the Office of Best Practice Regulation (OBPR). OBPR considered that the proposed changes to registered premises were minor, as they pertain only to the renewal of registration and the remaining mechanisms are unchanged. OBPR considered this proposal will have no more than a minor impact on businesses, individuals and/or community organisations (**OBPR ID 21758**). In relation to veterinarian changes, OBPR again considered that the proposal was not likely to have a more than minor regulatory impact on business, individuals or community organisations (**OBPR ID 21775**). Therefore, no Regulation Impact Statement was required.

The Amendment Order is a legislative instrument for the purposes of the

Legislation Act 2003.

The Amendment Order is compatible with 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 Attachment.

Details of the *Export Control (Animals) Amendment (2017 Measures No. 1) Order 2017*

Section 1 – Name

This section provides that the name of the Order is the *Export Control (Animals) Amendment (2017 Measures No. 1) Order 2017*.

Section 2 – Commencement

This section provides for the Order to commence on the day after the instrument is registered.

Section 3 – Authority

This section provides that the Order is made under regulation 3 of the *Export Control (Orders) Regulations 1982*.

Section 4 – Schedules

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

Schedule 1–Main amendments

Item 1 – Part 1A (heading)

This item repeals the title and substitutes the heading “Export of live-stock” to reflect that Part 1A now covers all export of live-stock.

Item 2 – paragraph 2.04(3)(b)

This item omits the words “boundaries and topography” and substitutes “and boundaries” to remove unnecessary reporting requirements for registration of premises.

Item 3 – paragraph 2.04(3)(c)

This item omits the words “and specifications” to reflect the streamlining of reporting for registration of premises and to remove the requirement to provide unnecessary information.

Item 4 – subsection 2.04(6)

This item repeals the subsection in order to remove the requirement to provide detailed meteorological information and evidence of adequate shelter for live-stock in an application for registration of premises, because this is extraneous information and these are matters that are better assessed as part of the annual audit and inspection process than by submitting documentation. It substitutes a subsection that requires an application to state only the months during which the premises will be used to hold and assemble live-stock for export.

Item 5 – section 2.06

This item repeals the section regarding consideration of applications for registration of premises. It substitutes a section containing a revised process for assessment of applications under this Part. It provides for the Secretary to evaluate the premises in an audit, and to request information reasonably required for the purposes of deciding whether to approve an application for registration of premises.

Item 6 – subsection 2.09(1)

This item omits the reference to “1 year” in relation to the duration of the registration of premises for holding and assembling live-stock for export, and substitutes “5 years”.

Item 7 – section 4A.05

This item repeals the section relating to the period of accreditation of a veterinarian. It substitutes a section that provides for the accreditation of veterinarians for live-stock export to be for 5 years. It also provides for the period of accreditation to be shorter than 5 years if this shorter period is specified in the notice of accreditation.

Item 8 – section 5.01

This item inserts the phrase “CRMP means consignment risk management plan”. This gives meaning to the abbreviation CRMP contained in the definition of *export instrument* in section 5.01 of the Animals Order.

Item 9 – section 5.02

This item repeals the section outlining the purpose of audit under Part 5. It substitutes a section containing revised and expanded purposes for an audit that may be carried out under this Part. These include to evaluate an application for an approved arrangement or an application for a registered premises and to establish whether the operator of a registered premises, an exporter of animals or animal reproductive material or an accredited veterinarian is compliant with a number of conditions listed where applicable.

Item 10 – subsection 5.05(1)

This item omits the word “registered” in order to ensure that the subsection will refer to both an operator of a registered premises and an operator of a premises in relation to which an application for registration has been made under section 2.04.

Item 11 – paragraph 5.07(2)(c)

This item omits the word “registered” in order to ensure that the subsection and paragraph will refer to both an operator of a registered premises and an operator of a premises in relation to which an application for registration has been made under section 2.04.

Item 12 – paragraph 5.07(3)(b)

This item repeals the paragraph and substitutes a paragraph to reflect that the written audit report must state, depending on what is applicable, the officer’s findings in relation to an arrangement referred to in paragraph 5.02(a), or a premises referred to in paragraph 5.02(b). Subparagraph (iii) will apply if the purpose of the audit was to establish that there has been compliance with the requirements or conditions of an approved arrangement by a person referred to in paragraph 5.02(c).

Item 13 – paragraph 5.07(3)(c)

This item omits the word “opinion” and substitutes the word “findings” to provide for the written report of the audit to contain the officer’s findings and to be consistent with the new subparagraphs 5.07(3)(b)(i) and (ii).

Item 14 – subsection 5.07(4)

This item repeals the subsection. It substitutes a subsection that provides for what should be contained in an audit report if the purpose of the audit was to evaluate an application for an approved arrangement or a registered premises. It also sets out for what should be contained in an audit report if the audit was to establish the compliance of a person referred to in paragraph 5.02(c).

Item 15 – paragraph 5.07(5)(b)

This item omits the phrase “registered premises” and substitutes “the premises” to reflect that the paragraph also applies to premises that may not yet be registered but are being assessed.

Item 16 – In the appropriate position in Part 7

This item inserts a new section which provides that the assessment of applications relating to registration of premises and the extended duration of both registration and accreditation occasioned by the Amendment Order applies to applications, notices of registration and accreditation dated on or after the date of commencement.

Schedule 2—Other amendments

Item 1 – subsection 1.05(1) (definition of *registered premises*)

This item relates to the definition of “registered premises” contained in the subsection. It omits the words “Division 2.2” and substitutes “Part 2” for consistency.

Item 2 – subsection 1A.01(1)

This item repeals subsection 1A.01(1) of the Animal Order which provides exceptions to the prohibition of export of live-stock that no longer apply.

Item 3 – subsection 1A.01(2)

This item omits the words “(2) For paragraph (1)(a) the conditions are as follows” because paragraph 1A.01(1)(a) has been repealed. It substitutes the words “The export of live-stock is prohibited unless the following conditions are complied with” to reflect that the listed conditions apply to all export of live-stock.

Item 4 – section 1A.24 (note)

This item repeals the note which refers to sections and subparagraphs that have been repealed. It substitutes, for consistency, a note that refers to the relevant re-named section and paragraph.

Item 5 – Part 2 (heading)

This item repeals the heading. It substitutes “Part 2 – Registration of Premises” to reflect the broader coverage of this Part.

Item 6 – Division 2.1 of Part 2 (heading)

This item repeals the heading which refers to an activity, the export of live-stock by sea before 2017 without an approved arrangement, which is now redundant.

Item 7 – section 2.01

This item repeals the definition of “CRMP” and “sourcing” because these definitions are used in provisions which have been repealed.

Item 8 – sections 2.01A, 2.01B and 2.02

This item repeals the sections because they relate to a division that has been repealed, the export of live-stock by sea before 2017 without an approved arrangement.

Item 9 – Division 2.2 of Part 2 (heading)

This item repeals the heading as it is redundant due to the broader coverage of the Part.

Item 10 – section 2.03

This item repeals this section as the division to which it refers has been repealed. It substitutes a section providing for the application of the Part and including a note about the requirement to hold live-stock for export by sea, and certain live-stock by air, in registered premises before export.

Item 11 – subsection 2.04(1)

This item omits the reference to a “Division” and substitutes “Part” as amended in the Order.

Item 12 – paragraph 2.10(1)(e)

This item omits reference to “or subsection 2.45(3)” because that subsection has been repealed.

Item 13 – paragraph 2.10(1)(g)

This item repeals the paragraph as it is no longer a condition of registration that an exporter be issued with a permission to leave for loading.

Item 14 – subsection 2.10(2)

This item omits the phrase “or CRMP” (wherever occurring) as CRMP (consignment risk management plans) are no longer a condition for registration of premises.

Item 15 – Divisions 2.4 and 2.5 of Part 2

This item repeals these Divisions because they relate to matters for export before 2017 and are redundant.

Item 16 – section 4A.03

This item repeals the section because it was a transitional provision for a previous amendment to the Act and is now redundant.

Item 17 – section 5.01 (definition of *export instrument*)

This item omits the phrase “a permission to leave for loading” because it is no longer a condition of registration that an exporter be issued with a permission to leave for loading, so its inclusion in the section is 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 (2017 Measures No. 1) Order 2017

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 (2017 Measures No. 1) Order 2017* is to amend the Animals Order to (i) extend the period of registration of premises for holding and assembling live-stock for export from one year to five years, and (ii) to extend the period of accreditation of veterinarians for live-stock export from one year to five years and to streamline reporting requirements for registered premises.

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
Deputy Prime Minister and Minister for Agriculture and Water Resources