



Export Control (Animals) Amendment (Approved Export Programs and Other Measures) Order 2018

I, David Littleproud, Minister for Agriculture and Water Resources, make the following order.

Dated 5 July 2018

David Littleproud
Minister for Agriculture and Water Resources

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1 Name

This instrument is the *Export Control (Animals) Amendment (Approved Export Programs and Other Measures) Order 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	7 July 2018
2. Schedule 1, Part 1	The day after this instrument is registered.	7 July 2018
3. Schedule 1, Part 2	A single day to be fixed by the Minister by notifiable instrument. However, if the provisions do not commence before 1 October 2018, they commence at the start of that day.	
4. Schedule 2	Immediately after the commencement of the provisions covered by table item 2.	7 July 2018
5. Schedule 3	The day after this instrument is registered.	7 July 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under regulation 3 of the *Export Control (Orders) Regulations 1982*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Part 1—Amendments commencing day after registration

Export Control (Animals) Order 2004

1 Subsection 1.05(1)

Insert:

holder of an approved export program means the exporter to whom the approval of the program under paragraph 1A.36(1)(a) was given.

2 Paragraph 1A.01(g)

Repeal the paragraph, substitute:

(g) an approved arrangement for the exporter is in effect in relation to the live-stock;

3 After paragraph 1A.01(h)

Insert:

(ha) the exporter is the holder of an approved export program in force under Subdivision A of Division 1A.7 that applies to some or all of the export activities of the exporter in relation to the live-stock;

4 Paragraph 1A.05(1)(d)

Repeal the paragraph.

5 Subsection 1A.05(1) (note)

Repeal the note.

6 Subsection 1A.07(2)

Omit “, (d)”.

7 Paragraph 1A.10(1)(c)

Repeal the paragraph.

8 After paragraph 1A.29(3)(b)

Insert:

(ba) an accredited veterinarian has undertaken the activities in the approved export program held by the exporter under Subdivision A of Division 1A.7 that apply in relation to the preparation of the live-stock; and

9 Subsection 1A.29(4)

Omit “paragraph (3)(a)”, substitute “paragraphs (3)(a) and (ba)”.

10 After subparagraph 1A.30(1)(f)(i)

Insert:

(ia) an accredited veterinarian has undertaken the activities in the approved export program held by the exporter under Subdivision A of

Division 1A.7 that apply in relation to the preparation of the live-stock; and

11 Division 1A.7 of Part 1A

Repeal the Division, substitute:

Division 1A.7—Approved export programs

Subdivision A—Exporter’s approved export programs

1A.35 Application by exporter for approval of program of activities

- (1) An exporter who wants to export one or more kinds or classes of live-stock may:
 - (a) prepare a program of activities to be undertaken by an accredited veterinarian for the purpose of ensuring the health and welfare of each kind or class of live-stock in the course of some or all of the export activities of the exporter in relation to each kind or class of live-stock; and
 - (b) apply, in writing, to the Secretary for approval of the program of activities.
- (2) For the purposes of paragraph (1)(a), a program of activities in relation to one or more kinds or classes of live-stock:
 - (a) may be undertaken within or outside Australia; and
 - (b) may include all the activities referred to in subsection 9A(3) of the Act; and
 - (c) may include activities other than those referred to in that subsection; and
 - (d) may differ depending on any of the following:
 - (i) the country to which a kind or class of live-stock is to be exported;
 - (ii) the kind or class of live-stock;
 - (iii) the method of transport;
 - (iv) any other relevant matter.
- (3) An application under paragraph (1)(b) for approval of a program of activities:
 - (a) must be accompanied by a written record of the program of activities; and
 - (b) may be made at the same time as an application for approval of an arrangement under section 1A.02 in relation to the live-stock to which the application under paragraph (1)(b) of this section relates.

1A.36 Assessment of application and Secretary’s decision

- (1) On receiving an application from an exporter under paragraph 1A.35(1)(b) for approval of a program of activities, the Secretary must decide:
 - (a) to approve the program of activities; or
 - (b) not to approve the program of activities.

Request for further information or documents

- (2) For the purpose of making a decision in relation to the application, the Secretary may request the applicant, or another person who the Secretary considers may have information or documents relevant to the application, to give the Secretary further specified information or documents relevant to the application.
- (3) A request under subsection (2):

- (a) may be made orally or in writing; and
- (b) must specify the period within which the request must be complied with.

Approval of program of activities

- (4) The Secretary may approve the program of activities if the Secretary is satisfied that the program of activities is for the purpose of ensuring the health and welfare of each kind or class of live-stock in the course of export activities to which the application relates.
- (5) A program of activities that is approved under paragraph (1)(a) is an approved export program for the purposes of the Act.

Note 1: See Part IIA of the Act in relation to approved export programs.

Note 2: An exporter may commit an offence under Subdivision B of Division 2 of Part IIA of the Act for certain contraventions relating to approved export programs.

Note 3: The Secretary may direct an authorised officer to undertake some or all of the activities in an exporter's approved export program—see section 9D of the Act.

- (6) If the Secretary approves the program of activities, the Secretary may, if the Secretary considers it appropriate, set an expiry date for the approved export program.

When Secretary is taken to have decided not to approve program of activities

- (7) The Secretary is taken to have decided not to approve the program of activities if the Secretary has not made a decision on the application within 60 days (the **initial consideration period**), or such extended period as may apply under subsection (8), after:
 - (a) the day the application was received; or
 - (b) if the application was varied—the day the application was varied.
- (8) The initial consideration period for the application is extended, for each request made under subsection (2), by the number of days in the period beginning on the day the request was made and ending on:
 - (a) the day the request was complied with; or
 - (b) if the request was not complied with within the period specified in the request—the last day of that period.

Notice of decision

- (9) If the Secretary approves the program of activities, the Secretary must give the applicant a written notice stating:
 - (a) the day the approved export program takes effect; and
 - (b) either:
 - (i) that the approved export program remains in force unless it is suspended or cancelled; or
 - (ii) if applicable, the expiry date for the approved export program.
- (10) If the Secretary decides not to approve the program of activities, the Secretary must give the applicant a written notice setting out:
 - (a) the reasons for the decision; and
 - (b) the applicant's right to apply for reconsideration of the decision.

Note: For reconsideration and review of decisions, see section 6.03 of this Order and Part 16 of the *Export Control (Prescribed Goods—General) Order 2005*.

1A.37 Period of effect of approved export program

- (1) An approved export program under this Subdivision remains in force:
 - (a) if there is an expiry date for the approved export program—until that expiry date unless the approved export program is cancelled under section 1A.43 or 1A.44; or
 - (b) if there is no expiry date for the approved export program—until the approved export program is cancelled under section 1A.43 or 1A.44.
- (2) However, if an approved export program, or a part of an approved export program, is suspended under subsection 1A.41(3) or 1A.42(1), the approved export program, or the part of the approved export program, is not in force during the period of the suspension.

1A.38 Holder may apply for approval of variation of approved export program

- (1) The holder of an approved export program may apply to the Secretary, in writing, to approve a variation of the approved export program.
- (2) On receiving an application under subsection (1) to approve a variation, the Secretary must decide:
 - (a) to approve the variation; or
 - (b) not to approve the variation.

Request for further information or documents

- (3) For the purpose of making a decision in relation to the application, the Secretary may request the applicant, or another person who the Secretary considers may have information or documents relevant to the application, to give the Secretary further specified information or documents relevant to the application.
- (4) A request under subsection (3):
 - (a) may be made orally or in writing; and
 - (b) must specify the period within which the request must be complied with.

Approval of variation

- (5) The Secretary may approve a variation of the approved export program if the Secretary is satisfied that the approved export program, as proposed to be varied, is for the purpose of ensuring the health and welfare of a kind or class of live-stock in the course of export activities to which the approved export program relates.

When Secretary is taken to have decided not to approve variation

- (6) The Secretary is taken to have decided not to approve a variation of the approved export program if the Secretary has not made a decision on the application within 60 days (the **initial consideration period**), or such extended period as may apply under subsection (7), after:
 - (a) the day the application was received; or
 - (b) if the application was varied—the day the application was varied.

- (7) The initial consideration period for the application is extended, for each request made under subsection (3), by the number of days in the period beginning on the day the request was made and ending on:
- (a) the day the request was complied with; or
 - (b) if the request was not complied with within the period specified in the request—the last day of that period.

Notice of decision

- (8) If the Secretary approves a variation, the Secretary must give the applicant a written notice stating:
- (a) details of the variation; and
 - (b) the day the variation takes effect.
- (9) If the Secretary decides not to approve a variation, the Secretary must give the applicant a written notice setting out:
- (a) the reasons for the decision; and
 - (b) the applicant's right to apply for reconsideration of the decision.

Note: For reconsideration and review of decisions, see section 6.03 of this Order and Part 16 of the *Export Control (Prescribed Goods—General) Order 2005*.

1A.39 Secretary may require holder to vary approved export program

- (1) The Secretary may, by written notice to the holder of an approved export program, require the holder to vary the approved export program if the Secretary is satisfied that the variation is necessary for the purpose of ensuring the health and welfare of a kind or class of live-stock in the course of export activities to which the approved export program relates.
- (2) The notice under subsection (1) must:
- (a) identify (in general or specific terms) the variation required; and
 - (b) require the holder to give the varied approved export program to the Secretary within a specified period; and
 - (c) set out:
 - (i) the reasons for the decision to require the holder to vary the approved export program; and
 - (ii) the holder's right to apply for reconsideration of the decision.

Note: For reconsideration and review of decisions, see section 6.03 of this Order and Part 16 of the *Export Control (Prescribed Goods—General) Order 2005*.

- (3) The holder must comply with the notice.
- (4) If the holder complies with the notice, the Secretary may give the holder a written notice approving the varied approved export program. The notice must state the day the varied approved export program takes effect.
- (5) The Secretary may amend or revoke a notice given under subsection (1) by giving a further written notice to the holder.

1A.40 When an approved export program includes a variation

An approved export program under this Subdivision includes a variation of the approved export program if:

- (a) the variation was approved under paragraph 1A.38(2)(a); or
- (b) the variation was required by a notice given under subsection 1A.39(1) and the Secretary approved the varied approved export program under subsection 1A.39(4).

1A.41 Holder may request suspension of approved export program

Request for suspension

- (1) The holder of an approved export program may request the Secretary to suspend the approved export program or a part of the approved export program.
- (2) A request under subsection (1) must:
 - (a) be in writing; and
 - (b) specify whether the whole or a part of the approved export program is to be suspended; and
 - (c) if a part of the approved export program is to be suspended—specify (as the case requires):
 - (i) the part of the approved export program that is to be suspended; or
 - (ii) the activities that are to be suspended; or
 - (iii) any other aspects in relation to which the approved export program is to be suspended (for example, in relation to the kinds or classes of live-stock, the countries to which the live-stock are to be exported, or the methods of transport of the live-stock); and
 - (d) specify the reason for the suspension.
- (3) If the Secretary receives a request from the holder of an approved export program under subsection (1), the Secretary may, by written notice to the holder, suspend the approved export program, or the part of the approved export program, as requested, with effect on:
 - (a) the day specified in the notice; or
 - (b) if no day is specified in the notice—the day the notice is given to the holder.

Note: An approved export program, or a part of an approved export program, that is suspended is not in force during the period of the suspension—see subsection 1A.37(2).

Request to cancel suspension

- (4) If an approved export program, or a part of an approved export program, is suspended under subsection (3), the holder of the approved export program may request the Secretary to cancel the suspension.
- (5) A request under subsection (4) must:
 - (a) be in writing; and
 - (b) state the reason for the request.
- (6) If the Secretary receives a request under subsection (4) from the holder of an approved export program, the Secretary may:
 - (a) if the Secretary is satisfied that the reasons for the suspension no longer exist and there is no reason why the suspension should not be cancelled—cancel the suspension by written notice to the holder; or

- (b) in any other case:
 - (i) suspend the approved export program, or a part of the approved export program, under section 1A.42; or
 - (ii) cancel the approved export program under section 1A.44.

1A.42 Secretary may suspend approved export program

- (1) The Secretary may, by written notice to the holder of an approved export program, suspend the approved export program, or a part of the approved export program, if the Secretary is satisfied that the suspension is necessary for the purpose of ensuring the health and welfare of a kind or class of live-stock in the course of export activities to which the approved export program relates.

Note: An approved export program, or a part of an approved export program, that is suspended is not in force during the period of the suspension—see subsection 1A.37(2).

- (2) A period of suspension must not exceed 12 months.
- (3) The notice under subsection (1) must:
 - (a) state that the approved export program, or a part of the approved export program, is to be suspended; and
 - (b) if a part of the approved export program is to be suspended—specify (as the case requires):
 - (i) the part of the approved export program that is to be suspended; or
 - (ii) the activities that are to be suspended; or
 - (iii) any other aspects in relation to which the approved export program is to be suspended (for example, in relation to the kinds or classes of live-stock, the countries to which the live-stock are to be exported, or the methods of transport of the live-stock); and
 - (c) set out the reasons for the suspension; and
 - (d) specify the date the suspension is to begin and the period of the suspension; and
 - (e) set out the holder's right to apply for reconsideration of the decision.

Note: For reconsideration and review of decisions, see section 6.03 of this Order and Part 16 of the *Export Control (Prescribed Goods—General) Order 2005*.

- (4) The Secretary may, under section 1A.44, cancel an approved export program that is suspended, or a part of which is suspended:
 - (a) even if the period of the suspension has not expired; and
 - (b) on grounds that are the same as, or similar to, the grounds for the suspension.

1A.43 Holder may request cancellation of approved export program

- (1) The holder of an approved export program (including an approved export program that is suspended, or a part of which is suspended) may request the Secretary, in writing, to cancel the approved export program.

Note: If the holder does not wish to cancel the approved export program for all purposes, the holder may apply to the Secretary under section 1A.38 to approve a variation of the approved export program.

- (2) If the Secretary receives a request from the holder of an approved export program under subsection (1), the Secretary must, by written notice to the holder, cancel the approved export program with effect on:
 - (a) the day specified in the notice; or
 - (b) if no day is specified in the notice—the day the notice is given to the holder.

1A.44 Secretary may cancel approved export program

- (1) The Secretary may, by written notice to the holder of an approved export program, cancel the approved export program if the Secretary is satisfied that the cancellation is necessary for the purpose of ensuring the health and welfare of each kind or class of live-stock in the course of export activities to which the approved export program relates.
- (2) The notice under subsection (1) must:
 - (a) state that the approved export program is to be cancelled; and
 - (b) set out the reasons for the cancellation; and
 - (c) specify the date the cancellation is to take effect; and
 - (d) set out the holder's right to apply for reconsideration of the decision.

Note: For reconsideration and review of decisions, see section 6.03 of this Order and Part 16 of the *Export Control (Prescribed Goods—General) Order 2005*.

Subdivision B—Secretary's approved export programs

1A.45 Approvals of programs of activities to be undertaken by authorised officers

- (1) The Secretary may, on the Secretary's own initiative, approve one or more programs of activities, to be undertaken by an authorised officer, for the purpose of ensuring the health and welfare of one or more kinds or classes of live-stock that are to be exported by sea, in the course of export activities.

Note 1: Activities in an approved export program that is approved under this subsection will only be required to be undertaken if the Secretary directs an authorised officer to undertake the activities under section 9D of the Act.

Note 2: An approved export program under Subdivision A and an approved export program under this Subdivision may apply to the same export activities of an exporter.

Matters to which program of activities may relate

- (2) For the purposes of subsection (1), a program of activities in relation to one or more kinds or classes of live-stock:
 - (a) may be undertaken within or outside Australia; and
 - (b) may include any of the activities referred to in subsection 9A(3) of the Act; and
 - (c) may include activities other than those referred to in that subsection; and
 - (d) may differ depending on any of the following:
 - (i) the country to which a kind or class of live-stock is to be exported;
 - (ii) the kind or class of live-stock;
 - (iii) the method of transport;
 - (iv) any other matter the Secretary considers relevant.

Approval of program of activities

- (3) A program of activities that is approved under subsection (1) must be in writing.
- (4) A program of activities that is approved under subsection (1) is an approved export program for the purposes of the Act.
Note: See subsection 9A(2) of the Act.
- (5) The Secretary may, if the Secretary considers it appropriate, set an expiry date for an approved export program under this Subdivision.

1A.46 Period of effect of approved export program

An approved export program under this Subdivision remains in force:

- (a) if there is an expiry date for the approved export program—until that expiry date unless the approved export program is cancelled; or
- (b) if there is no expiry date for the approved export program—until the approved export program is cancelled.

1A.47 Secretary may vary approved export program

- (1) The Secretary may vary an approved export program that is in force under this Subdivision if the Secretary is satisfied that the approved export program, as proposed to be varied, is for the purpose of ensuring the health and welfare of a kind or class of live-stock in the course of export activities to which the approved export program relates.
- (2) If the Secretary varies an approved export program under subsection (1), the Secretary must, in writing, notify the exporters to whose export activities the approved export program relates.
- (3) The notice under subsection (2) must state:
 - (a) details of the variation; and
 - (b) the day the variation takes effect.

Subdivision C—Other powers of Secretary

1A.48 Secretary may give direction to exporter in relation to implementation of approved export program

- (1) The Secretary may give a direction (orally or in writing) to an exporter in relation to the implementation of an approved export program in relation to the export, or a particular export, of a kind or class of live-stock by the exporter.
- (2) An exporter who is given a direction under subsection (1) must comply with the direction.

1A.49 Secretary may publish records and reports in relation to approved export programs

The Secretary may publish records and reports made by accredited veterinarians or authorised officers in relation to approved export programs.

Note: Sections 4A.14 and 4A.15 require an accredited veterinarian to keep records and make reports in connection with approved export programs. An accredited veterinarian who contravenes section 4A.14 or 4A.15 may commit an offence—see section 9G of the Act.

Subdivision D—Other provisions

1A.50 Circumstances in which exporter must allow accredited veterinarian or authorised officer to accompany live-stock

- (1) If an approved export program provides for an accredited veterinarian to accompany a kind or class of live-stock during their transport from Australia to their overseas destination in connection with the approved export program, the exporter to whose export activities the approved export program relates must allow an accredited veterinarian to accompany the live-stock during their transport from Australia to their overseas destination in connection with the approved export program.

Note: An exporter may commit an offence if the exporter contravenes this subsection—see section 9J of the Act.

- (2) If:
 - (a) under subsection 9D(1) of the Act, the Secretary directs an authorised officer to undertake some or all of the activities in an approved export program; or
 - (b) under subsection 9E(1) of the Act, the Secretary directs an authorised officer to monitor, review or audit:
 - (i) the undertaking by an accredited veterinarian of the activities in an approved export program; or
 - (ii) the activities of an exporter in relation to an approved export program;the exporter to whose export activities the approved export program relates must allow the authorised officer to accompany the live-stock to which the approved export program relates during their transport from Australia to their overseas destination in connection with the approved export program.

Note: An exporter may commit an offence if the exporter contravenes this subsection—see section 9J of the Act.

1A.51 Inconsistency between activities in Secretary's approved export program and exporter's approved export program

- (1) This section applies if, under section 9D of the Act, the Secretary has directed an authorised officer to undertake some or all of the activities in an approved export program in force under Subdivision B in relation to export activities of an exporter.
- (2) If some or all of the activities that the authorised officer has been directed to undertake are inconsistent with activities (the *inconsistent activities*) in the approved export program held by the exporter, the inconsistent activities are taken not to be in the exporter's approved export program while the direction under section 9D of the Act is in force.

1A.52 Payment of costs of authorised officers etc.

- (1) An exporter must pay the reasonable costs of any activities undertaken by an authorised officer under section 9D or 9E of the Act in relation to an approved export program.
- (2) For the purposes of subsection (1), *costs* includes the cost of the officer's salary, transport and accommodation.
- (3) An amount payable by an exporter under subsection (1) is a debt due to the Commonwealth.

12 Subsection 4A.14(1)

Omit "nominated", substitute "engaged".

13 Subsection 4A.14(1)

After "undertake", insert "activities in".

14 Subsection 4A.15(1)

Omit "nominated", substitute "engaged".

15 Subsection 4A.15(1)

After "undertake", insert "activities in".

16 At the end of Part 7

Add:

Division 3—Transitional provisions relating to the Export Control (Animals) Amendment (Approved Export Programs and Other Measures) Order 2018

7.08 Definitions

In this Division:

commencement time means the time when Part 1 of Schedule 1 to the *Export Control (Animals) Amendment (Approved Export Programs and Other Measures) Order 2018* commences.

transitional approved export program means an approved export program that exists because of subsection 7.12(2).

7.09 Application of amendments—conditions of export of live-stock

The amendments made by items 1, 3 and 11 of Part 1 of Schedule 1 to the *Export Control (Animals) Amendment (Approved Export Programs and Other Measures) Order 2018* apply in relation to export activities in relation to live-stock that occur after the commencement time.

7.10 Application of amendments—application for approval of proposed arrangement

The amendments made by items 4, 5 and 6 of Part 1 of Schedule 1 to the *Export Control (Animals) Amendment (Approved Export Programs and Other Measures) Order 2018* apply in relation to:

- (a) an application under section 1A.02 that had been made before the commencement time but had not been decided before that time; and
- (b) an application under section 1A.02 that is made after the commencement time.

7.11 Application of amendments—applications for export permits and health certificates for live-stock

The amendments made by items 8, 9 and 10 of Part 1 of Schedule 1 to the *Export Control (Animals) Amendment (Approved Export Programs and Other Measures) Order 2018* apply in relation to:

- (a) an application under section 1A.29 that had been made before the commencement time but had not been decided before that time; and
- (b) an application under section 1A.29 that is made after the commencement time.

Note: If, before the commencement time, an exporter had applied under section 1A.29 for an export permit, or an export permit and a health certificate, for live-stock and the application had not been decided before that time:

- (a) the exporter will need to vary the declaration included in the application to state the matter referred to in paragraph 1A.29(3)(ba); and
- (b) the Secretary will also need to be satisfied of the matter referred to in subparagraph 1A.30(1)(f)(ia) before granting the export permit for the live-stock.

7.12 Transitional—programs of activities in approved arrangements to be undertaken by accredited veterinarians

- (1) This section applies in relation to:
 - (a) an approved arrangement for an exporter that is in effect immediately before the commencement time; and
 - (b) an approved arrangement for an exporter that is suspended, or a part of which is suspended, immediately before the commencement time.
- (2) The program of activities specified in the approved arrangement to be undertaken by an accredited veterinarian for the purpose of ensuring the health and welfare of live-stock in the course of export activities of the exporter is taken to have been approved by the Secretary under paragraph 1A.36(1)(a) at the commencement time, and the approval is taken to have been given to the exporter.

Note: The program of activities is an approved export program for the purposes of the Act (see subsection 1A.36(5) of this instrument), and the exporter is the holder of the approved export program (see the definition of **holder** in subsection 1.05(1) of this instrument).

- (3) The approved arrangement is taken after the commencement time not to specify the program of activities referred to in subsection (2).

- (4) To avoid doubt, except as provided by subsection (3), the approved arrangement continues to have the same effect as it had immediately before the commencement time.

Note: The approved arrangement may be varied, suspended or revoked under Division 1A.2 of Part 1A.

Exporter must vary record of approved arrangement

- (5) The exporter must:
- (a) vary the record of the approved arrangement so that it does not specify the program of activities referred to in subsection (2); and
 - (b) give the varied written record of the approved arrangement to the Secretary before the end of 30 August 2018.

Note: If the exporter does not comply with subsection (5), the Secretary may suspend or revoke the exporter's approved arrangement under section 1A.12.

7.13 Transitional—exporter must apply for approval of program of activities

- (1) An exporter who holds a transitional approved export program (including a transitional approved export program that is suspended in full or in part because of section 7.15 or 7.16) must, before the end of 30 August 2018, apply to the Secretary under paragraph 1A.35(1)(b) for approval of a program of activities to be undertaken by an accredited veterinarian for the purpose of ensuring the health and welfare of live-stock in the course of export activities of the exporter.
- (2) If the exporter makes an application as required by subsection (1) and the application is received by the Secretary before the end of 30 August 2018, the exporter's transitional approved export program remains in force, subject to sections 7.15 and 7.16, until:
- (a) the Secretary makes a decision on the application; or
 - (b) if the Secretary does not make a decision on the application before the end of 31 October 2018—the end of 31 October 2018.
- (3) If:
- (a) the exporter makes an application as required by subsection (1); and
 - (b) the application is received by the Secretary before the end of 30 August 2018; and
 - (c) the Secretary does not make a decision on the application before the end of 31 October 2018;
- the Secretary is taken to have decided, at the end of 31 October 2018, not to approve the program of activities to which the application relates.
- (4) Subsections 1A.36(7) and (8) do not apply in relation to an application referred to in subsection (2) or (3) of this section.
- (5) If an application by an exporter as required by subsection (1) is not received by the Secretary before the end of 30 August 2018, the exporter's transitional approved export program remains in force, subject to sections 7.15 and 7.16, until the end of that day.

7.14 Transitional—application for approval of variation of approved arrangement

- (1) This section applies if:
 - (a) an exporter had made an application before the commencement time under paragraph 1A.09(2)(a) for approval to vary an approved arrangement; and
 - (b) one or more of the variations (the *relevant variations*) for which approval had been sought related to the program of activities specified in the approved arrangement to be undertaken by an accredited veterinarian for the purpose of ensuring the health and welfare of live-stock in the course of export activities of the exporter; and
 - (c) the application had not been decided before the commencement time.
- (2) The exporter is taken to have applied to the Secretary under subsection 1A.38(1) to approve the relevant variations of the exporter's transitional approved export program.
- (3) If the application referred to in paragraph (1)(a) of this section related to variations (the *other variations*) of the approved arrangement in addition to the relevant variations, the application continues to have effect for the purposes of section 1A.09 in relation to the other variations.

7.15 Transitional—approved arrangement suspended in full immediately before commencement time

- (1) This section applies if an approved arrangement (the *suspended approved arrangement*) for an exporter is suspended in full immediately before the commencement time.
- (2) The exporter's transitional approved export program that relates to the suspended approved arrangement is taken to be suspended in full under subsection 1A.42(1).

Note: An approved export program that is suspended in full under subsection 1A.42(1) is not in force during the period of the suspension—see subsection 1A.37(2).

Period of suspension

- (3) If the exporter makes an application as required by subsection 7.13(1) and the application is received by the Secretary before the end of 30 August 2018, the exporter's transitional approved export program is suspended in full under subsection 1A.42(1) until the earlier of the following:
 - (a) the end of the period of suspension of the suspended approved arrangement;
 - (b) either:
 - (i) the day the Secretary makes a decision on the application; or
 - (ii) if the Secretary does not make a decision on the application before the end of 31 October 2018—the end of 31 October 2018;unless the exporter's transitional approved export program is cancelled earlier under section 1A.43 or 1A.44.
- (4) If an application by an exporter as required by subsection 7.13(1) is not received by the Secretary before the end of 30 August 2018, the exporter's transitional

approved export program is suspended in full under subsection 1A.42(1) until the earlier of the following:

- (a) the end of the period of suspension of the suspended approved arrangement;
- (b) the end of 30 August 2018;

unless the exporter's transitional approved export program is cancelled earlier under section 1A.43 or 1A.44.

7.16 Transitional—approved arrangement suspended in part immediately before commencement time

- (1) This section applies if:
 - (a) an approved arrangement for an exporter is suspended in part immediately before the commencement time; and
 - (b) the whole or a part of the suspended part of the approved arrangement related to the program of activities (the **exporter's transitional approved export program**) specified in the approved arrangement to be undertaken by an accredited veterinarian for the purpose of ensuring the health and welfare of live-stock in the course of export activities of the exporter.

Whole of exporter's transitional approved export program suspended

- (2) If the suspended part of the approved arrangement corresponds to the whole of the exporter's transitional approved export program:
 - (a) the exporter's transitional approved export program is taken to be suspended in full under subsection 1A.42(1); and
 - (b) subsections 7.15(3) and (4) (which deal with the period of suspension) apply in relation to the exporter's transitional approved export program.

Note: An approved export program that is suspended in full under subsection 1A.42(1) is not in force during the period of the suspension—see subsection 1A.37(2).

Part of exporter's transitional approved export program suspended

- (3) If the suspended part of the approved arrangement corresponds to a part of the exporter's transitional approved export program, that part of the exporter's transitional approved export program is taken to be suspended under subsection 1A.42(1).

Note 1: A part of an approved export program that is suspended under subsection 1A.42(1) is not in force during the period of the suspension—see subsection 1A.37(2).

Note 2: The part of the exporter's transitional approved export program that is not suspended remains in force subject to section 7.13, and may be varied, suspended or cancelled under Subdivision A of Division 1A.7 of Part 1A.

Period of suspension of part of exporter's transitional approved export program

- (4) Subsections (5) and (6) apply if a part (the **relevant part**) of the exporter's transitional approved export program is taken to be suspended under subsection 1A.42(1) because of subsection (3) of this section.
- (5) If the exporter makes an application as required by subsection 7.13(1) and the application is received by the Secretary before the end of 30 August 2018, the relevant part of the exporter's transitional approved export program is suspended under subsection 1A.42(1) until the earlier of the following:

- (a) the end of the period of suspension of the suspended part of the approved arrangement;
- (b) either:
 - (i) the day the Secretary makes a decision on the application; or
 - (ii) if the Secretary does not make a decision on the application before the end of 31 October 2018—the end of 31 October 2018;

unless the exporter's transitional approved export program is cancelled earlier under section 1A.43 or 1A.44.

- (6) If an application by an exporter as required by subsection 7.13(1) is not received by the Secretary before the end of 30 August 2018, the exporter's transitional approved export program is suspended under subsection 1A.42(1) until the earlier of the following:

- (a) the end of the period of suspension of the suspended part of the approved arrangement;
- (b) the end of 30 August 2018;

unless the exporter's transitional approved export program is cancelled earlier under section 1A.43 or 1A.44.

Circumstances in which suspension of part of approved arrangement ceases to have effect

- (7) If the whole of the suspended part of the approved arrangement corresponds to the whole or a part of the exporter's transitional approved export program, the period of suspension of the part of the approved arrangement is taken to have ended at the commencement time.

Note: If the suspended part of the approved arrangement relates to matters other than activities specified in the exporter's transitional approved export program, the period of suspension of the suspended part of the approved arrangement is not affected.

Part 2—Amendments commencing later

Export Control (Animals) Order 2004

17 Subsection 1A.45(1)

Repeal the subsection (not including the notes), substitute:

- (1) The Secretary must approve one or more programs of activities, to be undertaken by authorised officers, for the purpose of ensuring the health and welfare of each kind or class of live-stock that is to be exported by sea, in the course of export activities.

18 At the end of Division 3 of Part 7

Add:

7.18 Application of amendments—Secretary’s approved export programs

The amendment made by item 17 of Part 2 of Schedule 1 to the *Export Control (Animals) Amendment (Approved Export Programs and Other Measures) Order 2018* applies in relation to each kind or class of live-stock that is to be exported by sea after the commencement of that item.

Schedule 2—Exports of sheep by sea to the Middle East

Export Control (Animals) Order 2004

1 Paragraph 1A.29(2)(b)

After “subsection (3)”, insert “and, if applicable, subsection (3A)”.

2 After subsection 1A.29(3)

Insert:

(3A) If the live-stock are sheep in relation to which the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East) Order 2018* applies, the declaration by the exporter must also state the following:

- (a) that:
 - (i) the vessel on which the sheep are to be transported is equipped with automatic live-stock watering systems that have water receptacles at a height suitable for the sheep; and
 - (ii) details of those watering systems are set out in the record of equipment and arrangements attached to the Australian certificate for the carriage of livestock for the vessel issued by the Australian Maritime Safety Authority under *Marine Order 43 (Cargo and cargo handling—livestock) 2018*;
- (b) that a heat stress management plan for the proposed export voyage is in place;
- (c) that bedding (such as straw, shavings or sawdust) of at least 1 tonne for every 10,000 sheep will be provided on the vessel;
- (d) the area of the pen space on the vessel for each sheep, and that the pen space for each sheep meets the requirements in section 10 of the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East) Order 2018*;
- (e) that the pen air turnover for the vessel has been verified by an independent qualified mechanical engineer as required by subsection 9(1) of the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East) Order 2018*.

(3B) An expression used in subsection (3A) of this section and in the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East) Order 2018* has the same meaning in subsection (3A) of this section as it has in that Order.

Note: The expressions *heat stress management plan*, *Heat Stress Risk Assessment Model*, *independent qualified mechanical engineer* and *pen air turnover* are defined in section 5 of the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East) Order 2018*.

3 Subsection 1A.29(4)

Before “directly”, insert “and (3A)(a) to (e)”.

4 Subsection 1A.30(1) (note)

Omit “described in subsection 1A.29(3)”, substitute “required by paragraph 1A.29(2)(b)”.

5 In the appropriate position in Division 3 of Part 7

Insert:

7.17 Application of amendments—applications for export permits and health certificates for sheep to be exported by sea

The amendments made by items 1 to 4 of Schedule 2 to the *Export Control (Animals) Amendment (Approved Export Programs and Other Measures) Order 2018* apply in relation to:

- (a) an application under section 1A.29 that had been made before the commencement of that Schedule but had not been decided before that time; and
- (b) an application under section 1A.29 that is made after the commencement of that Schedule.

Note: If, before the commencement of Schedule 2 to the *Export Control (Animals) Amendment (Approved Export Programs and Other Measures) Order 2018*, an exporter had applied under section 1A.29 for an export permit, or an export permit and a health certificate, for live-stock in relation to which the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East) Order 2018* applies and the application had not been decided before that time, the exporter will need to vary the declaration included in the application to state the matters referred to in subsection 1A.29(3A).

Schedule 3—Other amendments

Export Control (Animals) Order 2004

1 Section 1A.04

Repeal the section, substitute:

1A.04 When the Secretary is taken to have refused application

The Secretary is taken to have refused the application if the Secretary has not made a decision on whether to approve the arrangement within 60 days after:

- (a) the day the application was received; or
 - (b) if the application was varied—the day the application was varied;
- not including any period between the Secretary making a written request under subsection 1A.03(2) and the applicant meeting the request.

2 Subsection 1A.09(4)

Repeal the subsection, substitute:

- (4) The Secretary is taken to have refused the application if the Secretary has not made a decision on whether to approve the variation within 60 days after the day the application was received (not including any period between the Secretary making a written request under subsection (3) and the applicant meeting the request).

3 Before section 7.01

Insert:

Division 1—Transitional provisions relating to the Export Control (Animals) Amendment (2014 Measures No. 1) Order 2014

4 Section 7.01

Repeal the section.

5 Before section 7.07

Insert:

Division 2—Transitional provisions relating to the Export Control (Animals) Amendment (2017 Measures No. 1) Order 2017