

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture and Water Resources

Export Control Act 1982

*Export Control (Meat and Meat Products) Amendment (Trade Descriptions for Sheep)
Order 2019*

Legislative Authority

The *Export Control Act 1982* (the Act) provides for the control of the export of certain goods and for related purposes.

Section 25 of the Act provides that the Governor-General may make regulations empowering the Minister to make orders, not inconsistent with the Act. Regulation 3 of the *Export Control (Orders) Regulations 1982* (the Regulations), provides that the Minister may, by instrument in writing, make orders, not inconsistent with regulations made under the Act. The *Export Control (Meat and Meat Products) Orders 2005* (Meat Orders) 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 (Meat and Meat Products) Amendment (Trade Descriptions for Sheep) Order 2019* (Amendment Order) is to amend the Meat Orders by repealing the definitions for three types of meat derived from ovine animals, namely “lamb”, “mutton” and “ram” and substituting these with new definitions, which align with the Aus-Meat ovine definitions.

Background

Schedule 6 to the Meat Orders provide that all meat and meat products exported for food from Australia must have a trade description that accurately describes the product. The requirements for what must be included in the trade description are provided in subclause 1.2 in Schedule 6 to the Meat Orders. Subclause 1.2 relevantly provides that for meat derived from an ovine animal, one of the following descriptions must be used as applicable: “lamb” :“mutton” or “ram”.

Impact and Effect

Prior to the making of the Amendment Order, Lamb was defined as meat derived from a female, castrated male, or entire male ovine animal that shows no evidence of eruption of permanent incisor teeth. Under this definition, as soon as the relevant ovine animal had lost its milk tooth it was classified as mutton, which resulted in a substantial price drop for the producer.

The changes to the definitions of ovine animals made by the Amendment Order are intended to benefit the red meat industry because ovine animals that develop their permanent teeth earlier may now be classed as lambs. The Amendment Order is also intended to help create a market for older season lambs, as they will meet the definition of “lamb” when they have permanent incisor teeth, as long as those teeth not in wear. This means that producers can sell heavier lambs to towards of the end of growing season and thereby expand their lamb export opportunities.

Consultation

On 6 July 2018, the Australian Meat Industry Council (AMIC) and Sheep Producers Australia (SPA) wrote to the Department of Agriculture and Water Resources (the department) with a proposal to amend the definition of lamb contained in the Meat Orders. AMIC’s proposal involving altering the definition of “lamb” from “a female, castrate or entire male ovine animal that show no evidence of permanent incisor teeth” to “an ovine animal under 12 months of age or which does not have any permanent incisor teeth in wear”.

The Australian Meat Industry Language and Standards Committee (the Committee) formally endorsed the new definition for lamb on 20 August 2018. It was noted by the Committee the change would also affect the definitions for “mutton” and “ram”, and would also require alterations to ovine definitions in state legislation within the jurisdictions of New South Wales and Western Australia. The committee recommended that all Australian jurisdictions retain consistency in the new ovine definitions.

During meeting 80 of the Export Meat Industry Advisory Committee (EMIAC) on 15 August 2018, EMIAC noted that work had commenced to amend the ovine definitions for meat derived from ovine animals in the Meat Orders and that the new definitions would need to be approved by the Committee and would need to be legislated in state and territory jurisdiction and in export legislation. Members of EMIAC include, but are not limited to the Australian Meat Industry Council, Teys Australia Pty Ltd and JBS Australia Pty Ltd.

On 1 August 2018, the department advised industry that the new definitions could not be applied to Australian ovine meat and meat products for export until the Meat Orders had been amended.

On 23 November 2018, the Office of Best Practice Regulation Review advised (ID 24594) the department that based on the information provided, a Regulation Impact Statement is not required.

Details/ Operation

Details of the Amendment Order are set out in Attachment A.

Other

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 Attachment B.

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

Details of the *Export Control (Meat and Meat Products) Amendment (Trade Descriptions for Sheep) Order 2019*

Section 1 – Name

This section provides that the name of this instrument is the *Export Control (Meat and Meat Products) Amendment (Trade Descriptions for Sheep) Order 2019* (Amendment Order).

Section 2 – Commencement

This section provides that the Amendment Order commences on 1 July 2019.

Section 3 – Authority

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

Section 4 – Schedules

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

Schedule 1 – Amendments to the *Export Control (Meat and Meat Products) Order 2005*

Item 1

Item 1 repeals the definition of “lamb” in suborder 8.1 and substitutes with a definition that provides that “lamb” means meat derived from an ovine animal that is under 12 months of age or does not have any permanent incisor teeth in wear.

The changes to the definition of “lamb” increases the number of ovine animals that are eligible to be classified as lamb. It also aligns with New Zealand’s definition and is intended to benefit the red meat industry by increasing lamb export opportunities.

Item 2

Item 2 repeals the definition of “mutton” in suborder 8.1 and substitutes it with a definition that provides that “mutton” means meat derived from a female or castrated male ovine animal that has at least one permanent incisor tooth in wear, and in the case of castrated male ovine animals, shows no evidence of secondary sexual characteristics.

The amendment to the definition of mutton is consequential to the expanded definition of “lamb” made by item 1 and ensures that ovine animals captured by the expanded definition of “lamb” are no longer classified as “mutton”.

Item 3

Item 3 repeals the definition of “ram” in suborder 8.1 and substitutes it with a definition that provides that “ram” means meat derived from an entire male ovine animal that has at least one permanent incisor tooth in wear or shows evidence of secondary sexual characteristics or is meat derived from a castrated male ovine animal with that shows evidence of secondary sexual characteristics.

The amendment to the definition of “ram” is consequential to the expanded definition of “lamb” made by item 1 and ensures that ovine animals captured by the expanded definition of “lamb” are no longer classified as “ram”.

Item 4

Item 4 adds an additional order at the end of Division V of Part 10. The item inserts the heading “Transitional provisions relating to the *Export Control (Meat and Meat Products) Amendment (Trade Description for Sheep) Order 2019*”. The item provides that the amendments made by items 1 to 3 of Schedule 1 to the Amendment Order apply in relation to ovine animals that are slaughtered on or after 1 July 2019.

Statement of Compatibility with Human Rights

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

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Order 2019**

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 (Meat and Meat Products) Amendment (Trade Descriptions for Sheep) Order 2019* (Amendment Order) is to amend the *Export Control (Meat and Meat Products) Orders 2005* by repealing the definitions of three types of meat derived from ovine animals, namely “lamb”, “mutton” and “ram” and substituting these with new definitions, which align with the new Aus-Meat industry definitions.

Human rights implications

This Amendment Order does not engage any of the applicable rights or freedoms.

Conclusion

The measures in the Amendment Order are 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* as the Order does not engage any human rights issues.

**The Hon. David Littleproud MP
Minister for Agriculture and Water Resources**