



# **Export Control (Poultry Meat and Poultry Meat Products) Rules 2021**

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I, Andrew Edgar Francis Metcalfe AO, Secretary of the Department of Agriculture, Water and the Environment, make the following rules.

Dated 19 March 2021

Andrew Edgar Francis Metcalfe AO  
Secretary of the Department of Agriculture, Water and the Environment

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# Chapter 1—Preliminary

## Part 1—Preliminary

### 1-1 Name

This instrument is the *Export Control (Poultry Meat and Poultry Meat Products) Rules 2021*.

### 1-2 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. The whole of this instrument	At the same time as section 3 of the <i>Export Control Act 2020</i> commences.	3 am (A.C.T.) 28 March 2021

Note: This table relates only to the provisions of this instrument as originally made.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.

### 1-3 Authority

This instrument is made under the *Export Control Act 2020*.

### 1-4 Simplified outline of this instrument

#### General

This instrument prescribes matters and makes other provision in relation to certain poultry meat and poultry meat products (prescribed poultry meat and poultry meat products) for the purposes of the *Export Control Act 2020* (the Act).

Prescribed poultry meat or poultry meat products must not be exported from Australian territory unless the conditions prescribed by this instrument (prescribed export conditions) are complied with. A person may commit an offence or be liable to a civil penalty if prescribed poultry meat or poultry meat products are exported in contravention of prescribed export conditions (see Division 4 of Part 1 of Chapter 2 of the Act).

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This instrument prescribes other matters and makes other provision in relation to the export of poultry meat and poultry meat products, including in relation to the following:

- (a) exemptions;
- (b) government certificates;
- (c) registered establishments;
- (d) approved arrangements;
- (e) export permits;
- (f) notices of intention to export;
- (g) trade descriptions;
- (h) official marks and official marking devices;
- (i) audits;
- (j) assessments;
- (k) functions and powers of authorised officers;
- (l) records;
- (m) samples;
- (n) damaged or destroyed poultry meat or poultry meat products.

**Structure of this instrument and Chapter numbering**

This instrument is arranged in Chapters that have the same number and name as the corresponding Chapters in the Act. For example, the provisions of this instrument that are made for the purposes of Chapter 5—Approved arrangements of the Act are included in Chapter 5—Approved arrangements of this instrument. This means there are gaps in the Chapter numbering because there are no provisions for the purposes of some Chapters of the Act.

## Part 2—Interpretation

### Division 1—Definitions

#### 1-5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) Australian territory;
- (b) authorised officer;
- (c) export;
- (d) export operations;
- (e) integrity;
- (f) prepare;
- (g) prescribed agriculture law;
- (h) Regulatory Powers Act.

In this instrument:

*Act* means the *Export Control Act 2020*, and includes:

- (a) legislative instruments made under the *Export Control Act 2020*; and
- (b) the Regulatory Powers Act as it applies in relation to the *Export Control Act 2020*.

*animal food* means:

- (a) a part of any poultry or a poultry meat product to which a disposition has been applied enabling it to be recovered for use as food for animals; or
- (b) inedible material for use as food for animals.

*applied*, in relation to an official mark, has the meaning given by subsection 8-19(1).

Note: For *applied*, in relation to a trade description, see section 247 of the Act.

*approved auditor* means an individual who is approved under subsection 273(1) of the Act to conduct an audit referred to in section 9-1 of this instrument.

*assessment* of poultry meat or poultry meat products means an assessment of poultry meat or poultry meat products under Part 2 of Chapter 9 of the Act.

Note: See also Part 2 of Chapter 9 of this instrument.

*Australian Poultry Meat Standard* means Australian Standard AS 4465:2005, *Australian Standard for Construction of Premises and Hygienic Production of Poultry Meat for Human Consumption*, as that Standard exists at the commencement of this instrument.

*batch*, in relation to poultry meat or poultry meat products, means an identifiable quantity of poultry meat or poultry meat products of the same kind produced under essentially the same conditions and during the same period of time (not exceeding 24 hours).

Section 1-5

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**carcase** means the whole dressed body of slaughtered poultry (the skeleton and attached musculature), excluding any part that has been removed from the dressed body (such as the head, feathers, viscera and blood).

**carcase part** means any tissue or structure removed from a carcase and includes the head, viscera, offal and blood.

**carton** includes a case, crate and barrel.

**container system unit** means a container designed for use as a unit of cargo handling equipment in the transport of goods by aircraft or vessel.

**date of packaging**, for packaged poultry meat or poultry meat products, means:

- (a) for further processed poultry meat products (other than canned poultry meat products):
  - (i) unless subparagraph (ii) applies—the date the further processing is completed; or
  - (ii) if the further processing is carried out during a working shift that starts on a day and ends on the following day—the date the shift started; or
- (b) for canned poultry meat products:
  - (i) unless subparagraph (ii) applies—the date the cans are closed; or
  - (ii) if the canning is carried out during a working shift that starts on a day and ends on the following day—the date the shift started; or
- (c) for any other packaged poultry meat or poultry meat products:
  - (i) unless subparagraph (ii) applies—the date the first packaging was completed; or
  - (ii) if the first packaging is carried out during a working shift that starts on a day and ends on the following day—the date the first packaging started.

**dressing**, in relation to poultry, means the progressive separation of the body of the poultry into a carcase, offal and inedible material.

**equipment** means a machine, instrument, apparatus, utensil, container or other thing used or for use in connection with producing, preparing or transporting poultry meat or poultry meat products (including any thing used or for use for inspection, maintenance or cleaning), but does not include a poultry meat transport vehicle.

**essential services** includes:

- (a) water, gas and electricity; and
- (b) sewerage, drainage and waste disposal systems.

**exporter** of prescribed poultry meat or poultry meat products means:

- (a) the applicant for an export permit for the poultry meat or poultry meat products; or
- (b) if an export permit has been issued for the poultry meat or poultry meat products—the holder of the export permit.

**facilities** includes hygiene and sanitation facilities.

**further process**, in relation to poultry meat or poultry meat products, means a process that alters the physical or chemical characteristics of the poultry meat or poultry meat products.

**HACCP** means the hazard analysis and critical control point system for food safety management set out in the annex to CAC/RCP 1-1969 (General Principles of Food Hygiene), adopted by the Codex Alimentarius Commission of the Food and Agriculture Organization of the United Nations and the World Health Organisation, as in force from time to time.

Note: The Codex Alimentarius could in 2021 be viewed on the website of the Food and Agriculture Organization of the United Nations (<http://www.fao.org>).

**HACCP plan** means a plan that meets the requirements for HACCP plans specified in the Australian Poultry Meat Standard.

Note 1: See clause 14 of the Australian Poultry Meat Standard.

Note 2: For guidance, see the Codex requirements for HACCP plans which set out the following 7 principles: conduct a hazard analysis; identify critical control points; establish critical limits; establish monitoring procedures; establish corrective actions; establish verification procedures; keep records. A flow chart may be used.

**humane treatment** means treatment not inconsistent with the *Model Code of Practice for the Welfare of Animals: Livestock at Slaughtering Establishments* published by CSIRO Publishing, as that document exists at the commencement of this instrument.

Note: This document could in 2021 be viewed on CSIRO Publishing's website (<https://www.publish.csiro.au>).

**inedible material** means poultry meat or poultry meat products that are normally regarded as of a kind that is not fit for human consumption.

**ingredient** means a substance (including a food additive) that is:

- (a) a constituent of:
  - (i) poultry meat; or
  - (ii) poultry meat products (including raw materials); or
- (b) a processing aid for poultry meat or poultry meat products.

**installed**: a resources industry structure is **installed** in an area at a time if, assuming that the structure were a sea installation within the meaning of the *Sea Installations Act 1987* and the area were part of an adjacent area within the meaning of that Act, the structure would be taken under section 6 of that Act to be installed in an adjacent area at the time.

**loaded for export** has the meaning given by section 1-6.

**meat inspection service** means an assessment of poultry meat or poultry meat products under Part 2 of Chapter 9 of the Act.

**MICoR** means the *Manual of Importing Country Requirements* published by the Department.

Note: MICoR could in 2021 be viewed on the Department's website (<http://www.awe.gov.au>), but access to the document requires a password.

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**notifiable disease** means a disease the presence or suspected presence of which must be notified or reported (however expressed) under a law of the State or Territory where the disease is, or is suspected of being, present.

**offal**, in relation to poultry, means any of the organs of the thoracic and abdominal cavities of the poultry.

**pharmaceutical material** means:

- (a) a part of any poultry or a poultry meat product to which a disposition has been applied enabling it to be recovered for pharmaceutical use; or
- (b) inedible material for pharmaceutical use.

**potable**, in relation to water, means water that is acceptable for human consumption.

Note: For guidance, see the *Australian Drinking Water Guidelines (2011)* developed by the National Health and Medical Research Council. The Guidelines could in 2021 be viewed on the National Health and Medical Research Council's website (<http://www.nhmrc.gov.au>).

**poultry** has the same meaning as in the Australian Poultry Meat Standard.

Note: **Poultry** includes fowl, ducks, geese, turkeys, pigeons, pheasants, quail, guinea fowl and other avian species ordinarily consumed as food, but does not include ratites (emu or ostrich) (see clause 2 of the Australian Poultry Meat Standard).

**poultry meat** has the same meaning as in the Australian Poultry Meat Standard.

**poultry meat extract** means a poultry meat product that:

- (a) is derived from poultry meat that has been passed as fit for human consumption; and
- (b) does not contain any non-meat proteins or additives; and
- (c) does not contain more than 25% moisture by analysis.

**poultry meat product** means a product containing poultry meat.

**poultry meat transport vehicle** means a conveyance that is used to transport or transfer prescribed poultry meat or poultry meat products and includes the poultry meat carrying compartment of the conveyance.

**prescribed poultry meat** means poultry meat that is prescribed goods under Division 1 of Part 1 of Chapter 2.

**prescribed poultry meat and poultry meat products** means poultry meat and poultry meat products that are prescribed goods under Division 1 of Part 1 of Chapter 2.

**prescribed poultry meat or poultry meat products** means poultry meat or poultry meat products that are prescribed goods under Division 1 of Part 1 of Chapter 2.

**prescribed poultry meat products** means poultry meat products that are prescribed goods under Division 1 of Part 1 of Chapter 2.

**primary bleeding** means the initial and major part of bleeding that follows incisions made to initiate exsanguination and is characterised by a continuous flow of blood.



**registered**, in relation to an establishment, means registered under Chapter 4 of the Act.

**registered establishment** means an establishment that is registered for a kind of export operations in relation to prescribed poultry meat or poultry meat products.

**relevant importing country authority** means the authority or body that is responsible for regulating the importation of poultry meat or poultry meat products into that country from Australian territory.

**resources industry structure** means:

- (a) a resources industry fixed structure (within the meaning of the *Sea Installations Act 1987*); or
- (b) a resources industry mobile unit (within the meaning of that Act) that is not a vessel.

**shelf-stable**: poultry meat or poultry meat products are shelf-stable if the poultry meat or poultry meat products can be safely stored and handled at ambient temperature.

**slaughter** means killing and includes stunning, sticking and bleeding.

**slaughter floor meat inspection service** means a meat inspection service that provides an inspection of carcasses or carcass parts on the slaughter floor of an establishment.

**tallow** means rendered fat or oil extracted from animal tissue.

**Timor Sea Maritime Boundaries Treaty** means the Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea, done at New York on 6 March 2018, as in force at the commencement of this instrument.

Note: The Treaty is in Australian Treaty Series 2019 No. 16 ([2019] ATS 16) and could in 2021 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

**verify** means apply methods, procedures, tests and other evaluations in addition to monitoring to determine whether a requirement has been, or is being, complied with.

**wholesome** has the same meaning as in the Australian Poultry Meat Standard.

## 1-6 Meaning of *loaded for export*

Poultry meat or poultry meat products are **loaded for export** if the poultry meat or poultry meat products:

- (a) are placed into a container system unit at a registered establishment for export; or
- (b) are loaded into or onto an aircraft or a vessel for export without first being placed into a container system unit.

## Division 2—Other interpretation provisions

### 1-7 Modifications of certain terms used in the Australian Poultry Meat Standard

- (1) For the purposes of this instrument, the Australian Poultry Meat Standard is taken to be modified as provided by this section.
- (2) A reference in the Australian Poultry Meat Standard to the operator of premises or an establishment is to be read as a reference to the occupier of an establishment.  

Note: *Establishment* has the same meaning as *premises* (see the definition of *establishment* in section 12 of the Act).
- (3) A reference in the Australian Poultry Meat Standard to poultry meat processing premises or poultry processing premises is to be read as a reference to an establishment where operations to prepare poultry meat or poultry meat products for export are carried out.

### 1-8 Circumstances in which alternative procedure, standard or other requirement is taken to meet requirements of Australian Poultry Meat Standard

If:

- (a) the Australian Poultry Meat Standard requires a particular technique (the *Australian Poultry Meat Standard technique*) to be implemented in carrying out operations to prepare prescribed poultry meat or poultry meat products for export; and
- (b) under section 4-3, meeting that requirement is a condition of the registration of the registered establishment where operations to prepare the poultry meat or poultry meat products for export are carried out; and
- (c) an approved arrangement that covers operations to prepare the poultry meat or poultry meat products for export provides for an alternative procedure, standard or other requirement to be implemented in carrying out those operations;

then, for the purposes of this instrument, the implementation of the alternative procedure, standard or other requirement in carrying out those operations is taken to meet the requirement to implement the Australian Poultry Meat Standard technique in carrying out those operations.

Note 1: The holder of the approved arrangement may need to apply to the Secretary under paragraph 161(1)(b) of the Act to approve a variation of the arrangement to implement an alternative procedure, standard or other requirement in carrying out operations to prepare prescribed poultry meat or poultry meat products for export.

Note 2: The holder of the approved arrangement may commit an offence or be liable to a civil penalty under section 163 of the Act if:

- (a) the approved arrangement needs to be varied to provide for an alternative procedure, standard or other requirement to be implemented in carrying out operations to prepare prescribed poultry meat or poultry meat products for export; and
- (b) the variation is implemented; and

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- (c) the variation has not been approved by the Secretary under paragraph 161(2)(a) of the Act, or the variation has been approved under that paragraph but the Secretary has not given the holder notice of the approval under section 162 of the Act.

## Chapter 2—Exporting goods

### Part 1—Goods

#### Division 1—Prescribed goods

##### 2-1 Poultry meat and poultry meat products that are prescribed goods

- (1) For the purposes of subsection 28(1) of the Act and subject to subsections (3) and (4) of this section, goods that:
- (a) are poultry meat or poultry meat products; and
  - (b) are intended to be exported as food;
- are prescribed for the purposes of the Act.

Note 1: Poultry includes fowl, ducks, geese, turkeys, pigeons, pheasants, quail, guinea fowl and other avian species ordinarily consumed as food but does not include ratites (emu or ostrich) (see section 1-5 of this instrument and clause 2 of the Australian Poultry Meat Standard).

Note 2: For *food*, see section 12 of the Act.

Note 3: Poultry meat or poultry meat products covered by this subsection are taken not to be prescribed goods for the purposes of the Act in the circumstances prescribed by section 2-2 of this instrument (see the definition of *prescribed goods* in section 12 of the Act).

- (2) If:
- (a) poultry meat or poultry meat products of a kind referred to in a paragraph of subsection (3) are intended to be exported to a country (the *importing country*) as food; and
  - (b) for the purpose of meeting an importing country requirement of that country, one or more requirements of the Act must be complied with;
- then, for the purposes of subsection 28(1) of the Act, the poultry meat or poultry meat products that are intended to be exported to the importing country are prescribed for the purposes of the Act.

Example: Poultry meat extracts would be prescribed poultry meat products if a requirement of the Act would need to be complied with in relation to the poultry meat extracts for the purpose of meeting an importing country requirement.

Note: The Act will apply to poultry meat and poultry meat products to which this subsection applies in the same way as it applies to goods prescribed for the purposes of the Act under subsection (1).

- (3) The following goods are not prescribed for the purposes of subsection 28(1) of the Act (unless subsection (2) of this section applies in relation to the goods):
- (a) soup, soup powder or soup concentrate derived from poultry meat;
  - (b) poultry meat extracts;
  - (c) tallow derived from poultry meat;
  - (d) gelatine derived from poultry meat;
  - (e) regenerated collagen products derived from poultry meat;
  - (f) poultry meat products containing less than 5% mass of poultry meat;
  - (g) poultry meat or poultry meat products for export in a consignment of not more than 10 kilograms;

- (h) poultry meat or poultry meat products for export to New Zealand for consumption in New Zealand.

Note: Poultry meat or poultry meat products covered by subsection (1) that are for export to New Zealand but are not for consumption in New Zealand (for example, poultry meat or poultry meat products covered by subsection (1) that are exported to New Zealand for further processing and export from New Zealand) are prescribed goods.

- (4) The following goods are not prescribed for the purposes of subsection 28(1) of the Act:
- (a) poultry meat or poultry meat products that are animal food;
  - (b) poultry meat or poultry meat products that are pharmaceutical material.

## **2-2 Poultry meat and poultry meat products that are taken not to be prescribed goods**

For the purposes of subsection 28(4) of the Act, poultry meat and poultry meat products covered by subsection 2-1(1) or (2) of this instrument are taken not to be prescribed goods for the purposes of the Act if the poultry meat or poultry meat products:

- (a) are stores for the use of passengers and crew on an aircraft or a vessel on a flight or voyage from Australian territory; or
- (b) are for the service of an aircraft or a vessel on a flight or voyage from Australian territory; or
- (c) are imported into Australian territory and held in bond at all times before being exported; or
- (d) are imported into Australian territory and then exported in the same covering in which, and with the same trade description with which, they were imported; or
- (e) are consigned to an external Territory for consumption in that Territory; or
- (f) are consigned to a resources industry structure that is installed in any of the following areas, for consumption on the structure:
  - (i) the Greater Sunrise special regime area within the meaning of the *Seas and Submerged Lands Act 1973*;
  - (ii) the Greater Sunrise pipeline international offshore area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*;
  - (iii) the area in or above the Bayu-Undan Gas Field within the meaning of the Timor Sea Maritime Boundaries Treaty;
  - (iv) the Bayu-Undan pipeline international offshore area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*;
  - (v) the area in or above the Kitan Oil Field within the meaning of the Timor Sea Maritime Boundaries Treaty.

Note: A resources industry structure that is not installed is taken to be a vessel (see the *Sea Installations Act 1987*).

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## Division 2—Prohibited export and prescribed export conditions

### 2-3 Purpose and application of this Division

- (1) This Division is made for the purposes of section 29 of the Act.
- (2) This Division applies in relation to prescribed poultry meat and poultry meat products.  

Note 1: See Division 1 of this Part in relation to goods that are prescribed poultry meat and poultry meat products.

Note 2: Poultry meat and poultry meat products are taken not to be prescribed goods in the circumstances prescribed by section 2-2 of this instrument (see the definition of *prescribed goods* in section 12 of the Act).
- (3) However, a provision of this Division (the *relevant provision*) does not apply in relation to prescribed poultry meat or poultry meat products if:
  - (a) the poultry meat or poultry meat products are to be exported in a circumstance referred to in subsection 52(1) or (3) of the Act; and
  - (b) an exemption from the relevant provision is in force in relation to the poultry meat or poultry meat products under Part 2 of Chapter 2 of the Act.

### 2-4 Export of prescribed poultry meat or poultry meat products is prohibited unless prescribed conditions are complied with

The export from Australian territory of prescribed poultry meat or poultry meat products is prohibited unless the conditions specified in the items in the following table are complied with.

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#### Prescribed export conditions for prescribed poultry meat or poultry meat products

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Item	Prescribed export conditions
1	<b>Importing country requirements</b> All importing country requirements relating to the poultry meat or poultry meat products, and the operations to prepare them for export, must be met.
2	<b>Registered establishment</b> Operations to prepare the poultry meat or poultry meat products for export must be carried out at an establishment that is registered for those operations in relation to the poultry meat or poultry meat products. At the time the operations are carried out, the registration of the establishment must not be suspended in relation to those operations.
3	<b>Approved arrangement</b> An approved arrangement covering operations to prepare the poultry meat or poultry meat products for export at the registered establishment referred to in item 2 must be in force. At the time the operations are carried out, the approved arrangement must not be suspended in relation to those operations.
4	<b>Notice of intention to export</b> A person prescribed by section 8-2 must give the Secretary, at the time prescribed by section 8-4, a notice of intention to export a consignment of, or including, the poultry meat or poultry meat products.
5	<b>Export permit</b>

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**Prescribed export conditions for prescribed poultry meat or poultry meat products**

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**Item      Prescribed export conditions**

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The exporter of the poultry meat or poultry meat products must hold an export permit for the poultry meat or poultry meat products and the export permit must be in force and not suspended at the time the poultry meat or poultry meat products are exported.

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- Note 1:      Other conditions may apply in addition to the conditions set out in the above table. For example, prescribed poultry meat products described as biodynamic may also be prescribed organic goods under the *Export Control (Organic Goods) Rules 2021*. The export as food of the poultry meat products would also be subject to export conditions prescribed by that instrument.
- Note 2:      A person may commit an offence or be liable to a civil penalty if prescribed goods are exported in contravention of prescribed export conditions (see Division 4 of Part 1 of Chapter 2 of the Act).
- Note 3:      The occupier of a registered establishment may commit an offence or be liable to a civil penalty if export operations in relation to which registration of the establishment has been suspended are carried out while the registration is suspended (see section 136 of the Act).
- Note 4:      The holder of an approved arrangement may commit an offence or be liable to a civil penalty if export operations in relation to which an approved arrangement has been suspended are carried out while the arrangement is suspended (see section 177 of the Act).
- Note 5:      An export permit that is suspended under subsection 231(1) of the Act remains in force while it is suspended. However, while the permit is suspended, it does not authorise the export of the goods for which it was issued (see subsection 232(2) of the Act).

## Part 2—Exemptions

### 2-5 Application of this Part

This Part applies in relation to prescribed poultry meat or poultry meat products (in this Part called *relevant goods*).

Note 1: See Division 1 of Part 1 of this Chapter in relation to goods that are prescribed poultry meat and poultry meat products.

Note 2: Poultry meat and poultry meat products are taken not to be prescribed goods in the circumstances prescribed by section 2-2 of this instrument (see the definition of *prescribed goods* in section 12 of the Act).

### 2-6 Period for making application for exemption

For the purposes of subparagraph 53(3)(f)(i) of the Act, the period within which an application for an exemption in relation to relevant goods must be made is the period of 120 days ending on the day that is 10 business days before the following:

- (a) if operations to prepare the relevant goods for export have started—the date it is proposed to export the relevant goods;
- (b) in any other case—the date it is proposed to start carrying out those operations.

Note 1: The Secretary may allow a different period (see subparagraph 53(3)(f)(ii) of the Act).

Note 2: An application for an exemption must comply with the requirements in subsection 53(3) of the Act.

### 2-7 Conditions of exemption—matters to which Secretary must have regard

For the purposes of subsection 55(2) of the Act, a matter to which the Secretary must have regard is whether imposing a condition on an exemption in relation to relevant goods will ensure that one or more objects of the Act will be met in relation to the goods.

### 2-8 Period of effect of exemption

For the purposes of paragraph 57(b) of the Act, an exemption granted under paragraph 54(1)(a) of the Act remains in force (unless it is revoked under section 59 of the Act):

- (a) for 12 months starting on the day the exemption takes effect; or
- (b) if another period is specified in the instrument of exemption—for the specified period.

Note: The exemption takes effect on the date stated in the instrument of exemption under paragraph 56(1)(e) of the Act (see paragraph 57(a) of the Act).



**2-9 Variation of conditions of exemption—matters to which Secretary must have regard**

For the purposes of subsection 58(3) of the Act, a matter to which the Secretary must have regard is whether varying a condition of an exemption in relation to relevant goods will ensure that one or more objects of the Act will be met in relation to the goods.

**2-10 Revocation of exemption—matter to which Secretary must have regard**

For the purposes of subsection 59(2) of the Act, a matter to which the Secretary must have regard in considering whether to revoke an exemption in relation to relevant goods is whether the conditions of the exemption have been, or are being, complied with.

## Part 3—Government certificates

### 2-11 When government certificate may be issued in relation to poultry meat or poultry meat products

For the purposes of subsections 62(1) and (2) of the Act, a government certificate may be issued in relation to poultry meat or poultry meat products that are to be, or that have been, exported.

### 2-12 Declaration to accompany application for government certificate

- (1) For the purposes of paragraph 65(2)(d) of the Act, if a government certificate in relation to poultry meat or poultry meat products is required to meet importing country requirements, the application for the government certificate must be accompanied by a declaration by the applicant that importing country requirements relating to the poultry meat or poultry meat products have been met, or will be met before the poultry meat or poultry meat products are imported into the importing country.

Note 1: For when requirements to give information (including a declaration) in writing can be met by an electronic communication, see section 9 of the *Electronic Transactions Act 1999*. For electronic signatures, see section 10 of that Act.

Note 2: A government certificate (other than a certificate issued by electronic means) must be retained in a secure place when it is not being used (see section 11-4).

- (2) A declaration must be in a form approved by the Secretary.
- (3) A declaration:
  - (a) must not be made if there are no reasonable grounds for making it; and
  - (b) must not be false or misleading; and
  - (c) must be signed and dated by the person who made it.

Note: A person may commit an offence or be liable to a civil penalty if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code* and sections 368 and 369 of the Act).

### 2-13 Circumstances for refusing to issue government certificate

#### *Circumstances relating to all poultry meat or poultry meat products*

- (1) For the purposes of paragraph 67(3)(g) of the Act, each of the following circumstances is prescribed in relation to an application for a government certificate in relation to poultry meat or poultry meat products:
  - (a) a condition or disease is present in Australian territory that is likely to affect the acceptability of the poultry meat or poultry meat products to the importing country;
  - (b) the export of the poultry meat or poultry meat products could result in trade in the export of goods from Australian territory being adversely affected;
  - (c) the applicant for the certificate failed:
    - (i) to return a government certificate as required by section 2-15 of this instrument; or

- (ii) to retain a government certificate in a secure place in accordance with section 11-4 of this instrument; or
- (iii) to provide facilities and assistance to an auditor as required by section 271 of the Act.

*Circumstances relating only to prescribed poultry meat or poultry meat products*

- (2) For the purposes of paragraph 67(3)(g) of the Act and without limiting subsection (1) of this section, each of the following circumstances is prescribed in relation to an application for a government certificate in relation to prescribed poultry meat or poultry meat products:
- (a) a prescribed export condition that applies in relation to the poultry meat or poultry meat products has not been complied with;
  - (b) the applicant for the certificate failed to comply with a direction given to the applicant under subsection 305(1) of the Act (to deal with non-compliance with the requirements of the Act);
  - (c) an export permit is not in force for the poultry meat or poultry meat products.

Note: Other grounds for the issuing body to refuse to issue a government certificate in relation to prescribed poultry meat or poultry meat products are set out in paragraphs 67(3)(a) to (f) of the Act.

## **2-14 Changes that require holder of certificate to give additional or corrected information to the issuing body**

For the purposes of paragraph 74(1)(b) of the Act, each of the following changes is prescribed in relation to poultry meat or poultry meat products in relation to which a government certificate is in force:

- (a) there are reasonable grounds to suspect that the integrity of the poultry meat or poultry meat products cannot be ensured;
- (b) there are reasonable grounds to suspect that an importing country requirement relating to the poultry meat or poultry meat products will not be, or is not likely to be, met before the poultry meat or poultry meat products are imported into the importing country;
- (c) for prescribed poultry meat or poultry meat products—there are reasonable grounds to suspect that a prescribed export condition relating to the poultry meat or poultry meat products has not been complied with in circumstances where the condition should have been complied with.

## **2-15 Return of government certificate**

- (1) For the purposes of paragraph 76(1)(a) of the Act, each of the following is a circumstance in which a government certificate in relation to poultry meat or poultry meat products must be returned to an issuing body:
- (a) the poultry meat or poultry meat products are no longer intended to be exported to the country in relation to which the certificate was issued;
  - (b) the certificate has been revoked under section 75 of the Act.
- (2) For the purposes of paragraph 76(1)(b) of the Act, the period within which a government certificate in relation to poultry meat or poultry meat products must

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be returned to an issuing body is 10 business days starting on the day the event referred to in paragraph (1)(a) or (b) of this section (as applicable) occurs.

- (3) This section does not apply in relation to a government certificate that was issued by electronic means.

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## Chapter 4—Registered establishments

### Part 1—Requirements for registration

#### 4-1 Purpose of this Part

For the purposes of paragraphs 112(2)(c) and (f) of the Act, this Part prescribes requirements that must be met for an establishment to be registered for operations to prepare prescribed poultry meat or poultry meat products for export.

Note 1: The requirements in this Part also apply in relation to an application to renew the registration of the establishment (see section 4-16).

Note 2: Other requirements that must be met are provided by paragraphs 112(2)(a), (b) and (e) of the Act. In addition, an approved arrangement covering operations to prepare the poultry meat or poultry meat products for export must be in force (see paragraph 112(2)(d) of the Act and item 3 of the table in section 2-4 of this instrument).

#### 4-2 Operations must be carried out in a way that will ensure requirements of the Act are complied with

Operations to prepare prescribed poultry meat or poultry meat products for export must be carried out at an establishment in a way that will ensure that the requirements of the Act are complied with.

#### 4-3 Requirements of Australian Poultry Meat Standard must be met

The requirements of the Australian Poultry Meat Standard, as modified by a provision of this instrument, must be met in relation to operations to prepare prescribed poultry meat or poultry meat products for export that are carried out at an establishment.

Note: See Division 2 of Part 2 of Chapter 1 of this instrument for modifications of the Australian Poultry Meat Standard.

#### 4-4 Equipment, facilities and essential services

(1) An establishment must have:

- (a) the buildings, equipment, facilities and essential services that are necessary to ensure that operations to prepare prescribed poultry meat or poultry meat products for export can be carried out at the establishment in accordance with the requirements of this instrument; and
- (b) accurate measuring devices to assess compliance with those requirements.

Note: For guidance on Australian legal units of measurements and tolerances, see the *National Measurement Act 1960*. For the application of that Act in relation to contracts, dealings or transactions made or entered into in connection with the export of goods, see section 13 of that Act.

(2) An establishment must have toilet facilities.

Note: If there is a permanent position for one or more Commonwealth authorised officers at the establishment, there must be a toilet room for the exclusive use of the authorised officers (see subsections 4-8(1) and (2)).

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### 4-5 Areas where post-mortem inspections are carried out

An establishment must have an area for post-mortem inspections of carcasses or carcase parts to be carried out that is constructed and set up to ensure that it is not encroached upon by equipment or persons (other than authorised officers carrying out the inspections).

### 4-6 Meat examination facility

- (1) An establishment must have a meat examination facility that:
  - (a) is within a refrigerated area; and
  - (b) is maintained at a temperature no warmer than 10 °C during export operations; and
  - (c) is set up to ensure that authorised officers performing functions in the facility can do so unimpeded; and
  - (d) is able to be secured.
- (2) Authorised officers who need to perform functions in the meat examination facility must be given sufficient access to the facility to enable them to perform those functions unimpeded, but the facility need not be for the exclusive use of authorised officers.

### 4-7 Secure storage area

- (1) An establishment where prescribed poultry meat or poultry meat products are loaded for export must have an area where all prescribed poultry meat and poultry meat products required to be held under security can be stored.
- (2) The storage area must:
  - (a) be separate from other parts of the establishment; and
  - (b) be able to be secured; and
  - (c) be constructed and used in a way that:
    - (i) does not jeopardise the security of prescribed poultry meat or poultry meat products held in the area; and
    - (ii) does not affect the ability to ensure the integrity of prescribed poultry meat or poultry meat products held in the area.

### 4-8 Amenities for Commonwealth authorised officers

*Establishments with permanent positions for Commonwealth authorised officers*

- (1) The following amenities must be provided at an establishment where there is a permanent position for one or more Commonwealth authorised officers:
  - (a) an office;
  - (b) a dining room;
  - (c) a change room;
  - (d) a shower room;
  - (e) a toilet room;
  - (f) a rest room where amenities are provided for female authorised officers.

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- (2) The amenities must be:
  - (a) separate from, but may be in the same building as, amenities provided for employees; and
  - (b) suitable, and suitably and conveniently located; and
  - (c) for the exclusive use of Commonwealth authorised officers.
- (3) The office required under paragraph (1)(a) must be equipped with the following:
  - (a) a telephone;
  - (b) a connection to a computer terminal;
  - (c) a lockable metal cabinet;
  - (d) for each Commonwealth authorised officer requiring the use of the office—a desk, chair and locker;
  - (e) if hand washing and drying facilities are not conveniently located nearby—those facilities.

*Other establishments*

- (4) An establishment (other than an establishment referred to in subsection (1)) must provide an office for the exclusive use of Commonwealth authorised officers when they are at the establishment.
- (5) The office required by subsection (4) must be appropriate for the authorised officers to perform functions at the establishment.
- (6) To avoid doubt, this section applies in addition to sections 4-4 to 4-7.

## Part 2—Conditions of registration

### 4-9 Purpose of this Part

For the purposes of paragraph 113(1)(b) of the Act, this Part prescribes conditions of the registration of an establishment for operations to prepare prescribed poultry meat or poultry meat products for export.

Note 1: If the registration of the establishment is renewed, these conditions also apply in relation to the renewed registration of the establishment (see paragraph 118(b) of the Act).

Note 2: The occupier of a registered establishment may commit an offence or be liable to a civil penalty if a condition of the registration of the establishment is contravened (see section 144 of the Act).

### 4-10 Requirements for registration continue to be met

The requirements for registration of an establishment prescribed by Part 1 of this Chapter must continue to be met in relation to the establishment after it is registered.

Note: For requirements relating to establishments (including ensuring compliance with requirements of the Act and meeting certain requirements of the Australian Poultry Meat Standard), see sections 4-2 to 4-7. For requirements relating to establishments where authorised officers perform functions, see section 4-8.

### 4-11 Certificate of registration must be displayed

A copy of the current certificate of registration for an establishment must be prominently displayed at the establishment.

### 4-12 Notice of certain matters must be given to persons who manage or control export operations at registered establishment

- (1) The occupier of a registered establishment must give each person who manages or controls operations to prepare prescribed poultry meat or poultry meat products for export at the establishment a written notice:
  - (a) setting out the terms of section 374 of the Act (which requires such persons to notify the Secretary of certain convictions or orders to pay a pecuniary penalty); and
  - (b) stating that the person may be liable for a civil penalty if the person fails to comply with that section.
- (2) The notice must be given to each person:
  - (a) as soon as practicable after the occupier receives the certificate of registration for the establishment; or
  - (b) if a person starts to manage or control operations to prepare prescribed poultry meat or poultry meat products for export at the establishment after the occupier receives the certificate of registration for the establishment— as soon as practicable after the person starts to manage or control those operations.



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### **4-13 List of persons who manage or control export operations at registered establishment**

The occupier of a registered establishment must keep and maintain a list of persons who manage or control, or who have managed or controlled, operations to prepare prescribed poultry meat or poultry meat products for export at the establishment.

### **4-14 Meat inspection services**

- (1) This section applies if an approved arrangement for operations to prepare prescribed poultry meat or poultry meat products for export at a registered establishment:
  - (a) provides that an authorised officer must be present at the establishment while operations of that kind are carried out; or
  - (b) is subject to a condition that requires an authorised officer to be present at the establishment while operations of that kind are carried out.

#### *Allocation of meat inspection services to establishment*

- (2) The occupier of the registered establishment must, before commencing operations to prepare prescribed poultry meat or poultry meat products for export at the establishment, have a preliminary allocation of meat inspection services for the establishment.

Note: Division 1 of Part 6 of this Chapter deals with applications for meat inspection services to be allocated to an establishment.

#### *Notice of proposed changes to establishment*

- (3) If meat inspection services are allocated to a registered establishment under Part 6 of this Chapter, the occupier of the establishment must, as soon as practicable, notify the Secretary in writing of any proposed changes to the construction of the establishment, or the operations to be carried out at the establishment, that may affect the allocation of the meat inspection services.

Note: Certain alterations of registered establishments (including an addition to the establishment) must not be made without approval (see paragraph 120(1)(b) and section 122 of the Act).

## Part 3—Renewal of registration

### 4-15 Period within which application to renew registration must be made

For the purposes of paragraph 116(4)(a) of the Act, the period within which an application to renew the registration of an establishment must be made is the period of 60 days starting on the day that is 180 days before the expiry date for the registration.

Note 1: For example, if the registration of an establishment expires on 8 July in a year (other than a leap year), an application for renewal can be made at any time between 9 January and 10 March in that year.

Note 2: An application to renew the registration of an establishment will only need to be made if there is an expiry date for the registration (see subsection 116(1) of the Act).

### 4-16 Requirements for renewal of registration

For the purposes of paragraphs 117(2)(e) and (g) of the Act, the requirements prescribed by Part 1 of this Chapter are prescribed in relation to an establishment that is registered to prepare prescribed poultry meat or poultry meat products for export.

Note: Other requirements are provided by paragraphs 117(2)(a) to (d) of the Act. In addition, an approved arrangement covering operations to prepare the poultry meat or poultry meat products for export must be in force (see paragraph 117(2)(f) of the Act and item 3 of the table in section 2-4 of this instrument).

## **Part 4—Variation of registration**

### **4-17 Alterations for which approval is not required**

For the purposes of subsection 122(2) of the Act, an alteration of a registered establishment is prescribed if it does not affect compliance with the conditions of registration of the establishment.

## Part 5—Matters relating to applications

### 4-18 Application of this Part

This Part applies in relation to the following applications:

- (a) an application under section 111 of the Act to register an establishment for operations to prepare prescribed poultry meat or poultry meat products for export;
- (b) an application under section 116 of the Act to renew the registration of an establishment for operations to prepare prescribed poultry meat or poultry meat products for export;
- (c) an application under section 120 of the Act to do any of the following in relation to an establishment that is registered for operations to prepare prescribed poultry meat or poultry meat products for export:
  - (i) vary the registration, or the particulars relating to the registration, of the establishment;
  - (ii) approve an alteration of the establishment;
  - (iii) vary the conditions of the registration of the establishment.

### 4-19 Initial consideration period

For the purposes of subsection 379(3) of the Act, the initial consideration period for an application is 120 days.

Note: The consideration period for an application starts on the day after the day the Secretary receives the application (see subsection 379(4) of the Act).

### 4-20 Period within which request relating to application must be complied with

For the purposes of paragraph 379(10)(b) of the Act, the period of 6 months is prescribed.

## Part 6—Meat inspection services

### Division 1—Allocation of meat inspection services

#### 4-21 Application for allocation of meat inspection services to establishment

- (1) The occupier of an establishment where operations to prepare prescribed poultry meat or poultry meat products for export are to be carried out may apply to the Secretary for a preliminary allocation of meat inspection services to the establishment.

Note 1: The occupier of certain registered establishments must, before commencing operations to prepare prescribed poultry meat or poultry meat products for export at the registered establishment, have a preliminary allocation of meat inspection services for the establishment (see section 4-14).

Note 2: For *establishment*, see section 12 of the Act. For *registered establishment*, see section 1-5 of this instrument.

- (2) The application must:
  - (a) if the Secretary has approved, in writing, a manner for making an application—be made in an approved manner; and
  - (b) if the Secretary has approved a form for making an application:
    - (i) include the information required by the form; and
    - (ii) be accompanied by any documents required by the form; and
  - (c) be made at least 90 days before operations to prepare prescribed poultry meat or poultry meat products for export at the establishment are to commence; and
  - (d) set out details of the intended operations, including:
    - (i) the months, weeks, days and hours the operations are intended to be carried out; and
    - (ii) the number of chains at the establishment; and
    - (iii) the number of chains, and the chain speeds, for each type of poultry from which prescribed poultry meat or poultry meat products are to be derived.

Note: Examples of types of poultry are fowl, ducks, geese, turkeys and pigeons.

- (3) An application is taken not to have been made if the application does not comply with the requirements referred to in subsection (2).

#### 4-22 Preliminary allocation

- (1) As soon as practicable after receiving an application under subsection 4-21(1) for meat inspection services to be allocated to an establishment, the Secretary must determine the preliminary allocation of meat inspection services to the establishment. The preliminary allocation may be zero.
- (2) In determining the preliminary allocation of meat inspection services to the establishment, the Secretary must have regard to the following:
  - (a) the overall requirements of the industry for meat inspection services;
  - (b) Australia's international obligations;

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- (c) any staffing formula agreed to by the Department and the relevant union or unions of authorised officers;
  - (d) the availability of authorised officers to carry out meat inspection services;
  - (e) management practices at the establishment in relation to meat inspection services;
  - (f) the need to protect the health and safety of authorised officers while they are carrying out their duties in or around the establishment;
  - (g) the construction of the establishment;
  - (h) the intended operations of the establishment.
- (3) Meat inspection services may be allocated to the establishment on any of the following bases, or on any combination of them:
- (a) an annual basis;
  - (b) a monthly basis;
  - (c) a weekly basis.
- (4) Without limiting subsection (3), meat inspection services other than slaughter floor meat inspection services may be allocated to the establishment on either or both of the following bases:
- (a) a daily basis;
  - (b) an hourly basis.

Note: For *slaughter floor meat inspection service*, see section 1-5.

### 4-23 Notice of preliminary allocation

- (1) As soon as practicable after determining the preliminary allocation of meat inspection services to an establishment under section 4-22, the Secretary must give the occupier of the establishment a written notice stating the preliminary allocation of meat inspection services to the establishment.
- (2) If the Secretary considers it appropriate, the notice under subsection (1) may also include advice suggesting ways the occupier could reduce the allocation of meat inspection services to the establishment.

### 4-24 Procedure following notice of preliminary allocation

#### *Acceptance of preliminary allocation and memorandum of agreed intent*

- (1) If the occupier of an establishment accepts the preliminary allocation of meat inspection services to the establishment, the Secretary and the occupier must complete a memorandum of agreed intent in the form approved by the Secretary.
- (2) If, within 7 days after the occupier of an establishment receives notice of the preliminary allocation of meat inspection services to the establishment:
  - (a) the occupier does not apply under subsection (3) for a review of the Secretary's determination of the preliminary allocation; or
  - (b) the Secretary does not give the occupier notice of a revised allocation of meat inspection services to the establishment under subsection 4-25(2); or
  - (c) the occupier and the Secretary do not complete a memorandum of agreed intent;

the Secretary's determination of the preliminary allocation is taken to be a memorandum of agreed intent between the Secretary and the occupier.

*Disputed preliminary allocation and review*

- (3) If the occupier of an establishment does not accept the preliminary allocation of meat inspection services to the establishment, the occupier may, within 7 days after receiving notice of the preliminary allocation, apply to the Secretary, in writing, for the establishment of a committee to review the Secretary's determination of the preliminary allocation.

Note: See section 4-27 in relation to the establishment of a review committee.

#### **4-25 Revised allocation**

- (1) This section applies if:
  - (a) the notice given to the occupier of an establishment under section 4-23 included advice as referred to in subsection (2) of that section; and
  - (b) the occupier implements some or all of the suggestions in the advice; and
  - (c) the implementation of the suggestions means that the preliminary allocation of meat inspection services to the establishment needs to be revised.
- (2) The Secretary must, as soon as practicable:
  - (a) determine a revised allocation of meat inspection services to the establishment; and
  - (b) give the occupier a written notice stating the revised allocation.

#### **4-26 Procedure following notice of revised allocation**

- (1) This section applies if the Secretary gives the occupier of an establishment notice of a revised allocation of meat inspection services to the establishment under subsection 4-25(2).

*Acceptance of revised allocation and memorandum of agreed intent*

- (2) If the occupier accepts the revised allocation, the Secretary and the occupier must complete a memorandum of agreed intent in the form approved by the Secretary.
- (3) If, within 7 days after the occupier receives notice of the revised allocation:
  - (a) the occupier does not apply under subsection (4) for a review of the Secretary's determination of the revised allocation; or
  - (b) the occupier and the Secretary do not complete a memorandum of agreed intent;

the Secretary's determination of the revised allocation is taken to be a memorandum of agreed intent between the Secretary and the occupier.

*Disputed revised allocation and review*

- (4) If the occupier does not accept the revised allocation, the occupier may, within 7 days after receiving notice of the revised allocation, apply to the Secretary, in

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writing, for the establishment of a committee to review the Secretary's determination of the revised allocation.

Note: See section 4-27 in relation to the establishment of a review committee.

### 4-27 Review of Secretary's determination

#### *Establishment of review committee*

- (1) If the occupier of an establishment makes an application under subsection 4-24(3) or 4-26(4), the Secretary must establish a committee (the **review committee**) comprising the following:
  - (a) the occupier or a representative of the occupier;
  - (b) an SES employee, or an acting SES employee, in the Department;
  - (c) a poultry meat industry representative nominated by the occupier;
  - (d) if the occupier did not accept the preliminary allocation or the revised allocation (as the case may be) of meat inspection services to the establishment because of a staffing issue—a representative of each relevant union of authorised officers.
- (2) The Secretary must convene the first meeting of the review committee.

#### *Review of Secretary's determination*

- (3) The review committee must review:
  - (a) the application for review; and
  - (b) the advice (if any) included in the notice given to the occupier under section 4-23; and
  - (c) the determination to which the application relates.
- (4) As soon as practicable and not later than 14 days after its first meeting, the review committee must give a written recommendation to the Secretary on the appropriate allocation of meat inspection services to the establishment.

### 4-28 Determination of new allocation

- (1) As soon as practicable after receiving a recommendation from a review committee under subsection 4-27(4) in relation to an application for review of the allocation of meat inspection services to an establishment, the Secretary must determine a new allocation of meat inspection services to the establishment.

Note: A decision to determine a new allocation of meat inspection services to an establishment is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under subsection (4) of this section must also include the reasons for the decision (see subsection 382(1) of the Act).

- (2) In making a determination under subsection (1), the Secretary must have regard to:
  - (a) the review committee's recommendation; and
  - (b) the matters referred to in subsection 4-22(2).
- (3) The Secretary's determination under subsection (1):



- (a) replaces any earlier determination of the Secretary of an allocation of meat inspection services to the establishment; and
- (b) is taken to be a memorandum of agreed intent between the Secretary and the occupier of the establishment.

*Notice of new allocation*

- (4) After determining a new allocation of meat inspection services to the establishment, the Secretary must give the occupier of the establishment a written notice stating the new allocation of meat inspection services to the establishment.
- (5) The notice under subsection (4) must be given to the occupier as soon as practicable and not later than 45 days after the day the relevant application for review was received by the Secretary.

## Division 2—Variation of meat inspection services

### 4-29 Application to vary allocation of meat inspection services

- (1) The occupier of a registered establishment with an allocation of meat inspection services may apply to the Secretary, in writing, to vary the allocation.

#### *Form of application*

- (2) An application under this section must:
  - (a) if the Secretary has approved, in writing, a manner for making an application—be made in an approved manner; and
  - (b) if the Secretary has approved a form for making an application:
    - (i) include the information required by the form; and
    - (ii) be accompanied by any documents required by the form.

#### *Variations of allocation*

- (3) If the meat inspection services are allocated to the registered establishment on an hourly basis, the application must be made at least 7 days before the proposed variation is to start.
- (4) If the meat inspection services are allocated to the registered establishment other than on an hourly basis, the application must be made at least 30 days before the proposed variation is to start.
- (5) On receiving an application under this section, the Secretary must decide:
  - (a) to vary the allocation of meat inspection services to the establishment as applied for; or
  - (b) to refuse to vary the allocation.

Note: A decision under this subsection to refuse to vary an allocation of meat inspection services to an establishment is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under subsection (7) of this section must also include the reasons for the decision (see subsection 382(1) of the Act).

- (6) In making a decision under subsection (5), the Secretary must have regard to the matters referred to in subsection 4-22(2).

#### *Notice of decision*

- (7) As soon as practicable after making a decision under subsection (5), the Secretary must give the occupier of the establishment written notice of the decision.
- (8) This section does not apply in relation to a variation to which section 4-30 (additional meat inspection services) or 4-31 (shutdown) applies.

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**4-30 Application for additional allocation of meat inspection services**

- (1) The occupier of a registered establishment with an allocation of meat inspection services may apply to the Secretary, in writing, for additional meat inspection services to be allocated to the establishment.

*Form of application*

- (2) An application under this section must:
- (a) if the Secretary has approved, in writing, a manner for making an application—be made in an approved manner; and
  - (b) if the Secretary has approved a form for making an application:
    - (i) include the information required by the form; and
    - (ii) be accompanied by any documents required by the form.

*Services allocated on annual basis*

- (3) If meat inspection services are allocated to a registered establishment on an annual basis:
- (a) an application may be made for additional meat inspection services to be allocated on a monthly or a weekly basis; and
  - (b) the application must be made at least 14 days before the proposed additional meat inspection services are to start.

*Services allocated on monthly basis*

- (4) If meat inspection services are allocated to a registered establishment on a monthly basis:
- (a) an application may be made for additional meat inspection services to be allocated on a weekly basis; and
  - (b) the application must be made at least 14 days before the proposed additional meat inspection services are to start.

*Services allocated on weekly basis*

- (5) If meat inspection services are allocated to a registered establishment on a weekly basis:
- (a) an application may be made for additional meat inspection services to be allocated on a weekly basis or a daily basis; and
  - (b) the application must be made:
    - (i) for additional meat inspection services on a weekly basis—at least 14 days before the proposed additional meat inspection services are to start; or
    - (ii) for additional meat inspection services on a daily basis—at least 7 days before the proposed additional meat inspection services are to start.

*Services allocated on daily basis*

- (6) If meat inspection services are allocated to a registered establishment on a daily basis:

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- (a) an application may be made for additional meat inspection services to be allocated on a daily basis; and
- (b) the application must be made at least 7 days before the proposed additional meat inspection services are to start.

*Services allocated on hourly basis*

- (7) If meat inspection services are allocated to a registered establishment on an hourly basis:
  - (a) an application may be made for additional meat inspection services to be allocated on an hourly basis; and
  - (b) the application must be made at least 7 days before the proposed additional meat inspection services are to start.

*Decision on application and notice*

- (8) On receiving an application under this section, the Secretary must decide:
  - (a) to allocate the additional meat inspection services to the establishment applied for; or
  - (b) to refuse to allocate the additional meat inspection services.

Note: A decision to refuse to allocate additional meat inspection services to a registered establishment is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under subsection (9) of this section must also include the reasons for the decision (see subsection 382(1) of the Act).

- (9) As soon as practicable after making a decision under subsection (8), the Secretary must give the occupier of the establishment written notice of the decision.
- (10) If an application under this section is not made before the time referred to in subsections (3) to (7), the Secretary must make a decision under subsection (8) as soon as possible if it is reasonable in the circumstances to do so.

*Termination of additional meat inspection services*

- (11) If additional meat inspection services are allocated to a registered establishment under this section, and the application for the additional services specified the period during which the additional services were to be provided, the Secretary must not terminate any of the additional services until the end of the specified period unless the occupier of the establishment has given notice under section 4-33 that the occupier wishes to terminate some, or all, of the additional meat inspection services.

**4-31 Notification that meat inspection services not required during shutdown period**

- (1) The occupier of a registered establishment to which meat inspection services are allocated on an annual basis, or on an annual basis and another basis (for example a monthly basis), may notify the Secretary, in writing, that the meat inspection services are not required for a period (which must be a continuous period of at least 14 days) specified in the notice.
- (2) The notice must be given at least 14 days before the start of the specified period.

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### 4-32 Variation by Secretary of allocation of meat inspection services

- (1) This section applies if:
  - (a) there is a change (a **relevant change**) to any of the following matters:
    - (i) the overall requirements of the industry for meat inspection services;
    - (ii) Australia's international obligations in relation to the export of prescribed poultry meat or poultry meat products;
    - (iii) any staffing formula agreed to by the Department and the relevant union or unions of authorised officers;
    - (iv) the availability of authorised officers to carry out meat inspection services;
    - (v) the need to protect the health and safety of authorised officers while they are performing functions or exercising powers under the Act in or at a registered establishment;
    - (vi) the construction of a particular registered establishment where meat inspection services are carried out;
    - (vii) the intended operations of a particular registered establishment where meat inspection services are carried out;
    - (viii) the management practices in relation to meat inspection services of a particular registered establishment; or
  - (b) an audit report under section 9-5 includes a recommendation that the allocation of meat inspection services to a particular registered establishment where meat inspection services are carried out be varied for a specified period of time.
- (2) The Secretary may vary the allocation of meat inspection services to registered establishments affected by a relevant change or to a registered establishment referred to in paragraph (1)(b).
- (3) If the Secretary varies the allocation of meat inspection services to a registered establishment under this section, the Secretary must notify the occupier of the registered establishment, in writing, of:
  - (a) the varied allocation of meat inspection services to the establishment; and
  - (b) if the establishment is a registered establishment referred to in paragraph (1)(b)—the date the varied allocation ceases to have effect.

Note: The Secretary may direct that meat inspection services not be carried out at a registered establishment if a cost-recovery charge in relation to meat inspection services provided at the establishment remains unpaid after becoming due and payable (see section 406 of the Act).

#### *Reconsideration of varied allocation*

- (4) If:
  - (a) the occupier of a registered establishment is notified of a varied allocation of meat inspection services under subsection (3); and
  - (b) the occupier does not agree with the varied allocation;the occupier may apply to the Secretary, in writing, for reconsideration of the varied allocation.

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- (5) On receiving an application from the occupier of a registered establishment under subsection (4), the Secretary must enter into negotiations with the occupier in relation to the varied allocation.
- (6) If, at the completion of negotiations under subsection (5), the occupier of the registered establishment and the Secretary cannot reach agreement:
  - (a) the Secretary must seek to reach agreement with a representative (the *occupier's representative*) of the relevant industry organisation nominated by the occupier; and
  - (b) if the Secretary cannot reach agreement with the occupier's representative—the Secretary must, having considered the views put to the Secretary by the occupier and the occupier's representative and the matters referred to in paragraph (1)(a), determine a new allocation of meat inspection services to the registered establishment.

Note: A decision to determine a new allocation of meat inspection services to an establishment is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under paragraph (7)(b) of this section must also include the reasons for the decision (see subsection 382(1) of the Act).

- (7) If the Secretary determines a new allocation of meat inspection services to a registered establishment under paragraph (6)(b):
  - (a) the varied allocation to the registered establishment made under subsection (2) ceases to have effect; and
  - (b) the Secretary must, as soon as practicable and not later than 45 days after the day the application for reconsideration of the varied allocation was received, give the occupier of the registered establishment a written notice stating:
    - (i) that a new allocation of meat inspection services to the registered establishment has been determined; and
    - (ii) the new allocation of meat inspection services to the registered establishment.

**4-33 Notification of termination of meat inspection services**

- (1) The occupier of a registered establishment to which meat inspection services are allocated may notify the Secretary, in writing, that the occupier wishes to terminate some, or all, of the meat inspection services (including any additional meat inspection services allocated to the registered establishment under section 4-30).
- (2) The notice must be given at least 14 days before the proposed termination of the meat inspection services.

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## **Chapter 5—Approved arrangements**

### **Part 1—Requirements for approval**

#### **5-1 Purpose of this Part**

For the purposes of paragraph 151(2)(d) of the Act, this Part prescribes other requirements that must be met for approval of a proposed arrangement for a kind of export operations in relation to prescribed poultry meat or poultry meat products.

#### **5-2 Other requirements—proposed arrangement for operations to prepare prescribed poultry meat or poultry meat products**

- (1) This section applies in relation to a proposed arrangement for operations to prepare prescribed poultry meat or poultry meat products for export at a registered establishment.

##### *General requirements*

- (2) The proposed arrangement must record that the applicant for approval of the arrangement is committed:
- (a) to meeting the objects referred to in section 3 of the Act that are applicable to the operations and the prescribed poultry meat or poultry meat products to be covered by the arrangement; and
  - (b) to complying with the requirements of the Act in relation to those operations.
- (3) The proposed arrangement must cover each stage of the operations.
- (4) The proposed arrangement must record details of the following matters:
- (a) the applicant's management practices;
  - (b) the organisational structure of the applicant;
  - (c) the resources to be provided to carry out the operations to be covered by the arrangement;
  - (d) the personnel who are to carry out the operations and the training those personnel receive;
  - (e) the system of controls to be implemented to ensure that the conditions prescribed by Divisions 2 to 8 of Part 2 of this Chapter will be complied with in relation to the operations to be covered by the arrangement;
  - (f) any other system of controls to be implemented to ensure that there will be reasonable grounds for issuing:
    - (i) an export permit for the prescribed poultry meat or poultry meat products to be covered by the arrangement; or
    - (ii) a government certificate in relation to the prescribed poultry meat or poultry meat products to be covered by the arrangement.
- (5) The matters required to be recorded in the proposed arrangement by paragraphs (4)(a) to (d) must be appropriate to ensure compliance with the

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requirements of the Act in relation to the operations to be covered by the arrangement.

- (6) If compliance with the requirements of the Act (not including section 5-4 of this instrument) will not be sufficient to ensure that all importing country requirements relating to the operations and the prescribed poultry meat or poultry meat products to be covered by the proposed arrangement will be met, the arrangement must:
- (a) identify each importing country requirement that will not be met; and
  - (b) record details of the control measures to be implemented to ensure that each importing country requirement referred to in paragraph (a) will be met.

Note: It is a condition of an approved arrangement for export operations in relation to prescribed poultry meat or poultry meat products that all importing country requirements relating to export operations carried out in relation to the poultry meat or poultry meat products in accordance with the arrangement, and the poultry meat or poultry meat products, are met (see section 5-4).

### *Requirement for HACCP plan*

- (7) The proposed arrangement must provide for the implementation of an HACCP plan for each stage of the operations to prepare the prescribed poultry meat or poultry meat products for export.

### *Requirement relating to poultry meat or poultry meat products that are not for export etc.*

- (8) If operations to prepare poultry meat or poultry meat products that are not for export, or are animal food or pharmaceutical material, are also to be carried out at the registered establishment, the proposed arrangement must:
- (a) specifically provide for those operations; and
  - (b) record details of the procedures (including any system of controls) to be implemented for the segregation, identification and security of prescribed poultry meat or poultry meat products prepared at the establishment to ensure the wholesomeness and integrity of the prescribed poultry meat or poultry meat products.

Note: See section 5-26 for restrictions on operations to prepare prescribed poultry meat or poultry meat products carried out at an establishment where operations to prepare poultry meat or poultry meat products that are not for export, or that are animal food or pharmaceutical material, are carried out.

### *Requirement relating to potable water*

- (9) If the proposed arrangement provides for potable water to be used in carrying out operations to prepare prescribed poultry meat or poultry meat products for export, the arrangement must record details of the system of controls (including in relation to treatment, testing and verification) to be implemented to ensure that the water will be free from:
- (a) harmful substances; and
  - (b) pathogenic organisms.



## **Part 2—Conditions of approved arrangement**

### **Division 1—Purpose of this Part**

#### **5-3 Purpose of this Part**

- (1) For the purposes of paragraph 152(1)(b) of the Act, this Part prescribes conditions of an approved arrangement for a kind of export operations in relation to prescribed poultry meat or poultry meat products.
- (2) A provision of this Part applies in relation to an approved arrangement referred to in subsection (1) if the provision relates to a kind of export operations that are covered by the arrangement.

Note 1: If an approved arrangement is renewed, the conditions also apply in relation to the renewed approved arrangement (see paragraph 157(1)(b) of the Act).

Note 2: The holder of an approved arrangement may commit an offence or be liable to a civil penalty if a condition of the approved arrangement is contravened (see section 184 of the Act).

## **Division 2—General**

### **5-4 Importing country requirements must be met**

An approved arrangement must ensure that all importing country requirements relating to the following are met:

- (a) export operations carried out in relation to prescribed poultry meat or poultry meat products in accordance with the arrangement;
- (b) the prescribed poultry meat or poultry meat products in relation to which the export operations are carried out.

Note: For guidance on importing country requirements for specific importing countries, see MICoR.

### **5-5 Requirements of Australian Poultry Meat Standard must be met**

An approved arrangement must ensure that the requirements of the Australian Poultry Meat Standard, as modified by a provision of this instrument, are met in relation to the following:

- (a) export operations carried out in relation to prescribed poultry meat or poultry meat products in accordance with the arrangement;
- (b) the prescribed poultry meat or poultry meat products in relation to which the export operations are carried out.

Note 1: The requirements of the Australian Poultry Meat Standard relating to temperature controls must be complied with (see, for example, clauses 15.87 to 15.92 (spin chilling), 15.96 (chilling), 15.97 (freezing) and 15.110 to 15.113 (thawing) of the Australian Poultry Meat Standard).

Note 2: See Division 2 of Part 2 of Chapter 1 of this instrument for modifications of the Australian Poultry Meat Standard.

## **Division 3—Preparation and transport**

### **5-6 Humane treatment of poultry**

Prescribed poultry meat and poultry meat products must be derived from poultry that has been treated humanely before and during slaughter at registered establishments in accordance with the requirements of the Australian Poultry Meat Standard.

Note: For information about humane treatment of poultry, see the *Model Code of Practice for the Welfare of Animals: Livestock at Slaughtering Establishments*, published by CSIRO Publishing. This document could in 2021 be viewed on CSIRO Publishing's website (<https://www.publish.csiro.au>).

### **5-7 Poultry fat**

Poultry fat for export as food must be derived only from carcasses or carcase parts that are passed as fit for human consumption.

### **5-8 Dressing poultry**

Poultry must be unconscious, and primary bleeding must have been completed, before dressing takes place.

### **5-9 Areas where post-mortem inspections are carried out**

The area in a registered establishment where post-mortem inspections of carcasses or carcase parts are carried out must not be encroached upon by equipment or persons (other than authorised officers carrying out the inspections).

### **5-10 Disposition if carcase parts aggregated**

A disposition that is applied by an authorised officer, or a person designated in an approved arrangement to apply the disposition, to a carcase part that is aggregated with a part derived from a different poultry carcase, must be the most restrictive of the dispositions applied to:

- (a) any of the carcasses from which the aggregated parts are derived; and
- (b) any of the carcase parts forming part of the aggregation.

### **5-11 Compliance with decisions and dispositions**

- (1) A decision or disposition, and any conditions specified in relation to a decision or disposition, applied to poultry by an authorised officer must be complied with.
- (2) A disposition, and any conditions specified in relation to a disposition, applied to carcasses or carcase parts, or prescribed poultry meat or poultry meat products, by an authorised officer must be complied with.
- (3) For the purposes of this section, a **decision or disposition**:
  - (a) is a decision about the admission of poultry for slaughter, or a disposition that may be applied to poultry, carcasses or carcase parts, or prescribed

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poultry meat or poultry meat products, by an authorised officer under Division 2 of Part 4 of Chapter 9; and

- (b) includes:
- (i) a variation of such a decision or disposition; and
  - (ii) any conditions specified in relation to such a decision or disposition.

Note 1: For decisions and dispositions that may be applied by authorised officers in relation to poultry, carcasses or carcase parts, or prescribed poultry or poultry meat products, see sections 9-21 to 9-24.

Note 2: Carcasses or carcase parts may be retained for further inspection, tests or treatment pending final disposition (see paragraphs 9-23(2)(d) and (3)(a)).

### **5-12 Loading prescribed poultry meat or poultry meat products for transfer between registered establishments**

Prescribed poultry meat or poultry meat products for export must not be loaded into a poultry meat transport vehicle for transfer between registered establishments unless the vehicle:

- (a) is not a source of contamination of the poultry meat or poultry meat products; and
- (b) is clean; and
- (c) is free of odours and materials that are capable of contaminating the poultry meat or poultry meat products or their packaging; and
- (d) is equipped or provided with an appropriate and adequate means of refrigeration; and
- (e) has an accurate measuring device to assess whether the requirements of this instrument are complied with during transport and loading; and
- (f) is maintained in a good state of repair and working order having regard to its use; and
- (g) is capable of being secured by a seal that is an official mark.

Note: See also clauses 11.1 to 11.4 of the Australian Poultry Meat Standard.

### **5-13 Loading of prescribed poultry meat or poultry meat products—supervision**

- (1) Loading of prescribed poultry meat or poultry meat products for export must be carried out under the supervision of:
  - (a) an authorised officer; or
  - (b) a person who manages or controls operations to prepare the poultry meat or poultry meat products for export at the registered establishment where operations to prepare the poultry meat or poultry meat products were last carried out, if:
    - (i) the person is designated in an approved arrangement that covers those operations as a person who may supervise the loading of prescribed poultry meat or poultry meat products for export; and
    - (ii) the supervision is in accordance with the arrangement.
- (2) A person who supervises the loading of prescribed poultry meat or poultry meat products for export must give the exporter of the poultry meat or poultry meat products a declaration stating that, at the date the declaration is made:

- (a) the prescribed export conditions, and any other conditions that apply in relation to the poultry meat or poultry meat products under the Act, have been complied with; and
- (b) importing country requirements relating to the poultry meat or poultry meat products are met.

Note 1: Electronic message formats should be compliant with the United Nations Rules for Electronic Data Interchange for Administration, Commerce and Transport (UNEDIFACT). These Rules could in 2021 be viewed on the website of the United Nations Economic Commission for Europe (<https://www.unece.org>).

Note 2: For when requirements to give information (including a declaration) in writing can be met by an electronic communication, see section 9 of the *Electronic Transactions Act 1999*. For electronic signatures, see section 10 of that Act.

Note 3: The exporter must retain each declaration given to the exporter under this subsection for at least 2 years (see subsection 11-6(2)).

- (3) A declaration referred to in subsection (2):
  - (a) must not be made if there are no reasonable grounds for making it; and
  - (b) must not be false or misleading; and
  - (c) must be signed and dated by the person who made it.

Note: A person may commit an offence or be liable to a civil penalty if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code* and sections 368 and 369 of the Act).

#### **5-14 Prohibitions on loading**

- (1) Prescribed poultry meat or poultry meat products must, at the time they are loaded for export, be packaged to effectively protect them from contamination and deterioration in the conditions under which they are loaded, stored and transported from Australian territory.
- (2) Prescribed poultry meat or poultry meat products that are not wholesome must not be loaded for export.

Note: For requirements relating to packaging, see clauses 15.114 to 15.125 of the Australian Poultry Meat Standard.

#### **5-15 Container system units and equipment for loading aircraft and vessels**

- (1) Prescribed poultry meat or poultry meat products must not be loaded for export unless:
  - (a) the container system unit or the area on an aircraft or vessel into which the poultry meat or poultry meat products are to be loaded:
    - (i) is not a source of contamination of the poultry meat or poultry meat products; and
    - (ii) is clean; and
    - (iii) is free of odours and materials that are capable of contaminating poultry meat or poultry meat products or their packaging; and
    - (iv) if necessary, is equipped or provided with an appropriate and adequate means of refrigeration; and
    - (v) is maintained in a good state of repair and working order having regard to its use; and

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- (b) if the container system unit is intended for transport by sea—the container system unit and the area into which the poultry meat or poultry meat products are to be loaded are capable of being secured by a bolt seal that is an official mark.

Note: See section 8-13 in relation to bolt seals.

- (2) Prescribed poultry meat or poultry meat products must be stowed in a container system unit, or an area on an aircraft or vessel, in a manner that ensures that their condition and packaging are not likely to be adversely affected during the flight or voyage.

### **5-16 When a bolt seal must be applied to container system unit**

If prescribed poultry meat or poultry meat products are loaded into a container system unit (other than a container system unit intended for transport by air), a bolt seal that is an official mark must be applied to the container system unit.

Note 1: For guidance on when, for animal disease or integrity reasons, a seal may need to be applied to a container system unit intended for transport by air if it transits another country, see MICoR.

Note 2: See section 8-13 in relation to bolt seals.

Note 3: The bolt seal must be applied by a person referred to in subsection 8-22(2) (see subsection 8-22(1)).

Note 4: A person may commit an offence or be liable to a civil penalty for altering or interfering with an official mark (see Division 3 of Part 3 of Chapter 8 of the Act and section 8-24 of this instrument).

### **5-17 Poultry meat transport vehicles, measuring devices and other equipment**

- (1) Prescribed poultry meat or poultry meat products must be transported to and from registered establishments using poultry meat transport vehicles and equipment that comply with the applicable conditions prescribed by this instrument.

Note 1: See, for example, sections 5-12 to 5-14.

Note 2: The applicable requirements of the Australian Poultry Meat Standard (see, for example, clauses 15.126 to 15.129) must also be complied with (see section 5-5 of this instrument).

- (2) Poultry meat transport vehicles and other equipment used in transporting prescribed poultry meat or poultry meat products must be of a kind that ensures that the transport of the poultry meat or poultry meat products complies with the applicable conditions prescribed by this Part.

Note 1: See, for example, sections 5-12 to 5-15.

Note 2: The applicable requirements of the Australian Poultry Meat Standard (see, for example, clauses 15.126 to 15.129) must also be complied with (see section 5-5 of this instrument).

- (3) Poultry meat transport vehicles and container system units used to transport prescribed poultry meat or poultry meat products must have accurate measuring devices to assess whether the applicable conditions prescribed by this Part are complied with during transport and loading of the poultry meat or poultry meat products.

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## Division 4—Trade descriptions

Note: See Part 2 of Chapter 8 of the Act and Part 2 of Chapter 8 of this instrument in relation to trade descriptions.

### 5-18 Trade description must be applied to prescribed poultry meat and poultry meat products that are intended to be exported

- (1) A trade description including the information referred to in subsection (3) must be applied to prescribed poultry meat or poultry meat products that are intended to be exported.

Note 1: For *trade description*, see section 246 of the Act. See also Chapter 8 of this instrument.

Note 2: For *applied*, in relation to a trade description, see section 247 of the Act.

Note 3: For alternative requirements for prescribed poultry meat or poultry meat products for further processing, see section 5-20 of this instrument.

Note 4: If the relevant importing country authority specifies that it does not require a trade description requirement prescribed by this Division to be met, the Secretary may approve a variation of the approved arrangement to provide that the trade description requirement does not apply (see section 161 of the Act and section 5-39 of this instrument).

- (2) The trade description must be applied no later than the time the prescribed poultry meat or poultry meat products are packed.

#### *Content of trade description*

- (3) For the purposes of subsection (1), the information in relation to the prescribed poultry meat or poultry meat products is as follows:
- (a) a full description of the poultry meat or poultry meat products including the type of poultry from which the poultry meat or poultry meat products were derived;
  - (b) the net weight of the poultry meat or poultry meat products;
  - (c) the country of origin of the poultry meat or poultry meat products;
  - (d) the registration number of the registered establishment where the poultry meat or poultry meat products were last packed before export;
  - (e) the name and address of:
    - (i) the occupier of the registered establishment referred to in paragraph (d); or
    - (ii) the exporter or consignee of the poultry meat or poultry meat products;
  - (f) for packaged poultry meat or poultry meat products—the date of packaging using the format Day-Month abbreviation-Year with leading zeros (for example, 02Feb2021);
  - (g) for packaged poultry meat or poultry meat products that were packed on behalf of a person other than the occupier of the registered establishment where operations to prepare the poultry meat or poultry meat products for export were carried out:
    - (i) the name of the person who packed the poultry meat or poultry meat products; and

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- (ii) the name of the person on whose behalf the poultry meat or poultry meat products were packed;
- (h) for poultry meat or poultry meat products that contain 2 or more ingredients—a list of the ingredients (other than any processing aids) in descending order of ingoing weight;
- (i) the identity of the batch;
- (j) for poultry meat or poultry meat products other than shelf-stable poultry meat products—a statement indicating whether they should be kept chilled or frozen;
- (k) for canned poultry meat or poultry meat products:
  - (i) the registration number allocated to the registered establishment where the canning was carried out, preceded by the letters “EX”; and
  - (ii) the date of packaging (in code or in clear); and
  - (iii) a description of the contents of the cans (in code or in clear).

Note 1: The trade description must be accurate (see section 8-6). See also Division 3 of Part 2 of Chapter 8 of the Act for offences and civil penalty provisions in relation to false trade descriptions.

Note 2: The Australian Consumer Law (within the meaning of the *Competition and Consumer Act 2010*) contains prohibitions on engaging in conduct that is misleading or deceptive or is likely to mislead or deceive (see, for example, section 18 of that Law) and prohibitions on making false or misleading representations, including about the country of origin of goods (see, for example, sections 29 and 151 of that Law). Part 5-3 of that Law provides defences that certain country of origin representations made about goods do not contravene section 18 (misleading or deceptive conduct) or paragraph 29(1)(a) or (k) or 151(1)(a) or (k) (false or misleading representations) of that Law. For further guidance on correctly describing the country of origin, see the ACCC’s website (<https://www.accc.gov.au>).

Note 3: Examples of types of poultry for the purposes of paragraph (a) are fowl, ducks, geese, turkeys and pigeons.

Note 4: For **date of packaging**, see section 1-5.

- (4) For the purposes of paragraph (3)(d), the registration number must be clearly identifiable as being the registration number of the registered establishment referred to in that paragraph.

*Requirements of the Australia New Zealand Food Standards Code*

- (5) Prescribed poultry meat and poultry meat products must meet each applicable requirement for the labelling and naming of ingredients and compound ingredients specified in Standard 1.2.4 of the Australia New Zealand Food Standards Code.

Note: For **Australia New Zealand Food Standards Code**, see section 12 of the Act.

**5-19 Prescribed poultry meat or poultry meat products in cartons or cans**

- (1) The trade description applied to prescribed poultry meat or poultry meat products contained in a carton must be attached to one end panel of the carton.

Note: For **carton**, see section 1-5.

- (2) The information required by paragraph 5-18(3)(k) relating to canned prescribed poultry meat or poultry meat products must:



- (a) be embossed on the cans containing the poultry meat or poultry meat products; or
- (b) be indelibly applied directly to the cans.

### **5-20 Prescribed poultry meat or poultry meat products for further processing**

- (1) Despite subsection 5-18(1), a trade description including only the following information may be applied to prescribed poultry meat or poultry meat products that are to be transferred between registered establishments for further processing:
  - (a) the type of poultry from which the poultry meat or poultry meat products were derived;
  - (b) for packaged poultry meat or poultry meat products—the date of packaging;
  - (c) the words “FOR FURTHER PROCESSING BEFORE EXPORT”.

Note 1: Examples of types of poultry are fowl, ducks, geese, turkeys and pigeons.

Note 2: For *date of packaging*, see section 1-5.

- (2) If a trade description is applied to prescribed poultry meat or poultry meat products as permitted by subsection (1), then, before the poultry meat or poultry meat products are loaded for export:
  - (a) a trade description containing all of the information required by subsection 5-18(3) must be applied to the poultry meat or poultry meat products; and
  - (b) the words “FOR FURTHER PROCESSING BEFORE EXPORT” must be removed from the trade description.

Note: For the requirement to apply an official mark to the poultry meat and poultry meat products, see Division 5 of this Part.

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## **Division 5—Official marks**

Note: See Part 3 of Chapter 8 of the Act and Part 3 of Chapter 8 of this instrument in relation to official marks.

### **5-21 References to particular official marks**

In this Division, a reference to a particular official mark is a reference to the official mark with that description specified in Division 1 of Part 3 of Chapter 8 of this instrument.

### **5-22 Cartons containing prescribed poultry meat or poultry meat products**

#### *Australia Inspected official mark*

- (1) An Australia Inspected official mark must be applied to each carton in which prescribed poultry meat or poultry meat products that are passed by a Commonwealth authorised officer as fit for human consumption are packed.

Note 1: The official mark must be applied by a person referred to in subsection 8-22(2) (see subsection 8-22(1)).

Note 2: Importing countries may require another mark to be applied to a carton containing prescribed poultry meat or poultry meat products in addition to the official mark.

#### *Australia Approved official mark*

- (2) An Australia Approved official mark must be applied to each carton in which prescribed poultry meat or poultry meat products are packed if:
- (a) the poultry meat or poultry meat products are passed as fit for human consumption by a person designated in an approved arrangement covering operations to prepare the poultry meat or poultry meat products for export as a person who may carry out inspections and apply dispositions in relation to the poultry meat or poultry meat products; and
  - (b) the approved arrangement provides for inspections of the poultry meat or poultry meat products to be carried out under the approved arrangement; and
  - (c) the poultry meat or poultry meat products are intended to be exported.

Note 1: The official mark must be applied by a person referred to in subsection 8-22(2) (see subsection 8-22(1)).

Note 2: Importing countries may require another mark to be applied to a carton containing prescribed poultry meat or poultry meat products in addition to the official mark.

#### *Application of official mark to carton*

- (3) An official mark applied to a carton under this section must be applied to the carton:
- (a) as soon as practicable after it is packed; and
  - (b) before the carton is removed from the registered establishment where it was packed.
- (4) An official mark applied to a carton under this section must be applied:
- (a) to the same end panel of the carton as the trade description required to be applied under subsection 5-19(1); and

(b) in a location that is conspicuous during handling.

### **5-23 Other applications of official mark to prescribed poultry meat or poultry meat products**

An official mark may be applied to prescribed poultry meat or poultry meat products (other than as required by section 5-16 or 5-22) only if the official mark is applied to the prescribed poultry meat or poultry meat products at a registered establishment in accordance with an approved arrangement.

Note 1: For example, an official mark may be inserted into anything in which the poultry meat or poultry meat products are packaged (see paragraph 8-19(1)(c)).

Note 2: The official mark must be applied by a person referred to in subsection 8-22(2) (see subsection 8-22(1)).

### **5-24 State or Territory classification marks must not be applied**

Prescribed poultry meat or poultry meat products for export must not bear a mark indicating a classification of the poultry meat or poultry meat products in accordance with a law of a State or Territory.

## **Division 6—Segregation, identification, security, traceability and integrity**

### **5-25 Segregation, identification, security and traceability—general**

To the extent necessary to ensure that one or more of the objects referred to in section 3 of the Act is met:

- (a) poultry from which poultry meat and poultry meat products are to be derived and poultry meat and poultry meat products meeting a particular description:
  - (i) must be identified and segregated during preparation and transport from other poultry, poultry meat or poultry meat products not meeting that description; and
  - (ii) must not be confused with other poultry, poultry meat or poultry meat products not meeting that description; and
  - (iii) must be prepared and transported under conditions of security; and
- (b) inventory controls and tracing systems must be maintained.

Note 1: For example, the separate identification and segregation of inedible material is required (see section 5-27).

Note 2: For requirements for inventory controls, see section 5-35.

Note 3: For tracing systems for recall purposes, see paragraph 14(a) of the Australian Poultry Meat Standard.

### **5-26 Establishments where poultry meat or poultry meat products that are not for export etc. are prepared**

- (1) Operations to prepare prescribed poultry meat or poultry meat products must not be carried out at an establishment where operations (the *other operations*) to prepare any of the following are also carried out:
  - (a) poultry meat or poultry meat products that are not for export;
  - (b) poultry meat or poultry meat products that are animal food or pharmaceutical material.
- (2) Subsection (1) does not apply if:
  - (a) the other operations are carried out at a registered establishment in accordance with an approved arrangement; and
  - (b) the wholesomeness and integrity of the prescribed poultry meat or poultry meat products is ensured (including by compliance with subsection (3)).
- (3) Procedures (including systems of controls) for the segregation, identification and security of the prescribed poultry meat or poultry meat products must be sufficient to ensure their wholesomeness and integrity during packing, storing, handling and loading.

### **5-27 Integrity—general**

- (1) The integrity of prescribed poultry meat or poultry meat products must be able to be ensured.

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- (2) Without limiting subsection (1), prescribed poultry meat or poultry meat products must not be compromised by the presence of any of the following:
- (a) poultry meat or poultry meat products that were previously not prepared at a registered establishment (including imported poultry meat and poultry meat products);
  - (b) poultry meat or poultry meat products that are not for export or that have left the export system;
  - (c) any parts of poultry that are inedible (including any parts of an animal received for the purpose of inedible rendering or disposal by incineration);
  - (d) poultry meat or poultry meat products that are brought to an establishment, but are not removed or unloaded at the establishment from the conveyance that brought them to the establishment;
  - (e) poultry or poultry meat or poultry meat products that are retained for further inspection, tests or treatment;
  - (f) poultry meat or poultry meat products that are animal food or pharmaceutical material.

Note: For *conveyance*, see section 12 of the Act.

- (3) Poultry meat or poultry meat products referred to in paragraphs (2)(a) and (b):
- (a) must be readily distinguishable from prescribed poultry meat or poultry meat products during concurrent boning; and
  - (b) must be segregated from prescribed poultry meat or poultry meat products at all times.
- (4) The identity of prescribed poultry meat or poultry meat products:
- (a) must be readily ascertainable; and
  - (b) must not be lost or confused with the identity of any other poultry meat or poultry meat products.

### 5-28 Identification—type of poultry

- (1) A kind of prescribed poultry meat or poultry meat product must be derived from the type of poultry it purports to be derived from.

Note: Examples of types of poultry are fowl, ducks, geese, turkeys and pigeons.

- (2) To avoid doubt, a kind of prescribed poultry meat or poultry meat product (the *relevant poultry meat or poultry meat product*) is not derived from the type of poultry it purports to be derived from if meat or meat products derived from another type of animal (including another type of poultry) are substituted wholly or partly for the relevant poultry meat or poultry meat product.

### 5-29 Export market eligibility

- (1) The export market eligibility of prescribed poultry meat or poultry meat products must be maintained.
- (2) Prescribed poultry meat or poultry meat products that are not eligible for all export markets:
- (a) must be identified so that their export market eligibility can be ascertained; and

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- (b) must be segregated from poultry meat and poultry meat products with different export market eligibility.

**5-30 Action if prescribed poultry meat or poultry meat products are unwholesome or integrity etc. cannot be ensured**

- (1) This section applies if the holder of an approved arrangement for operations to prepare prescribed poultry meat or poultry meat products for export at a registered establishment reasonably believes that any of the following circumstances exists:
  - (a) there is, or there will be, a failure to meet an importing country requirement relating to prescribed poultry meat or poultry meat products prepared for export at the registered establishment;
  - (b) prescribed poultry meat or poultry meat products prepared for export at the registered establishment in accordance with the approved arrangement are unwholesome or have deteriorated;
  - (c) the identification, traceability or integrity of prescribed poultry meat or poultry meat products prepared for export at the registered establishment in accordance with the approved arrangement cannot be ensured;
  - (d) there is or there has been a failure of a procedure, or another circumstance occurs or has occurred, at the registered establishment that:
    - (i) has affected, or could affect, the wholesomeness or integrity of prescribed poultry meat or poultry meat products prepared for export at the establishment in accordance with the approved arrangement (including prescribed poultry meat or poultry meat products to be derived from animals to be slaughtered at the establishment); or
    - (ii) has caused, or could cause, prescribed poultry meat or poultry meat products at the establishment (including prescribed poultry meat or poultry meat products to be derived from animals to be slaughtered at the establishment) to deteriorate;
  - (e) a consignment of prescribed poultry meat or poultry meat products was transferred to the registered establishment (the *receiving establishment*) from another registered establishment and the information and declarations in relation to the consignment required by subsection 5-31(1):
    - (i) were not given to the occupier of the receiving establishment, or did not accompany the consignment, as required by paragraph 5-31(2)(b); or
    - (ii) were inaccurate or incomplete.

Note: Poultry meat and poultry meat products may have deteriorated but may still be wholesome if, for example, refrigeration requirements are not met.

- (2) As soon as practicable after the holder of the approved arrangement becomes aware of a circumstance referred to in subsection (1) in relation to prescribed poultry meat or poultry meat products, the holder must:
  - (a) identify the poultry meat or poultry meat products; and
  - (b) notify an authorised officer of the circumstance; and
  - (c) ensure that the poultry meat or poultry meat products are held separately under conditions of security until an authorised officer:

- (i) applies a disposition to the poultry meat or poultry meat products under section 9-30; or
- (ii) notifies the holder of action to be taken in relation to the poultry meat or poultry meat products.

Note 2: For a similar requirement if poultry meat or poultry meat products are suspected of not being wholesome, see clause 17 of the Australian Poultry Meat Standard.

- (3) If the holder of an approved arrangement gives a notification under paragraph (2)(b) orally, the holder must, as soon as practicable after giving the notification, also give the notification in writing.

## Division 7—Transfers

### 5-31 Information and declarations relating to transferred prescribed poultry meat or poultry meat products

- (1) If a consignment of prescribed poultry meat or poultry meat products is transferred from a registered establishment (the *transferring establishment*) to another registered establishment (the *receiving establishment*), the following information and declarations must be given to the occupier of the receiving establishment:
- (a) a full description of the poultry meat or poultry meat products;
  - (b) information about storage conditions (that is, whether the poultry meat or poultry meat products are chilled, frozen or shelf-stable);
  - (c) the name, address and registration number of the transferring establishment;
  - (d) the date or dates when operations to prepare the poultry meat or poultry meat products (other than storing, handling or loading) were last carried out before the transfer;
  - (e) the quantity of poultry meat or poultry meat products in the consignment;
  - (f) if the poultry meat or poultry meat products are in packages—the number and kind of packages;
  - (g) the identification of the conveyance used to transport the poultry meat or poultry meat products;
  - (h) a description of any means of security applied to the poultry meat or poultry meat products;
  - (i) the name, address and registration number of the receiving establishment;
  - (j) if operations to prepare the poultry meat or poultry meat products were carried out to meet importing country requirements of one or more countries—the name of each country;
  - (k) a declaration stating that, at the date the declaration is made:
    - (i) the prescribed export conditions, and any other conditions that apply in relation to the poultry meat or poultry meat products under the Act, have been complied with; and
    - (ii) importing country requirements relating to the poultry meat or poultry meat products are met;
  - (l) a declaration stating that all of the information given in relation to the consignment is true and complete.

Note 1: For *conveyance*, see section 12 of the Act.

Note 2: See subsections (2) to (4) for matters relating to the declarations referred to in paragraphs (k) and (l) of this subsection.

- (2) The information and declarations in relation to a consignment required to be given to the occupier of the receiving establishment under subsection (1) must:
- (a) be in writing and in a form approved by the Secretary; and
  - (b) either:
    - (i) be given to the occupier when the consignment leaves the transferring establishment; or



- (ii) accompany the consignment when it arrives at the receiving establishment.

Note 1: Electronic message formats should be compliant with the United Nations Rules for Electronic Data Interchange for Administration, Commerce and Transport (UNEDIFACT). These Rules could in 2021 be viewed on the website of the United Nations Economic Commission for Europe (<https://www.unece.org>).

Note 2: For when requirements to give information (including a declaration) in writing can be met by an electronic communication, see section 9 of the *Electronic Transactions Act 1999*. For electronic signatures, see section 10 of that Act.

#### *Requirements for declarations*

- (3) A declaration referred to in paragraph (1)(k) or (l) in relation to a consignment of prescribed poultry meat or poultry meat products must be made by:

- (a) the holder of the approved arrangement for operations to prepare the poultry meat or poultry meat products for export at the transferring establishment; or
- (b) a person who manages or controls those operations if:
  - (i) the approved arrangement covering those operations provides for export inspection procedures that include the making of the declaration in relation to the poultry meat or poultry meat products; and
  - (ii) the person is designated in the approved arrangement as a person who may make the declaration.

Note: If a relevant importing country authority requires alternative inspection arrangements to be carried out by authorised officers, this needs to be covered by the approved arrangement (see paragraph 5-2(4)(e)).

- (4) A declaration referred to in paragraph (1)(k) or (l):

- (a) must not be made if there are no reasonable grounds for making it; and
- (b) must not be false or misleading; and
- (c) must be signed and dated by the person who made it.

Note 1: For suspension or revocation of the approved arrangement if these requirements are not met, see sections 171 and 179 of the Act.

Note 2: A person may commit an offence or be liable to a civil penalty if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code* and sections 368 and 369 of the Act).

### **5-32 Information and declarations not received or inaccurate or incomplete**

- (1) This section applies if:

- (a) a consignment of prescribed poultry meat or poultry meat products is transferred to a registered establishment (the *receiving establishment*); and
- (b) the information and declarations required to be given to the occupier of the receiving establishment by section 5-31:
  - (i) are not given to the occupier in accordance with paragraph 5-31(2)(b); or
  - (ii) are inaccurate or incomplete.

- (2) The poultry meat or poultry meat products must:

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- (a) be held at the receiving establishment under conditions of security, and not dealt with further for export as food, without the written approval of an authorised officer; or
- (b) be identified as not for export as food, and segregated from prescribed poultry meat and poultry meat products.

## **Division 8—Meat inspection services**

### **5-33 Authorised officer must be present while certain export operations are carried out**

- (1) This section applies in relation to an approved arrangement for operations to prepare prescribed poultry meat or poultry meat products for export at a registered establishment if:
  - (a) the approved arrangement provides that an authorised officer must be present at the establishment while operations of that kind are carried out; or
  - (b) the approved arrangement is subject to a condition that requires an authorised officer to be present at the establishment while operations of that kind are carried out.
- (2) Operations to prepare prescribed poultry meat or poultry meat products for export in accordance with the approved arrangement must not be carried out at the registered establishment unless:
  - (a) meat inspection services have been allocated to the establishment under Part 6 of Chapter 4 (registered establishments); and
  - (b) a memorandum of agreed intent between the Secretary and the occupier of the establishment in relation to the allocation is in place under that Part; and
  - (c) an authorised officer is present at the establishment.

## Division 9—Management practices—export operations

### 5-34 Management practices, organisational structure, resources and personnel

- (1) The holder of an approved arrangement must ensure that:
  - (a) the holder's management practices and organisational structure; and
  - (b) the resources provided to carry out the export operations; and
  - (c) the personnel who carry out those export operations and the training those personnel receive;  
are appropriate to ensure:
    - (d) compliance with the requirements of the Act in relation to the export operations and prescribed poultry meat or poultry meat products covered by the approved arrangement; and
    - (e) that importing country requirements relating to the export operations and prescribed poultry meat or poultry meat products are met.
- (2) The holder must make a written record of the matters referred to in paragraphs (1)(a) to (c).

Note 1: The holder of the approved arrangement must retain each record made under this section for at least 2 years (see subsection 11-8(2)).

Note 2: For making electronic records, see subsection 12(1) of the *Electronic Transactions Act 1999*.

### 5-35 Verification of compliance with the Act and other matters

#### *Matters that must be verified*

- (1) The holder of an approved arrangement must verify that carrying out export operations at a registered establishment in accordance with the approved arrangement will ensure compliance with the following:
  - (a) the applicable requirements of the Act;
  - (b) the conditions in Divisions 2 to 7 of this Part;
  - (c) section 5-34 of this instrument (management practices, organisational structure, resources and personnel).

#### *Record of verification*

- (2) A written record must be made of:
  - (a) the methods, procedures, tests, monitoring and other evaluations used to verify compliance with the matters referred to in subsection (1); and
  - (b) the results of the verification.

Note: The holder of the approved arrangement must retain each record made under this subsection for at least 2 years (see subsection 11-8(2)).

#### *Inventory controls*

- (3) The necessary inventory controls must be used in verifying compliance with the matters referred to in paragraphs (1)(b) and (c).

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- (4) The inventory controls must be in writing, comprehensive, and able to be audited under Part 1 of Chapter 9 of the Act and as required by section 5-37 of this instrument.
- (5) Without limiting subsection (4), the inventory controls must include the following:
- (a) a record of:
    - (i) the numbers of poultry of different types slaughtered at the registered establishment in accordance with the approved arrangement, their origin and lot; and
    - (ii) prescribed poultry meat or poultry meat products received at the registered establishment in accordance with the approved arrangement (including their description and the quantities received of each description), their origin and their location at the establishment; and
    - (iii) prescribed poultry meat or poultry meat products prepared for export at the registered establishment in accordance with the approved arrangement (including their description and the quantities prepared of each description), their item, lot, origin and location at the establishment; and
    - (iv) all poultry meat or poultry meat products removed from the registered establishment in accordance with the approved arrangement (including their description and the quantities removed of each description), preparation details and their destination; and
    - (v) all poultry meat or poultry meat products at the registered establishment that are not intended to be removed from the registered establishment (for example, poultry meat or poultry meat products no longer intended for export and destroyed at the establishment) (including their description and the quantities of each description);
  - (b) a reconciliation of poultry and prescribed poultry meat or poultry meat products and records referred to in paragraph (a).

Note: Examples of types of poultry are fowl, ducks, geese, turkeys and pigeons.

### **5-36 Action must be taken to address non-compliance**

- (1) If a matter referred to in subsection 5-35(1) has not been complied with, or is not likely to be complied with, in carrying out export operations in relation to prescribed poultry meat or poultry meat products in accordance with an approved arrangement:
- (a) action must be taken:
    - (i) to address the non-compliance or likely non-compliance; and
    - (ii) to ensure that the non-compliance does not recur or does not occur; and
  - (b) the effectiveness of the action must be assessed.
- (2) A written record must be made of action taken under paragraph (1)(a) and the assessment of the effectiveness of the action.

Note: The holder of the approved arrangement must retain each record made under this subsection for at least 2 years (see subsection 11-8(2)).

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**5-37 Internal audit and management review**

- (1) Subject to subsection (2), internal audits and management reviews must be conducted of the effectiveness of the management practices of the holder of an approved arrangement at a registered establishment in ensuring compliance with the matters referred to in subsection 5-35(1).

Note: An internal audit under this section is not an audit under Part 1 of Chapter 9 of the Act.

- (2) Internal audits are not required to be conducted if:
- (a) fewer than 3 people are employed at the registered establishment in accordance with the approved arrangement; and
  - (b) management reviews are conducted in accordance with the approved arrangement.
- (3) A record must be made of the following:
- (a) each internal audit and management review conducted under subsection (1);
  - (b) the results of each internal audit or management review;
  - (c) each decision (if any) to take action as a result of an internal audit or management review;
  - (d) each action taken as a result of an internal audit or management review.

Note: The holder of the approved arrangement must retain each record made under this subsection for at least 2 years (see subsection 11-8(2)).

## **Part 3—Renewal of approved arrangement**

### **5-38 Period within which application to renew approved arrangement must be made**

For the purposes of paragraph 155(4)(a) of the Act, the period within which an application to renew an approved arrangement for a kind of export operations in relation to prescribed poultry meat or poultry meat products must be made is the period of 60 days starting on the day that is 180 days before the expiry date for the approved arrangement.

Note 1: For example, if an approved arrangement expires on 8 July in a year (other than a leap year), an application for renewal can be made at any time between 9 January and 10 March in that year.

Note 2: An application to renew an approved arrangement will only need to be made if there is an expiry date for the approved arrangement (see subsection 155(1) of the Act).

## Part 4—Variation of approved arrangement

### Division 1—Variations by holder

#### 5-39 Requirements that must be met for variation to be approved or conditions varied

- (1) This section applies in relation to an application under subsection 161(1) of the Act to approve a variation of an approved arrangement for operations to prepare prescribed poultry meat or poultry meat products for export to a particular country, or to vary the conditions of such an approved arrangement, if:
  - (a) the application is made because the relevant importing country authority does not require:
    - (i) one or more requirements (the *relevant requirements*) of the Australian Poultry Meat Standard that apply in relation to a registered establishment where the operations are carried out to be met; or
    - (ii) compliance with one or more conditions (the *relevant conditions*) in Divisions 3 to 7 of Part 2 of this Chapter; and
  - (b) the relevant importing country authority requires a different requirement relating to the prescribed poultry meat or poultry meat products to be met.

Note: A variation of an approved arrangement, or of the conditions of an approved arrangement, may be needed to implement an alternative regulatory arrangement or other significant variation (see Subdivisions B and C of Division 1 of Part 4 of Chapter 5 of the Act).

- (2) For the purposes of paragraph 161(3)(c) of the Act, it is a requirement that:
  - (a) compliance with the different importing country requirement referred to in paragraph (1)(b) of this section will not result in:
    - (i) the relevant requirements being met; or
    - (ii) the relevant conditions being complied with; and
  - (b) the approved arrangement provides for a system of controls to be implemented to ensure that the different importing country requirement will be complied with; and
  - (c) the system of controls referred to in paragraph (b) of this subsection will be implemented in carrying out operations in accordance with the approved arrangement.

#### 5-40 Significant variations

For the purposes of subparagraph 164(2)(c)(ii) of the Act, the following kinds of variations are prescribed in relation to an approved arrangement for a kind of export operations in relation to prescribed poultry meat or poultry meat products:

- (a) a variation of the person who manages or controls the export operations;
- (b) a variation of the functions a person is permitted to perform in accordance with the approved arrangement, including the following:
  - (i) making declarations;
  - (ii) manufacturing, supplying, possessing, applying, altering or interfering with an official mark;



- (iii) applying a mark that is a resemblance (within the meaning of Division 3 of Part 3 of Chapter 8 of this instrument) to the prescribed poultry meat or poultry meat products, or goods containing prescribed poultry meat or poultry meat products;
- (iv) manufacturing, supplying or possessing an official marking device;
- (c) a variation of the export operations that might:
  - (i) jeopardise the wholesomeness of the prescribed poultry meat or poultry meat products or affect the ability to ensure their integrity; or
  - (ii) adversely affect the ability to accurately assess whether the wholesomeness of the prescribed poultry meat or poultry meat products has been jeopardised;
- (d) a variation that will provide for operations to prepare poultry meat or poultry meat products that are not for export, or are animal food or pharmaceutical material, to be carried out as well as operations to prepare prescribed poultry meat or poultry meat products;
- (e) a variation that will provide for a technique to be implemented in carrying out operations to prepare the prescribed poultry meat or poultry meat products for export that is different from the technique required to be implemented by the Australian Poultry Meat Standard;
- (f) a variation that relates to or varies a variation of the approved arrangement to implement an alternative regulatory arrangement approved under paragraph 379C(1)(a) of the Act in relation to operations to prepare prescribed poultry meat or poultry meat products.

Note 1: For a person who is taken to be a person who manages or controls export operations, see section 21 of the Act.

Note 2: In relation to paragraph (e) of this section, see section 1-8 of this instrument.

## **Division 2—Variations required by Secretary**

### **5-41 Other reasons for requiring holder to vary approved arrangement**

For the purposes of paragraph 165(2)(h) of the Act, the Secretary may require the holder of an approved arrangement for operations to prepare prescribed poultry meat or poultry meat products to vary an aspect of the arrangement under paragraph 165(1)(a) of the Act if the Secretary is no longer satisfied that compliance with the system of controls provided in the approved arrangement will ensure that there will be reasonable grounds for issuing:

- (a) an export permit for prescribed poultry meat or poultry meat products prepared in accordance with the approved arrangement; or
- (b) a government certificate in relation to prescribed poultry meat or poultry meat products prepared in accordance with the approved arrangement.

## **Part 5—Matters relating to applications**

### **5-42 Application of this Part**

This Part applies in relation to the following applications:

- (a) an application under section 150 of the Act to approve a proposed arrangement for a kind of export operations in relation to prescribed poultry meat or poultry meat products;
- (b) an application under section 155 of the Act to renew an approved arrangement for a kind of export operations in relation to prescribed poultry meat or poultry meat products;
- (c) an application under section 161 of the Act:
  - (i) to approve a variation of an approved arrangement for a kind of export operations in relation to prescribed poultry meat or poultry meat products; or
  - (ii) to vary the conditions of an approved arrangement for a kind of export operations in relation to prescribed poultry meat or poultry meat products;
- (d) an application that is taken to have been made under subsection 166(2) of the Act to approve a varied approved arrangement for a kind of export operations in relation to prescribed poultry meat or poultry meat products.

Note 1: If the Secretary has approved a manner for making an application, the application must be made in the approved manner and, if the Secretary has approved a form for making the application, it must include the information required by the form (see paragraphs 377(1)(a) and (b) of the Act).

Note 2: The Secretary may accept any information previously given to the Secretary in connection with an application made under the Act as satisfying any requirement to give that information under subsection 377(1) of the Act (see subsection 377(3) of the Act).

### **5-43 Initial consideration period**

For the purposes of subsection 379(3) of the Act, the initial consideration period for an application is 120 days.

Note: The consideration period for an application starts on the day after the day the Secretary receives the application (see subsection 379(4) of the Act).

### **5-44 Period within which request relating to application must be complied with**

For the purposes of paragraph 379(10)(b) of the Act, the period of 6 months is prescribed.

## **Chapter 7—Export permits**

### **Part 1—Issue of export permit**

#### **7-1 Period of effect of export permit**

For the purposes of paragraph 228(b) of the Act, an export permit for prescribed poultry meat or poultry meat products remains in force (unless it is revoked under section 233 of the Act) for 28 days starting on the day the permit is issued.

Note 1: An export permit takes effect when it is issued (see paragraph 228(a) of the Act).

Note 2: An export permit (other than an export permit issued by electronic means) must be retained in a secure place when it is not being used (see section 11-5).

## **Part 2—Variation, suspension and revocation of export permit**

### **7-2 Period of effect of varied export permit**

For the purposes of paragraph 230(b) of the Act, a varied export permit for prescribed poultry meat or poultry meat products remains in force (unless it is revoked under section 233 of the Act) for the remainder of the period for which the export permit as originally issued was in force under section 7-1 of this instrument.

Note: A varied export permit takes effect when it is issued (see paragraph 230(a) of the Act).

### **7-3 Circumstances in which export permit may be suspended**

For the purposes of subsection 231(1) of the Act, the following circumstances are prescribed in relation to an export permit for prescribed poultry meat or poultry meat products:

- (a) a circumstance referred to in any of paragraphs 233(1)(a) to (f) of the Act;
- (b) a circumstance prescribed by section 7-4 of this instrument.

### **7-4 Other circumstances in which export permit may be revoked**

For the purposes of paragraph 233(1)(g) of the Act, the following circumstances are prescribed in relation to an export permit for prescribed poultry meat or poultry meat products:

- (a) there is a risk that the poultry meat or poultry meat products:
  - (i) have deteriorated or are likely to deteriorate; or
  - (ii) are unwholesome or are likely to be unwholesome;
- (b) the poultry meat or poultry meat products are no longer intended to be exported using that export permit;
- (c) a person, other than the holder of the export permit, has given the Secretary information or a document in relation to the poultry meat or poultry meat products that is false, misleading or incomplete;
- (d) a condition or disease that is likely to affect the acceptability of the poultry meat or poultry meat products to the importing country is present in Australian territory;
- (e) the export of the poultry meat or poultry meat products could result in trade in the export of other goods from Australian territory being adversely affected.

Note: If an export permit is revoked, the person to whom it was issued must return the permit to the Secretary within 10 business days (unless it was issued by electronic means) (see section 7-6).

Section 7-5

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## Part 3—Other matters

### 7-5 Changes that require additional or corrected information to be given to the Secretary

For the purposes of paragraph 235(1)(b) of the Act, each of the following changes is prescribed in relation to prescribed poultry meat or poultry meat products for which an export permit is in force but that have not been exported:

- (a) there are reasonable grounds to suspect that the integrity of the poultry meat or poultry meat products cannot be ensured;
- (b) there are reasonable grounds to suspect that an importing country requirement relating to the poultry meat or poultry meat products will not be, or is not likely to be, met before the poultry meat or poultry meat products are imported into the importing country;
- (c) there are reasonable grounds to suspect that a prescribed export condition relating to the poultry meat or poultry meat products has not been complied with in circumstances where the condition should have been complied with.

Note: The exporter may be liable to a civil penalty if the exporter fails to comply with a requirement under section 235 of the Act (see subsection 235(3) of the Act).

### 7-6 Return of export permit

- (1) For the purposes of section 236 of the Act, a person to whom an export permit for prescribed poultry meat or poultry meat products was issued must return the permit to the Secretary if the permit is revoked. The permit must be returned within 10 business days starting on the day the permit was revoked.
- (2) Subsection (1) does not apply in relation to an export permit that was issued by electronic means.

### 7-7 Notification that prescribed poultry meat or poultry meat products are not to be exported

- (1) For the purposes of section 237 of the Act, the holder of an export permit for prescribed poultry meat or poultry meat products must notify the Secretary, in writing, if it is no longer intended to export the poultry meat or poultry meat products because of a circumstance referred to in section 7-3 of this instrument.
- (2) The notification must be given as soon as practicable, but not later than 10 business days, after the decision not to export the prescribed poultry meat or poultry meat products is made.

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## **Chapter 8—Other matters relating to export**

### **Part 1—Notices of intention to export**

#### **8-1 Information to be included in notice of intention to export**

For the purposes of paragraph 243(1)(c) of the Act, a notice of intention to export a consignment of, or including, prescribed poultry meat or poultry meat products must include a declaration stating that all of the information included in the notice of intention to export the consignment is true and correct.

Note 1: The Secretary may approve a single form for a notice of intention to export a consignment of prescribed poultry meat or poultry meat products and an application for an export permit for the prescribed poultry meat or poultry meat products.

Note 2: The Secretary may accept any information or document previously given to the Secretary in connection with an application made under the Act, or a notice of intention to export a consignment of prescribed poultry meat or poultry meat products given under the Act, as satisfying any requirement to give that information or document under subsection 243(1) of the Act (see subsection 243(2) of the Act).

#### **8-2 Person who must give notice of intention to export**

For the purposes of paragraph 243(1)(e) of the Act, a notice of intention to export a consignment of, or including, prescribed poultry meat or poultry meat products must be given by the person who intends to export the consignment.

#### **8-3 Person to whom notice of intention to export must be given**

For the purposes of paragraph 243(1)(f) of the Act, a notice of intention to export a consignment of, or including, prescribed poultry meat or poultry meat products must be given to the Secretary.

#### **8-4 When notice of intention to export must be given**

- (1) For the purposes of paragraph 243(1)(g) of the Act, a notice of intention to export a consignment of, or including, prescribed poultry meat or poultry meat products must be given as soon as reasonably practicable before the date the consignment is proposed to be exported.
- (2) If an assessment of the prescribed poultry meat or poultry meat products in the consignment is required to be carried out under Part 2 of Chapter 9 of the Act, the notice of intention to export the consignment must be given at a time that will ensure there will be sufficient time for the assessment to be carried out.

Note: It is a prescribed export condition in relation to the export of prescribed poultry meat or poultry meat products that a person prescribed by section 8-2 must have given the Secretary, at the time prescribed by this section, a notice of intention to export a consignment of, or including, the prescribed poultry meat or poultry meat products (see item 4 of the table in section 2-4).

## Part 2—Trade descriptions

### 8-5 Purpose of this Part

For the purposes of section 248 of the Act, this Part makes provision for and in relation to trade descriptions for prescribed poultry meat or poultry meat products that are intended to be exported.

Note: A person may commit an offence or be liable to a civil penalty if the person engages in conduct that contravenes a provision in this Part (see section 249 of the Act).

### 8-6 General requirements for trade descriptions

- (1) A trade description applied to prescribed poultry meat or poultry meat products must:
  - (a) be accurate and unambiguous; and
  - (b) to the extent practicable, be securely attached; and
  - (c) be legible; and
  - (d) be prominent, conspicuous and not obscured in any way; and
  - (e) to the extent practicable, be tamper evident.

Note: For *applied*, in relation to a trade description, see section 247 of the Act.

- (2) Information or pictures that are applied to prescribed poultry meat or poultry meat products in addition to the trade description must not be inconsistent with the information required to be included in the trade description under Division 4 of Part 2 of Chapter 5 of this instrument (approved arrangements).

### 8-7 Trade descriptions in language other than English

- (1) This section applies in relation to a trade description that is applied to prescribed poultry meat or poultry meat products if any part of the trade description is in a language (the *foreign language*) other than English.
- (2) The part of the trade description that is in the foreign language must not be inconsistent with the part of the trade description that is in English.
- (3) On request, in writing, by an authorised officer to one of the following persons, the person must make available to an authorised officer a translation in English of the part of the trade description that is in the foreign language:
  - (a) the holder of an approved arrangement for operations to prepare prescribed poultry meat or poultry meat products for export at the registered establishment where the trade description was applied to the prescribed poultry meat or poultry meat products;
  - (b) the holder of an approved arrangement for operations to prepare prescribed poultry meat or poultry meat products for export at a registered establishment (other than the registered establishment referred to in paragraph (a)) if the prescribed poultry meat or poultry meat products are being held at that registered establishment at the time of the request;
  - (c) the exporter of the prescribed poultry meat or poultry meat products.



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- (4) The translation into English required by subsection (3) must be done by a person who:
- (a) has appropriate qualifications for doing the translation; and
  - (b) is not employed by, and is independent of, the person referred to in subsection (3) who is required to make the translation available to an authorised officer.

## Part 3—Official marks

### Division 1—Marks that are official marks

#### 8-8 Purpose of this Division

For the purposes of subsection 255(1) of the Act, this Division provides that specified marks are official marks for the purposes of the Act for poultry meat or poultry meat products that are intended to be exported.

#### 8-9 Tolerances for dimensions of official marks

The dimensions specified in this Division for an official mark for the purposes of the Act, or a part of such a mark, are subject to the following tolerances:

- (a) for dimensions up to 10 mm— $\pm 1$  mm;
- (b) for dimensions over 10 mm— $\pm 2$  mm.

#### 8-10 Official mark—Australia Inspected

- (1) A mark of the following design (with the registration number of the registered establishment where operations to prepare the relevant poultry meat or poultry meat products for export were carried out substituted for 'A'), and of the dimensions provided by subsection (2), is an official mark for the purposes of the Act.



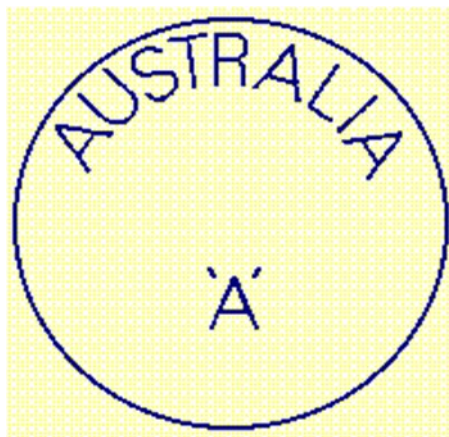
- (2) The dimensions are as specified in column 2 of the following table. However, the dimensions may be:
- (a) as specified in column 3 of the table for a mark to be applied to a computer-generated tag; or
  - (b) as specified in column 4 of the table for a mark to be applied to a tag other than a computer-generated tag.

Dimensions—Australia Inspected official mark				
Item	Column 1 Section of mark	Column 2 Normal size mark (mm)	Column 3 Computer-generated tag mark (mm)	Column 4 Small size mark (mm)
1	Width of mark	65	24	32
2	Height of mark	45	17	22

<b>Dimensions—Australia Inspected official mark</b>				
<b>Item</b>	<b>Column 1 Section of mark</b>	<b>Column 2 Normal size mark (mm)</b>	<b>Column 3 Computer-generated tag mark (mm)</b>	<b>Column 4 Small size mark (mm)</b>
3	Height of letters	8	2	3
4	Height of establishment registration number	10	5	3

### 8-11 Official mark—foreign country identification

- (1) A mark of the following design (with the relevant foreign country identification mark substituted for ‘A’), and of the dimensions provided by subsection (3), is an official mark for the purposes of the Act.



- (2) For the purposes of this section, a *foreign country identification mark* is a mark that is required to be applied to poultry meat or poultry meat products that are to be imported into that country, as determined by the relevant importing country authority.

Note: For guidance on foreign country identification marks, see MICoR.

- (3) The dimensions are as follows:
- the diameter of the circle—50 mm;
  - the minimum height of the letters in the word “Australia”—6 mm;
  - the dimensions of the foreign country identification mark—as specified for the mark by the relevant importing country authority.

Note: For guidance on the requirements for the dimensions of a foreign country identification mark, see MICoR.

### 8-12 Official mark—tamper-indicative metal strap seal

A seal that:

- is a tamper-indicative metal strap seal that can be secured in a loop by inserting one end of the seal into or through a protected locking mechanism on the other end; and

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- (b) complies with ISO 17712:2013 *Freight containers — Mechanical seals*, published by the International Organization for Standardization, as that document exists at the commencement of this instrument; and
  - (c) bears the words “Australian Government”; and
  - (d) bears a unique number, or a unique combination of letters and numbers, provided to the manufacturer of the seal by the Department;
- is an official mark for the purposes of the Act.

**8-13 Official mark—bolt seal**

A seal that:

- (a) is a high security bolt seal; and
  - (b) complies with ISO 17712:2013 *Freight containers — Mechanical seals*, published by the International Organization for Standardization, as that document exists at the commencement of this instrument; and
  - (c) bears the words “Australian Government”; and
  - (d) bears a unique number, or a unique combination of letters and numbers, provided to the manufacturer of the seal by the Department; and
  - (e) is coated with green or blue plastic;
- is an official mark for the purposes of the Act.

**8-14 Official mark—Australia Approved**

- (1) A mark of the following design (with the registration number of the registered establishment where operations to prepare the relevant poultry meat or poultry meat products for export were carried out inserted in the space marked ‘A’), and of the dimensions provided by subsection (2), is an official mark for the purposes of the Act.

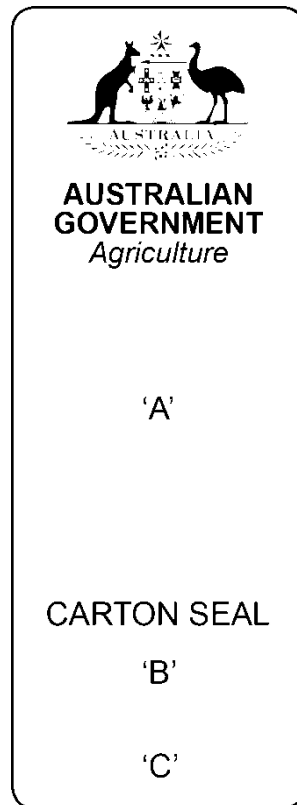


- (2) The dimensions are:
  - (a) width of oval mark—50 mm; and
  - (b) height of oval mark—39 mm; and
  - (c) height of letters—6 mm; and
  - (d) height of establishment registration number—8 mm.

**8-15 Official mark—carton seal**

- (1) A mark:
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- (a) of the following design (but with the substitutions provided by subsection (3)); and
- (b) printed in black, except for the Coat of Arms which is printed in red, on a white or security background; and
- (c) of the dimensions provided by subsection (2);
- is an official mark for the purposes of the Act.



- (2) The dimensions are:
- (a) width not less than 45 mm, and not more than 75 mm; and
- (b) height not less than 125 mm, and not more than 160 mm.
- (3) The substitutions in the design of the mark are as follows:
- (a) the registration number of the registered establishment where operations to prepare the relevant poultry meat or poultry meat products for export were carried out is to be substituted for 'A';
- (b) a number, or a combination of letters and numbers, associated with the manufacturer of the mark is to be substituted for 'B';
- (c) a number, or a combination of letters and numbers, that is unique to each mark is to be substituted for 'C'.

### **8-16 Official mark—poultry meat or poultry meat products opened for assessment and resealed**

- (1) A mark:
- (a) of the following design (but with the substitutions provided by subsection (3)); and

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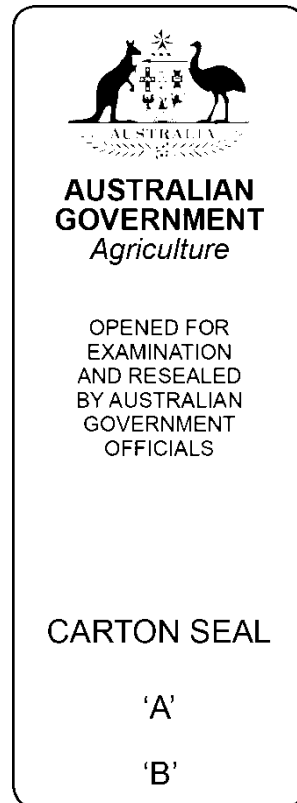
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- (b) printed in green, except for the Coat of Arms which is printed in red, on a white or security background; and
  - (c) of the dimensions provided by subsection (2);
- is an official mark for the purposes of the Act.



- (2) The dimensions are:
  - (a) width not less than 45 mm, and not more than 75 mm; and
  - (b) height not less than 125 mm, and not more than 160 mm.
- (3) The substitutions in the design of the mark are as follows:
  - (a) a number, or a combination of letters and numbers, associated with the manufacturer of the mark is to be substituted for 'A';
  - (b) a number, or a combination of letters and numbers, that is unique to each mark is to be substituted for 'B'.

**8-17 Official mark—Australian Government**

A mark of the following design (but with a number representing the user of the mark substituted for “XXXX”) is an official mark for the purposes of the Act.



Note: Sections 8-20 to 8-24 and 8-34 do not apply in relation to an official mark specified in this section (see subsections 8-18(2) and 8-34(2)).

## Division 2—General rules relating to official marks

### 8-18 Purpose and application of this Division

- (1) For the purposes of subsection 255(2) of the Act, this Division makes provision for and in relation to certain matters relating to official marks specified in Division 1 of this Part for poultry meat or poultry meat products that are intended to be exported.

Note: A person may commit an offence or be liable to a civil penalty if the person engages in conduct that contravenes a provision in this Division (see section 258 of the Act). Other provisions in Division 3 of Part 3 of Chapter 8 of the Act provide offences and civil penalty provisions relating to false, misleading or deceptive official marks.

- (2) Sections 8-20 to 8-24 do not apply in relation to an official mark specified in section 8-17.

### 8-19 Interpretation

*When an official mark is **applied** to poultry meat or poultry meat products*

- (1) For the purposes of this instrument, an official mark is **applied** to poultry meat or poultry meat products if the official mark is:
  - (a) applied directly to the poultry meat or poultry meat products, their packaging or any covering containing the poultry meat or poultry meat products; or
  - (b) applied to anything attached to the poultry meat or poultry meat products, their packaging or any covering containing the poultry meat or poultry meat products; or
  - (c) inserted into anything in which the poultry meat or poultry meat products are packaged or any covering containing the poultry meat or poultry meat products.

*References to particular official marks*

- (2) In this Division, a reference to a particular official mark is a reference to the official mark with that description specified in Division 1 of this Part.

### 8-20 Persons who may manufacture or supply official marks for poultry meat or poultry meat products

A person may manufacture or supply a kind of official mark for poultry meat or poultry meat products only if:

- (a) the person is an authorised officer; or
- (b) the manufacture or supply of the official mark by the person is:
  - (i) covered by an approved arrangement; or
  - (ii) in accordance with a direction given by an authorised officer; or
- (c) the Secretary has given the person a written approval to manufacture or supply the official mark in relation to specified poultry meat or poultry meat products, and the manufacture or supply is in accordance with that approval.



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Note: For how a direction may be given by an authorised officer, see section 309 of the Act.

### **8-21 Persons who may possess official marks that have not been applied to poultry meat or poultry meat products**

A person may possess a kind of official mark for poultry meat or poultry meat products that has not been applied to any poultry meat or poultry meat products only if:

- (a) the person is permitted to manufacture or supply official marks of that kind under section 8-20 or to apply official marks of that kind under section 8-22; or
- (b) the person is an authorised officer; or
- (c) the possession of the official mark by the person is:
  - (i) covered by an approved arrangement; or
  - (ii) in accordance with a direction given by an authorised officer; or
- (d) the Secretary has given the person a written approval to possess the official mark at a specified registered establishment and in relation to specified poultry meat or poultry meat products, and the possession is in accordance with that approval.

Note: For how a direction may be given by an authorised officer, see section 309 of the Act.

### **8-22 Persons who may apply official marks to poultry meat or poultry meat products etc.**

- (1) This section applies in relation to:
  - (a) a bolt seal that is an official mark that is required to be applied to a container system unit under section 5-16; and
  - (b) an official mark that is required to be applied to either of the following under Division 5 of Part 2 of Chapter 5 (approved arrangements):
    - (i) carcasses or carcase parts;
    - (ii) cartons in which prescribed poultry meat or poultry meat products are packed.
- (2) The official mark may be applied only by:
  - (a) an authorised officer; or
  - (b) a person acting in accordance with a direction given by an authorised officer; or
  - (c) a person designated in an approved arrangement in accordance with which the official mark is to be applied to the poultry meat or poultry meat products as a person who may apply the official mark; or
  - (d) a person to whom the Secretary has given a written approval to apply the official mark at a specified registered establishment and in relation to specified poultry meat or poultry meat products, if the application is in accordance with the approval.

Note: For how a direction may be given by an authorised officer, see section 309 of the Act.

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**8-23 Circumstances in which official mark must not be applied to poultry meat or poultry meat products**

*Official marks generally*

- (1) A person must not apply an official mark to poultry meat or poultry meat products if:
- (a) the poultry meat or poultry meat products are not wholesome; or
  - (b) the poultry meat or poultry meat products have deteriorated; or
  - (c) the integrity of the poultry meat or poultry meat products cannot be ensured.

Note: For requirements to ensure the integrity of prescribed poultry meat or poultry meat products, see section 5-27.

*Foreign country identification official marks*

- (2) A person must not apply a foreign country identification official mark to poultry meat or poultry meat products if the circumstances in which that mark may be applied to the poultry meat or poultry meat products, as specified by the relevant importing country authority, no longer exist.

Note: For the foreign country identification mark, see section 8-11.

**8-24 Alteration of and interference with official marks**

A person may alter, or interfere with, an official mark (whether or not it has been applied to any poultry meat or poultry meat products) only if:

- (a) the alteration or interference is required or permitted by this instrument; or
- (b) the person is an authorised officer or a person acting in accordance with a direction given by an authorised officer; or
- (c) the person is designated in an approved arrangement as a person who may alter or interfere with an official mark and the alteration or interference is in accordance with the arrangement; or
- (d) the Secretary has given the person a written approval to alter or interfere with an official mark at a specified registered establishment and in relation to specified poultry meat or poultry meat products, and the alteration or interference is in accordance with the approval.

Note 1: For how a direction may be given by an authorised officer, see section 309 of the Act.

Note 2: A person may commit an offence or be liable to a civil penalty if the person engages in conduct and the conduct has the result that an official mark applied to certain poultry meat or poultry meat products or documents is altered so as to be false, misleading or deceptive (see sections 261 and 262 of the Act).

**8-25 Official marks must be legible and securely attached**

An official mark applied to poultry meat or poultry meat products must be:

- (a) legible; and
- (b) securely attached.

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## 8-26 Security of official marks

A person who is in possession of an official mark that has not been applied to any poultry meat or poultry meat products, as permitted by section 8-21, must ensure that the official mark is stored securely.

## 8-27 Removal or defacement of official marks

### *Official marks generally*

- (1) If an official mark has been applied to poultry meat or poultry meat products, the official mark must be removed or defaced if the poultry meat or poultry meat products:
  - (a) are no longer wholesome; or
  - (b) have deteriorated.
- (2) Without limiting subsection (1), if an official mark has been applied to a carton in which poultry meat or poultry meat products are packed, the official mark must be removed or defaced if it is no longer intended:
  - (a) to export the poultry meat or poultry meat products; or
  - (b) to export the poultry meat or poultry meat products in that carton.

### *Foreign country identification official marks*

- (3) Without limiting subsection (1), if a foreign country identification official mark has been applied to poultry meat or poultry meat products, the official mark must be removed or defaced if the circumstances in which that mark may be applied to the poultry meat or poultry meat products, as specified by the relevant importing country authority, no longer exist.

### *Persons who may remove or deface official mark*

- (4) If an official mark has been applied to poultry meat or poultry meat products and the official mark is required to be removed or defaced under subsection (1), (2) or (3), the official mark must be removed or defaced by:
  - (a) an authorised officer or a person acting in accordance with a direction given by an authorised officer; or
  - (b) a person designated in an approved arrangement in accordance with which the official mark was applied to the poultry meat or poultry meat products as a person who may remove or deface the official mark; or
  - (c) a person to whom the Secretary has given a written approval to remove or deface the official mark at a specified registered establishment and in relation to specified poultry meat or poultry meat products, if the official mark is removed or defaced in accordance with the approval.

Note 1: For how a direction may be given by an authorised officer, see section 309 of the Act.

Note 2: A person may commit an offence or be liable to a civil penalty if the person engages in conduct that contravenes a provision in this Division (see section 258 of the Act).

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**8-28 Records of official marks manufactured or supplied**

The holder of an approved arrangement that covers the manufacture or supply of official marks for use at establishments that are registered for operations to prepare prescribed poultry meat or poultry meat products for export must:

- (a) make a daily written record stating:
  - (i) each kind of official mark manufactured on that day; and
  - (ii) the number of each kind of official mark manufactured on that day; and
- (b) make a written record stating:
  - (i) each day a consignment of official marks was supplied to an establishment that is registered for operations to prepare prescribed poultry meat or poultry meat products for export; and
  - (ii) each kind of official mark included in the consignment; and
  - (iii) the means used to transport the consignment.

Note: The holder of the approved arrangement must retain each record made under this section for at least 3 years (see subsection 11-9(1)).

**8-29 Records of official marks received, applied, removed, defaced, destroyed or returned**

The holder of an approved arrangement for operations to prepare prescribed poultry meat or poultry meat products for export at a registered establishment must make a written record of the following:

- (a) consignments of official marks received at the establishment;
- (b) official marks applied to poultry meat or poultry meat products at the establishment;
- (c) official marks removed from poultry meat or poultry meat products, or defaced, at the establishment;
- (d) official marks destroyed at the establishment;
- (e) official marks returned from the establishment.

Note: The holder of the approved arrangement must retain each record made under this section for at least 3 years (see subsection 11-9(2)).

## **Division 3—Marks resembling official marks**

### **8-30 Purpose of this Division**

For the purposes of section 256 of the Act, this Division makes provision for and in relation to marks (*resemblances*) that:

- (a) resemble an official mark specified in Division 1 of this Part; or
- (b) are apparently intended to resemble or pass for an official mark specified in Division 1 of this Part.

Note: A person may commit an offence or be liable to a civil penalty if the person engages in conduct that contravenes a provision in this Division (see section 258 of the Act).

### **8-31 Circumstances in which a mark resembles an official mark**

A mark resembles an official mark specified in Division 1 of this Part if the mark is, in all material respects, of the same design as the official mark, but its dimensions are different from the dimensions specified for the official mark in that Division.

### **8-32 Persons who may apply a resemblance**

A person may apply a resemblance to poultry meat or poultry meat products, or to goods containing poultry meat or poultry meat products, only if:

- (a) the person is designated in an approved arrangement as a person who may apply the resemblance to poultry meat or poultry meat products or goods containing poultry meat or poultry meat products; and
- (b) the application of the resemblance is in accordance with the arrangement.

## Division 4—Official marking devices

### 8-33 Purpose of this Division

For the purposes of subsection 257(2) of the Act, this Division makes provision for and in relation to official marking devices that are capable of being used to apply an official mark specified in Division 1 of this Part to poultry meat or poultry meat products that are intended to be exported.

Note: A person may commit an offence or be liable to a civil penalty if the person engages in conduct that contravenes certain provisions in this Division (see section 258 of the Act).

### 8-34 Persons who may manufacture, supply or possess official marking devices

- (1) A person may manufacture, supply or possess an official marking device only if:
  - (a) the person is an authorised officer or is acting in accordance with a direction given by an authorised officer; or
  - (b) the person is designated in an approved arrangement as a person who may manufacture, supply or possess an official marking device and the manufacture, supply or possession is in accordance with the arrangement; or
  - (c) the Secretary has given the person a written approval to manufacture, supply or possess the official marking device and the manufacture, supply or possession is in accordance with that approval.

Note: For how a direction may be given by an authorised officer, see section 309 of the Act.

- (2) This section does not apply in relation to an official mark specified in section 8-17.

### 8-35 Security of official marking devices

A person who is in possession of an official marking device, as permitted by section 8-34, must ensure that the official marking device is stored securely when it is not being used.

### 8-36 Damaged etc. official marking devices

- (1) This section applies if:
  - (a) a person (other than an authorised officer) is in possession of an official marking device; and
  - (b) the person becomes aware that the official marking device is damaged or destroyed, worn or otherwise unfit for applying an official mark to poultry meat or poultry meat products.
- (2) The person must notify an authorised officer in writing as soon as practicable after becoming aware of that fact and retain the official marking device in a secure place until otherwise directed by an authorised officer.

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**8-37 Records of official marking devices manufactured or supplied**

A person (other than an authorised officer) who is permitted, under section 8-34, to manufacture or supply official marking devices for use at establishments that are registered for operations to prepare prescribed poultry meat or poultry meat products for export must:

- (a) make a daily written record stating:
  - (i) each kind of official marking device manufactured by the person on that day; and
  - (ii) the number of each kind of official marking device manufactured by the person on that day; and
  - (iii) the serial number of each official marking device manufactured by the person on that day; and
- (b) make a written record stating:
  - (i) each day official marking devices were supplied by the person to establishments that are registered for operations to prepare prescribed poultry meat or poultry meat products for export; and
  - (ii) the means used to transport each official marking device supplied by the person on that day.

Note: A person who is required to make a record under this section must retain the record for at least 3 years (see section 11-10).

**8-38 Records of official marking devices received, used, damaged, destroyed or returned**

The occupier of an establishment that is registered for operations to prepare prescribed poultry meat or poultry meat products for export must make a written record of the following:

- (a) official marking devices received at the establishment;
- (b) official marking devices used to apply official marks to poultry meat or poultry meat products at the establishment;
- (c) official marking devices damaged or destroyed at the establishment;
- (d) official marking devices returned from the establishment.

Note: The occupier of the registered establishment must retain each record made under this section for at least 3 years (see section 11-10).

## **Chapter 9—Powers and officials**

### **Part 1—Audits**

#### **Division 1—General**

##### **9-1 References to audit in this Part**

In this Part, a reference to an audit is a reference to an audit under Part 1 of Chapter 9 of the Act:

- (a) of export operations carried out in relation to poultry meat or poultry meat products; or
- (b) in relation to the performance of functions or the exercise of powers under the Act in relation to poultry meat or poultry meat products by a person referred to in subparagraph 267(1)(a)(i), (ii) or (v) of the Act; or
- (c) in relation to compliance by a person referred to in subparagraph 267(1)(a)(i) or (ii) of the Act with the conditions applying to the performance of functions or the exercise of powers under the Act by the person in relation to poultry meat or poultry meat products.



## **Division 2—Conduct of audit etc.**

### **9-2 Purpose of this Division**

For the purposes of subsections 270(4) and (5) of the Act, this Division makes provision for and in relation to the following matters:

- (a) the conduct of an audit;
- (b) processes for dealing with any non-compliance with a requirement to which an audit relates;
- (c) audit reports.

### **9-3 Manner in which audit must be conducted**

An audit must be conducted:

- (a) as expeditiously as reasonably practicable; and
- (b) in a way that results in minimal interference to the export operations, or the performance of functions or the exercise of powers under the Act, to which the audit relates.

Note: The Secretary need not give notice of an audit (see subsection 270(1) of the Act).

### **9-4 Notice of non-compliance with requirements**

- (1) If the result of an audit of export operations under subsection 266(1) of the Act is that, in the auditor's opinion, there is, or there has been, a failure (or a combination of failures) that amounts to a non-compliance with a requirement to which the audit relates, the auditor must:

- (a) immediately after completing the audit, notify, in writing, the relevant person for the audit of the auditor's opinion; and
- (b) assess whether the failure (or combination of failures) is a critical non-compliance.

Note 1: An auditor is an authorised officer or an approved auditor (see the definition of *auditor* in section 12 of the Act).

Note 2: For the person who is the *relevant person* for an audit, see section 269 of the Act.

- (2) If, in the auditor's opinion, the failure (or combination of failures) is a critical non-compliance, the auditor must notify the Secretary, in writing, of that opinion immediately after forming it.
- (3) For the purposes of this section and section 9-5 (audit reports), a failure (or a combination of failures) to comply with a requirement to which an audit relates is a *critical non-compliance* if the failure (or combination of failures):
  - (a) results in, or is likely to result in, the export or the preparation for export of poultry meat or poultry meat products as food, the integrity of which cannot be ensured; or
  - (b) results in, or is likely to result in, the export or the preparation for export, of poultry meat or poultry meat products as food that:
    - (i) are not wholesome; or
    - (ii) are not traceable; or

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- (iii) are derived from poultry that were not treated humanely when alive and during slaughter; or
- (iv) cannot be recalled if required; or
- (v) do not meet an importing country requirement relating to the poultry meat or poultry meat products; or
- (c) prevents, or is likely to prevent, an accurate assessment of whether the integrity of poultry meat or poultry meat products exported, or prepared for export, as food can be ensured; or
- (d) prevents, or is likely to prevent, an accurate assessment of whether poultry meat or poultry meat products exported, or prepared for export, as food:
  - (i) are wholesome; or
  - (ii) are traceable and can be recalled if required; or
  - (iii) are derived from poultry that were treated humanely when alive and during slaughter; or
  - (iv) meet an importing country requirement relating to the poultry meat or poultry meat products.

### 9-5 Audit reports

- (1) After an auditor completes an audit, or the audit ends, the auditor must make a written report (an **audit report**) of the audit.

Note: An auditor is an authorised officer or an approved auditor (see the definition of **auditor** in section 12 of the Act).

- (2) The audit report must include the following:
- (a) the name of the auditor;
  - (b) the day the audit commenced, the day the audit was completed or ended and the total time spent (in hours) conducting the audit;
  - (c) a description of the export operations, or the matters referred to in subsection 267(1) of the Act, to which the audit relates;
  - (d) a description of the nature and scope of the audit.
- (3) The audit report must state:
- (a) whether, in the auditor's opinion:
    - (i) the audit was satisfactorily completed or the audit was ended before it could be satisfactorily completed; and
    - (ii) the requirements to which the audit relates are being, or have been, complied with; and
  - (b) the reasons for the auditor's opinion.
- (4) If the audit identified that there is, or there has been, a failure (or a combination of failures) that amounts to a non-compliance with one or more requirements to which the audit relates, the audit report must:
- (a) describe each failure; and
  - (b) state whether, in the auditor's opinion, the failure (either by itself or in combination with other failures) is a critical non-compliance (within the meaning of subsection 9-4(3)) or has contributed to a critical non-compliance; and
  - (c) state the reasons for the auditor's opinion.

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- (5) The audit report may also:
- (a) identify any risk of a potential non-compliance with a requirement to which an audit may relate; and
  - (b) include recommendations that any of the following actions be taken:
    - (i) action to address any non-compliance with a requirement to which the audit relates;
    - (ii) action to ensure that any such non-compliance does not recur;
    - (iii) action to address the risk of a potential non-compliance with a requirement to which an audit may relate;
    - (iv) action to assess the effectiveness of an action referred to in subparagraph (i), (ii) or (iii).
- (6) Within 14 business days after the audit is completed or ends, the auditor must:
- (a) give the audit report to the Secretary in a manner approved by the Secretary; and
  - (b) give a copy of the audit report to the relevant person for the audit.

Note: For the person who is the *relevant person* for an audit, see section 269 of the Act.

## Division 3—Approved auditors

### 9-6 Purpose of this Division

For the purposes of subsections 273(6) and (7) of the Act, this Division makes provision for and in relation to matters relating to the approval of individuals to conduct audits.

### 9-7 Application for approval

- (1) An individual may apply to the Secretary to approve the individual, under subsection 273(1) of the Act, to conduct audits.
- (2) An application must:
  - (a) if the Secretary has approved, in writing, a manner for making an application—be made in an approved manner; and
  - (b) if the Secretary has approved a form for making an application—include the information required by the form; and
  - (c) be accompanied by the following:
    - (i) written evidence of the applicant’s qualifications;
    - (ii) a document detailing the applicant’s experience to the extent that it is relevant to the work of an auditor;
    - (iii) a document setting out the procedures for the conduct of audits by the applicant;
    - (iv) if an application fee is prescribed by the *Export Control (Fees and Payments) Rules 2021*—the prescribed application fee.
- (3) An application is taken not to have been made if the application does not comply with the requirements referred to in subsection (2).

### 9-8 Secretary must decide whether to approve applicant to conduct audits

- (1) On receiving an application under section 9-7, the Secretary must decide:
  - (a) to approve the applicant, under subsection 273(1) of the Act, to conduct audits; or
  - (b) to refuse to approve the applicant to conduct audits.

Note: A decision to refuse to approve the applicant to conduct audits is a reviewable decision (see section 11-1 of this instrument) and the Secretary must give the applicant written notice of the decision (see section 382 of the Act).

- (2) The Secretary may approve the applicant, under subsection 273(1) of the Act, to conduct audits if the Secretary is satisfied, having regard to any matter that the Secretary considers relevant, that the following additional requirements are met:
  - (a) the applicant is a fit and proper person (having regard to the matters referred to in section 372 of the Act);
  - (b) the applicant has the necessary competency (for example, the knowledge, training, skills or experience) to conduct audits;
  - (c) audits conducted by the applicant will be objective, independent, fair and accurate;

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- (d) the applicant will comply with Division 2 of this Part in relation to audits conducted by the applicant;
  - (e) the applicant will comply with the procedures for conducting audits that are necessary to ensure that:
    - (i) the requirements referred to in paragraphs (c) and (d) are met; and
    - (ii) an accurate assessment can be made of whether the requirements referred to in those paragraphs are met.
- (3) The Secretary may refuse to approve the applicant to conduct audits if:
- (a) the applicant has a relevant Commonwealth liability that has not been paid; or
  - (b) the applicant made a statement that was false, misleading or incomplete, or for which there were no reasonable grounds:
    - (i) in the application; or
    - (ii) in a document required to be provided under the Act; or
  - (c) the applicant gave information or a document that was false, misleading or incomplete, or for which there were no reasonable grounds:
    - (i) to the Secretary or to another person performing functions or exercising powers under the Act; or
    - (ii) to the Secretary or the Department under a prescribed agriculture law.

Note: The Secretary must not approve a person to conduct audits unless the Secretary is satisfied that the person satisfies, or will satisfy, certain training and qualification requirements determined by the Secretary (see subsections 273(3) and (4) of the Act).

## 9-9 Dealing with applications

- (1) For the purpose of making a decision in relation to an application under section 9-7, the Secretary may request the applicant to give the Secretary further specified information or documents relevant to the application.
- (2) A request under subsection (1):
  - (a) must be in writing; and
  - (b) must specify the period within which the request must be complied with; and
  - (c) may specify the manner in which the request is to be complied with.

## 9-10 Conditions of approval

- (1) The Secretary may approve an applicant, under subsection 273(1) of the Act, to conduct audits subject to any conditions the Secretary considers necessary.

Note: A decision to approve the applicant to conduct audits subject to conditions is a reviewable decision (see section 11-1 of this instrument) and the Secretary must give the applicant written notice of the decision (see section 382 of the Act).

- (2) Without limiting the Secretary's power under subsection (1), the conditions of an approval under subsection 273(1) of the Act may relate to the scope of audits the approved auditor is approved to conduct, including by reference to any of the following:
  - (a) a kind of export operations;
  - (b) aspects of a kind of export operations, such as whether:

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- (i) the operations comply, have complied, or will comply with applicable requirements of the Act; or
- (ii) importing country requirements relating to operations of that kind are being, have been, or will be met; or
- (iii) the operations are being, have been, or will be carried out in accordance with an approved arrangement;
- (c) a kind of export operations carried out at a kind of place (for example, a registered establishment).

**9-11 Notice of decision**

If the Secretary approves an applicant, under subsection 273(1) of the Act, to conduct audits, the Secretary must give the applicant a written notice stating the following:

- (a) that the applicant is approved to conduct audits;
- (b) the scope of the audits covered by the approval;
- (c) the date the approval takes effect;
- (d) that the approval remains in force for 12 months unless it is revoked earlier under section 9-14 of this instrument;
- (e) any conditions of the approval imposed under section 9-10 of this instrument.

**9-12 Period of effect of approval**

An approval of an individual, under subsection 273(1) of the Act, to conduct audits:

- (a) takes effect on the date stated in the notice given to the individual under section 9-11 of this instrument; and
- (b) remains in force for 12 months unless it is revoked earlier under section 9-14 of this instrument.

**9-13 Imposing or varying conditions of approval**

- (1) If an individual is approved, under subsection 273(1) of the Act, to conduct audits, the Secretary may, if the Secretary considers it necessary to do so:
  - (a) impose conditions on the approval; or
  - (b) vary the conditions of the approval (including by imposing new conditions or removing conditions).

Note: A decision to impose conditions or vary the conditions of an approval to conduct audits is a reviewable decision (see section 11-1 of this instrument) and the Secretary must give the holder of the approval written notice of the decision (see section 382 of the Act).

- (2) If the Secretary imposes conditions on, or varies the conditions of, an individual's approval, the Secretary must give the individual a written notice stating:
  - (a) the conditions imposed or the varied conditions (including any new conditions); and
  - (b) the reason for imposing or varying the conditions; and
  - (c) the date the conditions or varied conditions take effect.

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**9-14 Revocation of approval**

- (1) The Secretary may revoke the approval of an individual to conduct audits if the individual requests the Secretary, in writing, to do so or the Secretary is satisfied of any of the following:
  - (a) the individual is no longer a fit and proper person (having regard to the matters referred to in section 372 of the Act);
  - (b) the individual does not have the necessary competency (for example, the knowledge, training, skills or experience) to conduct audits of the kind covered by the approval (including the conditions of the approval);
  - (c) the individual failed to show competency in conducting audits;
  - (d) an audit conducted by the individual, or an audit report given to the Secretary by the individual, was not objective, independent, fair or accurate;
  - (e) an audit conducted by the individual was not completed and the audit report did not give any reasonable explanation as to why the audit was not completed;
  - (f) an audit report given to the Secretary by the individual was incomplete;
  - (g) the individual failed to comply with a requirement prescribed by Division 2 of this Part that applied in relation to an audit conducted by the individual;
  - (h) the individual contravened a condition of the approval;
  - (i) the individual made a statement that was false, misleading or incomplete, or for which there were no reasonable grounds:
    - (i) in the application for approval; or
    - (ii) in a document required to be provided under the Act;
  - (j) the individual gave information or a document that was false, misleading or incomplete, or for which there were no reasonable grounds:
    - (i) to the Secretary or to another person performing functions or exercising powers under the Act; or
    - (ii) to the Secretary or the Department under a prescribed agriculture law.
- Note: A decision to revoke an individual's approval to conduct audits (other than at the request of the individual) is a reviewable decision (see section 11-1 of this instrument) and the Secretary must give the holder of the approval written notice of the decision (see section 382 of the Act).
- (2) For the purposes of paragraph (1)(b) or (c), the Secretary may assess the competency of an approved auditor at any time and in any way the Secretary considers appropriate.
- (3) For the purposes of paragraph (1)(d), the Secretary may consider any interests, pecuniary or otherwise, of the individual that conflict or could conflict with the conduct of an audit by the individual.
- (4) If the Secretary decides to revoke an individual's approval to conduct audits (other than at the request of the individual), the Secretary must give the individual a written notice stating:
  - (a) that the approval is to be revoked; and
  - (b) the reasons for the revocation; and
  - (c) the date the revocation is to take effect.

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**9-15 Register of approved auditors**

- (1) The Secretary must keep a register of individuals who are approved under subsection 273(1) of the Act to conduct audits.
- (2) The register:
  - (a) may be kept at a place and in a form that the Secretary determines; and
  - (b) may be kept by electronic means; and
  - (c) must be publicly accessible.
- (3) The register must include the following information about each individual who is approved under subsection 273(1) of the Act to conduct audits:
  - (a) the individual's name;
  - (b) any conditions of the individual's approval.

**9-16 Fit and proper person test**

*Fit and proper person test*

- (1) For the purposes of paragraph 372(1)(d) of the Act, the following provisions of this instrument are prescribed:
  - (a) section 9-8 (decision to approve an individual to conduct audits);
  - (b) section 9-14 (decision to revoke an approval of an individual to conduct audits).
- (2) For the purposes of subparagraph 372(2)(e)(v) of the Act, section 9-7 of this instrument (application by individual for approval to conduct audits) is prescribed.
- (3) For the purposes of paragraph 372(4)(b) of the Act, an approved auditor is prescribed.

*Notification of conviction of offence or order to pay pecuniary penalty*

- (4) For the purposes of paragraph 374(1)(g) of the Act, an approved auditor is prescribed.



## **Part 2—Assessments**

### **9-17 Circumstances in which assessment may be required or permitted**

For the purposes of subsection 277(2) of the Act, the Secretary may require or permit an assessment of prescribed poultry meat or poultry meat products to be carried out by an assessor who is an authorised officer at any stage of operations to prepare the poultry meat or poultry meat products for export if the Secretary considers it is necessary to ensure that one or more objects of the Act will be met in relation to the poultry meat or poultry meat products.

Note: For *assessor*, see section 12 of the Act. For an assessment of prescribed poultry meat or poultry meat products, the assessor is an authorised officer whose functions and powers include carrying out assessments of prescribed poultry meat or poultry meat products under Part 2 of Chapter 9 of the Act.

## Part 3—Powers of the Secretary

### 9-18 Decisions that may be made by operation of computer program

#### *Kinds of decisions*

- (1) For the purposes of paragraph 286(2)(a) of the Act, the following decisions may be made by the operation of a computer program (an **authorised computer program**) under an arrangement made under subsection 286(1) of the Act:
  - (a) a decision under paragraph 67(1)(a) of the Act to issue a government certificate in relation to poultry meat or poultry meat products;
  - (b) a decision under paragraph 225(1)(a) of the Act to issue an export permit for prescribed poultry meat or poultry meat products.

#### *Persons who may use computer program*

- (2) For the purposes of paragraph 286(2)(b) of the Act, the following persons may use an authorised computer program:
  - (a) the occupier of a registered establishment where operations to prepare poultry meat or poultry meat products for export are carried out;
  - (b) the holder of an approved arrangement for operations to prepare poultry meat or poultry meat products for export at a registered establishment;
  - (c) an exporter of poultry meat or poultry meat products;
  - (d) a person who provides services to, and is authorised in writing by, the occupier, holder or exporter referred to in paragraph (a), (b) or (c) of this subsection to use the computer program to make the decision;
  - (e) an authorised officer;
  - (f) an APS employee in the Department;
  - (g) a person performing services for the Department under a contract;if the Secretary has given the person a unique identifier to enable the person to access the computer program.

#### *Conditions of use of computer program*

- (3) For the purposes of paragraph 286(2)(c) of the Act, a person who may use an authorised computer program under subsection (2) must:
  - (a) be satisfied on reasonable grounds that information entered into the computer program by the person for the purpose of enabling decisions to be made by operation of the computer program is true and correct; and
  - (b) ensure that the information is accurately entered into the computer program.

## Part 4—Authorised officers

### Division 1—Third party authorised officers

#### 9-19 Requirement to be third party authorised officer—fit and proper person etc.

- (1) For the purposes of paragraph 291(7)(c) of the Act, it is a requirement for a person to be authorised to be a third party authorised officer whose functions and powers will include carrying out specialised inspection services in relation to poultry meat or poultry meat products that the person be a fit and proper person (having regard to the matters referred to in section 372 of the Act).

##### *Fit and proper person test*

- (2) For the purposes of paragraph 372(1)(d) of the Act, subsection (1) of this section is prescribed.
- (3) For the purposes of subparagraph 372(2)(e)(v) of the Act, subsection 291(3) of the Act (application by person to be a third party authorised officer whose functions and powers will include carrying out specialised inspection services in relation to poultry meat or poultry meat products) is prescribed.
- (4) For the purposes of paragraph 372(4)(b) of the Act, a person who is a third party authorised officer whose functions and powers include carrying out specialised inspection services in relation to poultry meat or poultry meat products is prescribed.

##### *Notification of conviction of offence or order to pay pecuniary penalty*

- (5) For the purposes of subparagraph 374(1)(g) of the Act, a third party authorised officer whose functions and powers include carrying out specialised inspection services in relation to poultry meat or poultry meat products is prescribed.

##### *Meaning of specialised inspection service*

- (6) For the purposes of this section, a **specialised inspection service** in relation to poultry meat or poultry meat products is an inspection for the purpose of ensuring that the requirements of the Act have been or will be complied with, or importing country requirements are or will be met, in relation to trade descriptions applied, or to be applied, to poultry meat or poultry meat products.

## Division 2—Functions and powers

### 9-20 Purpose of this Division

For the purposes of section 300 of the Act, this Division confers functions and powers on authorised officers, or classes of authorised officers, that are necessary or convenient to be performed or exercised for the purposes of achieving the objects of the Act in relation to poultry meat or poultry meat products for export.

Note: An authorised officer may only perform functions or exercise powers conferred on an authorised officer by the Act that are specified in the authorised officer's instrument of authorisation (see subsection 301(1) of the Act).

### 9-21 Applying admission decisions

- (1) Subject to subsection (3), an authorised officer may apply a decision in accordance with the Australian Poultry Meat Standard to poultry that are intended to be slaughtered at a registered establishment.
- (2) An authorised officer may carry out inspections of poultry that are intended to be slaughtered at a registered establishment before applying a decision referred to in subsection (1).

Note 1: See also Appendix B of the Australian Poultry Meat Standard.

Note 2: An authorised officer may apply a decision under this subsection subject to conditions, and may vary a decision applied under this subsection (see section 9-25 of this instrument).

- (3) If an animal has been, or may have been:
  - (a) used for trials or experiments to evaluate drugs, chemicals, biological substances or processes of genetic manipulation; or
  - (b) treated with, or exposed to, a new or unidentified drug, chemical or biological substance;an authorised officer must not decide that the animal is to be admitted to a registered establishment for slaughter unless:
  - (c) the admission is subject to conditions specified by the authorised officer; and
  - (d) the Secretary has notified the authorised officer, in writing, that the animal may be admitted subject to those conditions.

### 9-22 Inspections of poultry for slaughter and applying ante-mortem dispositions

An authorised officer:

- (a) may carry out inspections of poultry that are intended to be slaughtered at a registered establishment; and
- (b) after inspecting an animal, must apply a disposition in accordance with the Australian Poultry Meat Standard or this Part to the animal.

Note 1: See also Appendix B of the Australian Poultry Meat Standard.

Note 2: An authorised officer may apply a disposition under this subsection subject to conditions, and may vary a decision or disposition applied under this subsection (see section 9-25 of this instrument). For example, an authorised officer may vary a

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disposition if, after post-mortem inspection, poultry meat or poultry meat products deteriorate or further information is obtained about residue levels.

### **9-23 Inspections of carcasses and carcass parts and applying post-mortem dispositions**

- (1) An authorised officer:
- (a) may carry out inspections of carcasses and carcass parts; and
  - (b) after carrying out an inspection, must apply a disposition to the carcasses or carcass parts in accordance with subsection (2) or (3).

Note: An authorised officer may apply a disposition under this section subject to conditions, and may vary a disposition applied under this section (see section 9-25).

#### *Dispositions for carcasses*

- (2) One of the following dispositions must be applied to carcasses:
- (a) passed for human consumption;
  - (b) passed for human consumption and unsuitable for export;
  - (c) passed for human consumption and unsuitable for export to a specified country;
  - (d) retained for final disposition;
  - (e) unfit for human consumption and may be recovered for animal food;
  - (f) unfit for human consumption and may be recovered for pharmaceutical material;
  - (g) condemned.

#### *Dispositions for carcass parts*

- (3) One of the following dispositions must be applied to carcass parts:
- (a) a disposition referred to in any of paragraphs (2)(a) to (g);
  - (b) derived from poultry the carcass of which is passed for human consumption and the carcass parts require further treatment to be fit for human consumption.

### **9-24 Inspections of poultry meat and poultry meat products and applying dispositions**

An authorised officer:

- (a) may carry out inspections of poultry meat or poultry meat products; and
- (b) after carrying out an inspection, must apply one of the following dispositions to the poultry meat or poultry meat products:
  - (i) a disposition referred to in any of paragraphs 9-23(2)(a) to (g);
  - (ii) unsuitable for export as food;
  - (iii) unsuitable for export as food to a specified country.

Note 1: An authorised officer may apply a disposition under this section subject to conditions, and may vary a disposition applied under this section (see section 9-25). For example, an authorised officer may vary a disposition applied to poultry meat if, after being inspected, the poultry meat deteriorates or further information is obtained about residue levels in the poultry meat.

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Note 2: See also section 9-30 (powers where integrity of poultry meat or poultry meat products may not be able to be ensured).

### **9-25 Applying decisions or dispositions subject to conditions and variation**

*Admission decisions or dispositions may be subject to conditions*

- (1) An authorised officer may apply:
  - (a) a decision referred to in subsection 9-21(1); or
  - (b) a disposition referred to in paragraph 9-22(b), subsection 9-23(2) or (3) or paragraph 9-24(b);subject to any conditions that are necessary to achieve the objects of the Act.
- (2) Conditions to which a decision or disposition is subject under subsection (1) must be specified by the authorised officer at the time the decision or disposition is applied.

*Variation of admission decisions, dispositions or conditions*

- (3) If an authorised officer reasonably believes that the circumstances that led to the application of a decision or disposition referred to in subsection (1) have changed, an authorised officer may vary:
  - (a) the decision or disposition; or
  - (b) a condition (if any) to which the decision or disposition is subject.

### **9-26 Stopping chain of operations temporarily or controlling rate of operations**

If an authorised officer reasonably believes it is necessary to do so for the purpose of:

- (a) accurately inspecting or applying a decision or disposition to poultry under section 9-21 or 9-22; or
- (b) accurately inspecting or applying a disposition to carcasses or carcase parts under section 9-23; or
- (c) accurately inspecting or applying a disposition to poultry meat or poultry meat products under section 9-24; or
- (d) performing any other function that is necessary to achieve the objects of the Act in relation to the animal, carcasses or carcase parts or poultry meat or poultry meat products;

the authorised officer may temporarily stop the chain of operations, or control the rate of operations, being carried out in relation to the animal, carcasses or carcase parts or poultry meat or poultry meat products.

### **9-27 Inspecting establishments and securing areas, facilities, equipment or other things**

- (1) An authorised officer may inspect:
  - (a) an establishment, or any area of an establishment, where operations are carried out to prepare or transport poultry meat or poultry meat products; and
  - (b) any facilities or equipment or other things at the establishment or area of the establishment; and

(c) any services provided at the establishment or area of the establishment.

Note: Examples of other things that may be at an establishment or area of an establishment are vehicles or other conveyances.

- (2) If an authorised officer considers it is necessary to enable functions to be performed, or powers to be exercised, under the Act at an establishment in relation to poultry meat or poultry meat products that are to be, or that have been, prepared at the establishment or transported to or from the establishment, an authorised officer may secure an area of the establishment, or facilities or equipment or any other thing at the establishment, that has been, or is to be, inspected under subsection (1), by attaching, or applying, an identification tag or similar means of identification to the area, facilities, equipment or other thing.
- (3) An identification tag, or other means of identification, used under subsection (2) must be in a form approved by the Secretary.
- (4) A person must not remove an identification tag, or other means of identification, that has been attached or applied to an area of an establishment, facilities, equipment or any other thing, under subsection (2) unless the person:
  - (a) is an authorised officer; or
  - (b) is acting in accordance with a direction given by an authorised officer.

Note: For how a direction may be given by an authorised officer, see section 309 of the Act.

### **9-28 Securing and identifying establishment or conveyance etc.**

- (1) An authorised officer may secure or retain and identify, for the purpose of carrying out an assessment or an inspection, or applying a treatment or a disposition, any of the following:
  - (a) a thing found at an establishment that is used, or apparently used, for operations to prepare poultry meat or poultry meat products;
  - (b) a thing found in or on a conveyance that is used, or apparently used, to transport poultry meat or poultry meat products;
  - (c) an area of a registered establishment that is used, or apparently used, for operations to prepare poultry meat or poultry meat products, including any facilities or equipment or services provided in that area;
  - (d) an establishment (other than a registered establishment) that is used, or apparently used, for operations to prepare poultry meat or poultry meat products;
  - (e) a conveyance that is used, or apparently used, to transport poultry meat or poultry meat products.
- (2) For the purposes of subsection (1), a thing, an area, an establishment or a conveyance must be identified by attaching or applying an identification tag, or similar means of identification, to the thing, area, establishment or conveyance.
- (3) An identification tag, or other means of identification, used under subsection (2) must be in a form approved by the Secretary.
- (4) A person must not remove an identification tag, or other means of identification, that has been attached or applied to a thing, an area, an establishment or a conveyance under subsection (2) unless the person:

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- (a) is an authorised officer; or
- (b) is acting in accordance with a direction given by an authorised officer.

Note: For how a direction may be given by an authorised officer, see section 309 of the Act.

### **9-29 Interference with identified establishment or conveyance etc.**

A person must not interfere with or use any thing, area, establishment or conveyance identified under section 9-28, or move any thing or conveyance identified under section 9-28, unless the person:

- (a) is an authorised officer; or
- (b) is acting in accordance with a direction given by an authorised officer.

Note: For how a direction may be given by an authorised officer, see section 309 of the Act.

### **9-30 Powers where integrity of prescribed poultry meat or poultry meat products may not be able to be ensured**

- (1) If an authorised officer reasonably believes that the integrity of prescribed poultry meat or poultry meat products cannot be ensured, the authorised officer may apply one of the following dispositions to the poultry meat or poultry meat products:

- (a) unsuitable for export as food;
- (b) unsuitable for export as food to a specified country.

Note 1: For example, an authorised officer may have been notified under section 5-30 by the holder of an approved arrangement for operations to prepare prescribed poultry meat or poultry meat products for export that the integrity of the poultry meat or poultry meat products cannot be ensured.

Note 2: An authorised officer may also give a direction to the holder of the approved arrangement under subsection 305(1) of the Act. See, in particular, paragraph (c) of column 2 of item 3 of the table in that subsection.

- (2) Without limiting the grounds on which an authorised officer may reasonably believe the integrity of prescribed poultry meat or poultry meat products covered by an approved arrangement cannot be ensured, an authorised officer may form this belief if any of the following circumstances exists:

- (a) a trade description has been applied to the poultry meat or poultry meat products and the trade description:
  - (i) does not comply with section 8-6 (general requirements for trade descriptions); or
  - (ii) has been altered or interfered with in contravention of subsection 250(1) or (2) of the Act;
- (b) a part of a trade description that has been applied to the poultry meat or poultry meat products is in a language other than English and that part is inconsistent with a part of the trade description that is in English;
- (c) an official mark has been applied to the poultry meat or poultry meat products and the official mark:
  - (i) was manufactured or supplied by a person other than a person who was permitted to manufacture or supply the official mark under section 8-20; or



- (ii) was applied by a person other than a person who was permitted to apply the official mark under section 8-22; or
  - (iii) has been altered or interfered with (whether before or after it was applied) in contravention of section 8-24; or
  - (iv) does not comply with section 8-25 (official marks must be legible and securely attached); or
  - (v) was required to be removed or defaced under section 8-27 and has not been removed or defaced; or
  - (vi) was applied by a person using an official marking device that the person was not permitted to possess under section 8-34; or
  - (vii) was applied using an official marking device that was manufactured by a person other than a person who was permitted to manufacture the official marking device under section 8-34; or
  - (viii) was applied using an official marking device that was supplied by a person other than a person who was permitted to supply the official marking device under section 8-34; or
- (d) a mark that is a resemblance (within the meaning of Division 3 of Part 3 of Chapter 8 of this instrument) has been applied to the prescribed poultry meat or poultry meat products in contravention of section 8-32;
- (e) a condition of the approved arrangement prescribed by a provision of any of Divisions 4 to 7 of Part 2 of Chapter 5 of this instrument has not been complied with in relation to the poultry meat or poultry meat products in circumstances where the condition should have been complied with before the integrity of the poultry meat or poultry meat products was called into question.

Note 1: For *applied* in relation to an official mark, see subsection 8-19(1).

Note 2: For *applied* in relation to a trade description, see section 247 of the Act.

Note 3: Divisions 4 to 7 of Part 2 of Chapter 5 of this instrument deal with trade descriptions, official marks, segregation, identification, security, traceability and integrity and transfers.

### **9-31 Giving certificate of condemnation**

An authorised officer may give a certificate of condemnation for poultry, or a carcase or carcase part, if:

- (a) the poultry, or carcase or carcase part, has been condemned at a registered establishment; and
- (b) the holder of the approved arrangement covering export operations carried out in relation to the poultry, or carcase or carcase part, at the registered establishment gives the authorised officer a written request for the certificate within 30 days after the day the poultry, or carcase or carcase part, was condemned; and
- (c) the authorised officer is satisfied that the holder of the approved arrangement has records that enable the authorised officer to verify the ownership of the poultry, or carcase or carcase part.

## Division 3—Directions to deal with non-compliance with the Act etc.

### 9-32 Other grounds for giving direction

For the purposes of item 8 of the table in subsection 305(1) of the Act:

- (a) each person (a *relevant person*) referred to in column 1 of an item in the following table is prescribed; and
- (b) each ground referred to in column 2 of that item is prescribed in relation to the relevant person prescribed by that item.

<b>Directions to deal with non-compliance with the requirements of the Act etc.</b>		
<b>Item</b>	<b>Column 1 Relevant person</b>	<b>Column 2 Grounds for giving direction</b>
1	The applicant for a government certificate in relation to prescribed poultry meat or poultry meat products	Any of the following: <ol style="list-style-type: none"> <li>(a) some or all of the poultry meat or poultry meat products do not comply, or are not likely to comply, with a requirement of the Act that applies in relation to the poultry meat or poultry meat products;</li> <li>(b) some or all of the poultry meat or poultry meat products do not meet, or are not likely to meet, an importing country requirement relating to the poultry meat or poultry meat products;</li> <li>(c) a matter to be stated in the government certificate in relation to the poultry meat or poultry meat products is not true and correct</li> </ol>
2	The holder of a government certificate in relation to prescribed poultry meat or poultry meat products	Any of the following: <ol style="list-style-type: none"> <li>(a) some or all of the poultry meat or poultry meat products do not comply, or are not likely to comply, with a requirement of the Act that applies in relation to the poultry meat or poultry meat products;</li> <li>(b) some or all of the poultry meat or poultry meat products do not meet, or are not likely to meet, an importing country requirement relating to the poultry meat or poultry meat products;</li> <li>(c) a matter to be stated in the government certificate in relation to the poultry meat or poultry meat products is not true and correct</li> </ol>
3	The applicant for an export permit for prescribed poultry meat or poultry meat products	Either of the following: <ol style="list-style-type: none"> <li>(a) some or all of the poultry meat or poultry meat products are not wholesome or have deteriorated;</li> <li>(b) it is likely that the integrity of some or all of the poultry meat or poultry meat products cannot be ensured</li> </ol>
4	The holder of an export permit for prescribed poultry meat or poultry meat products	Either of the following: <ol style="list-style-type: none"> <li>(a) some or all of the poultry meat or poultry meat products are not wholesome or have deteriorated;</li> <li>(b) it is likely that the integrity of some or all of the poultry meat or poultry meat products cannot be ensured</li> </ol>

## **Division 4—Miscellaneous**

### **9-33 Circumstances in which identity card need not be carried**

For the purposes of subsection 306(5) of the Act, an identity card need not be carried in an establishment, or a part of an establishment, if:

- (a) it would be unsafe or unhygienic to do so; or
- (b) there would be a risk of the card, or of poultry meat or poultry meat products, being contaminated.

## Chapter 10—Compliance and enforcement

### 10-1 Samples taken in exercising monitoring or investigation powers

If a sample is taken as permitted by paragraph 327(2)(a) of the Act (additional monitoring power) or subsection 330(2) of the Act (additional investigation power), the sample must be:

- (a) identified with a mark or a tag; and
- (b) kept in the custody or control of an authorised officer until whichever of the following first occurs:
  - (i) the sample is destroyed during testing or analysis in accordance with section 412 of the Act;
  - (ii) the sample is given to an analyst appointed under section 413 of the Act;
  - (iii) the sample is otherwise disposed of.

### 10-2 Dealing with things seized in exercising investigation powers

If a thing has been seized at premises that have been entered under an investigation warrant or under subsection 347(1) of the Act, the thing must be:

- (a) identified with a mark or a tag; and
- (b) kept in the custody or control of an authorised officer until whichever of the following first occurs:
  - (i) the thing is given to an analyst appointed under section 413 of the Act;
  - (ii) the thing is destroyed during testing or analysis in accordance with section 412 of the Act;
  - (iii) the thing is forfeited in accordance with subsection 416(1) of the Act;
  - (iv) the thing is destroyed or otherwise disposed of in accordance with section 418 of the Act;
  - (v) the thing is returned in accordance with subsection 66(4) of the Regulatory Powers Act;
  - (vi) the thing is disposed of in accordance with section 68 of the Regulatory Powers Act.

Note: Subsection 347(1) of the Act provides for entry, in certain circumstances, to premises that are, or that form part of, a registered establishment.

## Chapter 11—Miscellaneous

### Part 1—Review of decisions

#### 11-1 Reviewable decisions

For the purposes of subsection 381(2) of the Act:

- (a) each decision referred to in column 1 of an item in the following table is a reviewable decision; and
- (b) the person referred to in column 3 of that item is the relevant person for the reviewable decision.

<b>Reviewable decisions</b>			
<b>Item</b>	<b>Column 1 Reviewable decision</b>	<b>Column 2 Provision of this instrument under which the reviewable decision is made</b>	<b>Column 3 Relevant person for the reviewable decision</b>
1	To determine a new allocation of meat inspection services to an establishment	Subsection 4-28(1) or paragraph 4-32(6)(b)	The occupier of the establishment
2	To refuse to vary the allocation of meat inspection services to an establishment	Paragraph 4-29(5)(b)	The occupier of the establishment
3	To refuse to allocate additional meat inspection services to an establishment	Paragraph 4-30(8)(b)	The occupier of the establishment
4	To refuse to approve an individual to conduct audits	Paragraph 9-8(1)(b)	The individual who applied for the approval
5	To approve an individual to conduct audits subject to conditions	Subsection 9-10(1)	The individual who applied for the approval
6	To impose conditions on, or vary the conditions of, an approval of an individual to conduct audits	Subsection 9-13(1)	The individual who is approved
7	To revoke the approval of an individual to conduct audits (other than at the request of the individual)	Subsection 9-14(1)	The individual whose approval has been revoked

## Part 2—Records

### 11-2 Purpose of this Part

For the purposes of subsections 408(1) and (2) of the Act, this Part makes provision for and in relation to the retention of records in relation to poultry meat or poultry meat products.

Note: A person may commit an offence of strict liability if the person is required to retain a record in accordance with a provision of this Part and the person fails to comply with the requirement (see subsection 408(3) of the Act).

### 11-3 General requirements for records

- (1) A record that is required to be retained under this Part in relation to poultry meat or poultry meat products must be:
  - (a) in English; and
  - (b) if the record was required to be in another language to meet importing country requirements—in that other language; and
  - (c) dated; and
  - (d) accurate, legible and able to be audited.
- (2) If a person is required to retain a document under this Part, the person is taken to have complied with the requirement if:
  - (a) the person is required, under a law of the Commonwealth or a State or Territory or in accordance with ordinary commercial practice, to give the document to another person; and
  - (b) the person gives the document to the other person as required; and
  - (c) the person retains a copy of the document.

### 11-4 Government certificates

- (1) A person to whom a government certificate in relation to poultry meat or poultry meat products is issued under the Act must retain the certificate in a secure place when it is not being used.
- (2) Subsection (1) does not apply in relation to a government certificate that was issued by electronic means.

### 11-5 Export permits

- (1) A person to whom an export permit for prescribed poultry meat or poultry meat products is issued under the Act must retain the export permit in a secure place when it is not being used.
- (2) Subsection (1) does not apply in relation to an export permit that was issued by electronic means.

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### **11-6 Records to be retained by exporter**

- (1) An exporter of prescribed poultry meat or poultry meat products must retain the following records:
  - (a) each declaration given to the exporter under subsection 5-13(2);
  - (b) each application by the exporter for an export permit for prescribed poultry meat or poultry meat products;
  - (c) each other document:
    - (i) that is made by the exporter or that comes into the exporter's possession; and
    - (ii) that is relevant to showing whether the exporter has complied, or is complying, with the applicable requirements of the Act.
- (2) The exporter must retain each record referred to in subsection (1) for at least 2 years starting on the day the record is made by the exporter or comes into the exporter's possession (as the case may be).

### **11-7 Records to be retained by occupier of registered establishment**

- (1) The occupier of an establishment that is registered for a kind of export operations in relation to prescribed poultry meat or poultry meat products must retain each document:
  - (a) that is made by the occupier or that comes into the occupier's possession; and
  - (b) that is relevant to showing whether the occupier has complied, or is complying, with the applicable requirements of the Act (including whether the conditions of the registration of the establishment have been, and are being, complied with).
- (2) The occupier of the registered establishment must also retain records of all ante-mortem inspections and post-mortem inspections of carcasses or carcass parts carried out at the establishment.
- (3) The occupier of the registered establishment must retain each record referred to in subsections (1) and (2) for at least 2 years starting on the day the record is made by the occupier or comes into the occupier's possession (as the case may be).

### **11-8 Records to be retained by holder of approved arrangement**

- (1) The holder of an approved arrangement for a kind of export operations in relation to prescribed poultry meat or poultry meat products must retain each document:
  - (a) that is made by the holder or that comes into the holder's possession; and
  - (b) that is relevant to showing whether the holder has complied, or is complying, with:
    - (i) the applicable requirements of the Act; and
    - (ii) the approved arrangement; and
    - (iii) the conditions of the approved arrangement.

Note: For example, the holder of an approved arrangement must retain each record made under subsections 5-35(2) (verification of compliance), 5-36(2) (action to address non-compliance) and 5-37(3) (internal audits and management reviews).

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- (2) The holder of the approved arrangement must retain each record referred to in subsection (1) for at least 2 years starting on the day the record is made by the holder or comes into the holder's possession (as the case may be).

### 11-9 Records relating to official marks

#### *Official marks manufactured or supplied*

- (1) The holder of an approved arrangement that covers the manufacture or supply of official marks for use at establishments that are registered for operations to prepare poultry meat or poultry meat products for export must retain each record made under section 8-28 for at least 3 years after making it.

#### *Official marks received, applied, removed, defaced, destroyed or returned*

- (2) The holder of an approved arrangement for operations to prepare prescribed poultry meat or poultry meat products for export at a registered establishment must retain each record made under section 8-29 for at least 3 years after making it.

### 11-10 Records relating to official marking devices

A person who is required to make a record under section 8-37 or 8-38 must retain each record made under that section for at least 3 years after making it.

### 11-11 Records must not be altered or defaced during retention period

- (1) A record that is retained as required under this Part must not be altered or defaced during the period (the *retention period*) in which it is required to be retained.
- (2) However, subsection (1) does not prevent notations or markings being made on the record in accordance with ordinary practice.
- (3) If the record (the *original record*) is altered or defaced during the retention period, the person who is required to retain the original record must also retain, during the retention period, each document:
  - (a) that the person creates or that comes into the person's possession; and
  - (b) that shows how the original record was altered or defaced.



## **Part 3—Samples**

### **11-12 Storage of samples**

- (1) For the purposes of section 411 of the Act, a sample that may be tested or analysed under the Act must be held under conditions that are unlikely to affect the result of any testing or analysis of the sample.
- (2) Subsection (1) does not apply in relation to a sample that may be tested or analysed in the performance of functions or duties or the exercise of powers under Chapter 10 of the Act (compliance and enforcement) or the Regulatory Powers Act.

## **Part 4—Damaged or destroyed poultry meat or poultry meat products**

### **11-13 Division of compensation between owners**

For the purposes of paragraph 420(2)(b) of the Act, compensation in respect of poultry meat or poultry meat products that are owned by 2 or more owners must be divided among those owners so that each owner is paid an amount of compensation that is equal to the proportion that the Secretary is satisfied represents the owner's interest in the poultry meat or poultry meat products at the time the poultry meat or poultry meat products were damaged or destroyed.

### **11-14 Amount of compensation**

#### *Damaged poultry meat or poultry meat products*

- (1) For the purposes of subsection 420(5) of the Act, the amount of compensation payable under subsection 419(1) of the Act in respect of poultry meat or poultry meat products that are damaged by a person in the course of performing functions or duties, or exercising powers, under the Act is the lesser of the following amounts:
  - (a) the amount that the Secretary determines was the market value of the poultry meat or poultry meat products immediately before they were damaged;
  - (b) the cost to repair the damage.

Note: Subsection 419(2) of the Act provides that compensation is not payable in respect of goods that are damaged as a result of samples of the goods being taken:

- (a) during an audit conducted in relation to the goods under Part 1 of Chapter 9 of the Act; or
- (b) during an assessment of the goods under Part 2 of Chapter 9 of the Act; or
- (c) as permitted by subsection 327(2) or 330(2) of the Act.

#### *Destroyed poultry meat or poultry meat products*

- (2) For the purposes of subsection 420(5) of the Act, the amount of compensation payable under subsection 419(1) of the Act in respect of poultry meat or poultry meat products that are destroyed under the Act is the amount that the Secretary determines was the market value of the poultry meat or poultry meat products immediately before they were destroyed.

## **Part 5—Relevant Commonwealth liabilities**

### **11-15 Circumstances in which relevant Commonwealth liability of a person is taken to have been paid**

*Purpose of this section*

- (1) For the purposes of section 431 of the Act, this section prescribes circumstances in which a relevant Commonwealth liability of a person is taken to have been paid for the purposes of any of the following provisions of the Act (a **relevant provision**):
- (a) paragraph 112(2)(b) (registration of establishment);
  - (b) paragraph 117(2)(b) (renewal of registration of establishment);
  - (c) paragraph 151(2)(b) (approval of proposed arrangement);
  - (d) paragraph 156(2)(b) (renewal of approved arrangement);
  - (e) paragraph 161(3)(a) of the Act (variation of approved arrangement).

Note: For **relevant Commonwealth liability**, see section 12 of the Act.

*Payment undertaking may be given*

- (2) A relevant Commonwealth liability of a person is taken to have been paid for the purposes of a relevant provision if:
- (a) the person, or another person, has given a written undertaking (a **payment undertaking**) to the Secretary to pay the amount of the relevant Commonwealth liability; and
  - (b) the payment undertaking includes a term that the relevant Commonwealth liability is to be reduced by each amount paid in accordance with the undertaking; and
  - (c) the Secretary has accepted the payment undertaking, having considered the following matters:
    - (i) the financial position of the person who gave the payment undertaking;
    - (ii) the nature and likely cost of the export operations to which a decision under the relevant provision relates;
    - (iii) whether the person who gave the payment undertaking will be able to comply with the undertaking and, if applicable, meet the cost of the export operations referred to in subparagraph (ii);
    - (iv) any other relevant considerations.
- (3) A payment undertaking may be given by a person in relation to:
- (a) a relevant Commonwealth liability of the person; or
  - (b) a relevant Commonwealth liability of another person.

*Payment undertaking may relate to 2 or more relevant Commonwealth liabilities*

- (4) A single payment undertaking may relate to 2 or more relevant Commonwealth liabilities.

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- (5) If:
- (a) a payment undertaking relates to 2 or more relevant Commonwealth liabilities; or
  - (b) a person has given 2 or more payment undertakings in relation to different relevant Commonwealth liabilities of the person or of another person;
- the Secretary may determine the order in which payments are to be applied to reduce the outstanding relevant Commonwealth liabilities.

*Variation of payment undertaking*

- (6) A payment undertaking may be varied at any time by agreement between the Secretary and the person who gave the undertaking.
- (7) The Secretary may agree to a variation of a payment undertaking if:
- (a) having considered the matters referred to in paragraph (2)(c), the Secretary considers the variation is appropriate; and
  - (b) the variation does not reduce the amount of any relevant Commonwealth liability covered by the undertaking that has not been paid.

## **Chapter 12—Transitional provisions**

### **Part 1—Preliminary**

#### **12-1 Definitions**

In this Chapter:

*commencement time* means the time when section 3 of the *Export Control Act 2020* commences.

*old Export Control (Poultry Meat) Orders* means the *Export Control (Poultry Meat and Poultry Meat Products) Orders 2010*, as in force immediately before the commencement time.

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## **Part 2—Registered establishments: meat inspection services**

### **12-2 Allocations of inspection services in effect immediately before commencement time**

- (1) This section applies if an allocation of inspection services for a registered establishment under Part 1 of Schedule 10 to the old Export Control (Poultry Meat) Orders was in effect immediately before the commencement time.
- (2) The allocation continues to have effect after the commencement time as if it were an allocation of meat inspection services to the registered establishment under Division 1 of Part 6 of Chapter 4 of this instrument.

### **12-3 Application for inspection services not decided, or notice of decision not given, before commencement time**

- (1) This section applies in relation to an application for inspection services for a registered establishment that had been made under paragraph 1.1(b) of Schedule 10 to the old Export Control (Poultry Meat) Orders if:
  - (a) no decision on the application had been made before the commencement time; or
  - (b) a decision on the application had been made before the commencement time but written notice of the decision had not been given to the applicant before that time.

*Decision not made before commencement time*

- (2) If no decision on the application had been made before the commencement time:
  - (a) the application is taken after the commencement time to be an application made under section 4-21 of this instrument for a preliminary allocation of meat inspection services to the registered establishment; and
  - (b) subsections 4-21(2) and (3) do not apply in relation to the application.

*Decision made before commencement time but notice not given before that time*

- (3) If a decision on the application had been made before the commencement time but written notice of the decision had not been given to the applicant before that time:
  - (a) the decision is taken after the commencement time to be a determination of the preliminary allocation of meat inspection services to the establishment under subsection 4-22(1) of this instrument; and
  - (b) the Secretary must, as soon as practicable after the commencement time, give the applicant written notice in accordance with section 4-23 of this instrument.

Note: For the procedure following notice of preliminary allocation, see section 4-24 of this instrument.

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#### **12-4 Notice of preliminary determination of allocation given before commencement time**

- (1) This section applies if:
  - (a) the Secretary had given written notice of a preliminary determination of the allocation of inspection services to the occupier of a registered establishment under clause 3 of Schedule 10 to the old Export Control (Poultry Meat) Orders; and
  - (b) before the commencement time, neither of the following had happened:
    - (i) completion by the Secretary and the occupier of a memorandum of agreed intent under clause 4 of that Schedule;
    - (ii) application by the occupier to the Secretary under subclause 5.1 of that Schedule for the establishment of a committee to review the preliminary determination.
- (2) The notice continues to have effect after the commencement time as if it were a written notice stating the preliminary allocation of meat inspection services to the registered establishment given to the occupier under subsection 4-23(1) of this instrument.

Note: For the procedure following notice of preliminary allocation, see section 4-24 of this instrument.

#### **12-5 Preliminary determination of allocation agreed before commencement time**

- (1) If the Secretary and the occupier of a registered establishment had completed a memorandum of agreed intent under clause 4 of Schedule 10 to the old Export Control (Poultry Meat) Orders, the memorandum of agreed intent continues to have effect after the commencement time as if it had been completed under subsection 4-24(1) of this instrument.
- (2) A determination of the Secretary that had been deemed to be a memorandum of agreed intent under subclause 5.2 of Schedule 10 to the old Export Control (Poultry Meat) Orders continues to have effect after the commencement time as if it had been taken to be a memorandum of agreed intent between the Secretary and the occupier of the registered establishment under subsection 4-24(2) of this instrument.

#### **12-6 Revised determination made, but notice not given, before commencement time**

- (1) This section applies if the Secretary had made a revised determination of the allocation of inspection services for a registered establishment under clause 6 of Schedule 10 to the old Export Control (Poultry Meat) Orders but written notice of the revised determination had not been given to the occupier of the establishment before the commencement time.
- (2) The determination is taken after the commencement time to be a determination of a revised allocation of meat inspection services to the registered establishment under paragraph 4-25(2)(a) of this instrument.
- (3) The Secretary must, as soon as practicable after the commencement time, give the occupier of the registered establishment written notice of the determination.

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- (4) The notice given under subsection (3) has effect as if it had been given under paragraph 4-25(2)(b) of this instrument.

Note: For the procedure following notice of a revised allocation, see section 4-26 of this instrument.

### **12-7 Notice of revised determination of inspection services given before commencement time**

- (1) This section applies if:
- (a) the Secretary had given the occupier of a registered establishment written notice of a revised determination under clause 6 of Schedule 10 to the old Export Control (Poultry Meat) Orders; and
  - (b) before the commencement time, neither of the following had happened:
    - (i) completion by the Secretary and the occupier of a memorandum of agreed intent under clause 7 of that Schedule;
    - (ii) application by the occupier to the Secretary under subclause 8.1 of that Schedule for the establishment of a committee to review the revised determination.
- (2) The notice continues to have effect after the commencement time as if it were a written notice stating the revised allocation of meat inspection services to the establishment given to the occupier under subsection 4-25(2) of this instrument.

Note: For the procedure following notice of a revised allocation, see section 4-26 of this instrument.

### **12-8 Revised determination of allocation agreed before commencement time**

If the Secretary and the occupier of a registered establishment had completed a memorandum of agreed intent under clause 7 of Schedule 10 to the old Export Control (Poultry Meat) Orders, the memorandum of agreed intent continues to have effect after the commencement time as if it had been completed under subsection 4-26(2) of this instrument.

### **12-9 Application for review committee made, but committee not established, before commencement time**

#### *Review of preliminary determination*

- (1) If:
- (a) an application had been made under subclause 5.1 of Schedule 10 to the old Export Control (Poultry Meat) Orders to establish a committee to review a preliminary determination of the Secretary; and
  - (b) the Secretary had not established the committee before the commencement time;

the application is taken after the commencement time to be an application made under subsection 4-24(3) of this instrument to establish a committee to review the determination.

#### *Review of revised determination*

- (2) If:



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- (a) an application had been made under subclause 8.1 of Schedule 10 to the old Export Control (Poultry Meat) Orders to establish a committee to review a revised determination of the Secretary; and
- (b) the Secretary had not established the committee before the commencement time;

the application is taken after the commencement time to be an application made under subsection 4-26(4) of this instrument to establish a committee to review the determination.

### **12-10 Committee review in progress before commencement time**

- (1) This section applies if:
  - (a) a committee had been established under subclause 9.1 of Schedule 10 to the old Export Control (Poultry Meat) Orders to review a determination, or a revised determination, of the Secretary of the allocation of inspection services for a registered establishment; and
  - (b) either:
    - (i) the committee had not completed the review before the commencement time; or
    - (ii) the committee had completed the review but no recommendation had been made to the Secretary before the commencement time.

#### *No review before commencement time*

- (2) If the committee had not completed the review before the commencement time, the committee must after the commencement time complete the review and give a written recommendation to the Secretary on the appropriate allocation of meat inspection services to the establishment as if Part 1 of Schedule 10 to the old Export Control (Poultry Meat) Orders were still in force.

#### *Review but no recommendation before commencement time*

- (3) If the committee had completed the review but no recommendation had been made to the Secretary before the commencement time, the committee must as soon as practicable give a written recommendation to the Secretary on the appropriate allocation of meat inspection services to the establishment.
- (4) A recommendation given to the Secretary under this section is taken to be a recommendation given to the Secretary under subsection 4.26(4) of this instrument.

### **12-11 Determination reconsidered, but notice not given, before commencement time**

- (1) This section applies if the Secretary had determined the allocation of inspection services for a registered establishment under subclause 11.1 of Schedule 10 to the old Export Control (Poultry Meat) Orders but written notice informing the occupier of the establishment of the decision had not been given under clause 12 of that Schedule before the commencement time.
- (2) The determination is taken after the commencement time to be a determination under subsection 4-28(1) of this instrument.

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Note: A determination under subsection 4-28(1) of this instrument replaces any earlier determination of the Secretary of an allocation of meat inspection services to the establishment and is taken to be a memorandum of agreed intent between the Secretary and the occupier of the establishment (see subsection 4-28(3) of this instrument).

- (3) The Secretary must, as soon as practicable after the commencement time, give the occupier written notice of the decision in accordance with subsections 4-28(4) and (5) of this instrument.

Note: A decision under subsection 4-28(1) of this instrument to determine a new allocation of meat inspection services to an establishment is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

### **12-12 Application to alter inspection services not decided before commencement time**

- (1) This section applies in relation to an application to alter an allocation of inspection services that had been made under subclause 19.1 of Schedule 10 to the old Export Control (Poultry Meat) Orders if no decision on the application had been made before the commencement time.
- (2) The application is taken after the commencement time to be an application made under subsection 4-29(1) of this instrument to vary an allocation of meat inspection services.
- (3) Subsections 4-29(2) to (4) of this instrument do not apply in relation to the application.

### **12-13 Application for additional inspection services not decided before commencement time**

- (1) This section applies in relation to an application for inspection services in addition to an allocation of inspection services that had been made under subclause 20.1 of Schedule 10 to the old Export Control (Poultry Meat) Orders if no decision on the application had been made before the commencement time.
- (2) The application is taken after the commencement time to be an application made under section 4-30 of this instrument for additional meat inspection services.
- (3) The application is taken to be an application for additional meat inspection services to be allocated as follows:
- (a) if the applicant's allocation of inspection services immediately before the commencement time had been on an annual basis—on a monthly or a weekly basis;
  - (b) if the applicant's allocation of inspection services immediately before the commencement time had been on a monthly basis—on a weekly basis;
  - (c) if the applicant's allocation of inspection services immediately before the commencement time had been on a weekly basis—on a weekly or daily basis;
  - (d) if the applicant's allocation of inspection services immediately before the commencement time had been on a daily basis—on a daily basis;
  - (e) if the applicant's allocation of inspection services immediately before the commencement time had been on an hourly basis—on an hourly basis.

- (4) Subsections 4-30(2) to (7) of this instrument do not apply in relation to the application.

**12-14 Notice of termination of additional inspection services given before commencement time**

- (1) This section applies if:
- (a) an occupier of a registered establishment had given written notice under clause 21 of Schedule 10 to the old Export Control (Poultry Meat) Orders to terminate additional inspection services, or any part of additional inspection services, allocated to the establishment; and
  - (b) the period of the notice had not ended before the commencement time.
- (2) The notice continues to have effect after the commencement time as if it were a notice given by the occupier under section 4-33 of this instrument and the Secretary must terminate the additional meat inspection services, or the part of the additional meat inspection services, at the end of the period specified in the notice.

**12-15 Notice of shutdown given before commencement time**

- (1) This section applies if:
- (a) an occupier of a registered establishment had given written notice under subclause 22.1 of Schedule 10 to the old Export Control (Poultry Meat) Orders that inspection services were not required for a period of shutdown specified in the notice; and
  - (b) the period specified in the notice had not ended before the commencement time.
- (2) The notice continues to have effect after the commencement time as if it were a notice given by the occupier under section 4-31 of this instrument.

**12-16 Variation of allocation for change of circumstance not advised before commencement time**

- (1) This section applies if the Secretary had varied the allocation of inspection services for a registered establishment under clause 23 of Schedule 10 to the old Export Control (Poultry Meat) Orders but the Secretary had not advised the occupier of the establishment of the variation before the commencement time.
- (2) The variation of the allocation is taken after the commencement time to be a variation of the allocation of meat inspection services to the establishment under subsection 4-32(2) of this instrument.
- (3) The Secretary must, as soon as practicable after the commencement time, give the occupier written notice of the variation in accordance with subsection 4-32(3) of this instrument.

**12-17 Disputed allocation not decided before commencement time**

- (1) This section applies in relation to an application under subclause 24.1 of Schedule 10 to the old Export Control (Poultry Meat) Orders for reconsideration

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of a variation of the allocation of inspection services if no decision on the application had been made before the commencement time.

- (2) The application is taken after the commencement time to be an application made under subsection 4-32(4) of this instrument for reconsideration of the varied allocation.

**12-18 Notice of reconsideration of disputed allocation not given before commencement time**

- (1) This section applies if the Secretary had determined the allocation of inspection services for a registered establishment under subclause 24.3 of Schedule 10 to the old Export Control (Poultry Meat) Orders but written notice of the determination had not been given under clause 26 of that Schedule before the commencement time.
- (2) The determination is taken to be a determination under paragraph 4-32(6)(b) of this instrument.
- (3) The Secretary must give the occupier of the establishment written notice of the determination in accordance with paragraph 4-32(7)(b) of this instrument.

Note: A decision under paragraph 4-32(6)(b) of this instrument to determine a new allocation of meat inspection services to an establishment is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

## **Part 3—Approved arrangements**

### **12-19 Information and declarations given before commencement time**

- (1) This section applies if information and declarations had been given under subclause 8.1 of Schedule 7 to the old Export Control (Poultry Meat) Orders to a consignee that is the occupier of a registered establishment in relation to poultry meat or poultry meat products that were at the registered establishment immediately before the commencement time.
- (2) At the commencement time:
  - (a) the information and declarations are taken to be the information and declarations required to be given to the occupier of the registered establishment by section 5-31 of this instrument in relation to the poultry meat or poultry meat products; and
  - (b) the information and declarations are taken to have been given in accordance with paragraph 5-31(2)(b) of this instrument.

## **Part 4—Other matters relating to export**

### **Division 1—Trade descriptions**

#### **12-20 Request for translation not complied with before commencement time**

If an authorised officer had given a person written notice under suborder 10.11(4) of the old Export Control (Poultry Meat) Orders requesting a translation of part of a trade description or other information and the request had not been complied with before the commencement time, the notice continues to have effect after the commencement time as if it were a request given to the person under subsection 8-7(3) of this instrument.

## **Division 2—Official marks**

### **12-21 Person approved before commencement time to manufacture an official mark**

- (1) This section applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under paragraph 7.04(f) or subparagraph 7.04(h)(ii) of the old Export Control (Poultry Meat) Orders to manufacture an official mark in relation to prescribed poultry meat or poultry meat products.
- (2) The person is taken, at the commencement time, to have been given a written approval by the Secretary under paragraph 8-20(c) of this instrument to manufacture or supply the official mark in relation to prescribed poultry meat or poultry meat products.

### **12-22 Person approved before commencement time to apply an official mark**

- (1) This section applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under paragraph 7.01(2)(e) of the old Export Control (Poultry Meat) Orders as a person who may apply an official mark in a specified registered establishment in relation to prescribed poultry meat or poultry meat products.
- (2) The person is taken, at the commencement time, to have been given a written approval by the Secretary under paragraph 8-22(2)(d) of this instrument to apply the official mark at the registered establishment in relation to prescribed poultry meat or poultry meat products.

### **Division 3—Official marking devices**

#### **12-23 Person approved before commencement time to manufacture an official marking device**

- (1) This section applies in relation to a person who, immediately before the commencement time, was a person approved by the Secretary under paragraph 7.04(f) or subparagraph 7.04(h)(ii) of the old Export Control (Poultry Meat) Orders to manufacture an official marking device that is capable of being used to apply an official mark to prescribed poultry meat or poultry meat products.
- (2) The person is taken, at the commencement time, to have been given a written approval by the Secretary under paragraph 8-34(1)(c) of this instrument to manufacture or supply the official marking device.

#### **12-24 Person approved before commencement time to possess an official marking device**

- (1) This section applies in relation to a person who, immediately before the commencement time, was a person approved by the Secretary under paragraph 7.04(f) or subparagraph 7.04(h)(ii) of the old Export Control (Poultry Meat) Orders to possess an official marking device that is capable of being used to apply an official mark to prescribed poultry meat or poultry meat products.
- (2) The person is taken, at the commencement time, to have been given a written approval by the Secretary under paragraph 8-34(1)(c) of this instrument to possess the official marking device.



## **Part 5—Powers and officials**

### **Division 1—Approved auditors**

#### **12-25 Application for approval as auditor not decided, or notice of decision not given, before commencement time**

- (1) This section applies in relation to an application to the Secretary by an individual for approval as an approved auditor that had been made under subclause 2.1 of Schedule 9 to the old Export Control (Poultry Meat) Orders if:
  - (a) no decision on the application had been made before the commencement time; or
  - (b) a decision on the application had been made before the commencement time but written notice of the decision had not been given to the applicant before that time.

##### *Decision not made before commencement time*

- (2) If no decision on the application had been made before the commencement time:
  - (a) the application is taken after the commencement time to be an application made under subsection 9-7(1) of this instrument to the Secretary to approve the individual, under subsection 273(1) of the Act, to conduct audits; and
  - (b) subsections 9-7(2) and (3) of this instrument do not apply in relation to the application.

##### *Decision made before commencement time but notice not given before that time*

- (3) If a decision on the application had been made before the commencement time but the Secretary had not notified the applicant of the decision before that time, the Secretary must, as soon as practicable after that time, give the applicant written notice of the decision.
- (4) If the decision referred to in subsection (3) was to approve the applicant as an approved auditor:
  - (a) the decision is taken to be a decision under paragraph 9-8(1)(a) of this instrument; and
  - (b) the Secretary must give the applicant a written notice in accordance with section 9-11 of this instrument.
- (5) If the decision referred to in subsection (3) was to refuse to approve the applicant as an approved auditor, the decision is taken to be a decision under paragraph 9-8(1)(b) of this instrument.

Note: A decision under paragraph 9-8(1)(b) of this instrument to refuse to approve the applicant to conduct audits is a reviewable decision (see section 11-1 of this instrument) and the Secretary must give the applicant written notice of the decision (see section 382 of the Act).

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**12-26 Request for further information not complied with before commencement time**

- (1) If the Secretary had requested an applicant for approval as an approved auditor to provide further specified information or documents under clause 3 of Schedule 9 to the old Export Control (Poultry Meat) Orders and the request had not been complied with before the commencement time, the request must be complied with after the commencement time as if it were a request made by the Secretary under subsection 9-9(1) of this instrument.
- (2) If the request did not specify the period within which the request must be complied with, it must be complied with as soon as practicable.

**12-27 Decision to revoke approval as auditor decided, but notice not given, before commencement time**

- (1) If the Secretary had made a decision under subclause 12.1 of Schedule 9 to the old Export Control (Poultry Meat) Orders to revoke the approval of a person as an approved auditor but had not notified the person of the decision before the commencement time, the Secretary must, as soon as practicable after that time, give the person written notice of the decision.
- (2) The decision is taken to be a decision under subsection 9-14(1) of this instrument.

Note: A decision under subsection 9-14(1) of this instrument to revoke an individual's approval to conduct audits (other than at the request of the individual) is a reviewable decision (see section 11-1 of this instrument) and the Secretary must give the holder of the approval written notice of the decision (see section 382 of the Act).

## **Division 2—Decisions and dispositions**

### **12-28 Decision or disposition applied, but not complied with, before commencement time**

- (1) This section applies if:
- (a) an authorised officer had applied a decision or a disposition to poultry or a carcase, carcase part, poultry meat or poultry meat product under suborder 8.02(1) of the old Export Control (Poultry Meat) Orders; and
  - (b) the decision or disposition had not been complied with before the commencement time.

#### *Decision applied to poultry*

- (2) A decision that had been applied to poultry, and any condition or requirement attached to the decision (including any variations of the decision, condition or requirement), must be complied with after the commencement time as if the decision had been applied under subsection 9-21(1) of this instrument.

#### *Disposition applied to poultry*

- (3) A disposition that had been applied to poultry, and any condition or requirement attached to the disposition (including any variations of disposition, condition or requirement), must be complied with after the commencement time as if the disposition had been applied under paragraph 9-22(b) of this instrument.

#### *Disposition applied to carcase or carcase part*

- (4) A disposition that had been applied to a carcase or carcase part, and any condition or requirement attached to the disposition (including any variations of the disposition, condition or requirement), must be complied with after the commencement time as if the disposition had been applied under paragraph 9-23(1)(b) of this instrument.

#### *Disposition applied to poultry meat or poultry meat product*

- (5) A disposition that had been applied to poultry meat or poultry meat products, and any condition or requirement attached to the disposition (including any variations of the disposition, condition or requirement), must be complied with after the commencement time as if the disposition had been applied under paragraph 9-24(b) of this instrument.

### **12-29 Certificate of condemnation requested, but not given, before commencement time**

- (1) This section applies if:
- (a) the occupier of an establishment had given an authorised officer a written request in accordance with paragraph 8.07(a) of the old Export Control (Poultry Meat) Orders for a certificate of condemnation for poultry or a carcase or carcase part that was condemned at the establishment; and

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- (b) the certificate had not been given to the occupier before the commencement time; and
  - (c) an approved arrangement is in force for export operations carried out at the establishment after the commencement time.
- (2) The request is taken to have been made by the holder of the approved arrangement in accordance with paragraph 9-31(b) of this instrument.