



Export Control (Sheepmeat and Goatmeat Export to the European Union Tariff Rate Quotas) Order 2019

I, Debbie Langford, as delegate of the Secretary of the Department of Agriculture, make the following order.

Dated 22 November 2019

Debbie Langford
Assistant Secretary
Residues and Food Branch
Exports Division
Department of Agriculture

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Part 1—Preliminary

1 Name

This instrument is the *Export Control (Sheepmeat and Goatmeat Export to the European Union Tariff Rate Quotas) Order 2019*.

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 41 and anything in this instrument not elsewhere covered by this table | The day after this instrument is registered. | 5 December 2019 |
| 2. Schedule 1 | 1 January 2020. | 1 January 2020 |

Note: This table relates only to the provisions of this instrument as originally made.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 section 23A of the *Export Control Act 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Purpose of this instrument

This instrument provides for and in relation to the establishment and administration of:

- (a) a system of tariff rate quotas for the export from Australia to the EU of eligible meat in a quota year under the Australian tariff rate quota; and
- (b) a system of tariff rate quotas for the export from Australia to the EU of eligible meat in a quota year under the erga omnes tariff rate quota.

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Note: A certain weight of eligible meat may be exported to the EU at a zero tariff rate. Eligible meat must be covered by a tariff rate quota certificate to be eligible for the zero tariff rate. A higher tariff rate may apply to eligible meat exported to the EU and not covered by a tariff rate quota certificate.

6 Definitions

In this instrument:

access amount for a quota year means the total carcase equivalent weight of eligible meat that may be exported from Australia to the EU in the quota year under the Australian tariff rate quota.

approved form for making an application or giving a notice means a form approved by the Secretary under subsection 35(2) for making that kind of application or giving that kind of notice.

approved manner for making an application or giving a notice means a manner approved by the Secretary under subsection 35(1) for making that kind of application or giving that kind of notice.

Australian tariff rate quota means the annual Union import tariff quota for CN code 0204 that is specified for Australia in the Annex to the Commission Implementing Regulation (EU) No 1354/2011, as in force from time to time.

balance of an exporter's tariff rate quota entitlement: see section 8.

carcase equivalent weight means:

- (a) for bone-in eligible meat—its weight; or
- (b) for boneless mutton—its weight divided by 0.55; or
- (c) for boneless goatmeat—its weight divided by 0.55; or
- (d) for boneless lamb—its weight divided by 0.6.

consignment means a single shipment (by sea or air) of eligible meat by an exporter to a single consignee.

eligible meat means fresh, chilled or frozen mutton, lamb or goatmeat, but does not include:

- (a) edible offal; or
- (b) canned or processed meat; or
- (c) product for ships' stores; or
- (d) a product for which a tariff rate quota certificate is not required by the EU.

entitlement-based amount: see paragraph 20(5)(a).

erga omnes tariff rate quota means the annual Union import tariff quota for CN code 0204 that is referred to as *erga omnes* in the Annex to the Commission Implementing Regulation (EU) No 1354/2011, as in force from time to time.

EU means the European Union and includes the United Kingdom during any UK withdrawal transition period.

EU-accredited establishment means an establishment that:

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- (a) is under the full-time inspection and supervision of the Department; and
 - (b) is registered under the *Export Control Act 1982*; and
 - (c) has been accredited by AUS-MEAT Limited (ACN 082 528 881), and the Department, for the export of meat to the EU.

exporter means the holder of a meat export licence granted under section 10 of the *Australian Meat and Live-stock Industry Act 1997* allowing the holder to export sheepmeat or goatmeat to the EU.

penalty amount: see subsection 11(4).

performance period for a quota year means the period of 12 months ending on the 31 October before the quota year begins.

quota year means a calendar year beginning on or after 1 January 2020.

relevant liability means:

- (a) a fee imposed under the *Export Control (Fees) Order 2015* that is due and payable; or
- (b) a charge prescribed by the *Export Charges (Imposition—Customs) Regulation 2015* that is due and payable; or
- (c) a charge prescribed by the *Export Charges (Imposition—General) Regulation 2015* that is due and payable.

tariff rate quota certificate means a certificate issued under section 19, 20 or 28.

UK withdrawal transition period means the period (if any) when transitional arrangements agreed between the United Kingdom and the European Union relating to trade are in force following the withdrawal of the United Kingdom from the European Union.

uncommitted access amount: see subsection 20(6).

Part 2 Australian tariff rate quota

Division 1 Introduction

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Part 2—Australian tariff rate quota

Division 1—Introduction

7 Purpose of this Part

This Part provides for a system of tariff rate quotas for the export from Australia to the EU of eligible meat under the Australian tariff rate quota.

Division 2—Tariff rate quota entitlement

8 Balance of tariff rate quota entitlement

The **balance** of an exporter's tariff rate quota entitlement, at a time in a quota year, is the total at that time of the amounts of tariff rate quota entitlement allocated or transferred to the exporter in relation to the quota year under sections 10, 13 and 17, reduced by the following:

- (a) amounts of tariff rate quota entitlement transferred by the exporter under section 13;
- (b) amounts of the exporter's tariff rate quota entitlement cancelled under section 14, 15, 16 or 18 in the quota year;
- (c) amounts stated in certificates issued to the exporter under section 19 in the quota year;
- (d) entitlement-based amounts stated in certificates issued to the exporter under section 20 in the quota year.

Note 1: See paragraph 20(5)(a) for the **entitlement-based amount**.

Note 2: Any reduction mentioned in paragraph (c) or (d) is disregarded if the relevant certificate is cancelled (see subsection 23(4)). See also section 24 for the effect of annotations of certificates.

9 Application for tariff rate quota entitlement

- (1) The Secretary may invite exporters to apply to the Secretary to be allocated an amount of tariff rate quota entitlement under subsection 10(1) for a quota year.
- (2) If the Secretary does so, an exporter may apply to the Secretary to be allocated an amount of tariff rate quota entitlement under subsection 10(1) in accordance with the invitation. If the invitation imposes a deadline for applications, the application must be made before the deadline.
- (3) The application must be:
 - (a) made:
 - (i) in the approved manner (if any) and approved form (if any); or
 - (ii) if there is no approved manner and no approved form—in writing; and
 - (b) accompanied by any information or documents required by the Secretary.

10 Initial allocation

- (1) The Secretary must determine the amount of tariff rate quota entitlement to be allocated to each applicant under section 9 for a quota year, using the following method statement.

Method statement

- Step 1. Use the formula in section 12 to work out the step 1 amount for each applicant.

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- Step 2. For any applicant who is subject to a penalty for the quota year (see section 11), reduce the step 1 amount by the applicant's penalty amount. The result is the applicant's step 2 amount.
- Step 3. Use the formula in section 12 to distribute the total of the penalty amounts among the applicants who are not subject to a penalty, and add the amount distributed to each such applicant's step 1 amount. For this purpose:
- (a) replace references in the formula to AA with references to the total of the penalty amounts; and
 - (b) replace references to all applicants with references to applicants who are not subject to a penalty.
- Step 4. If, after step 3, the amount for an applicant is less than 12,000 kg:
- (a) the amount is excluded; and
 - (b) the applicant is excluded and is not allocated an amount of tariff rate quota entitlement for the quota year under this section.
- Step 5. Use the formula in section 12 to distribute the total of the amounts excluded at step 4 among the applicants who are not subject to a penalty and not excluded at step 4, and add the amount distributed to each such applicant's step 3 amount to reach the applicant's step 5 amount. For this purpose:
- (a) replace references in the formula to AA with references to the total of the amounts excluded; and
 - (b) replace references to all applicants with references to applicants who are not subject to a penalty and not excluded.
- Step 6. Round all of the step 2 amounts and step 5 amounts to the nearest kilogram, with 0.5 of a kilogram to be rounded up. If, after this, the sum of the amounts exceeds the access amount for the quota year, round all the amounts down to the nearest kilogram instead.
- Step 7. The amount of tariff rate quota entitlement allocated to an applicant not excluded at step 4 is:
- (a) if the applicant is subject to a penalty—the step 2 amount, rounded in accordance with step 6; and
 - (b) otherwise—the step 5 amount, rounded in accordance with step 6.

- (2) The Secretary must give each applicant a written notice stating:

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- (a) whether the applicant is allocated an amount of tariff rate quota entitlement under this section for the quota year; and
 - (b) if so—the amount allocated.

11 Penalty amount

- (1) For the purposes of step 2 of the method statement in subsection 10(1), an applicant is subject to a penalty for a quota year if the applicant's certified exports as worked out under subsection (2) are less than 90% of the applicant's annual entitlement as worked out under subsection (3).
- (2) The applicant's certified exports are the amounts stated in any certificates issued to the applicant under section 19, and the entitlement-based amounts stated in any certificates issued to the applicant under section 20, in the previous quota year before the end of 30 November.

Note: The amount stated in a certificate is disregarded if the certificate is cancelled (see subsection 23(4)). See also section 24 for the effect of annotations of certificates.
- (3) The applicant's annual entitlement is the total of the amounts of tariff rate quota entitlement allocated or transferred to the applicant under sections 10, 13 and 17 in relation to the previous quota year, reduced by the total of:
 - (a) amounts of tariff rate quota entitlement transferred by the applicant under section 13 in the previous quota year; and
 - (b) amounts of the applicant's tariff rate quota entitlement cancelled under section 14, 15 or 16 in the previous quota year.
- (4) The applicant's **penalty amount** is half of the amount by which the applicant's annual entitlement exceeds the applicant's certified exports.

12 Formula for working out initial allocation

For the purposes of the method statement in subsection 10(1), the formula is the following:

$$0.8 \times AA \times \frac{\text{Applicant's quota exports}}{\text{Total quota exports}} + 0.2 \times AA \times \frac{\text{Applicant's accredited exports}}{\text{Total accredited exports}}$$

where:

AA means the access amount for the quota year.

applicant's accredited exports means the carcase equivalent weight of all the applicant's exports of eligible meat from an EU-accredited establishment to any foreign country in the performance period for the quota year, including amounts exported by another exporter in the performance period that have been transferred to the applicant under section 25.

applicant's quota exports means the total of the amounts stated in certificates issued to the applicant under section 19 or 20 in the performance period for the quota year.

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Note: The amount stated in a certificate that has been cancelled is disregarded (see subsection 23(4)). See also section 24 for the effect of annotations of certificates.

total accredited exports means the carcase equivalent weight of all applicants' exports of eligible meat from an EU-accredited establishment to any foreign country in the performance period for the quota year, including amounts exported by another exporter in the performance period that have been transferred to an applicant under section 25.

total quota exports means the total amount of applicant's quota exports for all applicants.

13 Transfer of tariff rate quota entitlement

- (1) If, at any time before 1 November in a quota year, the balance of an exporter's tariff rate quota entitlement is greater than zero, the exporter may transfer all or part of the balance to another exporter.
- (2) The transferring exporter must give the Secretary a notice setting out:
 - (a) the transferring exporter's name; and
 - (b) the name of the transferee; and
 - (c) the amount transferred.
- (3) The notice must be:
 - (a) given:
 - (i) in the approved manner (if any) and approved form (if any); or
 - (ii) if there is no approved manner and no approved form—in writing; and
 - (b) accompanied by any information or documents required by the Secretary.

14 Return of tariff rate quota entitlement before 1 November

- (1) If, at any time before 1 November in a quota year, the balance of an exporter's tariff rate quota entitlement is greater than zero, the exporter may return all or part of the balance by giving the Secretary notice of the amount to be returned.
- (2) The notice must be:
 - (a) given:
 - (i) in the approved manner (if any) and approved form (if any); or
 - (ii) if there is no approved manner and no approved form—in writing; and
 - (b) accompanied by any information or documents required by the Secretary.
- (3) The amount stated in the notice is cancelled at the time the notice is given.

Note: Amounts cancelled under this section may be allocated to other exporters after 1 November (see section 17).

15 Notice about tariff rate quota entitlement before 1 November

- (1) An exporter must, before 1 November in a quota year, give the Secretary a notice under this section if either or both of the following apply:
 - (a) the balance of the exporter's tariff rate quota entitlement will be greater than zero on that day;

- (b) the balance of the exporter's tariff rate quota entitlement was greater than zero at any time in the quota year and the exporter wants to apply for an additional amount of tariff rate quota entitlement.
- (2) The notice must:
- (a) if paragraph (1)(a) applies:
 - (i) state how the exporter intends to deal with the balance; and
 - (ii) if the exporter wants to return all or part of the balance—state the amount to be returned; and
 - (b) if paragraph (1)(b) applies—state the amount the exporter is applying for.
- (3) Any amount stated in the notice for the purposes of subparagraph (2)(a)(ii) is cancelled at the time the notice is given.

Note: Amounts cancelled under this section may be allocated to other exporters after 1 November (see section 17).

- (4) The notice must be:
- (a) given:
 - (i) in the approved manner (if any) and approved form (if any); or
 - (ii) if there is no approved manner and no approved form—in writing; and
 - (b) accompanied by any information or documents required by the Secretary.

16 Cancellation of tariff rate quota entitlement for failure to give notice

If, under paragraph 15(1)(a), an exporter is required to give a notice before 1 November in a quota year and does not do so, the balance of the exporter's tariff rate quota entitlement as at the end of 31 October is, at that time, cancelled.

Note: Amounts cancelled under this section may be allocated to other exporters after 1 November (see section 17).

17 Additional allocations after 1 November

- (1) The Secretary must, as soon as practicable after 1 November in a quota year, determine the additional amount of tariff rate quota entitlement to be allocated to each applicant under paragraph 15(2)(b) as follows:
- (a) if the total amount of tariff rate quota entitlements cancelled in the quota year under sections 14, 15 and 16 (the **cancelled amount**) exceeds the total of the amounts applied for under paragraph 15(2)(b)—allocate each applicant the amount applied for; and
 - (b) otherwise—allocate each applicant the amount worked out using the following method statement.

Method statement

Step 1. Allocate each applicant either the amount worked out by using the formula in section 12 or the amount applied for, whichever is lower. For this purpose:

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- (a) replace references in the formula to AA with references to the cancelled amount; and
 - (b) replace references to all applicants with references to applicants under paragraph 15(2)(b).
- Step 2. If after this there remains both an unallocated cancelled amount and applicants who were allocated less than the amount applied for, use the formula in section 12 to distribute the remaining cancelled amount among the remaining applicants. For this purpose:
- (a) replace references in the formula to AA with references to the remaining cancelled amount; and
 - (b) replace references to all applicants with references to remaining applicants.
- Step 3. Allocate to each remaining applicant either:
- (a) the amount distributed to the applicant at step 2; or
 - (b) if the amount distributed at step 2 together with the total amount already allocated to the applicant exceeds the amount the applicant applied for—the difference between the amount applied for and the total amount already allocated.
- Step 4. Reapply steps 2 and 3 in relation to any remaining unallocated cancelled amount and applicants who were allocated less than the amount applied for (treating references to step 2 as references to the most recently performed step 2), until each remaining applicant has been allocated the amount applied for or all the remaining cancelled amount has been allocated.
- Step 5. Round the amounts allocated to the nearest kilogram, with 0.5 of a kilogram to be rounded up. If after this the sum of the amounts exceeds the cancelled amount, round all the amounts down to the nearest kilogram instead.

- (2) The Secretary must give each applicant a written notice stating:
- (a) whether the applicant is allocated an amount under this section for the quota year; and
 - (b) if so—the amount allocated.

18 Return of tariff rate quota entitlement on or after 1 November

- (1) If, at any time on or after 1 November in a quota year, the balance of an exporter's tariff rate quota entitlement is greater than zero, the exporter may return all or part of the balance by giving the Secretary notice of the amount to be returned.

- (2) The notice must be:
- (a) given:
 - (i) in the approved manner (if any) and approved form (if any); or
 - (ii) if there is no approved manner and no approved form—in writing; and
 - (b) accompanied by any information or documents required by the Secretary.
- (3) The amount stated in the notice is cancelled at the time the notice is given.

Note: Amounts cancelled under this section form part of the uncommitted access amount for which certificates may be issued under section 20. However, they do not reduce the applicant's annual entitlement for the purposes of working out a penalty amount under section 11.

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Division 3—Tariff rate quota certificates

19 Tariff rate quota certificates before additional allocations

- (1) At any time before the Secretary allocates amounts under section 17 in relation to a quota year (additional allocations after 1 November), an exporter may apply to the Secretary for a tariff rate quota certificate for the export from Australia to a member country of the EU of a consignment of eligible meat in the quota year under the Australian tariff rate quota.

Note: The application must be made in accordance with section 21.

- (2) Subject to subsection (4), the Secretary must issue the applicant a tariff rate quota certificate in relation to the consignment if, at the time the Secretary deals with the application, the balance of the applicant's tariff rate quota entitlement for the quota year is greater than zero.
- (3) The certificate must be issued for:
 - (a) the carcase equivalent weight of the consignment; or
 - (b) if that weight is greater than the balance of the tariff rate quota entitlement—that balance.
- (4) The Secretary may decide not to issue a tariff rate quota certificate to the applicant if the Secretary considers that it is not appropriate to issue the certificate, taking into account the following:
 - (a) any failure by the applicant to comply with a request under subsection 33(3) in the quota year or a previous quota year;
 - (b) a failure of the applicant to hold any licence required under a law of the Commonwealth to export the goods;
 - (c) any relevant liability in relation to a tariff rate quota certificate for the export of eligible meat that has not been paid by the applicant (including if the applicant is jointly liable with another person or other persons);
 - (d) whether the applicant's business as an exporter of eligible meat is not financially viable or is not likely to remain so;
 - (e) whether it would not be in the best interests of the eligible meat industry for the certificate to be issued.
- (5) A tariff rate quota certificate issued under this section in relation to the export of a consignment of eligible meat in a quota year:
 - (a) has no effect before the start of the quota year to which the certificate relates; and
 - (b) ceases to have effect if the consignment is not accepted for entry into the EU before the end of the quota year.

20 Tariff rate quota certificates after additional allocations

- (1) At any time after the Secretary allocates amounts under section 17 in relation to a quota year (additional allocations after 1 November), an exporter may apply to the Secretary for a tariff rate quota certificate for the export from Australia to a

member country of the EU of a consignment of eligible meat in the quota year under the Australian tariff rate quota.

Note: The application must be made in accordance with section 21.

- (2) The Secretary must deal with applications under this section in the order in which the applications are received.
 - (3) Subject to subsection (6), the Secretary must issue the applicant a tariff rate quota certificate in relation to the consignment if, at the time the Secretary deals with the application, either or both of the following apply:
 - (a) the balance of the applicant's tariff rate quota entitlement is greater than zero;
 - (b) there is an uncommitted access amount (see subsection (6)).
 - (4) The certificate must be issued for:
 - (a) the carcase equivalent weight of the consignment; or
 - (b) if that weight is greater than the total of the balance of the applicant's tariff rate quota entitlement and the uncommitted access amount—that total.
 - (5) If a certificate is issued to an applicant under this section:
 - (a) the lower of the amount stated in the certificate and the amount that was the balance of the applicant's tariff rate quota entitlement just before the certificate was issued is the applicant's **entitlement-based amount**; and
 - (b) any remaining amount reduces the uncommitted access amount.
- Note: The entitlement-based amount reduces the applicant's tariff rate quota entitlement (see paragraph 8(d)).
- (6) The **uncommitted access amount**, at a time in a quota year, is the total of the amount (if any) that remained unallocated after the Secretary allocated amounts under section 17 and any amounts cancelled under section 18 in the quota year, reduced in accordance with paragraph (5)(b).
 - (7) The Secretary may decide not to issue a tariff rate quota certificate to an applicant if the Secretary considers that it is not appropriate to issue the certificate, taking into account the following:
 - (a) any failure by the applicant to comply with a request under subsection 33(3) in the quota year or a previous quota year;
 - (b) a failure of the applicant to hold any licence required under a law of the Commonwealth to export the goods;
 - (c) any relevant liability in relation to a tariff rate quota certificate or the export of eligible meat that has not been paid by the applicant (including if the applicant is jointly liable with another person or other persons);
 - (d) whether the applicant's business as an exporter of eligible meat is not financially viable or is not likely to remain so;
 - (e) whether it would not be in the best interests of the eligible meat industry for the certificate to be issued.
 - (8) A tariff rate quota certificate issued under this section in relation to the export of a consignment of eligible meat in a quota year ceases to have effect if the

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consignment is not accepted for entry into the EU before the end of the quota year.

21 Requirements for applications under section 19 or 20

- (1) This section applies in relation to an application under section 19 or 20 in relation to a consignment of eligible meat.
- (2) The application must not be made more than 3 weeks before the applicant intends the consignment to leave Australia.
- (3) The application must be:
 - (a) made:
 - (i) in the approved manner (if any) and approved form (if any); or
 - (ii) if there is no approved manner and no approved form—in writing; and
 - (b) accompanied by any information or documents required by the Secretary.

Note: A person may commit an offence or be liable to a civil penalty if the person makes a false or misleading statement in an application or provides false or misleading information or documents (see sections 136.1, 137.1 and 137.2 of the *Criminal Code*).

- (4) The Secretary may accept any information or document previously given to the Secretary in connection with an application made under this instrument as satisfying any requirement to give that information or document under subsection (3).
- (5) An application is taken not to have been made if the application does not comply with subsection (3).
- (6) The Secretary may request further information from the applicant that is relevant to the application.
- (7) Any further information in relation to the application (whether or not provided in response to a request under subsection (6)) must be given to the Secretary.
- (8) An application is taken to be received by the Secretary when all of the following information has been received:
 - (a) any information or documents required by the Secretary to accompany the application;
 - (b) if further information is requested under subsection (6) in relation to the application—that further information.
- (9) A person who has made an application may withdraw the application at any time before the Secretary makes a decision on the application.

22 Recording issue of tariff rate quota certificate

If the Secretary issues a tariff rate quota certificate to a person under this instrument, the Secretary must:

- (a) make an entry reflecting the issue of the certificate in an electronic system maintained by the Department; and
- (b) either:
 - (i) send the certificate to the person; or

- (ii) notify the person of the issue of the certificate.

23 Cancellation of tariff rate quota certificate

Cancellation on request

- (1) The Secretary must cancel a tariff rate quota certificate issued to a person under section 19 or 20 for the export of a consignment of eligible meat to the EU in a quota year if:
- (a) the certificate has not been accepted by the EU; and
 - (b) the person requests the Secretary in writing to cancel the certificate; and
 - (c) if hard copies of the certificate were issued—the person also gives the Secretary either of the following:
 - (i) all the hard copies of the certificate;
 - (ii) a declaration, in any form the Secretary requires, accompanied by any evidence the Secretary requires, about why the copies cannot be given.

Cancellation on Secretary's own initiative

- (2) The Secretary may cancel a tariff rate quota certificate issued to a person under section 19 or 20 for the export of a consignment of eligible meat to the EU in a quota year if:
- (a) the certificate has not been accepted by the EU; and
 - (b) any of the following apply:
 - (i) the certificate is incorrect in any respect;
 - (ii) the consignment does not leave Australia within 6 weeks after the certificate was issued;
 - (iii) the person has failed to comply with a request under subsection 33(3) in the quota year or a previous quota year;
 - (iv) the person does not hold, or ceases to hold, any licence required under a law of the Commonwealth to export the goods;
 - (v) a relevant liability in relation to a tariff rate quota certificate for the export of eligible meat has not been paid by the person (including if the person is jointly liable with another person or other persons);
 - (vi) the person's business as an exporter of eligible meat is not financially viable or is not likely to remain so;
 - (vii) the Secretary considers that it would not be in the best interests of the eligible meat industry for the person to continue to hold the certificate;
 - (viii) the quota year for which the certificate was issued has ended.

Notice and recording of cancellation

- (3) If a tariff rate quota certificate is cancelled under this section, the Secretary must:
- (a) record the cancellation in an electronic system maintained by the Department; and
 - (b) for a cancellation under subsection (2)—notify the person to whom the certificate was issued, in writing, of the cancellation.

Part 2 Australian tariff rate quota

Division 3 Tariff rate quota certificates

Section 23

Effect of cancellation

- (4) Subject to Part 4 (review of decisions), a tariff rate quota certificate that is cancelled under this section is taken never to have been issued.

Division 4—Miscellaneous

24 Annotation of tariff rate quota certificate

- (1) If:
 - (a) an appropriate EU authority annotates a tariff rate quota certificate to show that the weight of the consignment to which the certificate relates is less than the weight stated in the certificate; and
 - (b) the exporter to whom the certificate was issued gives the Secretary a copy of the annotated certificate, before the time required by subsection (2) or (3) (if applicable);the amount stated in the certificate is taken to be the amount as affected by the annotation.
- (2) For the purposes of subsection 11(2), the exporter must give the Secretary the copy of the annotated certificate before the end of the 30 November mentioned in that subsection.
- (3) For the purposes of the definition of *applicant's quota exports* in section 12, the exporter must give the Secretary the copy of the annotated certificate before the end of the 30 November that occurs immediately after the end of the performance period mentioned in that definition.
- (4) An annotation of a certificate issued under section 20 affects the applicant's entitlement-based amount (if any) before it affects the uncommitted access amount.

25 Transfer of export records

- (1) An exporter may, by notice given to the Secretary before the end of the 7 November after the end of the performance period for a quota year, transfer to another exporter all or part of the carcase equivalent weight of the person's exports of eligible meat from an EU-accredited establishment in the performance period, other than exports under the Australian tariff rate quota.

Note: The transfers are taken into account in working out the transferee's accredited exports, and total accredited exports, for the quota year (see section 12).
- (2) The notice must state:
 - (a) the name of the person transferring the weight; and
 - (b) the transferee's name; and
 - (c) the carcase equivalent weight, in kilograms, to be transferred.
- (3) The notice must be:
 - (a) given:
 - (i) in the approved manner (if any) and approved form (if any); or
 - (ii) if there is no approved manner and no approved form—in writing; and
 - (b) accompanied by any information or documents required by the Secretary.

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26 Errors in export records

- (1) The Secretary may correct an error in a record of an exporter's exports (whether the error is notified by the exporter under subsection (2) or otherwise). If the Secretary does so, the Secretary must notify the exporter of the correction.
- (2) If an exporter thinks that a record of its exports given to the exporter by the Secretary contains an error, the exporter must give the Secretary notice of the error within 30 days after receiving the record.
- (3) A notice under subsection (2) must be:
 - (a) given:
 - (i) in the approved manner (if any) and approved form (if any); or
 - (ii) if there is no approved manner and no approved form—in writing; and
 - (b) accompanied by any information or documents required by the Secretary.

Part 3—Erga omnes tariff rate quota

27 Purpose of this Part

This Part provides for a system of tariff rate quotas for the export from Australia to the EU of eligible meat under the erga omnes tariff rate quota.

28 Tariff rate quota certificates for erga omnes tariff rate quota

- (1) An exporter may apply to the Secretary for a tariff rate quota certificate for the export from Australia to the EU of a consignment of eligible meat in the quota year under the erga omnes tariff rate quota.
- (2) The application must not be made more than 3 months before the start of the quota year.
- (3) The application must be:
 - (a) made:
 - (i) in the approved manner (if any) and approved form (if any); or
 - (ii) if there is no approved manner and no approved form—in writing; and
 - (b) accompanied by any information or documents required by the Secretary.
- (4) If an exporter applies under subsection (1) for a tariff rate quota certificate, the Secretary may issue the tariff rate quota certificate to the exporter.
- (5) If the Secretary decides not to issue the tariff rate quota certificate to the exporter, the Secretary must give the exporter a written notice that sets out:
 - (a) the terms of the decision; and
 - (b) the reasons for the decision; and
 - (c) particulars of the exporter's right to have the decision reviewed under Part 4.
- (6) A tariff rate quota certificate issued under this section in relation to the export of a consignment of eligible meat in a quota year:
 - (a) has no effect before the start of the quota year; and
 - (b) ceases to have effect if the consignment is not accepted for entry into the EU before the end of the quota year.

Part 4—Review of decisions

29 Application for reconsideration by Secretary of decision

Refusal to issue certificate under section 19 or 20

- (1) If a decision is made to refuse to issue a tariff rate quota certificate under section 19 or 20 on a ground mentioned in subsection 19(4) or 20(7), the applicant for the certificate may apply to the Secretary to have the decision reconsidered.

Cancellation of certificate under section 23

- (2) If a decision is made to cancel a tariff rate quota certificate under subsection 23(2), the person to whom the certificate was issued may apply to the Secretary to have the decision reconsidered.

Refusal to issue certificate under section 28

- (3) If a decision is made under subsection 28(5) to refuse to issue a tariff rate quota certificate under subsection 28(1), the applicant for the certificate may apply to the Secretary to have the decision reconsidered.

Application for reconsideration

- (4) An application to have a decision reconsidered must:
 - (a) be made in writing; and
 - (b) set out the reasons for the application; and
 - (c) be lodged with the Secretary within 28 days after the day the decision first came to the notice of the applicant, or within any further period the Secretary allows.

30 Secretary to reconsider decision

- (1) On receipt of an application under section 29 for reconsideration of a decision, the Secretary must reconsider the decision and, subject to section 32, may:
 - (a) decide to affirm, vary or set aside the decision; and
 - (b) if the Secretary decides to set aside the decision—make any decision that the person who made the decision could have made.
- (2) A decision set aside by the Secretary ceases to have effect.
- (3) A decision made by the Secretary under this section takes effect:
 - (a) on the day specified in the decision; or
 - (b) if a day is not specified—on the day the decision was made.
- (4) The Secretary must give the applicant written notice of the Secretary's decision under this section within 45 days after the day the application for reconsideration was received.
- (5) The notice must set out the reasons for the Secretary's decision.

31 Review by Administrative Appeals Tribunal

Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Secretary made under section 30.

32 Reconsidering and reviewing decisions

- (1) For the purposes of reconsidering, or reviewing, a decision to refuse to issue a tariff rate quota certificate under section 20 on a ground mentioned in subsection 20(7), references in section 20 to the uncommitted access amount at a time are taken to be references to the uncommitted access amount (if any) at the time of the reconsideration or review.
- (2) For the purposes of reconsidering, or reviewing, a decision to cancel a certificate under section 23, references in sections 19 and 20 to the balance of the applicant's tariff rate quota entitlement are taken to be references to the balance at the time of the reconsideration or review.

Part 5—Miscellaneous

33 Audits

- (1) The Secretary may require an audit to be carried out in relation to the following:
 - (a) a tariff rate quota certificate issued to a person;
 - (b) all tariff rate quota certificates issued to a person during a specified period.
- (2) An audit must be carried out by an auditor approved in writing by the Secretary.
- (3) A person who is carrying out an audit in relation to one or more tariff rate quota certificates issued to a person may request the person to do either or both of the following:
 - (a) produce any documents, records or things that the auditor is satisfied are relevant to the audit;
 - (b) provide the auditor with all reasonable facilities and assistance for the effective carrying out of the audit.

34 Decisions made by computer

- (1) The Secretary may arrange for the use, under the Secretary's control, of computer programs for making decisions under this instrument.
- (2) The Secretary must take all reasonable steps to ensure that decisions made by the operation of a computer program under an arrangement made under subsection (1) are correct.
- (3) A decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Secretary.
- (4) The Secretary may make a decision in substitution for a decision taken to have been made by the Secretary under subsection (3) if the Secretary is satisfied that the decision made by the operation of the computer program is incorrect.

35 Approved manner and form

- (1) The Secretary may, in writing, approve a manner for making applications or giving notices under this instrument.
- (2) The Secretary may, in writing, approve a form for making applications or giving notices under this instrument.

Part 6—Application and transitional provisions

36 Definitions

In this Part:

old Order means the *Export Control (Sheepmeat and Goatmeat Export to the European Union Tariff Rate Quotas) Order 2016*.

37 Application of this instrument

- (1) The instrument applies in relation to the quota year starting on 1 January 2020 and later quota years.
- (2) For the purposes of the allocation of tariff rate quota entitlement for the quota year starting on 1 January 2020:
 - (a) this instrument applies; and
 - (b) sections 8, 9 and 10 of the old Order do not apply.

38 Determining initial allocation for 2020 quota year

- (1) This section applies for the purposes of determining amounts of tariff rate quota entitlement to be allocated under subsection 10(1) for the quota year starting on 1 January 2020.
- (2) In using the method statement in subsection 10(1):
 - (a) disregard steps 2 and 3 and any references to the step 2 amount; and
 - (b) in step 4, treat the reference to step 3 as a reference to step 1; and
 - (c) in step 5, treat the reference to the step 3 amount as a reference to the step 1 amount; and
 - (d) disregard paragraph (a) of step 7.
- (3) In using the formula in section 12:
 - (a) references to amounts exported by another exporter in the performance period for the quota year that have been transferred under section 25 are taken to include references to amounts exported by another exporter in the 12 month period ending on 31 October 2019 and transferred under section 18 of the old Order; and
 - (b) references to certificates issued under section 19 or 20 in the performance period for the quota year are taken to include references to certificates issued under section 15 or 16 of the old Order in the 12 month period ending on 31 October 2019.

39 Record of exports given before 1 January 2020

- (1) This section applies if:
 - (a) an exporter was given a record of the exporter's exports under section 19 of the old Order before 1 January 2020; and

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- (b) immediately before that day, the 30 day period referred to in that section has not ended.
- (2) The record is taken, on and after 1 January 2020, to be a record given to the exporter under section 26 of this instrument on the day the record was given to the exporter under section 19 of the old Order.

40 Determining initial allocation for 2021 quota year

- (1) This section applies for the purposes of determining amounts of tariff rate quota entitlement to be allocated under subsection 10(1) for the quota year starting on 1 January 2021.
- (2) In using the formula in section 12, references to certificates issued under section 19 or 20 in the performance period for the quota year are taken to include references to certificates issued under section 15 or 16 of the old Order in the period starting on 1 November 2019 and ending on 31 December 2019.

41 Repeal of this Part

This Part is repealed at the start of 1 January 2021.

Schedule 1—Repeals

Export Control (Sheepmeat and Goatmeat Export to the European Union Tariff Rate Quotas) Order 2016

1 The whole of the instrument

Repeal the instrument.