

REPLACEMENT EXPLANATORY STATEMENT

Issued by Authority of the Secretary, Department of Agriculture, Water and the Environment

Export Control Act 2020

Export Control (Wild Game Meat and Wild Game Meat Products) Rules 2021

Authority

The *Export Control Act 2020* (the Act) sets out the overarching legislative framework for the regulation of exported goods, including food and agricultural products, from Australian territory, and enables the Secretary of the Department of Agriculture, Water and the Environment (the Secretary) to make rules that detail the requirements and establish conditions relating to the export of certain goods. The Act provides provisions for the application of the Act and how the Act interacts with State and Territory laws.

The *Export Control (Wild Game Meat and Wild Game Meat Products) Rules 2021* (the Wild Game Rules) prohibit the export of prescribed wild game meat and wild game meat products from Australian territory, or from a part of Australian territory, unless prescribed export conditions are adhered to. Prescribed wild game meat and wild game meat products are regulated by the Wild Game Rules.

The Wild Game Rules are made by the Secretary under section 432 of the Act. Section 432 of the Act relevantly provides that the Secretary may, by legislative instrument, make rules prescribing matters required or permitted by the Act, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Several provisions in the Act set the parameters of the Secretary's rule-making power and either:

- provide examples of the kinds of things for which the Secretary may make provision in the rules; or
- set out the default matters for the provision and allow the Secretary to give further detail, or set out additional requirements, in the rules.

Under section 289 of the Act, the Minister may give directions to the Secretary about the performance of the Secretary's functions or the exercise of the Secretary's powers in making rules under section 432 of the Act. Directions made by the Minister to the Secretary are legislative instruments but are not subject to disallowance or sunset. At the time of commencement, a Ministerial direction has not been made under section 289 of the Act for the purposes of rules relating to wild game meat and wild game meat products.

Purpose

The purpose of the Wild Game Rules is to ensure wild game meat and wild game meat products exported from Australian territory satisfy requirements to enable and maintain overseas market access. The Wild Game Rules include measures to ensure exported wild game meat and wild game meat products comply with prescribed export conditions, are described accurately and are traceable. The Wild Game Rules also include measures to support the integrity of wild game meat and wild game meat products exported from Australia.

By setting out key requirements for the export of wild game meat or wild game meat products in the Wild Game Rules, and having those Rules made by the Secretary, the regulatory framework can be updated to keep pace with rapid changes to requirements. Having the capacity to change the Wild Game Rules quickly is crucial to ensuring that Australian producers, processors and exporters do not experience disruption in market access and can continue to export goods that meet requirements. It is particularly important that exported goods are compliant because one non-compliant export of non-compliant goods can have significant consequences for other exports, including restrictions on, or the closure of, market access.

The Wild Game Rules, in conjunction with the Act, set out the requirements that are particular to the export of wild game meat and wild game meat products from Australian territory. Wherever possible, the Wild Game Rules have been made consistent with other commodity specific export rules that share the same requirements, to ensure consistency in the new framework for stakeholders and regulators that deal in multiple commodities. This will allow for a streamlined approach to regulating the different commodities that will be prescribed and will ensure the framework is more accessible.

Background

In 2015 the then Department of Agriculture (now the Department of Agriculture, Water and the Environment (the Department)) conducted a comprehensive review of the export of agricultural products through the *Agricultural Export Regulation Review* (the Review). The Review found most stakeholders accepted the current level of regulation and understood the need for it to be maintained to protect market access and Australia's reputation. However, it also recognised that there was scope for improvement, including increasing flexibility and opportunities for government-industry cooperation, reducing complexity and duplication, and strengthening compliance and enforcement arrangements.

Based on these findings, two regulatory options were considered:

- option one: maintain the existing regulatory arrangements;
- option two: consolidate and improve the legislative framework.

On considering the findings of the Review, the Australian Government agreed to improve the legislative framework to address the issues identified by the Review. As part of that process, existing export-related requirements were streamlined and consolidated into an improved legislative framework comprising of the Act and commodity specific rules, which will

support the Act. These improvements reduce duplication as well as make it easier to understand and comply with export requirements.

The improvements to the legislative framework are not intended to make significant changes to export policy or the current baseline of regulation. It is intended to provide a more consistent and clearer framework that is flexible and responsive to emerging issues.

Impact and Effect

The Wild Game Rules impose regulatory controls on wild game meat and wild game meat products that are to be exported from Australian territory so that these products meet trade requirements. These controls maintain and strengthen the existing regulatory controls and oversight for the export of goods.

Unless the contrary intention appears, the Wild Game Rules apply the requirements in the Australian Standard AS 4696:2007, *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption* (the Australian Meat Standard) and the Australian Standard 4464:2007 *Australian Standard for the Hygienic Production of Wild Game Meat for Human Consumption* as they exist at the commencement of the Wild Game Rules. In 2021, these standards were available on the CSIRO Publishing website (<https://www.publish.csiro.au>).

Chapter 1 deals with formal and preliminary matters and sets out the special meanings of words and phrases used in the Wild Game Rules.

Chapter 2 deals with matters relating to exporting goods. These include defining prescribed goods, prohibiting the export of certain goods, applying for exemptions, and the issue of government certificates.

Chapter 4 deals with matters relating to registered establishments. These include:

- requirements relating to construction, equipment and facilities;
- conditions of registration;
- application for registration and renewal, variation, suspension and revocation of registration;
- obligations of occupiers of registered establishments; and
- meat inspection services.

Chapter 5 deals with matters relating to approved arrangements. These include:

- requirements for approval;
- conditions of approval of an approved arrangement, including trade descriptions and official marks; and
- applications for an approved arrangement and, renewal and variation of an approved arrangement.

Chapter 7 deals with matters relating to export permits. These include conditions for the issue and the period of effect of an export permit, application for an export permit and, variation, suspension and revocation of an export permit.

Chapter 8 provides for other matters relating to export. These include notices of intention to export and trade descriptions and official marks.

Chapter 9 deals with matters relating to powers and officials. This includes:

- provisions for the conduct of audits and carrying out assessments of goods;
- powers and functions of authorised officers in relation to inspections; and
- decisions that may be made by the operation of a computer program.

Chapter 10 deals with compliance and enforcement including:

- samples taken in exercising monitoring or investigation powers; and
- dealing with things seized in exercising investigation powers.

Chapter 11 deals with miscellaneous matters such as:

- review of decisions;
- record-keeping;
- storage of samples;
- compensation for the damage or destruction of goods; and
- relevant Commonwealth liabilities.

Chapter 12 provides a scheme of transitional and savings provisions that will preserve certain rights and liabilities under the former Orders (the old *Export Control (Wild Game Meat) Orders 2010*).

Consultation

In accordance with the requirement for consultation under section 17 of the *Legislation Act 2003*, the Wild Game Rules have been developed by consultation with stakeholder groups including industry representatives and state and territory regulatory agencies responsible for the administration and regulation of wild game establishments. The level of regulatory oversight will not change under the new legislative framework. However, the requirements are easier to understand, administer and use.

Public consultation with industry representatives was held on 20 August 2020. An exposure draft of the Wild Game Rules was released on 26 October 2020 as part of a package of revised commodity specific rules for 60 days of public consultation to ensure Australia's compliance with international obligations under the World Trade Organization's Sanitary and Phytosanitary Agreement.

The Office of Best Practice Regulation within the Department of Prime Minister and Cabinet (PMC) was consulted in the development of the Act and the subsequent Wild Games Rules. The Act established a new regulatory framework which is supported by a number of subordinate legislative instruments and aims to improve Australia's agriculture export legislation (which is a key initiative to support the export of Australian goods and products).

A Regulatory Impact Statement *Improvements to agriculture export legislation* [OBPR ID: 19535] was previously developed under this framework, with stakeholders included in the consideration of commodity specific rules, and the mandatory obligations on Australian businesses and the relevant industries. A copy of the Regulation Impact Statement was previously provided with the explanatory memorandum to the Export Control Bill 2019.

Details and Operation

Details of the Wild Game Rules are set out in [Attachment A](#).

The Wild Game Rules is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Wild Game Rules commence at the same time as section 3 of the Act commences.

The Wild Game Rules incorporate the Australian Standard [AS 4696:2007], *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption* (the Australian Meat Standard) as existing at the commencement of the Wild Game Rules. In 2021, this standard was available on the CSIRO Publishing website (<http://www.publish.csiro.au>).

The Wild Game Rules incorporate the Australian Standard [AS 4464:2007] *Australian Standard for the Hygienic Production of Wild Game Meat for Human Consumption* (Australian Wild Game Meat Standard) as existing at the commencement of the Wild Game Rules. In 2021, this standard was available on the CSIRO Publishing website (<https://www.publish.csiro.au>).

Other

The Wild Game Rules is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

Details of the *Export Control (Wild Game Meat and Wild Game Meat Products) Rules 2021*

CHAPTER 1—PRELIMINARY

Part 1—Preliminary

1-1 Name

Section 1-1 provides that the name of the instrument is the *Export Control (Wild Game Meat and Wild Game Meat Products) Rules 2021* (the Wild Game Rules).

1-2 Commencement

Section 1-2 provides for the Wild Game Rules to commence at the same time as section 3 of the *Export Control Act 2020* (the Act).

Section 2 of the Act provides for section 3 of the Act to commence at a single time to be fixed by Proclamation. However, if section 3 of the Act does not commence before 3 am on 28 March 2021 (in the Australian Capital Territory), then it will commence at that time (item 2 of the table in section 2 of the Act).

1-3 Authority

Section 1-3 provides that the Wild Game Rules are made under the Act.

1-4 Simplified outline of this instrument

Section 1-4 provides a simplified outline of the matters covered in the Wild Game Rules and details the structure. The outline is not intended to be comprehensive and is included to assist readers. It is intended that readers will rely on the substantive provisions in the Wild Game Rules.

The Wild Games Rules prescribe matters and make other provisions in relation to wild game meat and wild game meat products for the purposes of the Act. Chapters in the Wild Game Rules have the same name and number as corresponding Chapters in the Act. Gaps in the Chapter numbering in the Wild Game Rules are because some Chapters of the Act are not relevant to the export of wild game meat and wild game meat products.

Part 2—Interpretation

Division 1—Definitions

1-5 Definitions

Section 1-5 contains definitions of key terms which are used in the Wild Game Rules. The note at the start of this section lists some of the terms used in the Wild Game Rules which are defined in section 12 of the Act. Such terms will have the same meaning in the Wild Game Rules as they have in the Act.

Section 1-5 also includes some ‘signpost’ definitions that refer readers to the sections in which terms are substantively defined.

Some key concepts for the regulatory framework established by the Wild Game Rules are ***wild game animal***, ***wild game meat*** and ***wild game meat products***. These are key concepts because they broadly set the scope of what can be regulated by the Wild Game Rules. Only ***prescribed wild game meat*** and ***prescribed wild game meat products*** are regulated by the Wild Game Rules and these terms are defined, respectively, as wild game meat and wild game meat products that are prescribed goods under Division 1 of Part 1 of Chapter 2.

Wild game animal is defined as a vertebrate animal (including a mammal, bird and reptile, but not including a fish) that has not been husbanded in the manner of a farmed animal and has been killed in the field. The note after the definition of ***wild game animal*** explains that examples are kangaroos (macropod animals), wild boar (porcine animals), feral goats (caprine animals), rabbits (lagomorph animals) and deer (cervid animals). ***Wild game meat*** is defined as any part of a wild game animal, including a wild game animal carcass and offal. ***Wild game meat product*** is defined as having the same meaning as in the Australian Wild Game Meat Standard. The standard defines ***wild game meat product*** as meaning a product containing wild game meat.

The ***Australian Meat Standard*** is defined as Australian Standard [AS 4696:2007], *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption*. This Standard harmonises standards for the production and transportation of meat and meat products. This standard is incorporated as it exists at the commencement of this instrument and is freely available on the CSIRO Publishing’s website (<https://www.publish.csiro.au>).

The ***Australian Wild Game Meat Standard*** is defined as Australian Standard [AS 4464:2007], *Australian Standard for the Hygienic Production of Wild Game Meat for Human Consumption*. This Standard harmonises standards for the production of wild game meat and wild game meat products. This standard is incorporated as it exists at the commencement of this instrument and is freely available on the CSIRO Publishing’s website (<https://www.publish.csiro.au>).

Section 1-5 also defines the term **exporter**, in the context of exporting prescribed wild game meat or wild game meat products, as the applicant for an export permit for the wild game meat or wild game meat products or, if an export permit has been issued for the wild game meat or wild game meat products, the holder of the permit. This is an important concept because it clarifies who is generally being regulated by the requirements of the Wild Game Rules.

Other key concepts for the Wild Game Rules that are defined in section 1-5 are a **registered establishment**, which means an establishment that is registered (under Chapter 4 of the Act) for a kind of export operations in relation to prescribed wild game meat or wild game meat products, and **relevant importing country authority**, which means the authority or body that is responsible for regulating the importation of wild game meat or wild game meat products into that country from Australian territory.

Section 1-5 defines **HACCP** to mean 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 Organization, as in force from time to time. Subsection 432(3) of the Act provides that, despite subsection 14(2) of the *Legislation Act*, the rules may make provision for or in relation to a matter by applying, adopting or incorporating, with or without any modification, certain documents or matters contained in certain documents as in force from time to time. Under paragraph 432(3)(e), this includes any matters contained in the Codex Alimentarius issued by the body known as the Codex Alimentarius Commission of the Food and Agriculture Organization (FAO) of the United Nations and the World Health Organization. The Wild Game Rules incorporate the Codex Alimentarius as in force from time to time. The Codex Alimentarius can be viewed on the FAO website (<http://www.fao.org>).

The purpose of the definitions of **resources industry structure** and **installed** is to provide certainty around the kinds of structures (for example, oil rigs and similar off-shore structures) that are covered by the Wild Game Rules. Goods consigned to a **resources industry structure** that is **installed** in an area are not required to comply with prescribed export conditions (see paragraph 2-2(f) of the Wild Game Rules). The definition of **resources industry structure** means a resources industry fixed structure (as defined in the *Sea Installations Act 1987*) and a resources industry mobile unit (as defined in the *Sea Installations Act 1987*) that is not a vessel. This definition of **resources industry structure** includes a fixed structure (including a pipeline) or a moveable or floatable structure (that is not a vessel) that is used offshore wholly or principally for exploring or exploiting natural mineral resources.

1-6 Meaning of loaded for export

Section 1-6 provides a definition for when wild game meat or wild game meat products are **loaded for export**. This is when the wild game meat or wild game meat products are placed into a container system unit at a registered establishment for export, or are loaded into or onto an aircraft or a vessel for export without first being placed into a container system unit.

This stage in the export supply chain is an important point of regulatory control before a consignment of wild game meat or wild game meat products leaves Australian territory. There are certain obligations that apply at this stage in the supply chain and the definition makes these obligations clear. These obligations under the Wild Game Rules include:

- that prescribed wild game meat and wild game meat products must, at the time they are loaded for export, be packaged to effectively protect them from contamination and deterioration (section 5-12 of the Wild Game Rules) under the conditions which they are loaded, stored, and transported from Australian territory;
- that prescribed wild game meat and wild game meat products must not be loaded for export in a container system unit or area on an aircraft or vessel, unless the container system unit or area used for loading is clean, free from contamination, free of odours and materials capable of contaminating wild game meat or wild game meat products or their packaging, and if necessary, has appropriate and adequate refrigeration (section 5-13 of the Wild Game Rules); and
- a trade description must be applied no later than the time the prescribed meat and meat products that are intended to be exported are packed (section 5-16 of the Wild Game Rules).

Division 2—Other interpretation provisions

1-7 References to authorised officer and meat safety inspector

Subsection 1-7(1) makes clear that a reference to a meat safety inspector in the Australian Meat Standard or the Australian Wild Game Meat Standard is to be read as a reference to an authorised officer for the purpose of the Wild Game Rules, unless subsection 1-7(2) and (3) apply.

The note following subsection 1-7(1) explains that an authorised officer may perform all of the functions of a meat safety inspector specified in the Australian Meat Standard in relation to wild game meat and specified in the Australian Wild Game Meat Standard in relation to wild game meat products. (see section 9-21 of the Wild Game Rules).

Subsections 1-7(2) and (3) clarify circumstances where a reference to an authorised officer in the Wild Game Rules or a reference to a meat safety inspector in the Australian Meat Standard or the Australian Wild Game Standard is to be read as a reference to a veterinary officer, or an authorised officer acting under the supervision of a veterinary officer. This enables the Wild Game Rules to operate effectively when implementing or requiring compliance with the Australian Meat Standard or the Australian Wild Game Standard. In certain circumstances, certain functions may only be performed by a veterinary officer or an authorised officer who is under the supervision of a veterinary officer.

1-8 Modifications of certain terms used in the Australian Meat Standard

Subsection 1-8(1) provides that for the purpose of the Wild Game Rules, the Australian Meat Standard is taken to be modified as provided for by section 1-8. The relevant modifications are set out in subsections 1-8(2) to (7). It is necessary to make these modifications to ensure consistency with terms used in the Wild Game Rules and the Act.

Subsection 1-8(2) has the effect of omitting the definition of the term *dried meat* in the Australian Meat Standard and substituting the following definition: *dried meat* does not include slow-dried cured meat.

Subsection 1-8(3) has the effect that a reference to ‘meat’ in the Australian Meat Standard is to be read, in the context of the Wild Game Rules, as a reference to wild game meat as defined by section 1-5 of the Wild Game Rules.

Subsection 1-8(4) provides that reference to a ‘meat business’ in the Australian Meat Standard is to be read, in context of the Wild Game Rules, as a reference to an establishment where operations to prepare wild game meat or wild game meat products for export are carried out or, if the context requires, the occupier of such an establishment.

Subsection 1-8(5) has the effect that a reference to a ‘meat product’ in the Australian Meat Standard is to be read, in the context of the Wild Game Rules, as a reference to a wild game meat product as defined by section 1-5 of the Wild Game Rules.

Subsection 1-8(6) provides that a reference to a ‘meat transport vehicle’ in the Australian Meat Standard is to be read as a reference to the definition of that term in section 1-5 of the Wild Game Rules.

Subsection 1-8(7) has the effect that a reference to the ‘operator or proprietor of meat premises’ in the Australian Meat Standard is to be read, in the context of the Wild Game Rules, as a reference to the occupier of an establishment. This ensures consistency between the Australian Meat Standard, the Wild Game Rules and the Act in respect of the requirements and conditions that apply to occupiers of establishments.

The note following subsection 1-8(7) explains that *establishment* has the same meaning as *premises*, as provided for in section 12 of the Act. This is to ensure consistency between the Australian Meat Standard, the Wild Game Rules and the Act when the requirements and conditions apply to occupiers. *Premises* includes a structure, building or conveyance or a place (whether or not enclosed or built on), including a place situated underground or under water or a part of any of these things.

1-9 Modifications of certain terms used in the Australian Wild Game Meat Standard

Subsection 1-9(1) provides that, for the purpose of the Wild Game Rules, the Australian Wild Game Meat Standard is taken to be modified. The relevant modifications are set out in subsections 1-9(2) to (5). It is necessary to make these modifications to ensure consistency with terms used in the Wild Game Rules and the Act.

Subsection 1-9(2) has the effect that reference to an ‘operator of wild game meat processing premises’ or ‘proprietor of a wild game meat business’ in the Australian Wild Game Meat Standard is to be read, in context of the Wild Game Rules, as a reference to the occupier of an establishment.

The first note following subsection 1-9(2) explains that the term *occupier* of an establishment is defined in section 19 of the Act.

The second note following subsection 1-9(2) explains that the term *establishment* has the same meaning as *premises* (see the definition of *establishment* in section 12 of the Act).

The third note following subsection 1-9(2) explains that a reference to a wild game meat business is a reference to an establishment as provided in subsection 1-9(3) of the Wild Game Rules.

Subsection 1-9(3) has the effect that a reference to a ‘wild game meat business’ in the Australian Wild Game Meat Standard is to be read, in the context of the Wild Game Rules, as a reference to an establishment where operations to prepare wild game meat or wild game meat products for export are carried out, or the occupier of such an establishment.

Subsection 1-9(4) has the effect that reference to a ‘wild game meat processing establishment’ or ‘wild game meat processing premises’ in the Australian Wild Game Meat Standard is to be read, in the context of the Wild Game Rules, as a reference to an establishment where operations to prepare wild game meat or wild game meat products for export are carried out.

Subsection 1-9(5) has the effect that a reference to a ‘wild game meat transport vehicle’ in the Australian Wild Game Meat Standard is to be read as a reference to the definition of that term in section 1-5 of the Wild Game Rules. A *wild game meat transport vehicle* means a conveyance that is used to transport, or transfer prescribed wild game meat or wild game meat products and includes the wild game meat carrying compartment of that conveyance.

1-10 Circumstances in which alternative procedure, standard or other requirement is taken to meet requirements of Australian Meat Standard or Wild Game Meat Standard

Section 1-10 sets out the circumstances in which an alternative procedure, standard or other requirement is, for the purposes of the Wild Game Rules, taken to meet the requirements of the Australian Meat Standard or the Australia Wild Game Meat Standard. This is necessary because:

- in some circumstances, the Australian Meat Standard or the Australia Wild Game Meat Standard requires a particular technique to be implemented in carrying out operations to prepare prescribed wild game meat or wild game meat products for export; and
- meeting the requirements of the Australian Meat Standard or the Australia Wild Game Meat Standard may be a condition of the registration of the registered establishment where operations to prepare the wild game meat or wild game meat products for export are carried out.

Section 1-10 has the effect that where an approved arrangement:

- covers operations to prepare the wild game meat or wild game meat products for export; and
- provides for an alternative procedure, standard or requirement to be implemented in carrying out those operations;

the implementation of that alternative procedure, standard or requirement when carrying out operations to prepare prescribed wild game meat or wild game meat products for export is

taken to meet the requirement in the Australian Meat Standard or the Australia Wild Game Meat Standard to use a particular technique.

The purpose of this section is to provide flexibility to allow for innovation in preparing wild game meat and wild game meat products, while maintaining the integrity of the goods. The alternative procedures, standards or other requirements will not be taken to be fulfilling the Australian Meat Standard or the Australia Wild Game Meat Standard unless they have been approved as part of an approved arrangement.

The first note following subsection 1-10 explains that 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 wild game meat or wild game meat products for export.

The second note following section 1-10 alerts the reader to the fact that the holder of an approved arrangement may commit an offence or be liable to a civil penalty under section 163 of the Act if the Secretary implements a variation to their approved arrangement that has not been approved by the Secretary in accordance with the Act.

CHAPTER 2—EXPORTING GOODS

Part 1—Goods

Division 1—Prescribed goods

Division 1 of Part 1 of Chapter 2 of the Wild Game Rules sets out which kinds of goods will be ***prescribed goods*** for the purposes of the Act. Prescribed goods are subject to the regulatory controls imposed by the Act, including the requirement to comply with the prescribed export conditions.

2-1 Wild game meat and wild game meat products that are prescribed goods

Subsection 28(1) of the Act allows the Secretary to prescribe kinds of goods for the purposes of the Act. A kind of goods prescribed by rules made for the purposes of subsection 28(1) are ***prescribed goods***. The Act regulates the export of ***prescribed goods***.

Subsection 2-1(1) prescribes goods that:

- are wild game meat or wild game meat products derived from a wild game animal; and
- are intended to be exported as food;

as ***prescribed goods*** for the purposes of subsection 28(1) of the Act (prescribed wild game or wild game meat products).

This means that such goods will be subject to the regulatory controls in the Act and the Wild Game Rules, including the requirement to comply with prescribed export conditions.

The general rule is, however, subject to the express exceptions set out in subsection 2-1(3), which details the wild game meat and wild game meat products that are generally taken not to be prescribed goods, and the circumstances in which those products will be prescribed goods (set out in section 2-2 of the Wild Game Rules).

The first note following subsection 2-1(1) provides examples of wild game animals; kangaroos (macropod animals), wild boar (porcine animals), feral goats (caprine animals), rabbits (lagomorph animals) and deer (cervid animals).

The second note following subsection 2-1(1) alerts the reader that the term **food** is defined in section 12 of the Act. This definition provides that **food** includes any substance or thing of a kind used, or capable of being used, for human consumption, or as an ingredient or additive in any substance or thing of a kind used or capable of being used for human consumption, whether or not the substance or thing is in a condition fit for human consumption.

The third note following subsection 2-1(1) explains to the reader that wild game meat and wild game meat products that would otherwise be covered by subsection 2-1(1) are taken not to be **prescribed goods** for the purposes of the Act in the circumstances set out by section 2-2 of the Wild Game Rules.

Subsection 2-1(2) provides that wild game meat or wild game meat products listed under subsection 2-1(3) will be prescribed wild game meat or wild game meat products for the purposes of subsection 28(1) of the Act only where the goods are intended to be exported to a particular country (the **importing country**) as food and one or more requirements of the Act must be met in order to meet an importing country requirement.

In such circumstances the goods will be considered prescribed goods (and subject to the Act and the Wild Game Rules) for the purposes of importing to that country, but will not be prescribed goods when exported to another country that does not have the same importing requirements. This is explained in the note following subsection 2-1(2).

The example following subsection 2-1(2) demonstrates that wild game meat or wild game meat products of less than 10 kilograms will be prescribed wild game meat products if a requirement of the Act would need to be complied with in relation to the wild game meat or wild game meat products for the purpose of meeting an importing country requirement.

The note following subsection 2-1(2) explains that the Act will apply to wild game meat and wild game meat products to which subsection 2-1(2) applies in the same way as it applies to goods prescribed for the purposes of the Act under subsection 2-1(1).

Subsection 2-1(3) lists goods that are not prescribed goods for the purposes of subsection 28(1) of the Act, even if they would ordinarily fall within the definition of wild game meat or wild game meat products and are intended for export as food. Goods listed in subsection 2-1(3) will only be subject to the regulatory controls set out in the Act and the Wild Game Rules (including the requirement to comply with the prescribed export conditions) to the extent that they also fall within subsection 2-1(2). The goods listed in subsection 2-1(3) are:

- soup, soup powder or soup concentrate derived from wild game meat;

- wild game meat extracts;
- tallow, gelatine or regenerated collagen products derived from wild game meat;
- wild game meat or wild game meat products that are animal food or pharmaceutical material;
- wild game meat products containing less than 5% mass of wild game meat;
- wild game meat or wild game meat products for export in a consignment of not more than 10 kilograms;
- wild game meat or wild game meat products for export to New Zealand for consumption in New Zealand.

The terms *wild game meat extracts*, *tallow*, *animal food* and *pharmaceutical material* are defined in section 1-5 of the Wild Game Rules.

The note following subsection 2-1(3) notifies the reader that wild game meat or wild game meat products covered by subsection 2-1(1) that are exported to New Zealand but are not intended to be consumed in New Zealand will not fall within the exception in subsection 2-1(3) and will be prescribed goods.

The purpose of subsections 2-1(2) and (3) is to remove barriers to trade where there is minimal risk to food safety and human and animal health, while ensuring importing country requirements are met. This provides flexibility to increase or decrease the level of regulation for the export of wild game meat or wild game meat products where there are changes in importing country requirements. This also allows for the regulation of wild game meat and wild game meat products for export to focus on exports that attract the most risk.

Subsection 2-1(4) provides that wild game meat or wild game meat products that are animal food or that are pharmaceutical material are not prescribed for the purposes of subsection 28(1) of the Act.

2-2 Wild game meat and wild game meat products that are taken not to be prescribed goods

Subsection 28(4) of the Act allows the rules to prescribe that a kind of goods is taken not to be prescribed goods for the purposes of the Act in specified circumstances.

Section 2-2 is made for the purposes of subsection 28(4) of the Act. It sets out the circumstances when wild game meat and wild game meat products that are prescribed under subsection 2-1(1) or (2) of the Wild Game Rules are taken not to be prescribed goods for the purposes of the Act.

It is not necessary for the wild game meat and wild game meat products to be subject to the regulatory controls in the Act in the circumstances listed in section 2-2, as these goods are:

- intended to be consumed in transit (paragraphs 2-2(a) and (b)) on a flight or voyage; or
- being transited through Australia (paragraphs 2-2(c) and (d)); or
- not being imported into another country (paragraphs 2-2(e) and (f)) but to an external Territory or a *resources industry structure*.

Requiring wild game meat and wild game meat products in these circumstances to meet the requirements of the Wild Game Rules would be redundant and excessively burdensome as the goods are intended to be consumed and not enter another country or to be re-exported in the same condition in which they entered Australia.

The note following section 2-2 explains that for the purposes of paragraph 2-2(f), a resource industry structure that is not installed is taken to be a vessel in accordance with the *Sea Installations Act 1997*.

Division 2—Prohibited export and prescribed export conditions

Division 2 of Part 1 of Chapter 2 of the Wild Game Rules sets out specific requirements that must be complied with when exporting prescribed wild game meat or wild game meat products (prescribed export conditions). The purpose of the prescribed export conditions is to ensure that prescribed wild game meat or wild game meat products are exported in accordance with the requirements in the Act and the Wild Game Rules. Division 2 also provides that the Wild Game Rules may prohibit the export of prescribed goods unless prescribed conditions are complied with.

2-3 Purpose and application of this Division

Subsections 2-3(1) and (2) provide that Division 2 of Part 1 of Chapter 2 of the Wild Game Rules is made for the purposes of section 29 of the Act and that it applies to prescribed wild game meat or wild game meat products.

The first note following subsection 2-3(2) refers the reader to Division 1 of Part 1 of Chapter 2 of the Wild Game Rules for what goods are prescribed wild game meat or wild game meat products.

The second note following subsection 2-3(2) notifies the reader that, under subsection 2-2 of the Wild Game Rules, wild game meat or wild game meat products are taken not be prescribed goods in certain circumstances. The note also refers to the definition of *prescribed goods* in section 12 of the Act .

Subsection 2-3(3) provides that a provision of Division 2 does not apply to prescribed wild game meat or wild game meat products which are to be exported in circumstances referred to in subsection 52(1) or (3) of the Act (for example a commercial sample) and for which an exemption from that provision is in force in relation to the prescribed wild game meat or wild game meat products under Part 2 of Chapter 2 of the Act

This acknowledges that Part 2 of Chapter 2 of the Act allows certain persons to apply for and be granted an exemption from one or more provisions of the Act in the circumstances listed in section 52 of the Act. For instance, a person may be granted an exemption from having to

comply with one or more of the prescribed export conditions in relation to the export of prescribed wild game meat or wild game meat products for experimental purposes.

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

Paragraph 29(1)(a) of the Act allows the rules to prohibit the export of prescribed goods from Australian territory or from a part of Australian territory unless the conditions prescribed by the rules are complied with.

Subsection 2-4(1) lists the prescribed export conditions that must be complied with for the export of prescribed wild game meat or wild game meat products from Australia. The export of prescribed wild game meat or wild game meat products is prohibited unless these conditions are met. These conditions are necessary to enable and maintain market access for goods exported from Australia territory and to ensure compliance with government and industry standards. The prescribed export conditions maintain the integrity of our exports, Australia's positive relationships with trading partners and our reputation as a reliable exporter of safe and high-quality products.

The prescribed export conditions that apply to the export of prescribed wild game meat or wild game meat products are as follows:

- that all applicable importing country requirements relating to the wild game meat or wild game meat products, and the operations to prepare them for export, are met; and
- that the operations (other than operations to which subsection 2-4(2) applies) to prepare the wild game meat or wild game meat products for export are carried out at an establishment that is registered for those operations in relation to the wild game meat or wild game meat products, and that the registration is not suspended in relation to those operations (if the operations are to process kangaroo carcasses or wild boar carcasses, the operations must be carried out in an establishment that is registered for those operations only); and
- that an approved arrangement covering operations (other than operations to which subsection 2-4(2) applies) to prepare the wild game meat or wild game meat products for export at the registered establishment must be in force and not suspended in relation to those operations; and
- that, for each consignment of wild game meat or wild game meat products to be exported, a person prescribed by section 8-2 of the Wild Game Rules (the person who intends to export the consignment) must provide the Secretary, at the time prescribed by section 8-4 (as soon as reasonably practicable), with a notice of intention to export the consignment; and
- that, at the time of the export, the exporter holds an export permit for the wild game meat or wild game meat products that is in force and not suspended.

For each export of prescribed wild game meat or wild game meat products, all prescribed export conditions must be complied with.

The first note following subsection 2-4(1) alerts the reader that additional conditions may also apply to the export of particular prescribed wild game meat or wild game meat products that also fit within other regimes – such as prescribed wild game meat products described as biodynamic, where the wild game meat products are also subject to the *Export Control (Organic Goods) Rules 2021 (Organic Goods Rules)*. This note also makes clear that the export as food of the wild game meat products would also be subject to export conditions prescribed by the Organic Goods Rules.

The second note following subsection 2-4(1) alerts the reader that 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).

The third note following subsection 2-4(1) explain that the occupier of a registered establishment may commit an offence or be liable for a civil penalty if export operations are carried out while the registration of the establishment is suspended (see section 136 of the Act).

The fourth note following subsection 2-4(1) explain that the holder of an approved arrangement may commit an offence or be liable for a civil penalty if export operations are carried out while the arrangement is suspended (see section 177 of the Act).

The fifth note following subsection 2-4(1) clarifies that while a suspended export permit remains in force, it does not authorise the export of goods while suspended (subsection 232(2) of the Act).

Subsection 2-4(2) applies to the following operations to prepare prescribed wild game meat or wild game meat products carried out at an establishment:

- chilling wild game animal carcasses for transport;
- loading wild game animal carcasses for transport;
- temporary storage of wild game animal carcasses before transport processing;

where the operations are carried out at the establishment with the approval of the State or Territory controlling body and no other operations to prepare the wild game meat or wild game meat products are carried out at the establishment.

The effect of subsection 2-4(2) is that table items 2 and 3 of the prescribed export conditions in subsection 2-4(1) do not apply to such operations.

The first note following subsection 2-4(2) explains that all other operations to prepare wild game meat and wild game meat products for export must be carried out at a registered establishment with an approved arrangement covering those operations in force, as required by items 1 and 2 of the table in subsection (1) (unless a relevant exemption is in force under Part 2 of Chapter 2 of the Act)

The second note following subsection 2-4(2) explains that wild game meat and wild game meat products for export as food must be derived from carcasses that have been chilled in a

field depot that is in accordance with the Australia Wild Game Meat Standard and refers the reader accordingly to section 5-7 of the Wild Game Rules

Subsection 2-4(3) explains that, for the purposes of item 2 of the table in subsection 2-4(1), to ***process*** a kangaroo carcase or wild boar carcase means to do any of the following:

- skin, bone, comminute, stuff, fill, massage or tumble the carcase;
- produce meat mechanically from the carcase using the controlled application of compressive force; or
- carry out any similar process (except chill, freeze or further process).

Comminute means to reduce to fine particles, make into powder or pulverise.

The note following subsection 2-4(3) explains that ***further process*** is defined in section 1-5 of the Wild Game Rules. ***Further process*** means an operation (such as curing, heat treatment, drying, canning, fermenting or rendering) applied to wild game meat or wild game meat products to form essentially a new product with different characteristics and flavour.

Part 2—Exemptions

Part 2 of Chapter 2 of the Wild Game Rules sets out matters relating to exemptions from one or more provisions in the Act in relation to prescribed wild game meat or wild game meat products.

Under Part 2 of Chapter 2 of the Act, an exemption from one or more requirements of the Act (including prescribed export conditions) may be granted following an individual application in certain circumstances, rather than in relation to all wild game meat or wild game meat products of a particular kind or exported to a particular country. This is to enable a reduced level of regulatory oversight in circumstances where there is minimal risk to food safety and human and animal health while ensuring importing country requirements are met

2-5 Application of this Part

Section 2-5 provides that Part 2 of Chapter 2 of the Wild Game Rules applies only in relation to prescribed wild game meat or wild game meat products, which are called ***relevant goods*** in this Part.

The first note following section 2-5 draws the reader's attention to Division 1 of Part 1 of Chapter 2 of the Wild Game Rules, which sets out what goods are prescribed wild game meat or wild game meat products.

The second note following section 2-5 alerts the reader that, under section 2-2 of the Wild Game Rules, wild game meat or wild game meat products are taken not to be prescribed goods in the specified circumstances.

2-6 Period for making application for exemption

Subparagraph 53(3)(f)(i) of the Act allows the rules to prescribe the period within which an application for an exemption from one or more provisions of the Act may be made.

Section 2-6 is made for the purposes of subparagraph 53(3)(f)(i) of the Act, and prescribes the timeframe in which an application for an exemption for one or more provisions in the Act must be made in relation to those goods. This period is 120 days ending on the day that is 10 business days before the proposed date of export of the relevant goods (if operations to prepare the relevant goods for export have started), or before the proposed date to start carrying out those operations (in any other case). The timeframe is to ensure the Secretary has a reasonable amount of time to assess applications for exemption prior to the export of the prescribed goods.

The first note following section 2-6 refers the reader to subparagraph 53(3)(f)(ii) of the Act, which allows the Secretary to allow a different period in which the application may be made in an individual case.

The second note following section 2-6 explains that 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

Section 55 of the Act allows the Secretary to impose conditions on an exemption. When deciding whether to impose a condition on an exemption, the Secretary is required to have regard to the matters prescribed by the rules (subsection 55(2)).

Section 2-7 is made for the purposes of subsection 55(2) of the Act, and requires the Secretary, in deciding whether it is necessary to impose conditions on an exemption that relates to prescribed wild game meat or wild game meat products, to consider whether imposing the condition would ensure that one or more objects of the Act will be met in relation to the goods.

This requirement is intended to ensure that exemptions are approved in circumstances where one or more of the objects of the Act are met, and so help to ensure that goods exported from Australia are of the highest standard, maintaining and enhancing Australia's reputation as a trading partner.

2-8 Period of effect of exemption

Paragraph 57(b) of the Act allows the rules to prescribe the period that an exemption remains in force unless it is revoked earlier.

Section 2-8 is made for the purposes of paragraph 57(b) of the Act, and provides the period of effect of an exemption that relates to prescribed wild game meat or wild game meat products is 12 months starting on the day the exemption takes effect, or another period specified in the instrument of exemption. The Secretary will have the discretion to determine the appropriate period in the instrument of exemption. It may be appropriate that some exemptions remain in force for different periods. This will provide the necessary flexibility to deal with changing circumstances for regulating prescribed goods.

The note following section 2-8 explains that an exemption takes effect on the date specified in the instrument of exemption under paragraph 56(1)(e) of the Act.

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

Section 58 of the Act allows the Secretary to vary the conditions imposed on an exemption that is in force. When deciding whether it is necessary to vary a condition on an exemption, the Secretary is required to have regard to the matters prescribed by the rules (subsection 58(3)).

Section 2-9 is made for the purposes of subsection 58(3) of the Act, and requires the Secretary, in deciding whether it is necessary to vary conditions on an exemption that relates to prescribed wild game meat or wild game meat products, to consider whether varying the condition would ensure that one or more objects of the Act will be met in relation to the goods.

This requirement is intended to ensure that exemptions are only approved in circumstances where one or more of the objects of the Act are met, and so help to ensure that goods exported from Australia are of the highest standard, strengthening Australia's reputation as a trading partner.

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

Section 59 of the Act allows the Secretary to revoke an exemption that is in force. In considering whether to revoke an exemption, the Secretary is required to have regard to the matters prescribed by the rules (subsection 59(2)).

Section 2-10 prescribes, 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. The Secretary must consider whether the conditions of the exemption have been or are being complied with.

Part 3—Government certificates

Part 3 of Chapter 2 of the Act provides for government certificates to be issued for goods that are to be exported or have been exported. Part 3 of Chapter 2 of the Wild Game Rules sets out specific requirements relating to the issue of government certificates for wild game meat and wild game meat products that are to be, or have been, exported.

A government certificate is an official document containing details about the product being exported. The purpose of the government certificate is to confirm to importing country authorities that the wild game meat or wild game meat products have met specified requirements of that country. Government certificates may be issued electronically, providing an efficient means of facilitating trade.

2-11 When government certificate may be issued in relation to wild game meat or wild game meat products

Section 62 of the Act allows the rules to make provision for and in relation to the issue of government certificates in relation to goods that are to be, or that have been, exported.

Section 2-11 is made for the purposes of subsections 62(1) and (2) of the Act, and provides that a government certificate may be issued for wild game meat and wild game meat products that are to be, or have been, exported. A certificate can be issued for any wild game meat and wild game meat products, whether they are prescribed or non-prescribed goods, so long as the goods are to be, or have been, exported.

2-12 Declaration to accompany application for government certificate

Section 65 of the Act sets out the requirements for an application for a government certificate in relation to a kind of goods that are to be, or that have been, exported. Paragraph 65(2)(d) of the Act allows the rules to specify documents that must accompany an application for a government certificate.

Subsection 2-12(1) is made for the purposes of paragraph 65(2)(d) of the Act and provides that, where a government certificate in relation to wild game meat and wild game meat products is required to meet importing country requirements, the application for the government certificate must include a declaration stating that the importing country requirements relating to the wild game meat and wild game meat products have been, or will be, met before the wild game meat and wild game meat products are imported into the importing country.

The first note following subsection 2-12(1) refers the reader to the *Electronic Transactions Act 1999* for requirements for electronic communications (including declarations).

The second note following subsection 2-12(1) refers the reader to section 11-4 of the Wild Game Rules, which requires a government certificate to be retained in a secure place, unless it was issued by electronic means.

Subsections 2-12(2) and (3) have the combined effect that the declaration must:

- be in a form approved by the Secretary;
- not be made if there are no reasonable grounds for making it;
- not be false or misleading; and
- be signed and dated by the person making the declaration.

This ensures the declaration contains relevant information to enable the issuing body (currently the Secretary) to make an informed decision on issuing the government certificate.

The note following subsection 2-12(3) alerts the reader that 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 Act 1995 and sections 368 and 369 of the Act).

2-13 Circumstances for refusing to issue government certificate

Section 67 requires the issuing body, on receiving an application for a government certificate in relation to a kind of goods, to decide to either issue the certificate or refuse to issue the certificate. The issuing body may refuse to issue the certificate if one or more of the grounds in subsection 67(3) are met. Paragraph 67(3)(g) allows the rules to prescribe additional circumstances to refuse to issue a government certificate.

Subsection 2-13(1) sets out, for the purposes of paragraph 67(3)(g) of that Act, circumstances for an issuing body to refuse to issue a government certificate in relation to all wild game meat or wild game meat products. These additional grounds are necessary to protect Australia's trade reputation and ensures Australia complies with international obligations and sanitary matters relating to food safety, animal health or human health.

The circumstances for refusing to issue a certificate are:

- a condition or disease present in Australian territory that is likely to affect whether the importing country will accept the wild game meat or wild game meat products to the importing country;
- the export of the wild game meat or wild game meat products could result in trade in the export of goods from Australian territory being adversely affected;
- the applicant failed to return a government certificate as required, retain a government certificate in a secure place, or provide facilities and assistance to an auditor as required.

Subsection 2-13(2) sets out circumstances in addition to subsection 2-13(1) where an issuing body may refuse to issue a government certificate in relation to prescribed wild game meat or wild game meat products. The additional circumstances are where:

- a prescribed export condition that applies in relation to the wild game meat and wild game meat products has not been complied with;
- an applicant has failed to comply with a direction under subsection 305(1) of the Act (dealing with non-compliance with the Act);
- an export permit is not in force for the wild game meat and wild game meat products;
- the relevant importing country authority has not specified in writing that it will accept wild game meat or wild game meat products prepared for export under a State or Territory inspection and audit arrangement, if operators to prepare the wild game or wild game meat products for export were carried out under a State or Territory inspection and audit arrangement and those operations were covered by an approved arrangement.

The purpose of this subsection is to ensure that a government certificate may be refused if there has not been compliance with the regulatory controls in the Act for prescribed goods.

The note following subsection 2-13(2) explains that paragraphs 67(3)(a) to (f) of the Act set out other grounds for refusal of a government certificate.

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

Subsection 74(2) of the Act requires the holder of a government certificate to provide certain additional or corrected information to the issuing body if the holder becomes aware that information included their application (or other document provided to the issuing body) was incorrect or incomplete (paragraph 74(1)(a)), or if a change prescribed by the rules occurs (paragraph 74(1)(b)).

Section 2-14 is made for the purposes of paragraph 74(1)(b) of the Act and has the effect that the holder of the government certificate must provide the issuing body with relevant additional or corrected information where there are reasonable grounds to suspect that:

- the integrity of the wild game meat and wild game meat products cannot be ensured; or
- an importing country requirement relating to the wild game meat or wild game meat products will not be or is not likely to be, met before the wild game meat or wild game meat products are imported into the importing country; or
- for prescribed wild game meat and wild game meat products only – a prescribed export condition relating to the wild game meat and wild game meat products has not been complied with in circumstances where the condition should have been complied with.

The purpose of this provision is to place an obligation on the holder of the government certificate to monitor the goods (to the extent it is reasonable to do so) to ensure the government certificate continues to accurately reflect the circumstances for the issue of the certificate, and to inform the issuing body when the relevant circumstances change.

This will allow the issuing body to consider whether one or more of the grounds to revoke the government certificate (under section 75 of the Act) are met in light of the changed circumstances, and ensures government certificates are only provided where the goods are supplied in compliance with the Act and the Wild Game Rules, enhancing Australia's reputation as a reliable trading partner.

2-15 Return of government certificate

Subsection 76(1) of the Act allows the rules to require a person who is in possession of a government certificate that was issued to the person to return the certificate to the issuing body in the circumstances, and timeframe, required by the rules.

Subsection 2-15(1) is made for the purposes of paragraph 76(1)(a) of the Act and requires a government certificate to be returned to an issuing body if the wild game meat or wild game

meat products are no longer intended for export to the country for which the government certificate was issued, or where the certificate has been revoked under section 75 of the Act. The purpose of this requirement is to ensure that government certificates are not misused by placing an obligation on the holder to return the certificate where the wild game meat or wild game meat products are no longer intended for export or the certificate has been revoked.

Subsection 2-15(2) is made for the purposes of paragraph 76(1)(b) of the Act and provides that a government certificate must be returned within 10 business days starting on the day the circumstance listed in subsection 2-15(1) of the Wild Game Rules occurs. Ten business days is a reasonable timeframe for the holder to return the certificate to the issuing body but is short enough to mitigate against the risk that the certificate would be misused.

Subsection 2-15(3) provides that the requirement in section 2-15 to return the government certificate does not apply to a government certificate that was issued electronically, as there will not necessarily be a physical certificate to return.

Failure to comply with the requirement to return a government certificate in the circumstances set out in section 2-15 will be a contravention of a civil penalty provision (subsection 76(2) of the Act).

CHAPTER 4—REGISTERED ESTABLISHMENTS

Chapter 4 sets out matters relating to registered establishments.

The purpose of registering an establishment is to ensure the following:

- the facilities and the equipment at the establishment are fit for the purpose of preparing, handling, storing or inspecting products for export;
- appropriate hygiene and the necessary measures to produce the goods according to trade descriptions and other requirements applicable to a given commodity are maintained; and
- the goods comply with importing country requirements.

The Secretary may, on application by the occupier of an establishment, register the establishment for export operations in relation to prescribed wild game meat or wild game meat products. The registration of the establishment is subject to certain conditions.

It is a prescribed export condition that operations to prepare prescribed wild game meat and wild game meat products for export must be carried out at an establishment registered for those operations in relation to wild game meat or wild game meat products (section 2-4 of the Wild Game Rules).

Part 1—Requirements for registration

4-1 Purpose of this Part

Subsection 112(1) of the Act provides that, on receiving an application under section 111 to register an establishment, the Secretary must decide to register the establishment, or to refuse to register the establishment. Subsection 112(2) sets out the requirements of which the Secretary must be satisfied before deciding to register an establishment, having regard to any matter the Secretary considers relevant. Paragraphs 112(2)(c) and (f) allow additional matters and requirements (respectively) to be prescribed by the rules.

Section 4-1 provides that Part 1 of Chapter 4 of the Wild Game Rules is made for the purposes of paragraphs 112(2)(c) and (f) of the Act and prescribes additional matters and requirements that must be met for an establishment to be registered for operations to prepare prescribed wild game meat and wild game meat products for export.

This means that the requirements prescribed in Part 1 of Chapter 4 of the Wild Game Rules (sections 4-1 to 4-8) are requirements that the Secretary must be satisfied of prior to registering an establishment for operations to prepare prescribed wild game meat or wild game meat products for export (for the purposes of paragraph 112(2)(f) of the Act) and matters that the Secretary must be satisfied of when deciding whether the construction of the establishment and its equipment and facilities are suitable for carrying out export operations to prepare prescribed wild game meat or wild game meat products for export (for the purposes of paragraph 112(2)(c) of the Act).

The first note following section 4-1 explains that the requirements in Part 1 of Chapter 4 of the Wild Game Rules also apply in relation to an application to renew the registration of an establishment under section 4-16 of the Wild Game Rules.

The second note following section 4-1 explains that other requirements that must be met are provided by paragraphs 112(2)(a), (b) and (e) of the Act. Additionally, an approved arrangement must be in place for operations to prepare the eggs or egg products for export (referring to paragraph 112(2)(d) of the Act and item 2 of the table in section 2-4 of the Wild Game Rules).

The third note following section 4-1 explains that certain requirements of the Australian Meat Standard must also be complied with in relation to operations to further process prescribed wild game meat and operations to prepare prescribed wild game meat products (see subsection 4-3(1) of the Wild Game Rules).

The fourth note following section 4-1 explains that certain requirements of the Australian Wild Game Meat Standard must also be complied with in relation to operations to prepare (other than to further process) prescribed wild game meat. The Australian Wild Game Meat Standard does not apply to the further processing of wild game meat and wild game meat products. Such activities are to be carried out in the same manner as stipulated for meat in the Australian Meat Standard (see paragraph 4-3(1)(a) of the Wild Game Rules).

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

Section 4-2 has the effect that, before registering an establishment for operations to prepare prescribed wild game meat and wild game meat products for export, the Secretary must be satisfied that the operations will be carried out in a way that will ensure the requirements of the Act are complied with.

4-3 Requirements of Australian Meat Standard and the Australian Wild Game Meat Standard must be met

Subsection 4-3(1) has the effect that, before registering an establishment for operations to further process prescribed wild game meat for export or to prepare prescribed wild game meat products for export, the Secretary must be satisfied that the operations will be carried out in a way that will ensure the relevant requirements of the Australian Meat Standard (as modified by the Wild Game Rules) are met.

By using the same Standard for all wild game related goods, regardless of whether they are intended for domestic consumption or export, producers can operate one system of processing at registered establishments. The purpose is to support Australian businesses by keeping the cost of doing business to a minimum while ensuring that Australian exports are of a high quality.

The note following subsection 4-3(1) refers the reader to Division 2 of Part 2 of Chapter 1 of the Wild Game Rules for modifications of the Australian Meat Standard.

Subsection 4-3(2) details those requirements in the Australian Meat Standard which do not have to be met. These requirements are:

- clause 2.4 (application of requirements to meat transport business);
- clauses 3.1 to 3.10 (management and production practices);
- clause 10.12 (post-mortem dispositions for carcasses and carcase parts);
- clause 16.7 (identification of packaged meat or meat products);
- clause 17.10(a) (segregation of pharmaceutical material);
- section 18 (record keeping);
- section 22 (management of wholesomeness during transport);
- any other provision excepted under another provision of the Wild Game Rules.

These provisions in the Australian Meat Standard are not required to be met as the Act and the Wild Game Rules make specific provision for these matters. For example, record-keeping requirements are provided for by Part 5 of Chapter 11 of the Act and Chapter 11 of the Wild Game Rules.

Subsection 4-3(3) has the effect that, before registering an establishment for operations to prepare (other than to further process) prescribed wild game meat for export, the Secretary must be satisfied that the operations will be carried out in a way that will ensure the requirements of the Australian Wild Game Meat Standard (as modified by the Wild Game Rules) are met. The Australian Wild Game Meat Standard does not apply to the further processing of wild game meat and wild game meat products. Such activities are to be carried out in the same manner as stipulated for meat in the Australian Meat Standard.

Subsection 4-3(4) sets out the provisions of the Australian Wild Game Meat Standard in relation to which subsection 4-3(3) does not apply. These provisions are:

- clauses 3.1 to 3.10 (management and production practices);
- clauses 9.17 and 9.19 (post-mortem dispositions for carcasses and carcase parts);
- clause 12.6 (identification of packaged wild game meat or wild game meat products);
- clause 13.9(a) (segregation of pharmaceutical material);
- section 14 (record keeping);
- any other provision excepted under another provision of the Wild Game Rules.

These provisions in the Australian Wild Game Meat Standard are not required to be met as the Wild Game Rules makes specific provision for these matters. For example, record-keeping requirements are contained in Part 5 of Chapter 11 of the Act and Chapter 11 of the Wild Game Rules.

4-4 Equipment, facilities and essential services

Section 4-4 details the equipment, facilities and essential services required by establishments to be registered for operations to prepare prescribed wild game meat or wild game meat products for export.

Subsection 4-4(1) requires an establishment to have the necessary buildings, equipment, facilities and essential services to ensure that operations to prepare prescribed wild game meat or wild game meat products intended for export can be carried out at the establishment in accordance with the requirements of the Wild Game Rules. This subsection also requires establishments to have the accurate measuring devices, for example temperature measuring devices, to assess compliance with the Wild Game Rules prior to registration. This ensures only those establishments that operate safely and hygienically are eligible for registration. These requirements must continue to be met once the establishment is registered (see section 4-11). It is important for businesses to continue to operate with appropriate facilities to ensure the health and safety of workers and wholesomeness of the export goods.

The note following subsection 4-4(1) provides further guidance on where to find information on Australian legal units of measurements and tolerances, drawing attention to section 13 of the *National Measurement Act 1960*.

Subsection 4-4(2) contains a specific requirement for an establishment to have toilet facilities. This requirement makes sure that suitable facilities are made available to ensure the health and welfare of employees within the registered establishment.

The note following subsection 4-4(2) alerts the reader to the requirement in subsections 4-8(1) and (2) that 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 those authorised officers.

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

Section 4-5 requires an establishment to have an area for post-mortem inspections of carcasses or carcase parts to be carried out by authorised officers. This area must be constructed and set up to ensure that it is not encroached upon by equipment or persons other than authorised officers or State or Territory meat safety inspectors carrying out inspections.

4-6 Meat examination facility

Section 4-6 details requirements for a meat examination facility for the purposes of registration of an establishment for operations to prepare prescribed wild game meat or wild game meat products for export.

Subsection 4-6(1) provides that the establishment must have a meat examination facility that is:

- within a refrigerated area;
- maintained at a temperature no warmer than 10 degrees Celsius during export operations;
- set up to ensure that authorised officers can perform functions unimpeded; and
- able to be secured (for example by key or electronic means).

This section seeks to ensure satisfactory facilities for authorised officers to undertake their duties and for the storage of prescribed wild game meat or wild game meat products, in accordance with the Wild Game Rules and the Act.

Subsection 4-6(2) requires authorised officers who need to perform functions in the meat examination facility to be given sufficient access to the facility to enable them to perform their functions unimpeded but provides that the facility need not be for their exclusive use.

4-7 Secure storage area

Section 4-7 requires an establishment where prescribed wild game meat or wild game meat products are loaded for export to have an area where all prescribed wild game meat and wild game meat products required to be held can be securely stored. The secure storage area must be:

- separate from other parts of the establishment;
- able to be secured (for example by key or electronic means); and

constructed in a way that does not jeopardise the security of, or affect the ability to ensure the integrity of, prescribed wild game meat or wild game meat products held in the area

This is to ensure the security and integrity of wild game meat and wild game meat products while they are held in storage prior to loading or when waiting for the next processing stage.

4-8 Amenities for Commonwealth authorised officers

Subsections 4-8(1) to (3) detail the amenities which must be provided at an establishment where there is a permanent position for one or more Commonwealth authorised officers. The amenities that must be provided are:

- an office (which meets the requirements of subsection 4-8(3));
- a dining room;
- a change room;
- a shower room;
- a toilet room; and

- a rest room where amenities are provided for female authorised officers.

Subsection 4-8(3) provides that the office required under subsection 4-8(1) must be equipped with the following:

- a telephone;
- a connection to a computer terminal;
- a lockable metal cabinet;
- for each Commonwealth authorised officer requiring the use of an office- a desk, chair and locker;
- if hand washing and drying facilities are not conveniently located nearby- those facilities

The required amenities must be kept separate from the amenities provided for employees, be suitable, and suitably and conveniently located, and be for the exclusive use of Commonwealth authorised officers.

These subsections guarantee the availability of satisfactory facilities for officers who are authorised by the Commonwealth to carry out functions or duties at the establishment. It is appropriate for the minimum standards to be set out in the rules as the Commonwealth does not have any involvement in managing the building contracts or facilities. This ensures the safety and welfare of the authorised officers and assists prospective occupiers to know what to look for prior to securing an establishment.

Subsections 4-8(4) and (5) provide that any other establishment (i.e. where there is no permanent position for Commonwealth authorised officers) must provide an appropriate office for the exclusive use of Commonwealth authorised officers to perform functions when they are at the establishment. This requirement guarantees appropriate working conditions are available for Commonwealth authorised officers to conduct their official functions.

Subsection 4-8(6) provides that, for the avoidance of doubt, section 4-8 applies in addition to sections 4-4 to 4-7 of the Wild Game Rules, which requires establishments to have specific facilities and equipment.

Part 2—Conditions of registration

4-9 Purpose of this Part

Section 113 of the Act sets out the conditions that apply to the registration of an establishment. This includes the conditions prescribed by the rules made for the purposes of paragraph 113(1)(b) (other than any of those conditions that the Secretary decides are not to be conditions of the registration).

Section 4-9 provides that Part 2 of Chapter 4 of the Wild Game Rules prescribes, for the purposes of paragraph 113(1)(b) of the Act, conditions for the registration of an establishment for operations to prepare prescribed wild game meat and wild game meat products for export.

The first note following section 4-9 explains that the conditions in Part 2 of Chapter 4 (sections 4-9 to 4-14) also apply in relation to the registration of an establishment that has been renewed, as per paragraph 118(b) of the Act.

The second note following section 4-9 alerts the reader that the occupier of a registered establishment may commit an offence or be liable to a civil penalty for the contravention of a condition of registration of the establishment. Failure to comply with the provisions of Part 2 of Chapter 4 of may result in contravention of section 144 of the Act.

4-10 Requirements for registration continue to be met

Section 4-10 provides that requirements for the registration of an establishment for operations to prepare prescribed wild game meat and wild game meat products for export prescribed by Part 1 of Chapter 4 of the Wild Game Rules must continue to be met after the establishment is registered.

This is to prevent registered establishments from meeting the requirements of Part 1 of Chapter 4 of the Wild Game Rules to gain registration and later altering their building facilities and amenities in a way that results in the requirements no longer being met. It is important for businesses to continue to operate with appropriate facilities to ensure the health and safety of workers and wholesomeness of the export goods.

The note following section 4-10 refers the reader to sections 4-2 to 4-7 (for requirements relating to establishments) and section 4-8 (for specific requirements relating to establishments where authorised officers perform functions).

4-11 Certificate of registration must be displayed

Section 4-11 requires the certificate of registration of an establishment for operations to prepare prescribed wild game meat and wild game meat products for export to be prominently displayed at the establishment.

This requirement can, for example, assist regulators when conducting an audit of the establishment.

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

Subsection 4-12(1) provides that an occupier of a registered establishment for operations to prepare prescribed wild game meat or wild game meat products for export must give a written notice to each person who manages or controls export operations. The notice must set out the following:

- the terms of section 374 of the Act (requiring a person to notify the Secretary of certain convictions or orders to pay a pecuniary penalty); and

- that failure to comply with section 374 of the Act could result in civil penalties.

Subsection 4-12(2) details timeframes for giving the required written notice. The notice must be given to each person:

- as soon as practicable after the occupier receives the certificate of registration for the establishment; or
- as soon as practicable after the person starts to manage or control export operations (if that occurs after the occupier receives the certificate of registration).

These provisions ensure persons to which the obligations relate are aware of the requirements and consequences of non-compliance. This provides assurance that each person who manages or controls export operations is aware of their obligations under the Act.

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

Section 4-13 provides that the occupier of a registered establishment for operations to prepare prescribed wild game meat or wild game meat products for export has an obligation to keep and maintain a list of persons who manage or control, or who have managed or controlled, operations to prepare prescribed wild game meat or wild game meat products for export at the establishment.

This section facilitates audits of registered establishments to ensure that auditors are aware of those who manage, or control, operations at the establishment.

4-14 Meat inspection services

Section 4-14 sets out the obligations on the occupier of a registered establishment for operations to prepare prescribed wild game meat or wild game meat products for export that apply to meat inspection service allocations.

Subsection 4-14(1) provides that section 4-14 applies where a registered establishment is subject to an approved arrangement or condition that requires an authorised officer to be present at the establishment while operations to prepare prescribed wild game meat and wild game meat products for export are being carried out.

Subsection 4-14(2) requires the occupier of the registered establishment to have a preliminary allocation of meat inspection services for the establishment before commencing operations to prepare prescribed wild game meat or wild game meat products for export.

This is the initial allocation of authorised officers to a registered establishment for the purposes of provision of meat inspection services which include inspecting prescribed wild game meat and wild game meat products, and other ancillary meat inspection services. This subsection:

- ensures the Secretary has sufficient time to allocate authorised officers to the registered establishment prior to the commencement of operations;

- does not delay the commencement of operations for industry; and
- ensures that prescribed wild game meat and wild game meat products prepared at registered establishments are processed and assessed in compliance with the Act and the Wild Game Rules.

The note following subsection 4-14(2) refers the reader to Division 1 of Part 6 of Chapter 4 of the Wild Game Rules, which deals with applications for meat inspection services to be allocated to an establishment.

Subsection 4-14(3) applies if meat inspection services have been allocated to the registered establishment under Part 6 of Chapter 4 of the Wild Game Rules. 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 that may be carried out at the establishment, that may affect the allocation of meat inspection services.

This ensures the Secretary is aware of information that may indicate it is appropriate for the Secretary to revise the allocation of meat inspection services to meet the new operational requirements. This could result in an increase or decrease in the allocation of meat inspection services.

The note following subsection 4-14(3) explains that certain alterations of registered establishments require approval under the Act (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

Section 116 of the Act deals with applications to renew the registration of an establishment. Subsection 116(4) provides that an application for renewal must be made within the period prescribed by the rules (paragraph 116(4)(a)), or a longer period allowed by the Secretary (paragraph 116(4)(b)).

Section 4-15 prescribes, for the purposes of paragraph 116(4)(a) of the Act, the timeframe in which an application to renew the registration of an establishment for operations to prepare prescribed wild game meat and wild game meat products for export must be made. This timeframe is 60 days starting on the day that is 180 days before the expiry date for the registration. In other words, the application must be submitted when the registration is between 180 days and 120 days from expiring. This period allows the Secretary sufficient time to consider the application before a decision is made.

The first note following section 4-15 gives an example if the registration 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. The period specified allows the Secretary sufficient time to consider the application before a decision is made.

The second note following section 4-15 explains that, under subsection 116(1) of the Act, an application for renewal of the registration of an establishment will only need to be made if there is an expiry date for the registration.

4-16 Requirements for renewal of registration

Subsection 117(1) of the Act provides that, on receiving an application under section 116 to renew the registration of an establishment, the Secretary must decide to renew the registration or to refuse to renew the registration. Subsection 117(2) sets out the requirements of which the Secretary must be satisfied before deciding to refuse to renew the registration, having regard to any matter the Secretary considers relevant of the Act provides that the Secretary may refuse to renew a registration of a registered establishment if the Secretary is not satisfied of one or more of the listed matters or requirements, having regard to any matter the Secretary considers relevant. Paragraphs 117(2)(e) and (g) allow additional matters and requirements (respectively) to be prescribed.

Section 4-16 prescribes, for the purposes of paragraphs 117(2)(e) and (g) of the Act, additional requirements of which the Secretary must be satisfied before refusing to renew the registration of an establishment for operations to prepare prescribed wild game meat and wild game meat products (in addition to the existing requirements in subsection 117(2) of the Act). The additional requirements are that Secretary may refuse an application to renew the registration of an establishment for operations to prepare prescribed wild game meat or wild game meat products if not satisfied the requirements set out in Part 1 of Chapter 4 of the Wild Game Rules (sections 4-1 to 4-8), which relate to the requirements for registered establishments for operations to prepare prescribed wild game meat and wild game meat products, have been met.

The requirements for renewing a registration are the same as those for registering an establishment. This ensures registered establishments continue to operate in the manner approved by the Secretary. This will prevent registered establishments from merely meeting the requirements at the initial application phase and later reverting to unsatisfactory practices.

The requirements in section 4-16 are also made for the purposes of paragraph 117(2)(e). This means the requirement prescribed in Part 1 of Chapter 4 (sections 4-1 to 4-8) are also matters that the Secretary must have regard to when deciding whether the construction of the establishment and its equipment and facilities are suitable for carrying out export operations to prepare prescribed wild game meat and wild game meat products for export (for the purposes of paragraph 117(2)(e) of the Act).

The note following section 4-16 refers the reader to the other requirements for renewal of registration of an establishment in paragraphs 117(2)(a) to (d) of the Act, and also notes that an approved arrangement covering operations to prepare the wild game meat or wild game meat products for export must also be in force (paragraph 177(2)(f) of the Act and item 3 of the table in section 2-4 of the Wild Game Rules).

Part 4—Variation of registration

4-17 Alterations for which approval is not required

Subsection 122(1) of the Act provides that the occupier of a registered establishment contravenes section 122 if alterations of the establishment are made if not approved by the Secretary or the Secretary has not given notice the occupier notice of the approval. Subsection 122(2) of the Act allows the rules to prescribe alterations to a registered establishment that do not require approval.

Section 4-17 is made for the purposes of subsection 122(2) of the Act and prescribes an alteration of a registered establishment that does not affect the compliance with conditions of registration as an alteration that does not require approval.

Part 5—Matters relating to applications

4-18 Application of this Part

Section 4-18 provides that Part 5 of Chapter 4 of the Wild Game Rules applies in relation to applications made under the following:

- section 111 of the Act to register an establishment for operations to prepare prescribed wild game meat or wild game meat products for export;
- section 116 of the Act to renew the registration of an establishment for operations to prepare prescribed wild game meat or wild game meat products for export; and
- section 120 of the Act to do any of the following in relation to a registered establishment for operations to prepare prescribed wild game or wild game products for export:
 - vary the registration, or the particulars relating to the registration of the establishment;
 - approve an alteration of an establishment; or
 - vary the conditions of the registration.

4-19 Initial consideration period

Section 379 of the Act details the requirements dealing with applications made under the Act. Subsection 379(3) allows the rules to prescribe the period in which an application must be considered by the Secretary. If the Secretary does not make a decision on the application within the prescribed consideration period, the application is taken to have been refused.

Section 4-19 prescribes, for the purposes of subsection 379(3) of the Act, the initial consideration period is 120 days. The initial consideration period may be extended in accordance with subsection 379(5) of the Act. The period provides certainty for applicants on the maximum amount of time required for an application to be processed.

The note following section 4-19 explains that under subsection 379(4) of the Act, the consideration period for an application begins on the day after the Secretary receives the application.

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

Subsection 379(9) of the Act allows the Secretary to make a number of requests in relation to a relevant application, including requesting additional information or requesting consent to enter premises. Subsection 379(10) allows the rules to prescribe a maximum period within which the request must be complied with.

Section 4-20 prescribes, for the purposes of paragraph 379(10)(b) of the Act, a period of 6 months within which a request from the Secretary in relation to an application to register an establishment must be complied with. The initial consideration period can be extended under section 379 of the Act. The period prescribed by this section is appropriate as it permits sufficient time to comply with matters provided in subsection 379(9) of the Act. The period provides certainty for applicants on the maximum amount of time required for an application to be processed.

Under subsection 379(2) of the Act, if the Secretary does not make a decision in relation to the relevant application within the consideration period for the application, the Secretary is taken to have refused the application at the end of that period.

Part 6—Meat inspection services

Division 1—Allocation of meat inspection services

Division 1 of Part 6 of Chapter 4 of the Wild Game Rules relates to the allocation of suitably qualified authorised persons to provide services related to the inspection of prescribed wild game meat or wild game meat products for export.

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

Section 4-21 of the Wild Game Rules makes it a condition of registration of an establishment for operations to prepare prescribed wild game meat or wild game meat products to have a preliminary allocation of meat inspection services for the establishment prior to commencing operations.

Section 4-21 sets out when and how an application for preliminary allocation of meat inspection services can be made.

Subsection 4-21(1) provides that an occupier of an establishment carrying out operations to prepare prescribed wild game meat or wild game meat products for export may apply to the Secretary for a preliminary allocation of meat inspection services.

The first note following subsection 4-21(1) refers the reader to the requirement of registration in section 4-14 of the Wild Game Rules, which provides the occupier must have a preliminary allocation of meat inspection services before commencing operations to prepare prescribed wild game meat or wild game meat products for export.

The second note following subsection 4-21(1) refers the reader to section 12 of the Act for the definition of *establishment* and to section 1-5 of the Wild Game Rules for the definition of *registered establishment*.

Subsection 4-21(2) details specific requirements for making an application for allocation of meat inspection services to an establishment. The application must:

- be made in writing in an approved manner or on an approved form (if a manner or form has been approved);
- contain any information and documents required by the approved form and must also contain the information specified in this subsection concerning the details of the intended operations;
- be made at least 90 days before operations to prepare prescribed wild game meat or product meat products for export at the establishment are to commence;
- set out the details of the intended operations including months, weeks, days, and hours the operations are intended to be carried out, the number of chains, and the chain speed for each type of wild game animal from which prescribed wild game meat or wild game meat products are to be derived.

The note following subsection 4-12(2) provides examples of types of wild game animals are kangaroos, wild boar and feral goats.

The timeframe for making an application ensures business operations are not delayed by the allocation of meat inspection services. This subsection ensures applications for allocation of meat inspection services contain the information necessary for the Secretary to decide on the number of authorised officers required to ensure satisfactory assessment of prescribed goods for export. The details for the intended operations aim to ensure the prescribed wild game meat or wild game meat products are moved through the registered establishment in a way which allows the approved meat inspectors to thoroughly inspect the product and assess compliance with the Act and the Wild Game Rules.

The authorised officer may under section 9-25 of the Wild Game Rules temporarily stop the chain of operations or control the rate of operations being carried out in relation to the carcase or carcase parts of wild game meat or wild game meat products. Section 9-25 aims to ensure the wholesomeness of the prescribed wild game meat or wild game meat products or to perform any other function necessary to achieve the objects of the Act.

Subsection 4-21(3) provides that an application for meat inspection services is taken not to have been made if the application does not include the information required under subsection 4-21(2) of the Wild Game Rules. This is to ensure all relevant information is included and allows a timely decision to be made by the Secretary.

4-22 Preliminary allocation

Section 4-22 sets out the matters the Secretary must consider in determining the preliminary allocation of meat inspection services for a registered establishment preparing wild game meat or wild game meat products for export.

The registered establishment must have a preliminary allocation of meat inspection services before commencing operations to prepare prescribed wild game meat or wild game meat products for export (see subsection 4-14(2)). Authorised officers provide independent control of prescribed wild game meat or wild game meat products to ensure compliance with the Act and the Wild Game Rules, and to allow market access for products exported from Australian territory.

Subsection 4-22(1) provides the Secretary must, as soon as practicable after receiving an application under subsection 4-21(1) for meat inspection services to be allocated, determine the preliminary allocation of meat inspection services to the establishment, which may be zero. This ensures businesses have certainty around the allocation of authorised officers at the earliest point possible and will allow industry to determine the cost and pace at which it can manage its export operations in compliance with the Act and the Wild Game Rules.

Subsection 4-22(2) requires the Secretary to consider a number of matters in determining the allocation of meat inspection services to an establishment. These include:

- the overall requirements of the industry;
- Australia's international obligations;
- any agreed staffing formulas for authorised officers and the availability of authorised officers;
- the need to protect the health and safety of authorised officers while they are carrying out their duties in or around the establishment;
- the management practices at the establishment in relation to meat inspection services; and
- the construction and intended operations of the establishment.

Subsection 4-22(3) permits the Secretary to allocate meat inspection services on an annual, monthly, weekly, daily or hourly basis or any combination of these. This provides flexibility to ensure efficient use of authorised officers and may reduce costs for industry as charges may be reduced through appropriate allocation of authorised officers.

4-23 Notice of preliminary allocation

Subsection 4-23(1) requires the Secretary to give written notice of the determination relating to the preliminary allocation of meat inspection services to the occupier of a registered establishment, as soon as practicable after making the determination. This requirement allows the occupier sufficient time to decide whether they wish to accept or seek review of the initial determination.

Subsection 4-23(2) provides that the notice provided by the Secretary may include advice to the occupier of the establishment on ways the occupier could reduce the allocation of meat inspection services if the Secretary considers it appropriate. This will assist industry to reduce unnecessary costs associated with meat inspection services while maintaining sufficient

oversight to ensure the health and safety of staff and the hygiene and wholesomeness of the meat.

4-24 Procedure following notice of preliminary allocation

The purpose of sections 4-24 to 4-26 is to detail the procedures that follow the Secretary's notice to the occupier of a registered establishment of the preliminary or revised allocation of meat inspection services at the establishment.

Section 4-24 deals with the situation in which the occupier of the establishment where operations to prepare prescribed wild game meat or wild game meat products for export are to be carried out accepts the preliminary allocation of meat inspectors determined by the Secretary under section 4-22. In such circumstances, the occupier of the establishment and the Secretary must complete a memorandum of agreed intent in the form approved by the Secretary (subsection 4-24(1)). Subsection 4-24(2) provides that no memorandum is completed within 7 days, or there is no application for review under subsection 4-24(3), or the Secretary does not give the occupier notice of a revised allocation under subsection 4-25(2), the Secretary's determination of the preliminary allocation is taken to be a memorandum of agreed intent between the Secretary and the occupier.

Subsection 4-24(3) deals with the situation where the occupier of the establishment does not accept the preliminary allocation of meat inspection services to the establishment. In such circumstances, the occupier may apply to the Secretary for the establishment of a committee to review the determination. The application must be made in writing within 7 days of receiving notice of the preliminary allocation.

The note following subsection 4-24(3) refers the reader to section 4-27 of the Wild Game Rules in relation to the establishment of a review committee.

4-25 Revised allocation

Subsection 4-25 provides that section 4-25 applies if the notice given to the occupier under section 4-23 contained advice on ways the occupier could reduce the allocation of meat inspection services, the occupier implements some or all of the advice, and the implementation of the suggestions means the preliminary allocation of meat inspection services should be revised.

Subsection 4-25(2) provides that the Secretary must, as soon as practicable, determine and give notice of the new allocation, referred to as the 'revised allocation'.

4-26 Procedure following revised allocation

Section 4-26 has the effect that, on the occupier receiving written notice of the revised allocation, the same requirements apply as for the notice of the original preliminary allocation. Namely, the occupier can:

- accept the allocation and complete a memorandum of agreed intent between the Secretary and the occupier;

- apply to the Secretary for the establishment of a committee to review the Secretary’s determination of the preliminary or revised allocation within 7 days of the notice of the allocation; or
- if within 7 days of receiving the notice, a memorandum of agreed intent has not been signed and no review has been sought or a revised allocation made by the Secretary—the determination will be taken to be a memorandum of agreed intent.

The purpose of these sections is to provide requirements relating to circumstances in which the preliminary allocation is, or is not, accepted by the occupier. Where the occupier does not agree with the allocation request, these provisions provide an appropriate mechanism for review of the decision. The occupier is provided with an opportunity to consider any advice that may have been included in the notice from the Secretary about ways in which the occupier could reduce the allocation of meat inspection services to the establishment and implement changes to reduce the costs associated with inspection services.

The note following section 4-26 refers the reader to section 4-27 of the Wild Game Rules in relation to the establishment of a review committee.

4-27 Review of Secretary’s determination

Section 4-26 sets out the processes and considerations for the review of preliminary and revised allocation of inspections services determinations for establishments where operations to prepare prescribed wild game meat or wild game meat products for export are to be carried out. Subsections 4-24(3) and 4-26(4) allow the occupier of such an establishment to apply to the Secretary for the establishment of a committee (the *review committee*) to review the determination.

Subsection 4-27(1) provides that, where an occupier of an establishment makes an application for review, the Secretary must establish a review committee, comprising of:

- the occupier or a representative of the occupier;
- a departmental representative at the SES level (or an acting SES employee);
- a meat industry representative nominated by the occupier; and
- if the allocation (whether it may be preliminary or revised) was not accepted due to a staffing issue—a representative of each of the relevant unions of authorised officers.

To avoid doubt, the occupier may nominate a representative of the occupier and an industry representative. The above composition of the committee ensures that its members have the relevant skills and experience to produce an informed recommendation to the Secretary.

Subsection 4-27(2) provides that the Secretary is required to convene the committee’s first meeting. While the Secretary convenes the first meeting, the Secretary is not required to form part of the review committee.

Subsections 4-27(3) and (4) provide requirements for the review process. The committee must review the application, any advice provided to the occupier included in the notice given to the

occupier under section 4-23 and the determination the application relates to. The committee's written recommendation on the appropriate allocation of meat inspection services to the establishment must be provided to the Secretary as soon as practicable and within 14 days of the first meeting. This period allows sufficient time for appropriate consideration by the committee of the application for review and other relevant material.

4-28 Determination of new allocation

Subsection 4-28(1) provides that as soon as practicable upon receiving the recommendation from the committee under subsection 4-27(4), the Secretary must determine a new allocation of meat inspection services to the establishment.

The note following subsection 4-28(1) explains that the Secretary's determination of a new allocation of meat inspection services is a reviewable decision for the purposes of Part 2 of Chapter 11 of the Act, and that the notice required under subsection 4-28(4) must include the reasons for the decision, as required by subsection 382(1) of the Act.

Subsection 4-28(2) provides that, in making a determination under subsection 4-28(1), the Secretary must have regard to the committee's recommendation and the considerations that would normally be taken into account when making a determination under subsection 4-22(2).

Subsection 4-28(3) provides that the Secretary's determination of a new allocation of meat inspection services under subsection 4-28(1) replaces any earlier determination and is taken to be a memorandum of agreed intent between the Secretary and the occupier.

Subsections 4-28(4) and (5) provide that the Secretary must give a notice to the occupier advising the occupier of the new allocation, as well as the reasons for the decision, as soon as practicable and not later than 45 days after the application for review was received by the Secretary. This timeframe is appropriate as it provides sufficient time for the committee to provide their recommendation to the Secretary and the Secretary to make an informed decision.

The occupier may seek an internal review of a decision made under section 4-28 under section 383 of the Act. Following the internal review, excluding a determination made personally by the Secretary, the occupier may apply for external review of the determination by the Administrative Appeals Tribunal (see section 385 of the Act and section 11-1 of the Wild Game Rules).

Division 2—Variation of meat inspection services

4-29 Application to vary allocation of meat inspection services

Section 4-29 enables the occupier of a registered establishment, where operations to prepare prescribed wild game meat or wild game meat products for export are to be carried out, to apply to the Secretary to vary the allocation of meat inspection services to that establishment.

Circumstances where an occupier may seek to apply to vary the allocation may be where the volume of the goods requiring inspection has been significantly reduced, or the operations have been adjusted to allow inspections to occur at a different interval. Section 4-29 is not intended to apply to applications for additional allocations as this is provided for in section 4-

30. This provision enables the occupier to seek reduce regulatory costs and allows the department to redistribute the allocation of meat inspection services where appropriate.

Subsections 4-29(1) and (2) provide that an occupier who has an allocation of meat inspection services may apply to the Secretary in writing to vary that allocation. The application must be made in an approved manner or form (if any) and contain information and be accompanied by documents required by the form (where relevant).

Subsection 4-29(3) provides timeframes for applying to vary the allocation of meat inspection services to reduce the allocation. These timeframes are:

- where meat inspection services are allocated on an hourly basis, the application must be made at least 7 days before the requested variation is to start; or
- where the meat inspection services are allocated other than on an hourly basis, the application must be made at least 30 days before the requested variation is to start.

The timeframes are appropriate as they allow the Secretary sufficient time to reallocate the meat inspection services to other establishments as appropriate.

Subsection 4-29(4) provides timeframes for applying to vary the allocation of meat inspection services other than reducing or increasing the allocation. These timeframes are:

- the application must be made at least 90 days before the proposed variation is to start; or
- a shorter period permitted by the Secretary.

The first note following subsection 4-29(4) provides for example, an application may be made to change the proportion of third party authorised officers and Commonwealth authorised officers carrying out inspection services.

The second note following subsection 4-29(4) refers the reader to section 4-30 of the Wild Game Rules which deals with applications for additional meat inspection services.

Subsections 4-29(5) to (7) provide that, on receiving an application under section 4-29, the Secretary must decide to either vary or refuse to vary the allocation of meat inspection services to the establishment. In making this decision, the Secretary must have regard to the matters in subsection 4-22(2) (matters to consider in the preliminary allocation of meat inspection services). The Secretary must give the occupier written notice of the decision and include the reasons for the decision as soon as practicable after making the decision (subsection 4-29(7)).

The note following subsection 4-29(5) explains that a decision to refuse to vary an allocation of meat inspection services is reviewable, and that reasons must be provided in the notice for such a decision, as per subsection 382(1) of the Act.

Subsection 4-29(8) provides that section 4-29 does not apply in relation to a variation to which section 4-30 (additional meat inspection services) or section 4-31 (shutdown) applies.

4-30 Application for additional allocation of meat inspection services

Section 4-30 enables the occupier of a registered establishment where operations to prepare prescribed wild game meat or wild game meat products for export are to be carried out to apply to the Secretary for an additional allocation of meat inspection services.

This allows occupiers to apply for additional inspection services, for example, when they wish to increase their outputs and require more inspection services to do so.

Subsections 4-30(1) and (2) provide that an occupier who has an allocation of meat inspection services may apply to the Secretary in writing for additional meat inspection services to be allocated. The application must be made in an approved manner or form (if any) and contain information or documents required by the form (if any).

Subsections 4-30(3) to (7) detail the additional meat inspection services an occupier may apply for, depending on their existing allocation, and the specified timeframes for making an application:

- if meat inspection services are allocated to a registered establishment on an annual basis, the occupier may apply for additional meat inspection services to be allocated on a monthly or weekly basis;
- if meat inspection services are allocated to a registered establishment on a monthly basis, the occupier may apply for additional meat inspection services to be allocated on a weekly basis;
- if meat inspection services are allocated to a registered establishment on a weekly basis, the occupier may apply for additional meat inspection services to be allocated on a weekly or daily basis;
- if meat inspection services are allocated to a registered establishment on a daily basis, the occupier may apply for additional meat inspection services to be allocated on a daily basis; and
- if meat inspection services are allocated to a registered establishment on an hourly basis, the occupier may apply for additional meat inspection services to be allocated on an hourly basis.

The timeframes in which applications must be made are 7 days before the proposed additional meat inspection services for additional allocations on an hourly or daily basis or 14 days before the proposed additional meat inspection services are to start for additional allocations on a weekly or monthly basis. The timeframes are reasonable as they allow the Secretary to reallocate the inspection services from other establishments.

Subsections 4-30(8) and (9) provide that the Secretary must decide to either grant or refuse to grant the request for additional inspection services. The Secretary must give the occupier written notice of the decision and, if the Secretary decides to refuse to allocate the additional inspection services, provide details of the right to review the decision. Providing reasons for the decision may assist the occupier in understanding what they can do to reduce the need for additional inspection services.

The note following subsection 4-30(8) explains that a decision to refuse a request for additional meat inspection services is a reviewable decision (see section 11-1 of the Wild Game Rules and Part 2 of Chapter 11 of the Act). The note also explains that the notice provided under subsection 4-30(9) must also include the reasons for the decision (see subsection 382(1) of the Act).

Subsection 4-30(10) provides that if an application is not made within the timeframes specified in section 4-30, the Secretary must make a decision under subsection 4-30(8) as soon as practicable, if it is reasonable in the circumstances to do so. This provides the occupier with the flexibility to apply for additional allocation services outside of the specified timeframes if necessary.

Subsection 4-30(11) provides that where additional meat inspection services are allocated to a registered establishment, and the application specifies the period during which the additional services are to be provided, the Secretary must not terminate any of the additional services to that establishment 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

Subsection 4-31(1) provides that the occupier of a registered establishment may notify the Secretary in writing that meat inspection services are not required for a specified continuous period of at least 14 days. This applies if the existing meat inspection services are allocated on an annual basis or on a combination of an annual and other basis. This is to allow industry to reduce costs by pausing the meat inspection services during the periods where services are not required. The period of at least 14 continuous days of shut down is appropriate as a lesser period of time could impose an unnecessary administrative burden on the Secretary in relation to reviewing the notice and reallocating the services.

Subsection 4-31(2) provides that the notice must be given at least 14 days before the start of the specified period.

4-32 Variation by Secretary of allocation of meat inspections services

Subsections 4-32(1) and (2) have the combined effect that the Secretary may initiate a variation of the allocation of meat inspection services at a registered establishment in the circumstances specified in paragraphs 4-32(1)(a) and (b). The circumstances specified in paragraph 4-32(1)(a) generally reflect where there has been a change in the matters which the Secretary was required to have regard to when determining the preliminary allocation of meat inspection services to that establishment. Paragraph 4-32(1)(b) allows the Secretary to initiate a variation of the allocation of meat inspection services to a registered establishment where there has been an audit report that includes a recommendation to vary the allocation of meat inspection services to that establishment for a specified period of time.

It is appropriate for the Secretary to be able to initiate a variation of the allocation in the circumstances listed as these matters generally ensure the inspection of prescribed wild game meat and wild game meat products meet industry and international obligations, facilitate the distribution of authorised officers, and protect the health and safety of workers and the wholesomeness of the goods.

Subsection 4-32(3) provides that the Secretary must notify the occupier of the registered establishment in writing of the variation to the allocation of meat inspection services under section 4-32. The notice must include the varied allocation and if an audit report recommends that the varied allocation be carried out for a specified period of time, the date the varied allocation ceases to have effect.

The note following subsection 4-32(3) explains that the Secretary may, under section 406 of the Act, direct that meat inspection services are not 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.

Subsections 4-32(4) to (6) detail what happens when the occupier of a registered establishment does not agree with the Secretary's decision to vary the allocation of meat inspection services to that establishment. The occupier may apply to the Secretary in writing for reconsideration of the varied allocation. On receiving the application, the Secretary must enter negotiations with the occupier in relation to the varied allocation. If agreement cannot be reached, the Secretary must seek to reach agreement with a representative of the relevant industry organisation nominated by the occupier. If agreement with the occupier's representative cannot be reached, the Secretary must determine a new allocation of meat inspection services after having considered the views put forward by the occupier and the occupier's representative, and the matters referred to in paragraph 4-32(1)(a).

The note following subsection 4-32(6) explains that a decision to determine a new allocation of meat inspection services to an establishment is a reviewable decision. The notice under paragraph 4-32(7)(b) of the Wild Game Rules must include the reasons for the decision.

Subsection 4-32(7) provides that if the Secretary determines a new allocation of meat inspection services to a registered establishment under paragraph 4-32(6)(b), where the Secretary cannot reach agreement with the occupier's representative, the new determination replaces the earlier determination made under subsection 4-32(2), which ceases to have effect. The Secretary must give written notice advising the occupier of the new allocation and the reasons for the decision as soon as practicable and not later than 45 days after the application for the determination is made.

4-33 Notification of termination of meat inspection services

Subsection 4-33(1) provides that 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 of the Wild Game Rules).

Subsection 4-33(2) requires that the notice must be given at least 14 days before the proposed termination of the meat inspection services.

CHAPTER 5—APPROVED ARRANGEMENTS

Part 1—Requirements for approval

The purpose of the approved arrangement is to clearly describe the processes and practices which, when correctly applied by the holder of an approved arrangement, underpin the Department's certification of products for export.

The Secretary may, on application by a person, approve a proposed arrangement for a kind of export operations in relation to prescribed wild game meat or wild game meat products. An approved arrangement is subject to certain conditions.

5-1 Purpose of this Part

Subsection 151(1) of the Act provides that, on receiving an application under section 150 of the Act to approve a proposed arrangement, the Secretary must decide to approve the arrangement or refuse to approve the arrangement. Subsection 151(2) sets out the requirements that the Secretary must be satisfied of before approving a proposed arrangement. Paragraph 151(2)(d) allows the rules to prescribe additional requirements that must be satisfied.

Section 5-1 provides, for the purposes of paragraph 151(2)(d) of the Act, that Part 1 of Chapter 5 of the Wild Game Rules (sections 5-1 and 5-2) prescribes other requirements of which the Secretary must be satisfied before approving a proposed arrangement for export operations in relation to prescribed wild game meat or wild game meat products. Approved arrangements provide the framework for an inspection, verification and certification system.

5-2 Other requirements – proposed arrangement for operations to prepare prescribed wild game meat or wild game meat products

Section 5-2 sets out additional requirements which must be met for the approval of a proposed arrangement in relation to operations to prepare prescribed wild game meat or wild game meat products for export at a registered establishment. These are necessary to enable the Secretary to determine whether a proposed arrangement meets the requirements of the Act and importing country requirements.

Subsection 5-2(2) requires the proposed arrangement to record that the applicant for approval of the arrangement is committed to both meeting the objects of the Act that are applicable to the operations and to the prescribed meat or meat products to be covered by the arrangement, and complying with the requirements of the Act in relation to those operations.

Subsection 5-2(3) requires the proposed arrangement to cover each stage of the operations.

Subsection 5-2(4) requires the proposed arrangement to record details of:

- the management practices, organisational structure, resources and personnel (and the training those personnel receive) to be used to carry out the operations to be covered by the arrangement;

- the system of controls to be implemented to ensure that the conditions of the approved arrangement (set out in Divisions 2 to 7 of Part 2 of Chapter 5 of the Wild Game Rules) will be complied with;
- the system of controls that will be implemented to ensure that there will be reasonable grounds for issuing an export permit or a government certificate for prescribed wild game meat or wild game meat products to be covered by the arrangement;

Subsection 5-2(5) requires the management practices, organisational structure, resources and personnel (and the training those personnel receive) to be used to carry out the operations to be covered by the arrangement to be appropriate to ensure compliance with the requirements of the Act.

Subsection 5-2(6) requires the proposed arrangement to identify any importing country requirements that will not be met through ordinary compliance with the Act (other than section 5-4 of the Wild Game Rules), and the controls to be implemented to ensure those importing country requirements will be met.

These subsections allow for flexibility where the requirements of the importing country are different from the requirements of the Act, while ensuring transparency about the control measures needed to meet importing country requirements.

The note following subsection 5-2(6) explains that section 5-4 of the Wild Game Rules makes it a condition of an approved arrangement for export operations in relation to prescribed wild game meat or wild game meat products that all applicable importing country requirements are met.

Subsection 5-2(7) requires the implementation of a Hazard Analysis Critical Control Point (HACCP) plan for each stage of the operation to prepare the prescribed wild game meat or wild game meat products for export. This process control is designed to prevent the occurrence of problems by assuring that controls are applied at any point in the production of wild game meat or wild game meat products for export, where hazardous or critical situations could occur. A hazard could include physical, biological, or chemical contamination of the product or the product packaging. A guide to implementing a HACCP plan is available on the CSIRO Publishing's website (<https://www.publish.csiro.au>).

HACCP is defined in section 1-5 of the Wild Game Rules as the hazard analysis and critical control point system for food safety management 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.

The first note following subsection 5-2(7) explains that the HACCP plan must meet the requirements of the Australian Meat Standard in relation to operations to further process the prescribed wild game meat and operations to prepare prescribed wild game meat products (see subsection 5-5(1) of the Wild Game Rules).

The second note following subsection 5-2(7) explains that the HACCP plan must meet the requirements of the Australian Wild Game Meat Standard in relation to operations to prepare (other than to further process) prescribed wild game meat (see subsection 5-5(2) of the Wild Game Rules). Subsection 5-2(8) deals with requirements relating to operations to prepare wild game meat or wild game meat products that are not for export, or that are for animal food or pharmaceutical material. If such operations are also carried out at a registered establishment (alongside operations to prepare prescribed wild game meat or wild game meat products for export), the proposed arrangement must:

- specifically provide for those operations; and
- record details of the procedures (including any system of controls) to be implemented for the segregation, identification and security of prescribed wild game meat and wild game meat products prepared at the establishment to ensure the wholesomeness and integrity of the prescribed wild game meat and wild game meat products.

The note following subsection 5-2(8) refers to section 5-23 of the Wild Game Rules, which sets restrictions on operations to prepare prescribed wild game meat or wild game meat products at establishments where there are also operations to prepare wild game meat or wild game meat products that are not for export, or that are animal food or pharmaceutical products.

Subsection 5-2(9) details the requirements relating to potable water. Where a proposed arrangement provides for potable water to be used in carrying out export operations for prescribed wild game meat or wild game meat products, the arrangement must record details of the system of controls to ensure the water will be free from harmful substances and pathogenic organisms. The details recorded in the approved arrangement will need to include how treatment, testing and verification of potable water will be conducted.

Part 2—Conditions of approved arrangement

Division 1—Purpose of this Part

Division 1 (section 5-3) sets out the purpose of Part 2 of Chapter 5 of the Wild Game Rules concerning conditions on approved arrangements for operations to prepare prescribed wild game meat or wild game meat products for export.

5-3 Purpose of this Part

Section 152 of the Act deals with conditions imposed on an approved arrangement. Paragraph 152(1)(b) allows the rules to prescribe conditions that will apply to an approved arrangement (unless the Secretary decides the condition is not to be a condition of the approved arrangement).

Subsection 5-3(1) provides that Part 2 of Chapter 5 of the Wild Game Rules prescribes, for the purposes of paragraph 152(1)(b) of the Act, the conditions of an approved arrangement for a kind of export operations in relation to prescribed wild game meat or wild game meat products. Subsection 5-3(2) has the effect that each condition set out in Part 2 of Chapter 5 of the Wild Game Rules applies to approved arrangements for export operations in relation to prescribed wild game meat or wild game meat products if the condition relates to a kind of export operations covered by the arrangement.

Applying conditions to the approved arrangements prevents approved arrangements from merely meeting the requirements in Part 1 of Chapter 5 of the Wild Game Rules in order to gain approval and then later altering procedures or processes in a manner detrimental to achieving the purpose of the approved arrangement. It is important that businesses continue to operate under an approved arrangement with appropriate processes and controls to ensure the goods are fit for human consumption and continue to meet importing country requirements.

The first note following subsection 5-3(2) refers the reader to paragraph 157(1)(b) of the Act, which provides that the conditions also apply to an approved arrangement that has been renewed.

The second note following subsection 5-3(2) alerts the reader that failure to comply with a condition of an approved arrangement is an offence and the contravention of a civil penalty provision under section 184 of the Act.

Division 2—General

Division 2 (sections 5-4 and 5-5) sets out the general conditions that apply to approved arrangements for prescribed wild game meat or wild game meat products.

5-4 Importing country requirements must be met

Section 5-4 provides that an approved arrangement must ensure that all importing country requirements relating to both the export operations that are carried out in relation to prescribed wild game meat or wild game meat products, and prescribed wild game meat or wild game meat products themselves, are met.

Ensuring all applicable importing country requirements are covered by the approved arrangement enables ongoing market access for prescribed wild game meat or wild game meat products that are exported from Australia.

The note following section 5-4 refers the reader to the Manual of Importing Country Requirements for guidance on specific importing country requirements. This manual is available on the Department's website (<https://www.agriculture.gov.au/export/micor>). Access to the document may require a password.

The definition of **MICoR** is set out in section 1-5 of the Egg Rules, which means the *Manual of Importing Country Requirements* published by the Department.

5-5 Requirements of Australian Meat Standard and Australian Wild Game Meat Standard must be met

Subsection 5-5(1) provides that an approved arrangement must ensure the requirements of the Australian Meat Standard (as modified by the Wild Game Rules but not including provisions referred to in subsection 4-3(2)) are met in relation to both the operations to further process prescribed wild game meat for export or prepare prescribed wild game meat products for export in accordance with the arrangement, and the prescribed wild game meat or wild game meat products themselves.

For example, if prescribed wild game meat or wild game meat products must be further processed or prepared in a particular way under the approved arrangement, then the approved arrangement must ensure its processes and procedures meet the requirements, as described by the Australian Meat Standard (as modified). This ensures that prescribed goods exported from Australia continue to comply with food safety requirements and are fit for human consumption.

The note following subsection 5-5(1) refers the reader to modifications of the Australian Meat Standard made by Division 2 of Part 2 of Chapter 1 of the Wild Game Rules.

Subsection 5-5(2) provides that an approved arrangement must ensure that the requirements of the Australian Wild Game Meat Standard (as modified by the Wild Game Rules but not including provisions referred to in subsection 4-3(4)) are met in relation to operations to prepare (other than to further process) prescribed wild game meat for export that are carried out in accordance with the arrangement and the prescribed wild game meat themselves. Further processing of wild game meat or wild game meat products is included in the provisions of the Australian Meat Standard.

The note following subsection 5-5(2) refers the reader to modifications of the Australian Wild Game Meat Standard made by Division 2 of Part 2 of Chapter 1 of the Wild Game Rules.

Division 3—Preparation and transport

Division 3 sets out the conditions that apply to approved arrangements for prescribed wild game meat or wild game meat products in respect of preparation and transport.

5-6 Sourcing

Subsection 5-6(1) provides that wild game meat and wild game meat products that are sourced in Australia for use in preparing wild game meat products for export as food must be sourced only from:

- a registered establishment; or
- an establishment in relation to which an exemption from the requirement for registration for its operations in relation to the wild game meat or wild game meat products is in force under Part 2 of Chapter 2 of the Act; or

- an establishment where operations to which subsection 2-4(2) applies (chilling, loading or temporary storage before transport for processing of wild game animal carcasses) are carried out.

Division 2 of Part 2 of Chapter 2 of the Act provides for applications for exemptions to the conditions of exporting wild game meat or wild game meat products under the Act. Subsection 2-4(2) provides for the requirement of preparing wild game meat and wild game meat products for export in a registered establishment.

Subsection 5-6(2) provides that wild game meat and wild game meat products for export as food must not be derived from a wild game animal of a type that under a law of the Commonwealth, or a law of the State or Territory, must not be harvested.

Subsection 5-6(3) provides that wild game meat products for export as food must not be derived from offal.

Subsection 5-6(4) provides that wild game meat and wild game meat products for export as food must not be derived from a porcine animal other than the species *Sus scrofa scrofa*.

5-7 Harvesting, chilling and transporting in the field

Subsection 5-7(1) provides that wild game meat and wild game meat products for export as food must be derived from wild game animals that have been harvested by a field harvester, and in accordance with the Australian Wild Game Meat Standard. **Field harvester** is defined in section 1-5 of the Wild Game Rules as having the same meaning as in the Australian Wild Game Meat Standard. A field harvester is a person who is given approval to harvest, conduct harvest inspection, bleeding and field dressing of wild game animal carcasses for human consumption and is considered by the relevant authority to be competent to conduct those activities.

The note following subsection 5-7(1) directs the reader to clauses 7 and 8 of the Australian Wild Game Meat Standard for relevant requirements in relation harvesting. Subsection 5-7(1) seeks to ensure that sustainable and ethical sourcing of wild game meat and wild game meat products is maintained.

Subsection 5-7(2) provides that wild game meat and wild game meat products for export must be derived from carcasses that have been:

- chilled in a field depot and in accordance with the Australian Wild Game Meat Standard; and
- transported in the field by a vehicle operated by a field harvester and in accordance with the Australian Wild Game Meat Standard.

Field depot is defined in section 1-5 of the Wild Game Rules as having the same meaning as in the Australian Wild Game Meat Standard. A field depot means a depot approved by the controlling authority in which wild game animal carcasses are held temporarily under refrigeration, pending transport to a wild game meat processing premises. This ensures that wild game meat carcasses for export have been adequately chilled in a field depot and transported by the appropriate means.

The note following subsection 5-7(2) refers the reader to clause 10 of the Australian Wild Game Meat Standard in relation to requirements regarding chilling and clause 8 of the Australian Wild Game Meat Standard in relation to requirements regarding transportation.

Subsection 5-7(3) provides that section 5-7 does not limit section 5-6 (sourcing) of the Wild Game Rules. Subsection 5-7(3) ensures that the harvesting, chilling and transportation requirements do not limit the sourcing of wild game meat and wild game meat products in accordance with the Wild Game Rules.

5-8 Areas where post-mortem inspections are carried out

Section 5-8 requires registered establishments to have a designated area where post-mortem inspections of carcasses or carcase parts can be carried out by authorised officers or State or Territory meat safety inspectors without any encroachment by equipment or other persons (other than authorised officers or State or Territory meat safety inspectors carrying out the inspection).

Section 5-8 is important as it ensures only authorised officers or State or Territory meat safety inspectors may enter the inspection area, which ensures inspection of the carcasses or carcase parts can be appropriately evaluated without external influence.

5-9 Compliance with dispositions

Section 5-9 sets the requirements relating to compliance with dispositions that are applied by an authorised officer to carcasses or carcase parts, or prescribed wild game meat or wild game meat products.

The authorised officer for the purpose of performing functions (carrying out inspections) and exercising powers in relation to prescribed wild game meat or wild game meat products can apply a disposition to meat, carcasses or carcase parts

A disposition is a specific type of decision made in accordance with sections 9-22 to 9-24 of the Wild Game Rules, which refer specifically to post-mortem dispositions (a decision about what to do in relation to carcasses, carcase parts, wild game meat or wild game meat products after slaughter). If the authorised officer reasonably believes that the circumstances that led to the application of a disposition referred to subsection 9-24(1) of the Wild Game Rules have changed, the authorised officer can vary a disposition or a condition applied to prescribed wild game meat or wild game meat products.

Subsection 5-9(1) provides that when an authorised officer applies a disposition and any conditions specified in a disposition in relation to carcasses or carcase parts or prescribed wild game meat or wild game meat products, then any such disposition or conditions must be complied with.

Subsection 5-9(2) provides that for the purposes of section 5-9 a **disposition** is a disposition that may be applied to carcasses or carcase parts or prescribed wild game meat or wild game meat products by an authorised officer under Division 2 of Part 4 of Chapter 9 of the Wild Game Rules. This includes a variation of such a disposition and any conditions specified in relation to such a disposition.

The first note following subsection 5-9(2) directs the reader to sections 9-22 and 9-23 of the Wild Game Rules for dispositions that may be applied by authorised officers in relation to carcasses or carcase parts, or prescribed wild game or wild game meat products.

The second note following subsection 5-9(2) notifies the reader that under paragraphs 9-22(2)(d) and 9-22(3)(a) of the Wild Game Rules, carcasses or carcase parts may be retained for further inspection, tests or treatment pending final disposition.

5-10 Loading prescribed wild game meat or wild game meat products for transfer between registered establishments

Section 5-10 provides the conditions that must be met for wild game meat transport vehicles when being used for the transfer of prescribed wild game meat or wild game meat products between registered establishments. The wild game meat transport vehicle must satisfy the requirements set out in paragraphs 5-10(a) to (g) and must:

- not be a source of contamination of the wild game meat or wild game meat products; and
- be clean, free of odours and materials that are capable of contaminating the wild game meat or wild game meat products or their packaging; and
- be equipped with an appropriate and adequate means of refrigeration; and
- have an accurate measuring device to assess whether the requirements of the Wild Game Rules are met during transport and loading; and
- be maintained in a state of good repair and working order (having regard to its use); and
- be capable of being secured by a seal that is an official mark.

The purpose of section 5-10 is to prevent contamination and ensure the wholesomeness of prescribed wild game meat and wild game meat products during transport.

The note following section 5-10 refers the reader to section 5-7 of the Wild Game Rules, which provides that wild game animal carcasses must be transported in the field by a vehicle operated by a field harvester and in accordance with the Australian Wild Game Meat Standard.

5-11 Loading of prescribed wild game meat or wild game meat products—supervision

Section 5-11 deals with how the loading of prescribed wild game meat or wild game meat products for export must be supervised.

Subsection 5-11(1) sets a requirement that the loading of prescribed wild game meat or wild game meat products for export must be carried out under the supervision of an authorised officer, or by a person who manages or controls operations to prepare the wild game meat or

wild game meat products for export where those operations were last carried out (provided that person is designated in the approved arrangement as a person who may supervise the loading of prescribed wild game meat or wild game meat products for export, and does so in accordance with the arrangement).

Subsection 5-11(2) requires a person who supervises the loading of prescribed wild game meat or wild game meat products to give the exporter a declaration stating that, at the date the declaration is made, the prescribed export conditions, applicable importing country requirements, and any other conditions under the Act that apply to wild game meat or wild game meat products are met. The declaration must not be made if there are no reasonable grounds for making it, must not be false and misleading and must be signed and dated by the person who made it (subsection 5-11(3)).

The first note following subsection 5-11(2) refers the reader to the United Nations Rules for Electronic Data Interchange for Administration, Commerce and Transport, which deal with electronic message formats. These Rules could in 2021 be accessed from the United Nations Economic Commission for Europe website (<https://www.unece.org>).

The second note following subsection 5-11(2) refers the reader to the *Electronic Transactions Act 1999*, regarding the requirements to give information (including a declaration) in writing (see section 10 of that Act for electronic signatures).

The third note following subsection 5-11(2) explains that under subsection 11-6(2) of the Wild Game Rules the exporter is required to retain the declaration given under subsection 5-11(2) for at least 2 years.

The note following subsection 5-11(3) alerts the reader that providing false or misleading information or documents is an offence and the contravention of a civil penalty provision under the Act and Schedule 1 to the *Criminal Code Act 1995*.

5-12 Prohibitions on loading

Subsection 5-12(1) requires prescribed wild game meat or wild game meat products, at the time they are loaded for export, to be packaged effectively to protect them from contamination and deterioration in the conditions under which they are loaded, stored and transported from Australian territory.

Subsection 5-12(2) prohibits prescribed wild game meat or wild game meat products that are not wholesome from being loaded for export.

The first note following subsection 5-12(2) explains that the applicable requirements of the Australian Meat Standard must also be complied with in relation to operations to further process wild game meat and operations to prepare prescribe wild game meat products (see subsection 4-3(1) of the Wild Game Rules and, for example section 14 of the Australian Meat Standard).

The second note following subsection 5-12(2) explains that the applicable requirements of the Australian Wild Game Meat Standard must also be complied with in relation to operations to prepare (other than to further process) prescribed wild game meat (see subsection 4-3(3) of

the Wild Game Rules and, for example, section 15 of the Australian Wild Game Meat Standard).

5-13 Container system units and equipment for loading aircraft and vessels

Section 5-13 sets requirements for loading prescribed wild game meat or wild game meat products into a container system unit or onto an aircraft or vessel.

Subsection 5-13(1) provides that prescribed wild game meat or wild game meat products must not be loaded for export unless the container system unit or the area on an aircraft or vessel, into which the wild game meat or wild game meat products are to be loaded is:

- not a source of contamination of the wild game meat or wild game meat products;
- clean and free of odours and materials that are capable of contaminating wild game meat or wild game meat products or their packaging;
- equipped or provided with an appropriate and adequate means of refrigeration (if necessary); and
- maintained in a state of good repair and working order having regard to its use.

There is also an additional requirement for loading for transport by sea, being that the container system unit and the area into which the wild game meat or wild game meat products are to be loaded are capable of being secured by a bolt seal that is an official mark.

The note following subsection 5-13(1) refers the reader to section 8-13 of the Wild Game Rules, which deals with bolt seals.

Subsection 5-13(2) provides that prescribed wild game meat or wild game meat products must be stowed in a container system unit, or an area of an aircraft or vessel, in a manner that ensures their condition and packaging are not likely to be adversely affected during the flight or voyage.

The combined purpose of sections 5-11, 5-12 and 5-13 is to ensure a suitably trained and qualified person will determine that, at loading, that prescribed goods are wholesome and have been packaged in a way that prevents contamination and deterioration, including during transport. This provides end chain assurance for trading partners.

5-14 When a bolt seal must be applied to a container system unit

Section 5-14 requires the application of a bolt seal that is an official mark to container system units (other than a container system unit intended to be transported by air). A bolt seal is a locking device that is tamper-evident and requires a tool (such as a bolt cutter) to open and may only be applied by persons set out in subsection 8-23(2) of the Wild Game Rules.

The first note following section 5-14 refers the reader to the Manual of Importing Country Requirements (MICO R) for guidance on when, for animal disease or integrity reasons, a seal may need to be applied to a container system unit intended to be transported by air if it

transits another country. MICoR could in 2021 be viewed on the Department's website (<http://www.awe.gov.au>). Access to the document may require a password.

The second and third notes following section 5-14 refer the reader to sections 8-13 and 8-23 of the Wild Game Rules, which deal with bolt seals and who must apply them.

The fourth note following section 5-14 alerts the reader that a person may commit an offence or be liable for a civil penalty under the Act for interfering with an official mark (see Division 3 of Part 3 of Chapter 8 of the Act and section 8-25 of the Wild Game Rules).

5-15 Transport vehicles, measuring devices and other equipment

Subsection 5-15(1) provides that prescribed wild game meat or wild game meat products must be transported between registered establishments by wild game meat transport vehicles and equipment that comply with applicable conditions prescribed by the Wild Game Rules.

The first note following subsection 5-15(1) refers the reader to sections 5-10 to 5-12 of the Wild Game Rules in relation to requirements regarding meat transport vehicles and equipment.

The second note following subsection 5-15(1) notifies the reader that there must also be compliance with the applicable requirements of the Australian Meat Standard (see, for example clause 25) and refers the reader to section 5-5 of the Wild Game Rules.

Subsection 5-15(2) requires wild game meat transport vehicles and other equipment used in transporting prescribed wild game meat or wild game meat products to be of a kind that ensures that the transport of the wild game meat or wild game meat products complies with the applicable conditions prescribed by Part 2 of Chapter 5 of the Wild Game Rules.

The first note following subsection 5-15(2) refers the reader to sections 5-10 to 5-13 of the Wild Game Rules in relation to requirements regarding meat transport vehicles and equipment.

The second note following subsection 5-15(2) notifies the reader that there must also be compliance with the applicable requirements of the Australian Meat Standard (see, for example section 25) and refers the reader to section 5-5 of the Wild Game Rules.

Subsection 5-15(3) provides that wild game meat transport vehicles and container system units used to transport prescribed wild game meat and wild game meat products must have accurate measuring devices to assess whether the applicable conditions prescribed by Part 2 of Chapter 5 of the Wild Game Rules are complied with during transport and loading.

Section 5-15 seeks to ensure the prescribed wild game meat or wild game meat products are not contaminated during transport and remain wholesome.

Division 4—Trade descriptions

Division 4 of Part 2 of Chapter 5 of the Wild Game Rules (sections 5-16 to 5-17) imposes conditions on approved arrangements concerning the application of trade descriptions on prescribed wild game meat or wild game meat products.

The note at the start of Division 4 refers the reader to Part 2 of Chapter 8 of the Act and Part 2 of Chapter 8 of the Wild Game Rules in relation to trade descriptions.

5-16 Trade descriptions must be applied to prescribed wild game meat and wild game meat products that are intended to be exported

Section 5-16 imposes requirements relating to the application of trade descriptions for prescribed wild game meat or wild game meat products that are intended to be exported.

Subsection 5-16(1) requires a trade description that includes the information specified in subsection 5-16(3) to be applied to prescribed wild game meat or wild game meat products that are intended for export.

The first note following subsection 5-16(1) refers the reader to the definition of *trade description* in section 246 of the Act.

The second note following subsection 5-16(1) refers the reader to the definition of *applied* in section 247 of the Act, in relation to a trade description.

The third note following subsection 5-16(1) notifies the reader that clause 16.7 of the Australian Meat Standard does not need to be complied with, and directs the reader to subsection 4-3(2) of the Wild Game Rules which deals with provisions of the Australian Meat Standard which do not apply.

The fourth note following subsection 5-16(1) alerts the reader that clause 12.6 of the Australian Wild Game Meat Standard (regarding the information to be included on packaged wild game meat) is not required to be complied with, and directs the reader to subsection 4-3(4) of the Wild Game Rules which deals with provisions of the Australian Wild Game Meat Standard which do not apply.

The fifth note following subsection 5-16(1) explains that if the relevant importing country authority specifies that it does not require a trade description requirement to be met, the Secretary may approve a variation of the approved arrangement to provide that the trade description requirement does not apply.

Subsection 5-16(2) provides that the trade description must be applied no later than the time the prescribed wild game meat or wild game meat products are packed.

Subsection 5-16(3) prescribes the required content of the trade description that must be applied to prescribed wild game or wild game meat products intended for export. The trade description must include:

- a full description of the wild game meat or wild game meat products;

- the type of animal from which the wild game meat or wild game meat products were derived);
- the words “WILD GAME” and net weight and country or countries of origin;
- the registration number of the registered establishment where the wild game meat or wild game meat products were last packed before export;
- the name and address of the occupier of the registered establishment, or the exporter or consignee of the wild game meat or wild game meat products;
- where the products were packed on behalf of a person other than the occupier of the registered establishment where operations to prepare the products for export were carried out, the name of the person who packed the product, and the name of the person on whose behalf the products were packed;
- for packaged wild game meat or wild game meat products—the date of packaging using the format Day-Month abbreviation-Year (for example: 02 Feb 2021);
- a list of ingredients where the product contains two or more ingredients in descending order of ingoing weight (other than any processing aids);
- the identity of the batch;
- a statement indicating whether they should be kept chilled or frozen if the product is not shelf-stable; and
- for canned wild game meat or wild game meat products, the registration number allocated to the registered establishment where the canning was carried out, preceded by the letters ‘EX’, the date of packaging (in code or in clear), and a description of the contents of the cans (in code or in clear).

The first note following subsection 5-16(3) notifies the reader that the trade description must be accurate, as required by section 8-6 of the Wild Game Rules. Additionally, the note alerts the reader to Division 3 of Part 2 of Chapter 8 of the Act concerning offences and civil penalty provisions in relation to false trade descriptions.

The second note following subsection 5-16(3) refers the reader to Australian Consumer Law (within the meaning of the *Competition and Consumer Act 2010*), which contains prohibitions on engaging in conduct that is misleading or deceptive or is likely to mislead or deceive, and prohibitions on making false or misleading representations of the product (see sections 18, 29 and 151 of that Law). This note also alerts the reader that Part 5-3 of the Australian Consumer Law provides defences that certain country of origin representations made about goods do not contravene section 18, paragraph 29(1)(a) or (k) or 151(1)(a) or (k) of that Law, and directs the reader to the ACCC website (<https://www.accc.gov.au>) for further guidance on correctly describing the country of origin.

The third note following subsection 5-16(3) provides examples of types of wild game animals are kangaroos, wild boar and feral goats.

The fourth note following subsection 5-16(3) refers the reader to section 1-5 of the Wild Game Rules for the definition of *date of packaging*.

Subsection 5-16(4) sets out that, for the purposes of paragraph 5-16(3)(f), the registration number must be clearly identifiable as the registration number of the registered establishment.

Subsection 5-16(5) also requires prescribed wild game meat and wild game meat products to 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 (subsection 5-18(5)). This Standard is available from the Food Standards Australia New Zealand website (<https://www.foodstandards.gov.au>).

The note following subsection 5-16(5) refers the reader to section 12 of the Act for the definition of the *Australian New Zealand Food Standards Code*.

The inclusion of the informed required by section 5-16 is important to ensure the identity of the prescribed wild game meat or wild game meat products can be ascertained, and provides assurance of the integrity of the goods to trading partners.

5-17 Prescribed wild game meat or wild game meat products in cartons or cans

Section 5-17 deals with the requirements for trade descriptions applied to prescribed wild game meat products contained in cartons or cans.

Subsection 5-17(1) provides that for trade descriptions applied to prescribed wild game meat or wild game meat products in cartons, the trade description must be applied to one end panel of the carton.

The note following subsection 5-17(1) refers the reader to section 1-5 of the Wild Game Rules for the definition of *carton*. *Carton* includes a case, crate and barrel.

Subsection 5-17(2) provides that for trade descriptions relating to canned prescribed wild game meat or wild game meat products, the information required by paragraph 5-16(3)(m) must be either embossed on, or indelibly applied directly to the cans. Paragraph 5-16(3)(m) concerns the registration number of the registered establishment where the canning was carried out, the date or dates when the can was closed and a description of the contents of the cans.

The inclusion of the information required by section 5-17 is important to ensure the identity of the prescribed wild game meat or wild game meat products can be ascertained, and provides assurance of the integrity of the goods to trading partners.

Division 5—Official marks

Division 5 (sections 5-18 to 5-21) of Part 2 of Chapter 5 of the Wild Game Rules sets out conditions that apply to approved arrangements for prescribed wild game meat or wild game meat products in relation to official marks.

The note at the beginning of Division 5 refers the reader to Part 3 of Chapter 8 of both the Act and the Wild Game Rules for further requirements relating to official marks.

5-18 References to particular official marks

Section 5-18 provides that a reference to a particular official mark in Division 5 is a reference to the official mark with that description specified in Division 1 of Part 3 of Chapter 8 of the Wild Game Rules.

5-19 Carcasses and carcase parts

Section 5-19 sets out requirements for applying official marks to prescribed wild game meat or wild game meat products that are carcasses or carcase parts. These requirements are in addition to the requirements in Part 3 of Chapter 8 of the Wild Game Rules.

Subsection 5-19(1) provides that an Australian Approved official mark must be applied to prescribed wild game meat or wild game meat products that are carcasses or carcase parts if they are passed by an authorised officer as fit for human consumption.

The first note following subsection 5-19(1) provides that the official mark must be applied by a person referred to in subsection 8-23(2) of the Wild Game Rules. This note also refers the reader to subsection 8-23(1) of the Wild Game Rules which deals with the circumstances in which section 8-23 applies.

The second note following subsection 5-19(1) notifies the reader that importing countries may require another mark to be applied to carcasses or carcase parts in addition to the official mark.

Subsection 5-19(2) provides for circumstances when an Approved for Export official mark must be applied to prescribed wild game meat or wild game meat products that are carcasses or carcasses parts. This is where all of the following occur:

- the carcasses or carcase parts are passed by a State or Territory meat safety inspector as fit for human consumption; and
- the approved arrangement covering the operations to prepare the carcasses or carcase parts for export provides for those operations to be carried out under a State or Territory inspection and audit arrangement; and
- the wild game meat or wild game meat products derived from carcasses or carcase parts are intended for export; and
- the relevant importing country authority for the carcasses or carcase parts specifies that the Approved for Export official mark may be applied to the carcasses or carcase parts.

The first note following subsection 5-19(2) provides that the official mark must be applied by a person referred to in subsection 8-23(2) of the Wild Game Rules. This note also refers the reader to subsection 8-23(1) of the Wild Game Rules which deals with which circumstances where section 8-23 applies.

The second note following subsection 5-19(2) notifies the reader that importing countries may require another mark to be applied to carcasses or carcase parts in addition to the official mark.

The third note following subsection 5-19(2) explains that there is no requirement to apply an Approved for Export official mark to a carcass or carcass part until on or after 1 October 2021. However, until then an Australia Approved official mark may be required to be applied (see subsection 5-19(6)).

Subsection 5-19(3) provides that an official mark applied to carcasses or carcass parts under subsection 5-19(1) or (2) must be applied to the carcasses or carcass parts as soon as practicable after they are dressed and before they are removed from the registered establishment where they were dressed.

Subsection 5-19(4) provides that an official mark applied to carcasses or carcass parts under subsection 5-19(1) or (2) must be applied to a prominent part of each carcass or carcass part, on a label attached to the carcass or carcass part, or on the packaging containing the carcass or carcass part, so that the official mark is visible during handling.

Subsection 5-19(5) has the effect that the requirements in section 5-19 do not apply in relation to prescribed wild game meat or wild game meat products that are carcasses or carcass parts if they are packed in cartons at the registered establishment, and the approved arrangement provides that section 5-19 does not apply.

Subsection 5-19(5) is directed at integrated establishments, whereby the establishments are set up to allow the carcasses or carcass parts to be packed into cartons after dressing, bypassing the requirement for the official mark to be directly stamped onto the carcasses or carcass parts. This allows market access to be maintained in relation to importing countries that do not support the use of marks applied directly to meat.

The note following subsection 5-19(5) notifies the reader that, if section 5-19 does not apply in relation to carcasses or carcass parts, then an official mark must, under section 5-20, be placed on the carton which contains the packed carcasses or carcass parts for export, before the carton is removed from the registered establishment where it was packed (see section 5-20 of the Wild Game Rules)

Subsection 5-19(6) provides that on or before 30 September 2021, subsection 5-19(2) applies in relation to prescribed wild game meat or wild game meat products that are carcasses or carcass parts as if the reference in that subsection (other than in note 3) to 'Approved for Export official mark' were a reference to 'Australia Approved official mark'.

5-20 Cartons containing prescribed wild game meat and wild game meat products

Section 5-20 sets out requirements in relation to the application of official marks to prescribed wild game meat or wild game meat products packed in cartons

Subsection 5-20(1) provides that an Australia Approved official mark must be applied to each carton in which prescribed wild game meat or wild game meat products are packed when the goods have been passed as fit for human consumption by an authorised officer.

The first note following subsection 5-20(1) notifies the reader that the official mark must be applied by a person referred to in subsection 8-23(2) of the Wild Game Rules. This note also refers the reader to subsection 8-23(1) of the Wild Game Rules which deals with which circumstances section 8-23 applies.

The second note following subsection 5-20(1) notifies the reader that importing countries may require another mark to be applied to carcasses or carcasses parts in addition to the official mark.

Subsection 5-20(2) provides for the circumstances when an Approved for Export official mark must be applied to each carton in which prescribed wild game meat or wild game meat products are packed. This is where all of the following occur:

- the wild game meat or wild game meat products are passed as fit for human consumption by a State or Territory meat safety inspector; and
- the approved arrangement covering operations to prepare wild game meat or wild game meat products for export provides for those operations to be carried out under a State or Territory inspection and audit arrangement; and
- the wild game meat or wild game meat products are intended to be exported; and
- the relevant importing country authority for the wild game meat or wild game meat products specifies that the Approved for Export mark may be applied.

Section 5-20 has the effect that which official mark is required to be applied to the carton will depend on who passed the prescribed wild game meat or wild game meat products in the carton as fit for human consumption.

The first note following subsection 5-20(2) alerts the reader that the official mark must be applied by a person referred to in subsection 8-23(2) of the Wild Game Rules. This note also refers the reader to subsection 8-23(1) of the Wild Game Rules which deals with which circumstances that section 8-23 applies.

The second note following subsection 5-20(2) notifies the reader that importing countries may require another mark to be applied to a carton containing prescribed wild game meat or wild game meat products in addition to the official mark.

The third note following subsection 5-20(2) explains that there is no requirement to apply an Approved for Export official mark to a carton until on or after 1 October 2021. However, until then an Australia Approved official mark may be required to be applied (see subsection 5-20(5)).

Subsection 5-20(3) provides that when an official mark must be applied to a carton under section 5-20, the official mark must be applied as soon as practicable after it is packed and before the carton is removed from the registered establishment where it is packed.

Subsection 5-20(4) provides that when an official mark must be applied to a carton under section 5-20, the official mark must be applied to the same end panel of the carton in which the trade description is required to be applied under subsection 5-17(1) of the Wild Game Rules, and be applied in a location that is conspicuous during handling.

Subsection 5-20(5) provides that before 1 October 2021, subsection 5-20(2) applies in relation to cartons in which prescribed wild game meat or wild game meat products are packed as if

the reference in that subsection to ‘Approved for Export official mark’ were a reference to ‘Australia Approved official mark’.

Subsection 5-20(6) clarifies, for the avoidance of doubt, that section 5-20 applies in addition to section 5-19. This is subject to subsection 5-19(5) which deals with when subsection 5-19(1) does not apply.

The purpose of section 5-20 is to promote market access by ensuring a consistent approach to official marking that is applied in a way that is visible, secure and maintains the integrity of the goods.

5-21 State and Territory classification marks must not be applied

Section 5-21 provides that prescribed wild game meat and wild game meat products for export must not bear a mark which indicates a classification in accordance with a law of the State or Territory. This is necessary to differentiate between domestic market and export market wild game meat and wild game meat products.

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

Division 6 (sections 5-22 to 5-27) of Part 2 of Chapter 5 of the Wild Game Rules sets out the conditions that apply to approved arrangements for prescribed wild game meat or wild game meat products in respect of segregation, identification, security, traceability and integrity.

These provisions are intended to ensure that the integrity of prescribed wild game meat and wild game meat products for export is maintained, including that they are easily identifiable and traceable, and are segregated from other wild game meat and wild game meat products.

5-22 Segregation, identification, security and traceability—general

Section 5-22 provides the general requirements for segregation, identification, security, and traceability of prescribed goods during preparation and transportation.

Specifically, to the extent necessary to ensure that one or more objects of the Act are met, carcasses and carcase parts from which wild game meat and wild game meat products are to be derived and wild game meat and wild game meat products meeting a particular description:

- must be identified and segregated during preparation and transport from other carcasses, carcase parts or wild game meat and wild game meat products not meeting that description
- must not be confused with other carcasses, carcase parts or wild game meat or wild game meat products not meeting that description; and
- must be prepared and transported under conditions of security.

Section 5-22 further sets out the general requirement that, to the extent necessary to ensure that one or more of the objects of the Act are met, inventory controls and tracing systems must be maintained.

This requirement means that carcasses, carcase parts, wild game meat and wild game meat products are accurately identified and segregated from different kinds of carcasses, carcase parts and meat products and if necessary, can be effectively recalled. This is important for ensuring prescribed wild game meat or wild game meat products are fit for human consumption, maintain their integrity, meet the requirements of the Act and will also meet importing country requirements.

The first note following section 5-22 provides an example that the separate identification and segregation of inedible material is required by section 5-24 of the Wild Game Rules.

The second note following 5-22 refers the reader to section 5-32 of the Wild Game Rules, which sets requirements for inventory controls.

The third note following 5-22 refers the reader to section 16 of the Australian Meat Standard, which deals with tracing systems for recall purposes.

The fourth note following 5-22 refers the reader to section 12 of the Australian Wild Game Meat Standard, which deals with the tracing systems for recall purposes in relation to prescribed wild game meat.

5-23 Establishments where wild game meat or wild game meat products that are not for export etc. are prepared

Section 5-23 provides for segregation, identification and security in establishments where operations to prepare wild game meat or wild game meat products that are not for export, or that are animal food or pharmaceutical material, are prepared. These conditions are necessary to ensure the wholesomeness and integrity of the prescribed wild game meat or wild game meat products for export as food.

Subsection 5-23(1) prohibits the conduct of operations to prepare prescribed wild game meat or wild game meat products at the same establishment where operations are carried out to prepare wild game meat or wild game meat products that are not for export, or are for animal food or as pharmaceutical material. This is the general rule.

However, subsection 5-23(2) provides an exception to the general rule, in that the prohibition in subsection 5-23(1) does not apply if the operations to prepare wild game meat or wild game meat products (not for export or that are animal food or pharmaceutical material) are carried out in accordance with an approved arrangement, and the wholesomeness and integrity of the prescribed wild game meat or wild game meat products is ensured, including by compliance with subsection 5-23(3).

Subsection 5-23(3) provides that procedures (including systems of controls) for the segregation, identification and security of prescribed wild game meat or wild game meat products must be sufficient to ensure their wholesomeness and integrity during packing, storing, handling and loading.

This condition is to ensure the prescribed wild game meat or wild game meat products are not contaminated by wild game meat or wild game meat products for use as animal food or as pharmaceutical material and to maintain the integrity of the wild game meat or wild game meat products.

The first note following subsection 5-23(3) provides that the applicable requirements of the Australian Meat Standard must also be complied with in relation to operations to further process prescribed wild game meat and prepare prescribed wild game meat products (see subsection 4-3(1) of the Wild Game Rules and for example clauses 5.3, 17.1 and 17.10 of the Australian Meat Standard).

The second note following subsection 5-23(3) provides that the applicable requirements of the Australian Wild Game Meat Standard must also be complied with in relation to operations to prepare (other than to further process) prescribed wild game meat (see subsection 4-3(3) of the Wild Game Rules and, for example, clause 5.3 and section 13 of the Australian Wild Game Meat Standard) Clause 5.3 and section 13 of the Australian Wild Game Meat Standard is referenced as an example.

5-24 Integrity—general

Section 5-24 sets requirements in relation to the integrity and identity of prescribed wild game meat or wild game meat products in accordance with an approved arrangement within a registered establishment. These rules are necessary to ensure the wholesomeness and integrity of the prescribed wild game meat or wild game meat products for export as food.

Subsection 5-24(1) provides a general requirement that the integrity of prescribed wild game meat or wild game meat products must be able to be ensured.

Subsection 5-24(2) provides (without limiting subsection 5-24(1)) specific requirements for ensuring the integrity of prescribed wild game meat or wild game meat products for export as food. Specifically, the prescribed wild game meat or wild game meat products must not be compromised by the presence of any of the following:

- wild game meat or wild game meat products that were not previously prepared at a registered establishment, that are not for export or that have left the export system, that are animal food or pharmaceutical material, or that are brought to an establishment but are not removed or unloaded from the conveyance that transported them there;
- any parts of an animal that are inedible, carcasses or carcase parts or wild game meat or wild game meat products that are retained for further inspection, tests or treatment, or meat or meat products not derived from a wild game animal.

The note following subsection 5-24(2) refers the reader to section 12 of the Act for the definition of *conveyance*. *Conveyance* means an aircraft, a vessel, a vehicle, or any other means of transport prescribed by the rules.

Subsection 5-24(3) has the effect that wild game meat or wild game meat products that were not prepared at a registered establishment, are not for export, or that have left the export system, to be readily distinguished from prescribed wild game meat or wild game meat products for export during concurrent boning and must be segregated from such goods at all times. Concurrent boning refers to when prescribed and non-prescribed wild game meat or wild game meat products are being boned within the same establishment and at the same time.

Subsection 5-24(4) requires the identity of prescribed wild game meat or wild game meat products to be readily ascertainable and not be lost or confused with the identity of any other wild game meat or wild game meat products.

The first note following subsection 5-24(4) provides that there are certain requirements under the Australian Meat Standard that must be complied with in relation to operations to further process prescribed wild game meat and to prepare prescribed wild game meat products (see subsection 4-3(1) of the Wild Game Rules).

The second note following subsection 5-24(4) provides that there are certain requirements under the Australian Wild Game Meat Standard that must be complied with in relation to operations to prepare (other than to further process) prescribed wild game meat (see subsection 4-3(3) of the Wild Game Rules).

5-25 Identification—type of animal

Subsection 5-25(1) provides that prescribed wild game meat or wild game meat products must be derived from the species they purport to be derived from. For example, wild boar meat cannot be substituted with kangaroo meat in any circumstance.

Subsection 5-25(2) clarifies that, to avoid doubt, prescribed wild game meat or wild game meat products are not derived from the type of wild game animal they purport to be derived from if wild game meat or wild game meat products derived from another type of animal (within the ordinary meaning of animal) are substituted wholly or partly for the relevant goods.

The first note following subsection 5-25(2) refers to section 1-5 of the Wild Game Rules for the definition of *wild game animal*.

The second note following subsection 5-25(2) provides examples of wild game animals are kangaroos, wild boar and feral goats.

5-26 Export market eligibility

Subsection 5-26(1) provides that the export market eligibility of prescribed wild game meat or wild game meat products must be maintained.

Subsection 5-26(2) requires prescribed wild game meat or wild game meat products which are not eligible for all export markets to be identified correctly (so that their export market eligibility can be ascertained) and segregated from wild game meat and wild game meat products with different export market eligibility.

5-27 Action if prescribed wild game meat or wild game meat products are unwholesome or integrity etc. cannot be ensured

Section 5-27 sets out the action required if prescribed wild game meat or wild game meat products are, or have become, unwholesome or that the integrity, traceability or identity cannot be ensured, or an importing country requirement in relation to the wild game meat or wild game meat products can no longer be met

Subsection 5-27(1) provides that section 5-27 of the Wild Game Rules applies if the holder of an approved arrangement for operations to prepare prescribed wild game meat or wild game meat products for export at a registered establishment reasonably believes any of the following circumstances exist:

- there is, or there will be, a failure to meet an importing country requirement relating to the prescribed wild game meat or wild game meat products prepared for export at the registered establishment;
- prescribed wild game meat or wild game meat products prepared for export at the registered establishment in accordance with the approved arrangement are unwholesome or have deteriorated;
- the identification, traceability or integrity of the prescribed wild game meat or wild game meat products prepared for export at the registered establishment in accordance with the approved arrangement cannot be ensured;
- there is, or there has been, a failure of a procedure, or another circumstance occurs or has occurred, which has affected or could affect the wholesomeness or integrity of the prescribed wild game meat or wild game meat products prepared for export at the registered establishment, or that has caused or could cause the prescribed wild game meat or wild game meat products at the registered establishment to deteriorate;
- the declarations required by subsection 5-28(1) in relation to a consignment of prescribed wild game meat or wild game meat products that were transferred to the registered establishment (the *receiving establishment*) were not given to the occupier of the receiving establishment, or did not accompany the consignment, or were inaccurate or incomplete.

The note following subsection 5-27(1) explains that wild game meat or wild game meat products may deteriorate but still be wholesome if, for example, refrigeration requirements are not met.

Subsection 5-27(2) sets the requirements that apply where one or more of the circumstances listed in subsection 5-27(1) exist.

Subsection 5-27(2) requires the holder of the approved arrangement, as soon as practicable after becoming aware of the existence of a circumstance in subsection 5-27(1), to identify the affected prescribed wild game meat or wild game meat products and notify an authorised officer of the circumstance. The prescribed wild game meat or wild game meat products must be held separately under conditions of security until an authorised officer applies a disposition to the wild game meat or wild game meat products under section 9-30 of the Wild Game Rules, or notifies the holder of an approved arrangement what action must be taken in relation to the wild game meat or wild game meat products.

The note following subsection 5-27(2) refers the reader to clause 15.13 of the Australian Meat Standard, which contains similar requirements in relation to where wild game meat or wild game meat products are suspected of not being wholesome.

Subsection 5-27(3) provides if the holder of an approved arrangement gives a notification under subsection 5-37(2) orally, they must, as soon as practicable after giving the notification, also give the notification in writing.

. Section 5-27 provides flexibility and minimises costs as it allows for products that do not initially meet integrity requirements to be exported if the integrity can be re-established.

Division 7—Transfers

Division 7 of Part 2 of Chapter 5 of the Wild Game Rules (sections 5-28 to 5-29) imposes conditions that apply to approved arrangements for prescribed wild game meat or wild game meat products in respect of transfers between registered establishments.

5-28 Information and declarations relating to transferred prescribed wild game meat or wild game meat products

Section 5-28 details the information and declarations that are required to be given when a consignment of prescribed wild game meat or wild game meat products is transferred from one registered establishment (the *transferring establishment*) to another registered establishment (the *receiving establishment*). The information and declarations are necessary to ensure the integrity of prescribed wild game meat or wild game meat products that are transferred between registered establishments, and to ensure full traceability of prescribed wild game meat or wild game meat products to meet requirements.

Subsection 5-28(1) specifies the following information and declarations that must be given to the occupier of the receiving establishment:

- a full description of the wild game meat or wild game meat products and its quantity;
- information about storage conditions (i.e., whether the wild game meat or wild game meat products are chilled, frozen or shelf-stable);
- the name, address and registration number of both the transferring and receiving establishments,
- the date or dates when operations to prepare the wild game meat or wild game meat products (other than storing, handling or transporting) were last carried out before the transfer;
- the quantity of wild game meat or wild game meat products in the consignment,
- the number and kind of packages (if the wild game meat or wild game meat products are in packages),
- the conveyance used to transport the wild game meat or wild game meat products,
- a description of any means of security applied to the wild game meat or wild game meat products;
- the name of the importing country (or the name of each importing country) for which applicable importing country requirements have been met;

- a declaration stating that, as at the date of the declaration of being made the prescribed export conditions and any other relevant conditions of the Act that apply in relation to the wild game meat or wild game meat products have been complied with and any relevant importing country requirements relating to the wild game meat or wild game meat products have been met
- a declaration stating that, as at the date of the declaration being made, all of the information given in relation to the consignment is true and complete.

The first note following subsection 5-28(1) refers the reader to the definition of *conveyance* in section 12 the Act.

The second note following subsection 5-28(1) refers the reader to subsections 5-28(2) to (4) for matters relating to the declarations referred to in paragraphs 5-28(1)(k) and (l).

Subsection 5-28(2) provides the information and declarations specified in subsection 5-28(1) must be in writing and in a form approved by the Secretary. The declaration must be provided to the occupier of the receiving establishment either when the consignment leaves the transferring establishment, or accompany the consignment when it arrives at the receiving establishment.

The first note following subsection 5-28(2) refers the reader to the United Nations Rules for Electronic Data Interchange for Administration, Commerce and Transport. These Rules can be accessed from the United Nations Economic Commission for Europe website (<https://www.unece.org>), which deals with electronic message formats.

The second note following subsection 5-28(2) refers the reader to sections 9 and 10 of the *Electronic Transactions Act 1999*, with respect to when requirements to give information (including a declaration) in writing can be met by electronic communication and in relation to electronic signatures.

Section 5-28(3) provides that a declaration in relation to a consignment of prescribed wild game meat or wild game meat products under section 5-28 must be made by either:

- the holder of the approved arrangement for operations to prepare the wild game meat or wild game meat products for export at the transferring establishment; or
- a person who manages or controls those operations at the transferring establishment if the relevant approved arrangement provides for export inspection procedures that include the making of the declaration in relation to wild game meat or wild game meat products and the person is designated in the approved arrangement to make the declaration.

The note following subsection 5-28(3) notifies the reader that the approved arrangement needs to cover an alternative inspection arrangement if the relevant importing country authority requires an alternative inspection arrangement and directs the reader to paragraph 5-2(4)(e).

Section 5-28(4) provides that a declaration in relation to a consignment of prescribed wild game meat or wild game meat products under subsection 5-28(1) must not be made if there are no reasonable grounds for making it, must not be false or misleading, and must be signed and dated by the person making the declaration.

The first note following subsection 5-28(4) refers the reader to sections 171 and 179 of the Act which deals with suspension and revocation of the approved arrangement if the requirements referred to in section 5-28 are not met.

The second note following subsection 5-28(4) alerts the reader that a person may commit an offence or be liable to a civil liability for providing false or misleading information or documents. The reader is directed to sections 137.1 and 137.2 of the *Criminal Code* and sections 368 and 369 of the Act.

5-29 Information and declarations not received or inaccurate or incomplete

Section 5-29 sets out what action must be taken if the information and declarations required under section 5-28 are not given to the occupier of the receiving establishment as required by that section, or are inaccurate or incomplete.

In such circumstances, the wild game meat or wild game meat products must be held at the receiving establishment under conditions of security and cannot be dealt with further for export as food, until written approval to do so is given by an authorised officer. The wild game meat or wild game meat products must also be identified as not for export as food and be segregated from prescribed wild game meat or wild game meat products. This ensures the integrity of prescribed wild game meat or wild game meat products for export.

Division 8—Meat inspection services

Division 8 of Part 2 of Chapter of the Wild Games Rules (section 5-30) sets out the conditions that apply to approved arrangements for prescribed wild game meat or wild game meat products in relation to meat inspection services.

5-30 Authorised officer must be present while certain export operations are carried out

Subsection 5-30(1) has the effect that the requirements in section 5-30 apply in relation to an approved arrangement for operations to prepare prescribed wild game meat or wild game meat products for export at a registered establishment if the approved arrangement either:

- provides that an authorised officer must be present at the establishment while operations of that kind are being carried out; or
- is subject to a condition that requires an authorised officer to be present at the establishment while operations of that kind are being carried out.

Where section 5-30 applies, subsection 5-30(2) provides that export operations to prepare prescribed wild game meat or wild game meat products for export in accordance with such approved arrangements must not to be carried out at the registered establishment unless:

- meat inspection services have been allocated to the establishment under Part 6 of Chapter 4 of the Wild Game Rules (registered establishments); and
- there is a memorandum of agreed intent between the occupier of the establishment and the Secretary regarding that allocation of meat inspection services in place under Part 6 of Chapter 4 of the Wild Game Rules; and
- an authorised officer is present at the establishment.

Meat inspection services are required to ensure the safety, suitability and integrity of prescribed goods for export.

Division 9—Management practices

Division 9 of Part 2 of Chapter 5 of the Wild Game Rules (sections 5-31 to 5-34) imposes conditions on an approved arrangement relating to management practices for operations to prepare prescribed wild game meat or wild game meat products for export.

5-31 Management practices, organisational structure, resources and personnel

Subsection 5-31(1) requires the holder of an approved arrangement to ensure that the management practices, organisational structure, resources provided to carry out export operations and personnel who carry out those export operations (and the training those personnel receive) are appropriate to ensure:

- compliance with the requirements of the Act in relation to the export operations and prescribed meat or meat products covered by the approved arrangement; and
- importing country requirements relating to the export operations and the prescribed wild game meat and wild game meat products are met.

Subsection 5-31(2) provides that the holder of the approved arrangement must also make a written record of the management practices, organisational structure, resources and personnel (and the training they receive) referred to in subsection 5-31(1).

The first note following subsection 5-31(2) refers the reader to subsection 11-8(2) of the Wild Game Rules, which provides that the required records must be kept for at least 2 years.

The second note following subsection 5-31(2) refers the reader to subsection 12(1) of the *Electronic Transactions Act 1999* in regarding the requirements for making electronic records.

5-32 Verification of compliance with the Act and other matters

Section 5-32 details the matters that must be verified, the requirement for a record of verification, and the necessary inventory controls to verify compliance.

Subsection 5-32(1) provides that 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 applicable requirements of the Act, the conditions in Divisions 2 to 7 of Part 2 of Chapter 5 (sections 5-4 to 5-29), and section 5-31 of the Wild Game Rules. This verification is necessary to demonstrate compliance with the regulatory controls in the Act.

Subsection 5-32(2) provides that a written record must be made of the methods, procedures, tests, monitoring and other evaluations used to verify compliance with the matters referred to in subsection 5-32(1), and the results of the verification. The written record will need to be retained for at least 2 years and may assist with audits.

The note following subsection 5-32(2) explains that the holder of the approved arrangement must retain each record made under this section of a period of at least 2 years (see subsection 11-8(2)). Subsection 5-32(3) requires the necessary inventory controls to be used in verifying compliance with the matters referred to in paragraphs 5-32(1)(b) and (c) of the Wild Game Rules (the conditions in Divisions 2 to 7 of Part 2 of Chapter 5 of the Wild Game Rules).

Subsection 5-32(4) provides that 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 5-34 of the Wild Game Rules.

Subsection 5-32(5) sets out details of the minimum records that must be included in the inventory controls, including records of the:

- number of wild game animal carcasses (by type of animal) received at the registered establishment from a field depot, the identity of the field depot, the location and date and time of harvest and the location of the carcasses at the establishment; and
- the prescribed wild game meat or wild game meat products received at the registered establishment in accordance with the approved arrangement and the prescribed wild game meat or wild game meat products prepared for export at the registered establishment in accordance with the approved arrangement (including, for both, their description and quantity, origin and location, and also, for prescribed wild game meat and wild game meat products prepared for export at the registered establishment, their item and lot); and
- all wild game meat and wild game 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
- all wild game meat and wild game meat products at the registered establishment that are not intended to be removed from the registered establishment (for example, wild game meat and wild game meat products no longer intended for export and destroyed at the establishment) (including their description and the quantities of each description).

The inventory controls must also include, as a minimum, a reconciliation of the wild game animal carcasses, prescribed wild game meat and wild game meat products and records.

The note following subsection 5-32(5) provides some examples of types of wild game animals (kangaroos, wild boar and feral goats).

5-33 Action must be taken to address non-compliance

Section 5-33 provides that corrective action must be taken to address any non-compliance or likely non-compliance with the matters referred to in subsection 5-32(1) in carrying out export operations in relation to prescribed meat or meat products in accordance with an approved arrangement. Corrective action must also be taken to ensure that the non-compliance does not occur again, or that the likely non-compliance is avoided. The effectiveness of the corrective action must be assessed.

Subsection 5-33(2) provides that a written record of the corrective action taken and the assessment of the effectiveness of the corrective action must be made.

The note following subsection 5-33(2) refers the reader to subsection 11-8(2) of the Wild Game Rules, which provides that the holder of the arrangement must retain records required under subsection 5-33(2) for at least 2 years.

5-34 Internal audit and management review

Section 5-34 sets out the requirements for internal audits and management practice reviews, the records that must be made, and when internal audits are not required.

Subsection 5-34(1) requires internal audits and management reviews to be conducted at a registered establishment. The purpose of the internal audits and management reviews are to measure the effectiveness of the management practices of the holder of an approved arrangement in ensuring compliance with the matters referred to in subsection 5-32(1).

The note following subsection 5-34(1) explains that an internal audit for the purposes of section 5-34 is not an audit under Part 1 of Chapter 9 of the Act.

Subsection 5-34(2) provides that internal audits are not required to be conducted at a registered establishment if fewer than three people are employed, or provide services, at the registered establishment, and management reviews are conducted in accordance with the approved arrangement. This is because an internal audit cannot be effectively undertaken where there are fewer than three people employed at the registered establishment. However, management reviews are still necessary.

Subsection 5-34(3) requires a written record to be made of each internal audit and management review undertaken. The record must contain the results of the internal audit or management review and any decisions (if any) made or actions taken as a result of an internal audit or management review.

The note following subsection 5-34(3) refers the reader to subsection 11-8(2) of the Wild Game Rules, which requires that the holder of the arrangement must keep the required record for at least 2 years.

Part 3—Renewal of approved arrangement

Part 3 of Chapter 5 of the Wild Game Rules sets out requirements relating to the renewal of an approved arrangement for operations to prepare prescribed wild game meat and wild game meat products for export at a registered establishment.

5-35 Period within which application to renew approved arrangement must be made

Section 155 of the Act deals with an application to renew an approved arrangement. Subsection 155(2) allows the holder of an approved arrangement to apply to the Secretary to renew the approved arrangement. Subsection 155(4) requires an application for renewal to be made within the period prescribed by the rules (paragraph 155(4)(a)) or a longer period if allowed by the Secretary (paragraph 155(4)(b)).

Section 5-35 prescribes, for the purposes of paragraph 155(4)(a) of the Act, that the period in which an application to renew the approved arrangement for a kind of export operations in relation to prescribed wild game meat or wild game meat products must be made is the period of 60 days starting on the day that is 180 days before the approved arrangement is due to expire. In other words, the application must be submitted when the approved arrangement is between 180 days and 120 days from expiring.

The purpose of providing a specific timeframe for allowing applications to be made is to give the Secretary sufficient time to consider an application before a decision is required to be made. Requiring a person to apply for renewal at between 180 days and 120 days before the expiry date ensures that the Secretary has sufficient time to decide the application before the approval expires.

The first note following section 5-35 provides an example of how section 5-35 works in practice. 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.

The second note following section 5-35 explains that under the subsection 155(1) of the Act, only approved arrangements that have an expiry date will need to be renewed.

Part 4—Variation of approved arrangement

Part 4 of Chapter 5 of the Wild Game Rules (sections 5-36 to 5-38) sets out requirements relating to the variation of an approved arrangement for operations to prepare prescribed wild game meat or wild game meat products for export at a registered establishment.

Division 1—Variations by holder

5-36 Requirements that must be met for variation to be approved or conditions varied

Section 161 of the Act deals with varying an approved arrangement. Subsection 161(1) allows the holder of an approved arrangement to apply to the Secretary to approve a variation of the approved arrangement in the following circumstances:

- where the proposed variation is to implement an alternative regulatory arrangement approved under paragraph 379C(1)(a) of the Act;
- where the holder and the Secretary consider that the proposed variation is significant; or
- where the proposed variation is to the conditions of the approved arrangement.

Subsection 161(3) of the Act allows the Secretary to refuse to approve the variation if the Secretary is not satisfied of one or more of the requirements listed in that subsection. Paragraph 161(3)(c) allows the rules to prescribe additional requirements.

Subsection 5-36(1) provides that section 5-36 applies in relation to an application made under subsection 161(1) of the Act to approve a variation of an approved arrangement for operations to prepare prescribed wild game meat or wild game meat products for export, or to vary the conditions of such an arrangement, but only if the application has been made because the relevant importing country authority does not require:

- one or more applicable requirements (the *relevant requirements*) in the Australian Wild Game Meat Standard to be met; or
- compliance with one or more of the conditions (the *relevant conditions*) in Divisions 3 to 7 of Part 2 of this Chapter 5 of the Wild Game Rules (sections 5-6 to 5-29) to be met;

and the relevant importing country authority instead has a different requirement that must be met for the prescribed wild game meat or wild game meat products.

The note following subsection 5-36(1) notifies the reader that a variation of an approved arrangement, or of the conditions of an approved arrangement, may be needed to implement an alternative regulatory arrangement approved under section 379C(1)(a) of the Act or another significant variation (directing the reader to Subdivisions B and C of Division 1 of Part 4 of Chapter 5 of the Act).

Subsection 5-36(2) prescribes additional requirements, for the purposes of paragraph 161(3)(c) of the Act. The Secretary may refuse to approve the variation if not satisfied that:

- compliance with the different importing country requirement will not result in the relevant requirements being met or the relevant conditions being complied with; and
- 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

- that system of controls will be implemented in accordance with the approved arrangement.

These measures are necessary to ensure that variations do not result in the relevant importing country requirements not being met or will negatively impact on market access or Australia's trade reputation.

5-37 Significant variations

Section 164 of the Act lists the matters the holder of the approved arrangement and the Secretary must have regard to in considering whether a proposed variation, or the combined effect of two or more variations, is significant. Subparagraph 164(2)(c)(ii) allows the rules to prescribe kinds of variations.

Section 5-37 prescribes, for the purposes of paragraph 164(2)(c)(ii) of the Act, the following kinds of variations in relation to an approved arrangement for a kind of export operations in relation to prescribed wild game meat or wild game meat products. The prescribed variations are the following:

- a variation of the person who manages or controls the export operations;
- a variation of the functions a person is permitted to perform in accordance with approved arrangements, including making declarations, manufacturing, supplying, possessing, applying, altering or interfering with an official mark, applying a resemblance, and manufacturing, supplying or possessing official marking devices;
- a variation of the export operations that might jeopardise the wholesomeness of the prescribed wild game meat or wild game meat products or affect the ability to ensure their integrity, or that might adversely affect the ability to assess whether the wholesomeness of the goods has been jeopardised;
- a variation that will provide for operations to prepare wild game meat or wild game meat products that are not for export or are for animal food or pharmaceutical materials to be carried out at the registered establishment as well as operations to prepare prescribed wild game meat and wild game meat products for export;
- a variation that will provide for a technique to be implemented in carrying out operations to prepare prescribed wild game meat or wild game meat products for export that is different from the technique required to be implemented by the Australian Meat Standard or the Australian Wild Game Meat Standard; and
- a variation that relates to or varies a variation of the approved arrangement implementing an alternative regulatory arrangement approved under paragraph 379C(1)(a) of the Act in relation to operations to prepare prescribed wild game meat and wild game meat products for export.

Prescribing these variations is a transparency measure to assist industry to determine which variations are significant and to reassure importing countries of the integrity of approved arrangements for prescribed wild game meat or wild game meat products.

The first note following section 5-37 refers the reader to section 21 of the Act, for a person who is taken to be a person who manages or controls export operations.

The second note following section 5-37 refers the reader to section 1-10 of the Wild Game Rules, which deals with alternative techniques than those required by the Australian Meat Standard or Australian Wild Game Meat Standard in relation to carrying out operations to prepare wild game meat or wild game meat products that are not for export or are for animal food or pharmaceutical material as well as operations to prepare prescribed wild game meat or wild game meat products for export

Division 2—Variations required by Secretary

5-38 Other reasons for requiring holder to vary approved arrangement

Subsection 165(1) of the Act allows the Secretary to make certain variations of an approved arrangement on his or her own initiative (including by requiring the holder of the approved arrangement to vary an aspect of the approved arrangement).

Subsection 165(2) of the Act sets out the grounds on which the Secretary must be satisfied before varying an approved arrangement under subsection 165(1). Paragraph 165(2)(h) of the Act enables the rules to prescribe additional grounds for the variation of an approved arrangement.

Section 5-38 provides, for the purposes of paragraph 165(2)(h) of the Act, that the Secretary may require the holder of an approved arrangement for operations to prepare prescribed wild game meat and wild game meat products to vary the arrangement under paragraph 165(1)(a) of the Act, if the Secretary is no longer satisfied that compliance with the system of control measures in the approved arrangement will ensure there will be reasonable grounds to issue:

- an export permit for prescribed wild game meat and wild game meat products prepared in accordance with the approved arrangement; or
- a government certificate for prescribed wild game meat and wild game meat products that are prepared in accordance with the approved arrangement.

Part 5—Matters relating to applications

Part 5 of Chapter 5 of the Wild Game Rules (sections 5-39 to 5-41) deals with matters relating to applications under the Act concerning approved arrangements.

5-39 Application of this Part

Section 5-39 sets out the applications under the Act to which the requirements in Part 5 of Chapter 5 of the Wild Game Rules (sections 5-39 to 5-41) apply.

These applications are:

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

The first note following section 5-39 explains that the application must be made in a manner approved by the Secretary and, if the Secretary has approved a form for the application, must include the information required by the form (see paragraphs 377(1)(a) and (b) of the Act).

The second note following section 5-39 explains that 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.

5-40 Initial consideration period

Section 379 of the Act details the requirements for dealing with applications made under the Act. Subsection 379(3) allows the rules to prescribe the initial consideration period in which an application must be considered by the Secretary. If the Secretary does not make a decision on the application within the prescribed initial consideration period (and the initial consideration period is not extended) the application is taken to have been refused.

Section 5-40 prescribes, for the purposes of subsection 379(3) of the Act, an initial consideration period of 120 days. The period of 120 days is appropriate, having regard to the matters the Secretary must consider in granting or refusing an application. The initial consideration period may be extended under subsection 379(5) of the Act.

The note following section 5-40 clarifies that the consideration period for an application starts on the day after the Secretary receives the application (referring to subsection 379(4) of the Act).

5-41 Period within which request relating to application must be complied with

Subsection 379(9) of the Act allows the Secretary to make a number of requests in relation to a relevant application, including requesting additional information or requesting consent to enter premises. Paragraph 379(10)(b) allows the rules to prescribe a maximum period within which the request must be complied with.

Section 5-41 prescribes, for the purposes of paragraph 379(10)(b) of the Act, a period of 6 months within which a request by the Secretary under subsection 379(9) of the Act to an applicant for information or documents relating to the application must be complied with. The maximum period prescribed by this section is appropriate as it permits sufficient time to comply with matters provided in subsection 379(9) of the Act. The period also provides certainty for industry on the maximum amount of time required for an application to be processed.

CHAPTER 7—EXPORT PERMITS

An export permit is a document that confirms the eligibility of goods for export and facilitates the exit of these goods from Australia. A person may apply to the Secretary for an export permit for prescribed goods. The export permit must be issued in writing and will be in effect for a particular period. The permit may be varied, suspended or revoked, and may be required to be returned.

The prescribed export conditions in section 2-4 of the Wild Game Rules require the exporter of prescribed wild game meat or wild game meat products to hold an export permit covering the export.

Part 1—Issue of export permit

7-1 Period of effect of export permit

Section 228 of the Act sets the period of effect of an export permit. An export permit takes effect when it is issued (paragraph 228(a)) and remains in force as prescribed by the rules, unless it is revoked earlier under section 233 of the Act (paragraph 228(b)).

Section 7-1 prescribes, for the purposes of paragraph 228(b) of the Act, the period of effect of an export permit for prescribed wild game meat or wild game meat products. An export permit remains in force for 28 days, starting on the day the permit is issued, unless revoked under section 233 of the Act. The 28 day period is appropriate as export permits often relate to perishable goods.

The first note following section 7-1 explains that an export permit takes effect when it is issued (see paragraph 228(a) of the Act).

The second note following section 7-1 refers the readers to the storage requirements for an export permit under section 11-5 of the Wild Game Rules.

Part 2—Variation, suspension and revocation of export permit

7-2 Period of effect of varied export permit

Section 230 of the Act sets the period of effect of a varied export permit. A varied export permit takes effect when it is issued (paragraph 230(a)) and remains in force as prescribed by the rules, unless it is revoked earlier under section 233 of the Act (paragraph 230(b)).

Section 7-2 is made for the purposes of paragraph 230(b) of the Act and prescribes that the period of effect of an approved varied export permit for prescribed wild game meat or wild game meat products is the remainder of the period for which the export permit as originally issued was in force under section 7-1. This period is appropriate as export permits often made in relation to perishable goods. A variation does not affect the original period of effect for a permit.

The note following section 7-2 explains that 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

Subsection 231(1) of the Act provides that the Secretary may suspend an export permit if the Secretary reasonably believes that circumstances prescribed by the rules exist.

Section 7-3 prescribes, for the purposes of subsection 231(1) of the Act, the circumstances in which the Secretary may suspend an export permit for prescribed wild game meat or wild game meat products. The prescribed circumstances are the same as the circumstances for revoking an export permit that are listed in paragraphs 233(1)(a) to (f) of the Act and section 7-4 of the Wild Game Rules. This includes where the Secretary reasonably believes that:

- the integrity of the prescribed wild game meat or wild game meat products cannot be ensured;
- a condition of the permit has been, or is being, contravened;
- the requirements of the Act have not been complied with, or are not likely to be complied with, before the prescribed wild game meat or wild game meat products are imported into the importing country;
- an importing country requirement relating to the prescribed wild game meat or wild game meat products will not be, or is not likely to be, met before the goods are imported into the importing country;
- the holder of the permit made a false, misleading or incomplete statement in an application for the permit, or gave false, misleading or incomplete information to the Secretary or another person performing functions or exercising powers under the Act or a prescribed agriculture law;
- the holder of the permit has contravened a requirement of the Act; or
- the additional circumstances set out below in section 7-4 of the Wild Game Rules exist.

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

Section 233 of the Act allows the Secretary to revoke an export permit if the Secretary reasonably believes that one or more of the circumstances listed in subsection 233(1) exist. Paragraph 233(1)(g) of the Act allows the rules to prescribe additional circumstances.

Section 7-4 prescribes, for the purposes of paragraph 233(1)(g) of the Act, other circumstances, in addition to those specified in paragraphs 233(1)(a) to (f) of the Act, for revoking an export permit for prescribed wild game meat or wild game meat products. The additional circumstances are:

- there is a risk that the wild game meat or wild game meat products have deteriorated or are likely to deteriorate, or are unwholesome or are likely to be unwholesome;

- the wild game meat or wild game meat products are no longer intended to be exported using that export permit;
- a person (other than the holder of the permit) has given the Secretary information or a document in relation to the wild game meat or wild game meat products that is false, misleading or incomplete;
- a condition or disease that is likely to affect the acceptability of the wild game meat or wild game meat products to the importing country is present in Australian territory;
- the export of the wild game meat or wild game meat products could result in trade in the export of other goods from Australian territory being adversely affected.

These circumstances are likely to adversely affect Australia's trading reputation and may also affect access to importing country markets. The consequences may be serious and may affect a number of permit holders. It is important that export permits can be revoked (or suspended) in the prescribed circumstances to mitigate these consequences.

The note following section 7-4 explains that under section 7-6 of the Wild Game Rules, an export permit that is revoked must be returned to the Secretary within 10 business days, unless it was an electronic permit.

Part 3—Other matters

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

Section 235 of the Act requires the holder of an export permit to give the Secretary additional or corrected information in certain circumstances, including if a change prescribed by the rules occurs (paragraph 235(1)(b)).

Section 7-5 prescribes, for the purposes of paragraph 235(1)(b) of the Act, changes that require the holder of an export permit for prescribed wild game meat or wild game meat products to provide the Secretary with additional or corrected information in relation to prescribed wild game meat or wild game meat products for which an export permit is in force. These changes are where there are reasonable grounds to suspect that:

- the wholesomeness of the wild game meat or wild game meat products has been jeopardised, or the integrity of the wild game meat or wild game meat products cannot be ensured;
- an importing country requirement relating to the wild game meat or wild game meat products will not be met or is not likely to be met before the wild game meat or wild game meat products are imported into the importing country; or
- a prescribed export condition relating to the wild game meat or wild game meat products has not been complied with when the condition should have been.

The purpose of this provision is to place an obligation on the exporter to ensure the permit continues to accurately reflect the circumstances for the issue of the permit. The consequences may be serious and may affect several permit holders, so it is essential that additional or corrected information is provided. This ensures export permits are only in force where the prescribed wild game meat or wild game meat products are supplied in compliance with the Act and the Wild Game Rules, enhancing Australia's reputation as a reliable trading partner.

The note following section 7-5 alerts the reader that an exporter may be liable to a civil penalty if the exporter fails to comply with a requirement under section 235 of the Act.

7-6 Return of export permit

Subsection 236(1) of the Act provides that the rules may require a person to whom an export permit was issued to return the permit to the Secretary in the circumstances prescribed by the rules and at the time, or within the period, prescribed by the rules.

Subsection 7-6(1) is made for the purposes of section 236 of the Act and requires an exporter to return an export permit for prescribed wild game meat or wild game meat products to the Secretary if the permit has been revoked. The permit must be returned within 10 business days starting on the day the permit has been revoked.

The purpose is to ensure export permits are not misused by placing an obligation on the exporter to return the permit. This preserves the integrity of the export permit system by ensuring a revoked permit is not used to support the unauthorised export of prescribed wild game meat or wild game meat products. 10 business days is a reasonable time to allow the holder to return the permit to the Secretary, but is short enough to mitigate against the risk of the permit being misused.

The requirement in subsection 7-6(1) does not apply to an export permit issued by electronic means (subsection 7-6(2)), as there will not necessarily be a physical permit to return.

7-7 Notification that prescribed wild game meat or wild game meat products are not to be exported

Section 237 of the Act provides that the rules may require the holder of an export permit for a kind of prescribed goods to notify the Secretary, in writing, if it is no longer intended to export the goods in the circumstances prescribed by the rules, and at the time, or within the period, prescribed by the rules.

Section 7-7 is made for the purposes of section 237 of the Act, and requires the holder of an export permit for prescribed wild game meat or wild game meat products to notify the Secretary in writing, if it is no longer intended to export prescribed goods because of a circumstance in section 7-3 of the Wild Game Rules (which lists the grounds for suspending an export permit). The notification must be given as soon as practicable but within 10 business days after the decision not to export the prescribed goods is made.

The purpose of section 7-7 is to preserve the integrity of the export permit system and ensure the Secretary is aware of when prescribed wild game meat or wild game meat products are no longer intended to be exported.

CHAPTER 8—OTHER MATTERS RELATING TO EXPORT

Part 1—Notices of intention to export

Part 1 of Chapter 8 of the Wild Game Rules deals with matters relating to notices of intention to export. A notice of intention to export prescribed goods serves to inform the Secretary about a person's intention, allowing the prescribed goods to be assessed prior to an export permit being granted. The notice of intention to export must include any information and documents prescribed by this Part. A person who has given a notice of intention to export must also give the Secretary additional or corrected information in certain circumstances.

The prescribed export conditions in section 2-4 of the Wild Game Rules include a requirement for a notice of intention to export for each consignment of, or including, prescribed wild game meat or wild game meat products.

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

Section 243 of the Act sets out the general requirements for a notice of intention to export a consignment of prescribed goods. A notice of intention to export a consignment of prescribed goods must meet the requirements in subsection 243(1). Paragraph 243(1)(c) allows the rules to prescribe additional information that must be included in a notice of intention to export a consignment of, or including, prescribed goods.

Section 8-1 is made for the purposes of paragraphs 243(1)(c) of the Act and requires a notice of intention to export a consignment of, or including, prescribed wild game meat or wild game meat products, to include a declaration stating all the information included in the notice of intention is true and correct. This ensures the consignment, and any related documents, can be assessed prior to an export permit being granted.

The first note following section 8-1 explains that the Secretary may approve a single form for a notice of intention to export a consignment of prescribed wild game meat or wild game meat products, and an application for an export permit for the prescribed wild game meat or wild game meat products.

The second note following section 8-1 explains that subsection 243(2) of the Act allows the Secretary to accept information or documents previously given in connection with an application made under the Act, or notice of intention to export, as satisfying the requirement in subsection 243(1) of the Act to provide that information or documents.

This allows flexibility around information which has previously been submitted to the Secretary in relation to different types of applications, including notices of intention to export, to avoid creating unnecessary work by providing the same documentation multiple times.

8-2 Person who must give notice of intention to export, and

Section 243 of the Act details general requirements of a notice of intention to export a consignment of prescribed goods. A notice of intention to export a consignment of prescribed goods must meet the requirements in subsection 243(1). Paragraph 243(1)(e) of the Act

requires that a notice of intention to export a consignment of prescribed goods be given by a person prescribed by the rules in relation to the goods.

Section 8-2 prescribes, for the purposes of paragraph 243(1)(e) of the Act that the person who intends to export a consignment of, or including, prescribed wild game meat or wild game meat products must give the notice of intention to export the consignment.

The purpose of section 8-2 is to ensure the person intending to export the prescribed wild game meat or wild game meat products does not have another person submit a notice of intent on their behalf.

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

Paragraph 243(1)(f) of the Act allows the rules to prescribe the person to whom the notice of intention to export must be given.

Section 8-3 prescribes, for the purposes of paragraph 243(1)(f) of the Act that the notice of intention to export a consignment of, or including, prescribed wild game meat or wild game meat products must be given to the Secretary.

Giving written notice to the Secretary ensures the necessary information is provided for assessment prior to an export permit being issued.

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

Paragraph 243(1)(g) of the Act allows the rules to prescribe a time at which or period within which the notice of intention to export a consignment of prescribed goods must be given.

Subsection 8-4(1) prescribes, for the purposes of paragraph 243(1)(g) of the Act, a notice of intention to export a consignment of, or including, prescribed wild game meat or wild game meat products to be given to the Secretary as soon as reasonably practicable before the date the consignment is proposed to be exported.

Subsection 8-4(2) provides that, if an assessment of the prescribed wild game meat or wild game meat products is required under Part 2 of Chapter 9 of the Act, the notice of intention to export must be given to the Secretary at a time that will ensure there is sufficient time for the assessment to be carried out.

This allows the Secretary time to consider the notice before the prescribed wild game meat or wild game meat products are exported. It also allows any assessment to be carried out and information provided to the Secretary for consideration.

The note following section 8-4 alerts the reader that it is a prescribed export condition for exports of prescribed wild game meat or wild game meat products that a person prescribed by section 8-2 must have given a notice of intention to export a consignment of, or including, prescribed wild game meat or wild game meat products to the Secretary prior to the consignment being exported (see item 4 of the table in section 2-4).

Part 2—Trade descriptions

The aim of trade description compliance management is to ensure that an approved arrangement is effective and operates in accordance with the Act to ensure prescribed goods intended for export as food:

- are wholesome or are identified for further processing;
- meet requirements to have an accurate trade description;
- meet importing country requirements necessary to maintain market eligibility; and
- are traceable, can be recalled if required and their integrity is ensured.

8-5 Purpose of this Part

Section 248 of the Act allows the rules to make provision for and in relation to trade descriptions for prescribed goods that are intended to be exported.

Section 8-5 provides that Part 2 of Chapter 8 of the Wild Game Rules (sections 8-5 to 8-7) is made for the purposes of section 248 of the Act, and makes provision for, and in relation to, trade descriptions for prescribed wild game meat or wild game meat products that are intended to be exported.

This ensures trade descriptions include relevant information and are used in a way which will ensure the identity of the prescribed wild game meat or wild game meat products can be ascertained and not confused with any other goods. The term ***trade description*** is defined in section 246 of the Act.

The note following section 8-5 alerts the reader that a person who engages in conduct that contravenes a provision in Part 2 of Chapter 8 of the Wild Game Rules may commit an offence or be liable to a civil penalty under section 249 of the Act.

8-6 General requirements for trade descriptions

The purpose of section 8-6 is to set out the general requirements for trade descriptions applied to prescribed wild game meat or wild game meat products.

Subsection 8-6(1) provides that trade descriptions applied to prescribed wild game meat or wild game meat products must be accurate and unambiguous, legible, prominent, conspicuous, not obscured and, to the extent practicable, be securely attached and tamper evident.

The note following subsection 8-6(1) refers the reader to section 247 of the Act, for a definition of when a trade description is ***applied***.

Subsection 8-6(2) requires information or pictures that are applied to prescribed wild game meat or wild game meat products, in addition to the trade description, must not be inconsistent with the information required to be included in trade descriptions under

Division 4 of Part 2 of Chapter 5 of the Wild Game Rules (concerning approved arrangements for operations to prepare prescribed wild game meat or wild game meat products for export).

This helps to ensure the prescribed wild game meat or wild game meat products are wholesome, meet importing country requirements necessary to maintain market eligibility, are traceable, and can be recalled if required.

8-7 Trade descriptions in language other than English

Subsection 8-7(1) provides that section 8-7 applies in relation to a trade description that is applied to prescribed wild game meat or wild game meat products if any part of the trade description is in a language (the *foreign language*) other than English.

Subsection 8-7(2) provides that the foreign language part of the trade description must not be inconsistent with the English part of the trade description.

Subsection 8-7(3) requires certain persons, on request by an authorised officer, to make available to an authorised officer an English translation of the foreign language part of the trade description. Those persons are:

- the holder of an approved arrangement for operations to prepare prescribed wild game meat or wild game meat products for export at the registered establishment where the trade description was applied to the prescribed wild game meat or wild game meat products;
- the holder of an approved arrangement for operations to prepare prescribed wild game meat or wild game meat products for export at a registered establishment (other than the registered establishment referred to in paragraph 8-7(3)(a) if the prescribed wild game meat or wild game meat products are being held at that registered establishment at the time of the request; or
- the exporter of the prescribed wild game meat or wild game meat products.

Subsection 8-7(4) provides that the translation of the foreign part of the trade description into English must be done by an appropriately qualified person who is not an employee of, and is independent of, the person who has been asked to make the translation available. This is necessary to independently verify that the foreign language part of the trade description is consistent with the English part of the trade description.

Part 3—Official Marks

Official marks are market labels, tags or other seals applied to products exported from Australia. Each type of label has specific mark dimensions. There are strict conditions set out to comply with export requirements. Official marks indicate compliance with the Act and help to ensure products are not rejected when exported, which may result in large costs for business and the economy. Official marks are relied upon by governments of importing countries as an assurance of the authenticity of a document or the origin, integrity and compliance of goods with the Act, with importing country requirements or other relevant standards.

The following explanations equally apply to sections 8-10, 8-11, 8-12, 8-16, 8-17 (also applies to section 8-19 with the qualification requested at that provision):

The ‘Australia Inspected’ mark signifies that prescribed goods have been inspected by an Australian Government official and passed as fit for human consumption during a post-mortem inspection. This mark is applied to the goods at the registered establishment where they were prepared as signified by the registration number of the establishment on the official mark. The mark also provides a traceability function, indicating the establishment where the meat was last prepared. The meat retains its ‘fit for human consumption’ status at down-chain establishments where the temperature chain is maintained and the meat continues to be handled hygienically and ensuring its integrity (e.g., market eligibility).

The registration number on the ‘Australia Inspected’ (or ‘Australia Approved’) official mark changes whenever the goods are subject to processing at an establishment.

Division 1—Marks that are official marks

8-8 Purpose of this Division

Subsection 255(1) of the Act allows the rules to provide that a specified mark is an official mark for the purposes of the Act.

Section 8-8 provides that Division 1 of Part 3 of Chapter 8 of the Wild Game Rules (sections 8-8 to 8-18) is made for the purposes of subsection 255(1) of the Act and specifies the marks that are official marks for prescribed wild game meat or wild game meat products intended to be exported. An official mark is a mark that is applied to goods to confirm the identity, condition and status of the goods or to secure the goods.

8-9 Tolerances for dimensions of official marks

Section 8-9 details the tolerances (or margins of error) for the dimensions of official marks, or a part of such a mark, that are specified in Division 1 of Part 3 of Chapter 8 of the Wild Game Rules. This is to ensure consistency in the dimensions of official marks.

For dimensions of up to 10 millimetres, the tolerance is plus or minus 1 millimetre. For dimensions of more than 10 millimetres, the tolerance is plus or minus 2 millimetres.

8-10 Official mark—Australia Approved

Subsection 8-10(1) provides a representation of the design of an ‘Australia Approved’ official mark, which is an official mark for the purposes of the Act. This mark must include the registration number of the registered establishment where the operations to prepare the prescribed wild game meat or wild game meat products for export were carried out in the centre of the mark where ‘A’ is in the representation and must meet the dimensions set out in subsection 8-10(2).

Subsection 8-10(2) provides the acceptable dimensions of the ‘Australia Approved’ official mark, depending on whether it is to be of a normal or small size. These dimensions relate to the width and height of the oval mark, the height of the letters and the height of the establishment registration number. The required dimensions are those set out in column 2 of

the table in subsection 8-10(2) unless the mark is a small size, in which case, the dimensions are set out in column 3 of the table in subsection 8-110(2).

The ‘Australia Approved’ official mark signifies that prescribed wild game meat or wild game meat products that are intended for export have been inspected and are fit for human consumption.

8-11 Official mark—foreign country identification

Subsection 8-11(1) provides a representation of the design of a ‘foreign country identification’ official mark, which is an official mark for the purposes of the Act. This kind of official mark must have the relevant foreign country identification mark inserted where the letter ‘A’ is in the representation and must meet the required dimensions set out in subsection 8-11(3).

Subsection 8-11(2) provides that, for the purposes of section 8-11, a *foreign country identification mark* is a mark that is required to be applied to wild game meat or wild game meat products that are to be imported into that country, as determined by the relevant importing country authority.

The note following subsection 8-11(2) refers the reader to the Manual of Importing Country Requirements for guidance on foreign country identification marks. This manual is available on the department’s website (<https://www.agriculture.gov.au/export/micor>). Access to the document may require a password.

Subsection 8-11(3) provides the acceptable dimensions of a foreign country identification official mark. These dimension requirements relate to the diameter of the circle (50 millimetres), the minimum height of the letters in the word ‘Australia’ (6 millimetres) and the dimensions of the foreign country identification mark (as specified by the relevant importing country authority) to be inserted into the official mark.

This mark enables the export of prescribed wild game meat or wild game meat products from Australia to the importing country.

The note following subsection 8-11(3) refers the reader to the Manual of Importing Country Requirements for guidance on the requirements for the dimensions of a foreign country identification mark. This manual is available on the department’s website (<https://www.agriculture.gov.au/export/micor>). Access to the document may require a password.

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

Section 8-12 provides that a tamper indicative metal strap seal is an official mark if it meets the requirements of this section. The requirements are:

- the seal must be 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

- the seal must comply with ISO 17712:2013 *Freight containers—Mechanical seals*, as that document exists at the commencement of the Wild Game Rules. This international standard establishes uniform procedures for the classification, acceptance, and withdrawal of mechanical freight container seals and is a single source of information on mechanical seals. ISO 17712:2013 is incorporated as in force at the commencement of the Wild Game Rules and is available for a fee from the International Organization for Standardization (www.iso.org). Alternatively, the standard may be viewed by arrangement with the Department. The standard is an appropriate requirement as certain countries have compliance with the standard as a requirement to maintain market access. The manufacture and supply of tamper-indicative metal straps are tightly controlled. The control of tamper-indicative metal straps combined with the requirement to meet international standards provides appropriate assurance to trading partners and facilitates trade; and
- the seal must also bear the words ‘Australian Government’ and bear a unique number, or a unique combination of letters and numbers, provided to the manufacturer of the seal by the department.

The purpose of mechanical seals, as part of the security system, is to determine whether a freight container has been tampered with, for example, if there has been unauthorised access to the container.

8-13 Official mark—bolt seal

Section 8-13 provides that a bolt seal is an official mark for the purposes of the Act if it meets the requirements of this section. A bolt seal is a tamper-evident locking device that requires a tool to be removed.

The requirements are:

- the seal must be a high security bolt seal; and
- the seal must comply with ISO 17712:2013 *Freight containers—Mechanical seals*, as that document exists at the commencement of the Wild Game Rules. This international standard establishes uniform procedures for the classification, acceptance, and withdrawal of mechanical freight container seals and is a single source of information on mechanical seals. ISO 17712:2013 is incorporated as in force at the commencement of the Wild Game Rules and is available for a fee from the International Organization for Standardization (www.iso.org). Alternatively, the standard may be viewed by arrangement with the Department. The standard is an appropriate requirement as certain countries have compliance with the standard as a requirement to maintain market access. The manufacture and supply of bolt seals are tightly controlled. The control of bolt seals combined with the requirement to meet international standards provides appropriate assurance to trading partners and facilitates trade; and
- the seal must also bear the words ‘Australian Government’ and bear a unique number, or a unique combination of letters and numbers, provided to the manufacturer of the seal by the department; and

- the seal must also be coated with green or blue plastic.

A bolt seal is required to be applied to a container system unit (other than a container system unit intended for transport by air) under section 5-14 of the Wild Game Rules

The purpose of mechanical seals, as part of the security system, is to determine whether a freight container has been tampered with, for example, whether there has been unauthorised access to the container.

Bolt seals also provide a link between the government certificate and the container. The seal number is printed on the government certificate so the import inspector can be confident the goods inside the container relate to the goods described in the government certificate.

They are also seen as a form of biosecurity assurance in that containers commonly move through a number of ports during the voyage. The sealing of the container provides confidence that there was no possibility of biosecurity risks being introduced inside the container.

8-14 Official mark—Approved for Export

Subsection 8-14(1) provides a representation of the design of an ‘Approved for Export’ mark, which is an official mark for the purposes of the Act. The mark must include the registration number of the registered establishment where the operations to prepare the relevant wild game meat or wild game meat products for export were carried out in the centre of the mark where ‘A’ is in the representation.

Subsection 8-14(2) provides the acceptable dimensions of the ‘Approved for Export’ official mark, depending on whether it is to be of a normal or small size. These dimensions relate to the diameters of the outer circle (not less than 28 millimetres and not more than 50 millimetres) and inner circle (not less than 21 millimetres and not more than 40 millimetres), the minimum height of the letters between the inner and outer circles (not less than 2 millimetres and not more than 3 millimetres) and the minimum height of the letters in the inner circle (not less than 3 millimetres and not more than 4 millimetres).

The ‘Approved for Export’ official mark signifies that prescribed wild game meat or wild game meat products that are intended for export have been inspected and are fit for human consumption.

8-15 Official mark—European Union

Subsection 8-15(1) provides a representation of the design of a ‘European Union’ mark, which is an official mark for the purposes of the Act. The mark must be in the design indicated in subsection 8-15(1), include an ‘E’ as the representation, and must be of the dimensions specified in 8-15(2).

Subsection 8-15(2) provides the required dimensions of the ‘European Union’ official mark. These dimensions relate to the width and height of the oval mark, and the height of the letter ‘E’. The required dimensions will vary depending on whether the mark is normal or small size or is computer-generated.

The European Union official mark signifies that prescribed goods intended for export have been inspected and are fit for human consumption.

8-16 Official mark—carton seal

Section 8-16 provides a representation of the design for a seal applied to a carton (a ‘carton seal’), which is an official mark for the purposes of the Act.

The ‘carton seal’ mark must meet the specifications in paragraphs 8-16(1)(a) to (c). This includes being printed in black (except for the Coat of Arms, which must be printed in red), being on a white or security background, including the substitutions set out in subsection 8-16(3) and meeting the dimensions specified in subsection 8-16(2).

Subsection 8-16(2) provides the required dimensions of the ‘carton seal’ official mark. These dimensions relate to the width of the mark (not less than 45 millimetres and not more than 75 millimetres) and the height of the mark (not less than 125 millimetres and not more than 160 millimetres).

Subsection 8-16(3) sets out the information to be substituted at ‘A’, ‘B’ and ‘C’ in the design of the carton seal official mark. The registration number of the establishment where operations to prepare the prescribed wild game meat or wild game meat products for export were carried out must be included where ‘A’ is in the representation. A number, or a combination of letters and numbers, associated with the manufacturer of a mark must be included where ‘B’ is in the representation. A number, or a combination of letters and numbers, that are unique to each official mark must be included where ‘C’ is in the representation. This seal is necessary to provide confidence that the wild game meat or wild game meat products inside the carton have not been manipulated between the carton being packed in Australia and it being opened in an overseas country. The carton seals are used on wild game meat or wild game meat product cartons when there is an importing country requirement to do so.

8-17 Official mark—wild game meat or wild game meat products opened for assessment and resealed

Section 8-17 provides a representation of the design of a carton seal applied to a carton after it has been opened, inspected and re-sealed.

The mark must meet the specifications set out in paragraphs 8-17(1)(a) to (c). These include being printed in green (except for the Coat of Arms which must be printed in red), being on a white or security background, including the substitutions set out in subsection 8-17(3) and meeting the dimensions specified in subsection 8-17(2).

Subsection 8-17(2) provides the required dimensions of the ‘opened and resealed carton seal’ official mark. These dimensions relate to the width of the mark (not less than 45 millimetres and not more than 75 millimetres) and the height of the mark (not less than 125 millimetres and not more than 160 millimetres).

Subsection 8-17(3) sets out the information to be substituted at ‘A’ and ‘B’ in the design of the opened and resealed carton seal official mark. A number, or a combination of letters and numbers, associated with the manufacturer of a mark must be included where ‘A’ is in the representation. A number, or a combination of letters and numbers, which are unique to each official mark must be included where ‘B’ is in the representation. This information is necessary to provide tamper evidence. During export loading at registered establishments, a sample of cartons may be opened to, for example, check the temperature of the meat. If these cartons had carton seals applied at the packing establishment, it is necessary to apply the seal required under section 8-17 to maintain tamper evidence. Carton seals from the packing establishment are not available at the independent cold store, thus the use of the re-seals.

8-18 Official mark—Australian Government

Section 8-18 provides a representation of the design of an ‘Australian Government’ official mark, which is an official mark for the purposes of the Act. The mark must contain a number identifying the person that used the mark where ‘XXXX’ is included in the representation.

The note following section 8-18 explains that sections 8-21 to 8-25 and section 8-35, which relate to the manufacture, supply, application and alteration of or interference with an official mark, do not apply to an ‘Australian Government’ official mark.

Division 2—General rules relating to official marks

8-19 Purpose and application of this Division

Subsection 255(2) of the Act allows the rules to make provision for and in relation to:

- the persons or classes of persons, who may manufacture, possess, apply, alter or interfere with an official mark;
- the methods for applying official marks;
- the circumstances in which an official mark may, or must not, be applied;
- security of official marks;
- removal or defacement of official marks;
- making records in relation to official marks; and
- any other matter relating to official marks.

Subsection 8-19(1) provides that Division 2 of Part 3 of Chapter 8 of the Wild Game Rules (sections 8-19 to 8-30) is made for the purposes of subsection 255(2) of the Act and makes provision for and in relation to certain matters relating to the official marks specified in Division 1 of Part 3 of Chapter 8 of the Wild Game Rules for wild game meat or wild game meat products that are intended to be exported.

This is to ensure that official marks are not misused and only applied to eligible goods.

The note following subsection 8-19(1) alerts the reader that a person may commit an offence or be subject to a civil penalty liability under the Act if they engage in conduct that contravenes a provision in Division 2 of Part 3 of Chapter 8 of the Wild Game Rules (see section 258 of the Act) or other provisions in Division 3 of Part 3 of Chapter 8 of the Act.

Subsection 8-19(2) provides that sections 8-21 to 8-25 which relate to the manufacture, supply, application and alteration of, or interference with, an official mark, do not apply to an 'Australian Government' official mark as provided for in section 8-18 of the Wild Game Rules.

8-20 Interpretation

Section 8-20 sets out when an official mark is *applied* to wild game meat or wild game meat products. This is fundamental to managing conduct in relation to that official mark.

Subsection 8-20(1) provides that, for the purposes of the Wild Game Rules, an official mark is *applied* to meat or meat products if it is:

- applied directly to the wild game meat or wild game meat products, their packaging or any covering containing the wild game meat or wild game meat products;
- applied to anything attached to the wild game meat or wild game meat products, their packaging or any covering containing the wild game meat or wild game meat products; or
- inserted into anything in which the wild game meat or wild game meat products are packaged or any covering containing the wild game meat or wild game meat products.

Subsection 8-20(2) specifies that a reference in Division 2 of Part 3 of Chapter 8 of the Wild Game Rules to a particular official mark is a reference to an official mark provided for in Division 1 of Part 3 of Chapter 8 of the Wild Game Rules.

8-21 Persons who may manufacture or supply official marks for wild game meat or wild game meat products

Section 8-21 specifies who may manufacture or supply a kind of official mark for wild game meat or wild game meat products. Limiting who may manufacture or supply official marks is necessary to ensure the integrity of the system for manufacturing and supplying official marks.

The persons who can manufacture or supply an official mark for wild game meat or wild game meat products are:

- authorised officers; or
- persons who are able to manufacture or supply the official mark under an approved arrangement; or
- persons acting in accordance with a direction given by an authorised officer; or

- a person who has been given a written approval by the Secretary to manufacture or supply the official mark in relation to specified wild game meat or wild game meat products and who is acting in accordance with that approval.

These restrictions do not apply to the manufacture or supply of the official mark specified in section 8-18 ('Australian Government' official mark).

The note following section 8-21 refers the reader to section 309 of the Act for how a direction may be given by an authorised officer.

8-22 Persons who may possess official marks that have not been applied to wild game meat or wild game meat products

Section 8-22 specifies who may possess official marks that have not been applied to wild game meat or wild game meat products. Limiting who can possess official marks ensures they are accounted for and only applied by nominated personnel.

The persons who can possess a kind of official mark for wild game meat or wild game meat products are:

- persons who are permitted, under section 8-21 of the Wild Game Rules, to manufacture or supply official marks of that kind; or
- authorised officers; or
- persons who are able to possess the official mark under an approved arrangement; or
- persons acting in accordance with a direction given by an authorised officer; or
- a person who has been given a written approval by the Secretary to possess the official mark at a specified registered establishment and in relation to specified wild game meat or wild game meat products and the possession is in accordance with that approval.

These restrictions do not apply to the manufacture or supply of the official mark specified in section 8-18 ('Australian Government' official mark).

The note following section 8-22 refers the reader to section 309 of the Act for how a direction may be given by an authorised officer.

8-23 Persons who may apply official marks to wild game meat or wild game meat products etc.

Section 8-23 deals with who may apply certain official marks to wild game meat or wild game meat products.

Subsection 8-23(1) applies to a bolt seal that is required to be applied to a container system unit under section 5-14 and an official mark to be applied under Division 5 of Part 2 of Chapter 5 of the Wild Game Rules (approved arrangements) to carcasses or carcass parts or cartons in which prescribed wild game meat or wild game meat products are packed.

Subsection 8-23(2) specifies who may apply these official marks to wild game meat or wild game meat products. Limiting those who can apply official marks ensures official marks are only applied to products passed as fit for human consumption and are used in accordance with the Act and the Wild Game Rules. The persons who can apply an official mark in these circumstances are:

- authorised officers; or
- persons acting in accordance with a direction given by an authorised officer; or
- a person designated in an approved arrangement in accordance with which the official mark is to be applied to the wild game meat or wild game meat products as a person who may apply the official mark; or
- a person who has been given a written approval by the Secretary to apply the official mark at a specified registered establishment and in relation to specified wild game meat or wild game meat products and who is acting in accordance with that approval.

These restrictions do not apply to the application of the official mark specified in section 8-18 ('Australian Government' official mark).

The note following section 8-23 refers the reader to section 309 of the Act, which deals with directions given by authorised officers.

8-24 Circumstances in which official mark must not be applied to wild game meat or wild game meat products

Section 8-24 provides circumstances where an official mark or a foreign country identification official mark or a European Union official mark must not be applied to wild game meat or wild game meat products.

Subsection 8-24(1) provides that a person must not apply an official mark to wild game meat or wild game meat products if the goods are not wholesome, have deteriorated, or the integrity cannot be ensured.

The note following subsection 8-24(1) refers the reader to section 5-24 of the Wild Game Rules for requirements to ensure the integrity of prescribed wild game meat or wild game meat products.

Subsection 8-24(2) provides that a foreign country identification official mark (section 8-11) or a European Union official mark (section 8-15) must not be applied to wild game meat or wild game meat products if the circumstances in which that mark may be applied, as specified by the relevant importing country authority, no longer exist.

The note following subsection 8-24(2) refers the reader to section 8-13 of the Wild Game Rules, which identifies the foreign country identification mark and its requirements, and section 8-18 of the Wild Game Rules which identifies the European Union official mark and its requirements.

These restrictions do not apply to the application of the official mark specified in section 8-18 ('Australian Government' official mark).

8-25 Alteration of and interference with official marks

Section 8-25 details who may alter or interfere with an official mark, and in what circumstances, regardless of whether it has been applied to wild game meat or wild game meat products. This is necessary to ensure official marks can be relied upon by the governments of importing countries as an assurance about the authenticity of a document or the origin, integrity and compliance of goods with importing country requirements.

An official mark (whether it has or has not been applied to any wild game meat or wild game meat products) can only be altered or interfered with in the following circumstances:

- where the alteration or interference is required or permitted by the Wild Game Rules; or
- where the alteration or interference is done by a person who is an authorised officer; or
- where the alteration or interference is done by a person who is acting in accordance with a direction given by an authorised officer; or
- where the alteration or interference is done in accordance with an approved arrangement and by a person who is designated in the arrangement as a person who may alter or interfere with an official mark; or
- where the alteration or interference is by a person who has been given a written approval by the Secretary to alter or interfere with the official mark at a specified registered establishment and in relation to specified wild game meat or wild game meat products and who is acting in accordance with that approval.

The first note following section 8-25 refers the reader to section 309 of the Act, which deals with directions given by authorised officers.

The second note following section 8-25 explains that altering or interfering with an official mark so as to make the mark false, misleading or deceptive may be an offence or the contravention of a civil penalty under sections 261 or 262 of the Act.

These restrictions do not apply to the alteration of or interference with the official mark specified in section 8-18 ('Australian Government' official mark).

8-26 Official marks must be legible and securely attached

Section 8-26 requires official marks applied to wild game meat or wild game meat products to be legible and securely attached. This is required to ensure the marks do not fall off the wild game meat or wild game meat products, especially during transport overseas. If wild game meat or wild game meat products were to arrive without the official marks because they fell off, then this would raise concerns that the wild game meat or wild game meat products were not produced in accordance with the Australian export requirements and the importing country requirements.

8-27 Security of official marks

Section 8-27 requires a person who is in possession of an official mark that has not been applied to any wild game meat or wild game meat products (where permitted by section 8-22 of the Wild Game Rules) to ensure the official mark is securely stored. This ensures that all official marks can be accounted for when not in use.

8-28 Removal or defacement of official marks

Section 8-28 sets out requirements relating to the removal or defacement of official marks that have been applied to wild game meat or wild game meat products, including when the marks must be removed or defaced and who can take that action.

Subsection 8-28(1) requires an official mark that has been applied to wild game meat or wild game meat products to be removed or defaced if the wild game meat or wild game meat products to which it has been applied are no longer wholesome or have deteriorated. This ensures the wild game meat or wild game meat products which are not wholesome or have deteriorated, do not enter or are removed from the export supply chain.

Subsection 8-28(2) requires that an official mark that has been applied to a carton in which wild game meat or wild game meat products are packed must be removed or defaced when the wild game meat or wild game meat products are no longer intended to be exported, or are no longer intended to be exported in that carton.

Subsection 8-28(3) requires a foreign country identification official mark or European Union official mark that has been applied to wild game meat or wild game meat products to be removed or defaced if the circumstances in which that mark has been applied to wild game meat or wild game meat products, as specified by the importing country, no longer exist. The requirements in subsections 8-28(2) and (3) apply without limiting subsection 8-28(1).

Subsection 8-28(4) details who may remove or deface an official mark in accordance with a requirement in subsection 8-28(1), (2) or (3). This is limited to:

- an authorised officer; or
- a person acting in accordance with a direction from an authorised officer; or
- a person designated in an approved arrangement as a person who may remove or deface the official mark; or
- a person whom has been given a written approval by the Secretary to remove or deface the official mark at a specified registered establishment and in relation to specified wild game meat or wild game meat products, and who is acting in accordance with that approval.

The first note following subsection 8-28(5) refers the reader to section 309 of the Act for how a direction may be given by an authorised officer.

The second note following subsection 8-28(5) alerts the reader to section 258 of the Act, which has the effect that a person may commit an offence or be liable to a civil penalty if the person contravenes a provision in Division 2 of Part 3 of Chapter 8 of the Wild Game Rules.

8-29 Records of official marks manufactured or supplied

Section 8-29 requires 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 wild game meat or wild game meat products for export to make a daily written record detailing each kind and number of each kind, of official marks manufactured on that day.

The holder must also make a written record stating each day a consignment of official marks was supplied to an establishment registered for operations to prepare prescribed wild game meat or wild game meat products for export, each type of official mark included in the consignment, and how the consignment is transported.

The note following section 8-29 explains that under subsection 11-9(1) of the Wild Game Rules, the holder of an approved arrangement must retain each record for at least 3 years.

8-30 Records of official marks received, applied, removed, defaced, destroyed or returned

Section 8-30 requires the holder of an approved arrangement to prepare prescribed wild game meat or wild game meat products for export at a registered establishment to make a written record of consignments of official marks received at the establishment, official marks applied to, or removed from, wild game meat or wild game meat products at the establishment, official marks defaced or destroyed at the establishment and official marks returned to the establishment.

This ensures only goods that meet requirements have official marks applied and tracks official marks within a registered establishment.

The note following section 8-30 alerts the reader that, under subsection 11-9(2) of the Wild Game Rules, the holder of an approved arrangement must retain each record for at least 3 years.

Division 3—Marks resembling official marks

8-31 Purpose of this Division

Section 256 of the Act allows the rules to make provision for and in relation to marks that resemble an official mark or are apparently intended to resemble an official mark.

Section 8-31 provides that Division 3 of Part 3 of Chapter 8 of the Wild Game Rules (sections 8-31 to 8-33) is made for the purposes of section 256 of the Act. It sets out the circumstances where a mark (*resemblance*) may resemble an official mark specified in Division 1 of Part 3 of Chapter 8 of the Wild Game Rules, and who may apply a resemblance. A resembling mark relates to wild game meat or wild game meat products that are intended for export.

The note following section 8-31 alerts the reader to section 258 of the Act, which has the effect that a person may commit an offence or be liable to a civil penalty if the person contravenes a provision in Division 3 of Part 3 of Chapter 8 of the Wild Game Rules.

8-32 Circumstances in which a mark resembles an official mark

Section 8-32 details circumstances in which a mark resembles an official mark. A mark will be considered to resemble an official mark set out in Division 1 of Part 3 of Chapter 8 of the Wild Game Rules (i.e., be a resemblance) if it is the same design as the official mark in all material respects but its dimensions.

8-33 Persons who may apply a resemblance

Section 8-33 details who may apply a resemblance to wild game meat or wild game meat products, or to goods containing wild game meat or wild game meat products.

This is limited to a person who is designated in an approved arrangement as a person who may apply the resemblance to wild game meat or wild game meat products or goods containing wild game meat or wild game meat products, and where the application of the resemblance is in accordance with the approved arrangement.

Division 4—Official marking devices

An official marking device is defined in section 257 of the Act as a device that is capable of being used to apply an official mark.

8-34 Purpose of this Division

Subsection 257(2) of the Act allows the rules to make provision for and in relation to the following:

- the persons, or classes of persons, who may manufacture or possess an official marking device;
- the use of official marking devices;
- security of official marking devices;
- damaged official marking devices;
- destruction of official marking devices;
- making records of official marking devices; and
- any other matter relating to official marking devices.

Section 8-34 provides that Division 4 of Part 3 of Chapter 8 of the Wild Game Rules (sections 8-34 to 8-39) is made for the purposes of subsection 257(2) of the Act and makes provision for matters relating to official marking devices that are capable of being used to apply official marks as specified in Division 1 of Part 3 of Chapter 8 of the Wild Game Rules to wild game meat or wild game meat products that are intended to be exported. These requirements are necessary to ensure the security of official marking devices and preserve the integrity of official marks applied to wild game meat or wild game meat products.

The note following section 8-34 alerts the reader to section 258 of the Act, which has the effect that a person may commit an offence or be liable to a civil penalty if the person contravenes a provision in Division 4 of Part 3 of Chapter 8 of the Wild Game Rules.

8-35 Persons who may manufacture, supply or possess official marking devices

Section 8-35 specifies who can manufacture, supply or possess official marking devices for applying official marks. These are:

- an authorised officer; or
- a person acting in accordance with the direction of an authorised officer; or
- a person designated in an approved arrangement as a person who may manufacture, supply or possess an official marking device, and does so in accordance with the arrangement; or
- a person who has been given a written approval by the Secretary to manufacture, supply or possess the official marking device, and does so in accordance with the approval.

These restrictions ensure the security of the devices and preserve the integrity of official marks.

The note following subsection 8-35(1) refers the reader to section 309 of the Act, which deals with directions given by authorised officers.

Subsection 8-35(2) has the effect that the requirements in this section do not apply to an 'Australian Government' official mark (as provided by section 8-18 of the Wild Game Rules).

8-36 Security of official marking devices

Section 8-36 requires a person permitted to possess an official marking device under section 8-35 to store the device securely when it is not being used. This is to avoid unauthorised use of the official marking device.

8-37 Damaged etc. official marking devices

Section 8-37 requires a person (other than an authorised officer) in possession of an official marking device who becomes aware the device is damaged or destroyed, worn or otherwise unfit for applying an official mark to wild game meat or wild game meat products, to notify an authorised officer in writing as soon as practicable after becoming aware of that fact.

The person must then retain the official marking device in a secure place until otherwise directed by an authorised officer. This is to ensure that the ability to manufacture official marks is not compromised in any way.

8-38 Records of official marking devices manufactured or supplied

Section 8-38 requires a person (other than an authorised officer) permitted to manufacture or supply official marking devices (under section 8-35) for use at establishments that are registered for operations to prepare prescribed wild game meat or wild game meat products for export to make a daily written record stating:

- each kind of official marking device manufactured by the person on that day;
- the number of each kind of official marking device manufactured by the person on that day; and
- the serial number of each official marking device manufactured by the person on that day.

A written record must also be made stating each day official marking devices were supplied by the person to establishments that are registered for operations to prepare prescribed wild game meat or wild game meat products for export and how they were transported on each day.

The records provide evidence the manufacturer of official marking devices is satisfying regulatory requirements.

The note following section 8-38 explains that under section 11-10 of the Wild Game Rules, the person who is required to make a record under section 8-38 must retain each record for at least 3 years.

8-39 Records of official marking devices received, used, damaged, destroyed or returned

Section 8-39 requires the occupier of a registered establishment for operations to prepare prescribed wild game meat or wild game meat products for export to make a written record of the official marking devices that have been:

- received at the establishment;
- used to apply official marks to wild game meat or wild game meat products at the establishment;
- damaged or destroyed at the establishment; or
- returned from the establishment.

The note following section 8-39 explains that under section 11-10 of the Wild Game Rules, the occupier of the registered establishment must retain each record made under section 8-39 for at least 3 years.

CHAPTER 9—POWERS AND OFFICIALS

Part 1—Audits

Part 1 of Chapter 9 of the Wild Game Rules deals with matters relating to audits of export operations relating to wild game meat or wild game meat products.

Audits help retain wide access to overseas export markets by supporting compliance with export requirements and importing country requirements. Under sections 266 and 267 of the Act, the Secretary may require an audit to be conducted of export operations carried out in certain circumstances, or in relation to the performance of functions under the Act. An audit under section 266 may be conducted by an authorised officer or an approved auditor, while an audit under section 267 may be conducted by a Commonwealth authorised officer or a person prescribed by the rules made for the purposes of subsection 267(3).

Division 1—General

9-1 References to audit in this Part

Section 9-1 provides that a reference to an audit in Part 1 of Chapter 9 of the Wild Game Rules is a reference to the following audits under Part 1 of Chapter 9 of the Act:

- an audit of export operations carried out in relation to wild game meat or wild game meat products;
- an audit in relation to performance by certain persons of their functions or the exercise of powers under the Act in relation to wild game meat and wild game meat products. These persons are third party authorised officers, approved auditors and any other person (other than a Commonwealth authorised officer or a State or Territory authorised officer) who performs functions or exercises powers under the Act;
- an audit in relation to compliance by a third party authorised officer, approved auditor with the conditions they are subject to when performing their functions and exercising their powers in relation to wild game meat and wild game meat products. Such conditions could be contained in their instruments of authorisations to be, for example, an approved auditor.

Division 2—Conduct of audit etc.

9-2 Purpose of this Division

Section 270 of the Act sets out matters relating to the conduct of an audit under the Act. Subsection 270(4) of the Act allows the rules to make provision for and in relation to other matters relating to the conduct of audits, and the processes to be followed after an audit has been completed. Subsection 270(5) provides a non-exhaustive list of matters for which the rules may make provision for under subsection 270(4).

Section 9-2 provides that Division 2 of Part 1 of Chapter 9 of the Wild Game Rules (sections 9-3 to 9-5) is made for the purposes of subsections 270(4) and (5) of the Act and makes provision for and in relation to matters relating to the conduct of an audit, processes for dealing with non-compliance with a requirement to which an audit relates, and audit reports.

Audits assist to verify that requirements are being met and export conditions are being complied with on an ongoing basis. This provides assurance to trading partners that import requirements are being met.

9-3 Manner in which audit must be conducted

Section 9-3 requires an audit to be conducted as expeditiously as reasonably practicable and 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. This minimises the impact on industry, while still ensuring compliance with requirements can be verified.

The note following section 9-3 explains that under subsection 270(1) of the Act, the Secretary is not required to give notice of an audit.

9-4 Notice of non-compliance with requirements

Section 9-4 specifies what an auditor must do when, in the auditor's opinion, following an audit of export operations under subsection 266(1) of the Act, there is or has been, a failure (or a combination of failures) that amount to non-compliance with a requirement to which the audit relates.

Subsection 9-4(1) requires that, in such circumstances, the auditor must provide written notification of the auditor's opinion. The notification must be given to the relevant person related to the audit immediately after the audit is completed. The relevant person for each type of audit of export operations is defined in section 269 of the Act. The auditor must also assess whether the failure (or combination of failures) is a critical non-compliance. Providing notice of failures as soon as the audit is completed ensures transparency in the process and enables remedial action to be undertaken to minimise potential impact on export operations.

The first note following subsection 9-4(1) explains that under the Act, an *auditor* is an authorised officer or an approved auditor (as defined in section 12 of the Act).

The second note following subsection 9-4(1) refers the reader to section 269 for who is the *relevant person* for an audit.

Subsection 9-4(2) requires the auditor to notify the Secretary immediately in writing if, in the auditor's opinion, the failure (or combination of failures) is a critical non-compliance. This is necessary to ensure the Secretary is aware of the non-compliance and can take the necessary action to minimise impacts on Australia's trading reputation.

Subsection 9-4(3) specifies the failures which are *critical non-compliance* failures, for the purpose of sections 9-4 and 9-5 (audit reports). These are a failure (or combination of failures) that:

- results in, or is likely to result in:
 - the export, or the preparation for export of wild game meat or wild game meat products as food the integrity of which cannot be ensured; or
 - the export, or the preparation for export of wild game meat or wild game meat products as food that are not wholesome, not traceable, cannot be recalled if required, do not meet an importing country requirement relating to the wild game meat or wild game meat products, or are derived from wild game animals that were not treated humanely during harvesting; or
- prevents, or is likely to prevent, an accurate assessment of:
 - whether the wild game meat or wild game meat products are wholesome, traceable, can be recalled if required, meet an importing country requirement relating to wild game meat or wild game meat products, or are derived from wild game animals that were treated humanely during harvesting.

These failures may have considerable impact on Australia's trading reputation and may result in impacts on other persons or businesses through action by importing country authorities. It is therefore critical that these non-compliance failures are reported to the Secretary immediately, so necessary action can be implemented to mitigate consequences.

The note following section 9-4(3) directs the reader to the requirements in relation to the humane treatment of wild game animals during harvesting in clauses 7.1 and 7.2 in the Australian Wild Game Meat Standard.

9-5 Audit reports

Section 9-5 sets out the requirements relating to audit reports, including how audit reports are to be provided, and what they must include.

Audits assist to verify relevant requirements are being met and conditions are being complied with on an ongoing basis. Audits provide assurance to trading partners that their import requirements are being met. The audit report ensures sufficient information is provided to enable an assessment of compliance with requirements.

Subsection 9-5(1) requires a completed audit report to be made in writing after the audit is completed or ends.

The note following subsection 9-5(1) refers the reader to the definition of *auditor* in section 12 of the Act. An auditor is an authorised officer or an approved auditor.

Subsection 9-5(2) specifies that an audit report must include the name of the auditor, the day the audit commenced, the day the audit was completed or ended, the total time spent conducting the audit (in hours), a description of the export operations or the matters referred to in subsection 267(1) of the Act, to which the audit relates, and a description of the nature and scope of the audit.

Subsection 9-5(3) requires the audit report to also contain the auditor's opinions regarding whether the audit was satisfactorily completed (or otherwise) or whether the audit was ended before it could be satisfactorily completed, whether the requirements to which the audit relates are being, or have been, complied with, and the reasons for the auditor's opinion on these matters.

Subsection 9-5(4) requires all instances of non-compliance with the requirements to which the audit relates to be included in the audit report. The report must describe each failure of compliance, including whether, in the auditor's opinion, the failure (either by itself or in combination with other failures) amounts to critical non-compliance or has contributed to critical non-compliance. The report must include the reasons for the auditor's opinion on these matters.

Subsection 9-5(5) specifies that the audit report may also identify any risk of potential non-compliance with a requirement to which an audit may relate and may include recommendations that any of the following actions be taken:

- action to address any non-compliance with a requirement to which the audit relates;
- action to ensure that non-compliance does not recur; or
- action to address the risk of potential non-compliance with a requirement to which an audit may relate;
- action to assess the effectiveness of such actions.

Subsection 9-5(6) requires the audit report to be given to the Secretary and the relevant person for the audit within 14 business days after the audit has ended. The audit report must be in a manner approved by the Secretary.

The note following subsection 9-5(6) refers the reader to section 269 of the Act for who is the *relevant person* for an audit.

Division 3—Approved auditors

An approved auditor is a person trained and approved to carry out audits of export operations, including of registered establishments engaged in the preparation or storage and loading of products for export as food. Approved auditors can be engaged by export registered establishments to conduct audits for compliance with legislative and importing country requirements and provide audit reports to the Secretary. The Secretary may, in writing, approve a person, or each person in a specified class of persons, to conduct audits under Part 1 of Chapter 9 of the Act.

9-6 Purpose of this Division

Subsection 273(1) of the Act allows the Secretary to approve a person, or each person in a specified class of persons, to conduct audits under Part 1 of Chapter 9 of the Act (approved auditors).

Subsection 273(6) of the Act allows the rules to make provision for and in relation to matters relating to the approval of persons, under subsection 273(1), as approved auditors.

Subsection 273(7) provides a non-exhaustive list of examples of matters that may be the subject of rules made under subsection 273(6).

Section 9-6 provides that Division 3 of Part 1 of Chapter 9 (sections 9-6 to 9-16) of the Wild Game Rules is made for the purpose of subsections 273(6) and (7) of the Act and makes provision for and in relation to matters regarding the approval of individuals to conduct audits.

9-7 Application for approval

Section 9-7 deals with application requirements for an individual to become an approved auditor.

Subsection 9-7(1) provides that an individual may apply to the Secretary for approval under subsection 273(1) of the Act to conduct audits.

Subsection 9-7(2) sets out the requirements for an application under subsection 9-7(1). An application must be made in a manner and form approved by the Secretary (if any). The application must also be accompanied by written evidence of the applicant's qualifications, a document detailing the applicant's audit experience, a document setting out procedures for the conduct of audits by the applicant and, if an application fee is prescribed under the *Export Control (Fees and Payments) Rules 2021*, that fee. This information and documentation are necessary to allow the Secretary to make a decision in relation to the application.

Subsection 9-7(3) provides that an application that does not comply with the requirements of subsection 9-7(2) is taken not to have been made. This means the application will not be considered unless and until all the requirements are met.

The requirements for application for approval ensures the Secretary is provided with all the relevant matters in considering whether applicants are suitably qualified and have the necessary skills to conduct audits

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

Subsection 9-8(1) has the effect that once a completed application from a person seeking approval to be an auditor is received, the Secretary must either approve or refuse to approve the applicant to conduct audits.

The note following subsection 9-8(1) explains that a decision to refuse the application is a reviewable decision under section 11-1 of the Wild Game Rules, and the Secretary must give the applicant written notice of the decision in accordance with section 382 of the Act.

Subsection 9-8(2) sets out the requirements of which the Secretary must be satisfied before approving an applicant to conduct audits. The Secretary may have regard to any matter the Secretary considers relevant, and must be satisfied that the applicant:

- is a fit and proper person (having regard to the matters referred to in section 372 of the Act);
- has the necessary competency (for example, the knowledge, training, skills or experience) to conduct audits;
- is able to conduct audits objectively, independently, fairly and accurately;
- will comply with Division 2 of Part 1 of Chapter 9 of the Wild Game Rules (which deal with non-compliance and audit reports) in relation to audits conducted by the applicant; and
- will comply with procedures for conducting audits that are necessary to ensure that these requirements are met and can be accurately assessed.

Subsection 9-8(3) sets out the circumstances in which the Secretary may refuse to approve an applicant to conduct audits. These include where the applicant has a relevant Commonwealth liability that has not been paid, where the applicant has provided false, misleading, or incomplete information in an application or document under the Act or under a prescribed agriculture law.

The note following subsection 9-8(3) explains that, under the Act, the Secretary must not approve a person to conduct audits unless satisfied that the person satisfies, or will satisfy, certain training and qualification requirements determined by the Secretary under subsections 273(3) and (4) of the Act.

9-9 Dealing with applications

Subsections 9-9(1) and (2) provides that the Secretary may request an applicant to provide further specified information or documents relevant to the application for the purpose of making a decision on that application. The request must be in writing, specify the timeframe to comply and the manner the request is to be complied with.

This ensures that the Secretary can efficiently decide an application based on all relevant information or documents.

9-10 Conditions of approval

Subsection 9-10(1) specifies that the approval of an applicant to conduct audits may be subject to any conditions the Secretary considers necessary.

The note following subsection 9-10(1) explains that a decision to approve the application subject to conditions is a reviewable decision under the Act (see section 11-1 of the Wild Game Rules) and the Secretary must give the applicant written notice of the decision in accordance with section 382 of the Act.

Subsection 9-10(2) provides that, without limiting subsection 9-10(1), the conditions of an approval to conduct an audit may relate to the scope of audits the auditor is approved to conduct (including by reference to the kind of export operations,) aspects of the export operations (such as whether the operations comply with the requirements of the Act, are being carried out in accordance with an approved arrangement, or meet importing country requirements), or a kind of export operations carried out at a kind of place (for example a registered establishment).

This provides the Secretary with the flexibility to specify the kinds of audits an approved auditor can undertake. It allows the Secretary to limit or broaden the scope of an approved auditor's functions and powers, in line with their experience, qualifications, the kind of audit and export operational requirements.

9-11 Notice of decision

Section 9-11 provides that if the Secretary approves an applicant under subsection 273(1) to conduct audits, the Secretary must provide the applicant with a written notice of approval. The notification must include that the applicant is approved to conduct audits, the date the approval takes effect, the scope of the audits covered, that the approval remains in force for 12 months unless revoked earlier under section 9-14 of the Wild Game Rules, and any conditions of the approval imposed under section 9-10 of the Wild Game Rules.

9-12 Period of effect of approval

Section 9-12 specifies that an approval, under subsection 273(1) of the Act, of an individual to conduct audits takes effect on the day stated in the notice given under section 9-11 of the Wild Game Rules, and remains in force for 12 months unless revoked earlier under section 9-14 of the Wild Game Rules. This ensures approved auditors maintain the currency of their qualifications to conduct audits.

9-13 Imposing or varying conditions of approval

Subsection 9-13(1) provides that, if an individual is approved, under subsection 273(1) of the Act, to conduct audits, the Secretary may, if they consider it necessary to do so, impose conditions on the approval or vary the conditions of the approval (including by imposing new conditions or removing conditions). A variation of conditions may include removing conditions or imposing new conditions.

The note following subsection 9-13(1) explains that a decision to impose conditions or vary the conditions of an approval is a reviewable decision under the Act (see section 11-1 of the Wild Game Rules) and the Secretary must give the applicant written notice of the decision in accordance with section 382 of the Act.

Subsection 9-13(2) provides that, if the Secretary imposes conditions on, or varies the conditions of an individual's approval, the Secretary must notify the individual in writing of the conditions imposed or the varied conditions (including any new conditions), the reason for imposing or varying the conditions, and the date that the conditions or varied conditions take effect.

This ensures that the process is transparent, accountable and provides the individual with adequate information about the decision to impose conditions on or vary the conditions of an approval.

9-14 Revocation of approval

Section 9-14 sets out the requirements for revoking an approval, granted under section 273 of the Act, of an individual to conduct audits.

Subsection 9-14(1) provides that the Secretary can revoke an approval of an individual to conduct audits where the individual requests the revocation (in writing) or, where the Secretary is satisfied of any of the following:

- the individual is no longer a fit and proper person (having regard to the matters referred to in section 372 of the Act);
- 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);
- the individual failed to show competency in conducting audits;
- an audit conducted by the individual, or an audit report given to the Secretary by the individual, was not objective, independent, fair or accurate;
- 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;
- an audit report given to the Secretary by the individual was incomplete;
- the individual failed to comply with a relevant requirement prescribed by Division 2 of Part 1 of Chapter 9 of the Wild Game Rules;
- the individual contravened a condition of the approval;
- the individual made a false, misleading or incomplete statement, or provided false, misleading or incomplete information or documents, for which there was no reasonable grounds to the Secretary or another person performing functions or exercising powers under the Act, or to the Secretary or Department under a prescribed agriculture law.

The note following subsection 9-14(1) explains that a decision to revoke the approval is a reviewable decision under the Act (see section 11-1 of the Wild Game Rules) and the Secretary must give the applicant written notice of the decision in accordance with section 382 of the Act.

The purpose of including these reasons for revoking approval to conduct audits is to ensure the necessary knowledge, training, skills and experience are maintained and that audits conducted are objective, independent, fair and accurate.

Subsection 9-14(2) allows the Secretary to assess the competency of an approved auditor at any time and in any way the Secretary considers appropriate.

Subsection 9-14(3) allows the Secretary, when considering revoking approval in circumstances where an audit failed to be objective, independent, fair or accurate, to consider any interests, pecuniary or otherwise of the individual that conflicts, or could conflict, with the conduct of an audit by the individual.

Subsection 9-14(4) requires the Secretary, if he or she decides to revoke an individual's approval to conduct audits, to give to the individual a written notice stating the approval is to be revoked, the reasons for the revocation and the date the revocation takes effect. This ensures that the process is transparent, accountable and provides the individual with adequate information about the decision. This requirement does not apply where the revocation is requested by the individual.

9-15 Register of approved auditors

Section 9-15 provides that the Secretary must keep a register of individuals who are approved under subsection 273(1) of the Act to conduct audits. The register may be kept by electronic means, at a place and in a form that the Secretary determines, and must be publicly accessible. The register must include the names of the individuals approved to conduct audits and any conditions on their approval to undertake audits.

The purpose of this provision is to ensure transparency and accountability in relation to individuals the Secretary approves to undertake audits. It also ensures that a list of approved auditors is publicly available so that anyone being audited can identify and verify these auditors and the conditions under which they operate. This is necessary as approved auditors perform functions and exercise powers under the Act.

9-16 Fit and proper person test

Subsection 372(1) of the Act sets out which provisions in the Act require the Secretary to comply with the requirements of section 372 of the Act when determining whether a person is a fit and proper person. Paragraph 372(1)(d) allows the rules to provide additional provisions of the Act for which the requirements in section 372 will apply (which includes instruments made under the Act, such as provisions of the Wild Game Rules).

Subsection 9-16(1) prescribes, for the purposes of paragraph 372(1)(d) of the Act, provisions of the Wild Game Rules to which the fit and proper person test will apply. These are:

- section 9-8, relating to a decision to approve an individual to conduct audits; and
- section 9-14, relating to a decision to revoke an approval of an individual to conduct audits.

Subsection 9-16(2) prescribes section 9-7 of the Wild Game Rules (application by an individual to conduct audits), for the purpose of subparagraph 372(2)(e)(v) of the Act. This has the effect that when determining whether a person is a fit and proper person, the Secretary must consider whether an application under section 9-7 of the Wild Game Rules made by the

person or an associate of the person was refused. It is important the Secretary consider these matters to determine whether an applicant is a fit and proper person.

Paragraph 372(4)(b) of the Act allows the rules to prescribe a person to whom the requirements under subsection 372(2) of the Act, which determine whether a person is a fit and proper person, will apply without reference to an associate of the person.

Subsection 9-16(3) prescribes an approved auditor for the purpose of paragraph 372(4)(b) of the Act. This means the requirements to determine whether an auditor is a fit and proper person under subsection 372(2) of the Act refer only to the auditor and not to an associate of the auditor.

Section 374 of the Act relates to the notification that a person has been convicted of an offence or ordered to pay a pecuniary penalty. Paragraph 374(1)(g) provides that section 374 applies to any other person prescribed by the rules, and who carries out export operations, or performs functions or duties or exercises powers under the Act.

Subsection 9-16(4) prescribes, for the purposes of paragraph 374(1)(g) of the Act, an approved auditor. This means an approved auditor is required to notify the Secretary of any conviction or offence or order to pay a pecuniary penalty for a contravention involving fraud or dishonesty in accordance with subsection 374(4) of the Act, or in relation to an associate of the person under subsection 374(5) of the Act. Failure to do so is a contravention of a civil penalty provision under subsection 374 of the Act.

The purpose of this section is to ensure that a prospective auditor is of a suitable character to conduct audits. Audits are necessary to establish whether export operations comply with the Act and the requirements of importing countries. Audits also involve access to business premises where commercially sensitive operations are conducted. It is essential that approved auditors are trustworthy and undertake audits with integrity. For these reasons, the fit and proper test applies when deciding whether to approve an individual to conduct audits and when deciding whether to revoke an approval to conduct audits.

Part 2—Assessments

An assessment of goods may be carried out for the purpose of deciding whether to issue a government certificate (paragraph 68(c) of the Act) or an export permit (paragraph 241(c) of the Act). The purpose of the assessment is to verify that:

- the requirements of the Act have been or will be complied with before the goods are imported into the importing country
- importing country requirements have been, or will be, met before the goods are imported into the importing country, or
- a matter stated, or to be stated, in a government certificate in relation to the goods is true and correct.

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

Subsection 277(1) of the Act provides that an assessment of goods may be carried out under Part 2 of Chapter 9 of the Act only if the assessment is required or permitted to be carried out under the Act. Subsection 277(2) of the Act allows the rules to prescribe circumstances in which the Secretary may require or permit an assessment of goods to be carried out under Part 2 of Chapter 9 of the Act.

Section 9-17 is made for the purposes of subsection 277(2) of the Act and provides that the Secretary may require or permit an assessment of prescribed wild game meat or wild game meat products to be carried out by an assessor who is an authorised officer at any stage of export operations to prepare the wild game meat or wild game meat products for export if the Secretary considers it necessary to ensure that one or more objects of the Act will be met in relation to the wild game meat or wild game meat products.

This provides the Secretary with flexibility to determine when it is necessary for an assessment of prescribed wild game meat or wild game meat products to be carried out. This reflects the possibility that the circumstances requiring an assessment are likely to change from time to time and may need to commence at short notice.

The assessment will need to be carried out by an assessor who is an authorised officer.

The note following section 9-17 refers the reader to the definition of *assessor* in section 12 of the Act and clarifies that, for an assessment of prescribed wild game meat or wild game meat products, the assessor is an authorised officer whose functions and powers include carrying out assessments of prescribed wild game meat or wild game meat products.

Part 3—Powers of the Secretary

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

Subsection 286(1) of the Act allows the Secretary to arrange for the use, under the Secretary's control, of computer programs for making certain decisions under the Act. Subsection 286(2) allows the rules to prescribe the kinds of decisions that may be made by the operation of a computer program, the persons or bodies that may use such a computer program, and the conditions of that use.

Subsection 9-18(1) prescribes, for the purposes of subsection 286(2) of the Act, the following decisions that may be made by a computer program (an *authorised computer program*) under an arrangement made under subsection 286(1) of the Act in relation to wild game meat or wild game meat products:

- a decision under paragraph 67(1)(a) of the Act to issue a government certificate; and
- a decision under paragraph 225(1)(a) of the Act to issue an export permit.

Enabling the Secretary to prescribe decisions which may be made by computer programs will provide flexibility in relation to the use of computer programs as there are changes in technology. Allowing computer programs to make certain decisions will provide administrative efficiency. An advantage of allowing a computer program to issue government

certificates and export permits is that decisions are made efficiently, are not limited to being made during business hours, and are more consistent.

It is appropriate to enable a computer program to issue a government certificate because the decision under paragraph 67(1)(a) of the Act is based on objective criteria and would not require the computer program to weigh up discretionary factors. Only a decision to issue a certificate is prescribed for the purposes of the Wild Game Rules, and any decision to refuse to issue, including the consideration of any discretionary factors, would be made by a human decision maker.

It is appropriate to enable a computer program to issue an export permit as the decision under paragraph 225(1)(a) is based on objective criteria and does not require the computer program to weight up discretionary factors. Only a decision to issue an export permit is prescribed for the purposes of the Wild Game Rules and any decision to refuse to issue a permit, including the consideration of any discretionary factors, would be made by a human decision maker.

Under subsection 286(3) of the Act, the Secretary is required to take all reasonable steps to ensure decisions made by a computer program under the arrangement are correct. If the Secretary is satisfied that the decision made by the operation of the computer program is incorrect, the Secretary may make a decision in substitution for that made by the computer program (subsection 286(5)).

Paragraph 286(2)(b) of the Act allows the rules to prescribe the persons or bodies that may use computer programs under an arrangement in subsection 286(1).

Subsection 9-18(2) is made for the purposes of paragraph 286(2)(b) of the Act and details who may use an authorised computer program if the Secretary has given them a unique identifier to access the computer program. These persons are:

- the occupier of a registered establishment where operations to prepare wild game meat or wild game meat products for export are carried out;
- the holder of an approved arrangement for operations to prepare wild game meat or wild game meat products for export at a registered establishment;
- an exporter of wild game meat or wild game meat products;
- a person who provides services to, and is authorised in writing by, the occupier, holder or exporter to use the computer program to make the decision;
- an authorised officer;
- an APS employee in the department;
- a person performing services for the department under a contract.

This ensures the computer program is only accessed by those who require it to perform their functions.

Paragraph 286(2)(c) of the Act allows the rules to prescribe the conditions of the use of computer program under an arrangement in subsection 286(1).

Subsection 9-18(3) is made for the purposes of paragraph 286(2)(c) of the Act and sets the conditions for use of the computer program by the persons listed under subsection 9-18(2). It provides that a person who has access to and uses the authorised computer program must be satisfied on reasonable grounds that the information entered into the computer program is true and correct and is accurately entered. This is to avoid, as far as practicable, incorrect or incomplete information being entered into the computer program which may result in an incorrect decision.

Part 4—Authorised officers

An authorised officer is able to perform a range of export functions on behalf of the Department. Authorised officers play an important role in ensuring the risk free, safe and trusted export of a variety of commodities, which helps maintain Australia’s reputation as a trusted exporter of quality goods.

Division 1—Third party authorised officers

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

Subsection 291(3) of the Act provides that a person who is not an officer or employee of a Commonwealth body or a State or Territory body may apply to the Secretary to be a third party authorised officer. Subsection 291(7) of the Act allows the Secretary to authorise a person who is not an officer or employee of a Commonwealth body or a State or Territory body to be a third party authorised officer if the requirements of that subsection are met. Paragraph 291(7)(c) allows the rules to prescribe additional requirements that must be met for the Secretary to authorise a person to be a third party authorised officer.

Subsection 9-19(1) is made for the purposes of paragraph 291(7)(c) and sets out an additional requirement that a person be a fit and proper person to be a third party authorised officer whose functions and powers will include carrying out specialised inspection services in relation to wild game meat or wild game meat products (having regard to the matters referred to in section 372 of the Act). Authorised officers perform functions or duties or exercise powers under the Act and the Wild Game Rules. This provides the Secretary with flexibility to effectively respond to changes in industry and market requirements and provide appropriate third party authorised officers.

Third party authorised officers may have access to business premises where commercially sensitive operations are conducted. It is important that they are trustworthy and undertake their roles with integrity. For these reasons, an individual is required to be a fit and proper person to be authorised to perform functions and exercise powers in relation to prescribed wild game meat or wild game meat products.

Subsection 372(1) of the Act sets out which provisions in the Act require the Secretary to comply with the requirements of section 372 when determining whether a person is a fit and proper person. Paragraph 372(1)(d) allows the rules to provide additional provisions of the Act for which the requirements in section 372 will apply (which includes instruments made under the Act, such as provisions of the Plant Rules).

Subsection 9-19(2) is made for the purposes of paragraph 372(1)(d) of the Act, and prescribes subsection 9-19(1) as a provision to which the fit and proper person test applies. This means the fit and proper person requirements in section 372 of the Act apply in relation to a third party authorised officer. This is necessary to ensure that a prospective third party authorised officer is of a suitable character to perform functions or exercise powers under the Act.

Paragraph 372(2)(e) of the Act requires the Secretary to have regard to whether certain applications by a person, or an associate of the person, have been refused, when determining whether the person is a fit and proper person. Subparagraph 372(2)(e)(v) allows the rules to prescribe any other provision of the Act to be considered for this purpose.

Subsection 9-19(3) is made, for the purposes of subparagraph 372(2)(e)(v) of the Act, and prescribes subsection 291(3) of the Act (application by person to be third party authorised officer whose functions and powers will include carrying out specialised inspection services in relation to wild game meat or wild game meat products). This means that in determining whether the applicant is a fit and proper person, the Secretary must have regard to whether the person, or an associate of the person, has made an application to be a third party authorised officer that has been refused. It is important the Secretary consider the reasons for refusing an application to be a third party authorised officer in determining whether an applicant is a fit and proper person.

Paragraph 372(4)(b) of the Act allows the rules to prescribe a person to whom the requirements under subsection 372(2) of the Act, which determine whether a person is a fit and proper person, will apply without reference to an associate of the person.

Subsection 9-19(4) is made for the purposes of 372(4)(b) of the Act, and prescribes a person who is a third party authorised officer whose functions and powers include carrying out specialised inspection services in relation to wild game meat or wild game meat products. This means the requirements in subsection 372(2) of the Act regarding the mandatory considerations when determining whether a third party authorised officer whose functions and powers include carrying out specialised inspection services in relation to wild game meat or wild game meat products is a fit and proper person refers only to the third party authorised officer and not to an associate.

Section 374 of the Act relates to the notification that a person has been convicted of an offence or ordered to pay a pecuniary penalty. Paragraph 374(1)(g) provides that section 374 applies to any other person prescribed by the rules, and who carries out export operations, or performs functions or duties or exercises powers under the Act.

Subsection 9-19(5) is made for the purposes of paragraph 374(1)(g) of the Act, and prescribes a third party authorised officer whose functions and powers include carrying out specialised inspection services in relation to wild game meat or wild game meat products. This means that such a person is required to notify the Secretary of any conviction of an offence or order to pay a pecuniary penalty for a contravention of Australian law involving fraud or dishonesty for that person (under subsection 374(4) of the Act) or an associate (under subsection 374(5) of the Act). Failure to comply with this requirement is a contravention of a civil penalty provision under subsection 374(6) of the Act.

Subsection 9-19(6) provides that, for the purposes of section 9-19 a *specialised inspection service* in relation to wild game meat or wild game 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 wild game meat or wild game meat products.

Division 2—Functions and powers

9-20 Purpose of this Division

Section 300 of the Act provides that the rules may confer functions or powers on authorised officers, or a class of authorised officers, that are necessary or convenient to be performed or exercised for the purposes of achieving the objects of the Act.

Section 9-20 is made for the purposes of section 300 of the Act and provides that Division 2 of Part 4 of Chapter 9 of the Wild Game Rules (sections 9-20 to 9-31) confers functions and powers on authorised officers or classes of authorised officers. These powers and functions are necessary or convenient for the purposes of achieving the objects of the Act in relation to wild game meat or wild game meat products for export.

The note following section 9-20 explains that under subsection 301(1) of the Act an authorised officer can only perform the functions or powers that are specified in that officer's instrument of authorisation.

9-21 Functions specified in Australian Wild Game Meat Standard and Australian Meat Standard

Subsection 9-21(1) provides that an authorised officer may perform all of the functions of a meat safety inspector specified in the Australian Wild Game Meat Standard in relation to wild game meat.

Subsection 9-21(2) provides that an authorised officer may perform all of the functions of a meat safety inspector specified in the Australian Meat Standard in relation to wild game meat products.

9-22 Inspections of carcasses and carcase parts and applying post-mortem dispositions

Subsection 9-22(1) provides an authorised officer may inspect carcasses and carcase parts, and after carrying out an inspection, must apply a disposition to the carcass or carcase parts in accordance with subsections 9-22(3) and (4). These functions assist authorised officers in ensuring the wholesomeness and integrity of carcasses and carcase parts for export.

The first note following subsection 9-22(1) refers the reader to section 10 of the Australian Meat Standard, other than clause 10.12 which is not required to be met (see subsection 4-3(2) of the Wild Game Rules).

The second note following subsection 9-22(1) refers the reader to section 9-24 of the Wild Game Rules, which provides that an authorised officer may apply a disposition under this section subject to conditions, and may vary a disposition applied under this section.

Subsection 9-22(2) details the dispositions which must be applied to carcasses and subsection 9-22(3) details the dispositions for carcass parts. Under subsection 9-22(2), one of the following dispositions must be applied to carcasses:

- passed for human consumption;
- passed for human consumption and unsuitable for export;
- passed for human consumption and unsuitable for export to a specified country;
- retained for final disposition;
- unfit for human consumption and may be recovered for animal food;
- unfit for human consumption and may be recovered for pharmaceutical material; or
- condemned.

For carcass parts, it is a requirement to either apply one of the dispositions referred to above for carcasses, or to apply a disposition that the carcass part is derived from an animal the carcass of which is passed for human consumption and the carcass parts require further treatment to be fit for human consumption (subsection 9-22(3)).

Post-mortem inspection covers the inspection of carcasses and parts of meat used for human food. The purpose of the post-mortem inspection is to protect public health by ensuring the carcasses and carcass parts are wholesome, not adulterated, and are properly marked, labelled, and packaged. This means that any carcasses or carcass parts that are unwholesome or adulterated, and thereby unfit for human food, do not enter trade. It is important this is expressly provided for in the rules given the significance of this kind of inspection.

9-23 Inspections of wild game meat and wild game meat products and applying dispositions

Section 9-23 permits authorised officers to inspect wild game meat or wild game meat products. After the inspection, the authorised officer must apply a disposition to the goods. The dispositions that must be applied are:

- any of the dispositions referred to in paragraphs 9-22(2)(a) to (g); or
- unsuitable for export as food; or
- unsuitable for export as food to a specified country.

This assists authorised officers in ensuring the wholesomeness and integrity of wild game meat and wild game meat products for export for a specific purpose and to a specific destination.

The first note following section 9-23 refers the reader to section 9-24 of the Wild Game Rules, which has the effect that an authorised officer may apply a disposition subject to conditions and may vary an applied disposition. For example, a disposition may be varied if, after a post-mortem inspection, wild game meat or wild game meat products deteriorate.

The second note following section 9-23 refers the reader to section 9-30 of the Wild Game Rules, which deals with powers of authorised officers where the integrity of wild game meat or wild game meat products may not be able to be ensured.

9-24 Applying decisions or dispositions subject to conditions and variation

Subsection 9-24(1) provides an authorised officer may apply a decision or disposition referred to below subject to conditions necessary to achieve the objects of the Act. The relevant decisions or dispositions are:

- a decision referred to in subsection 9-22(2) or 9-22(3) (applying a disposition to carcasses or carcase parts), or
- a disposition referred to in paragraph 9-23(b) (applying dispositions to wild game meat or wild game meat products).

Subsection 9-24(2) requires an authorised officer to specify any conditions to be applied at the time the disposition is applied.

Subsection 9-24(3) permits an authorised officer to vary dispositions, or the conditions to which a disposition is subject, if they reasonably believe the relevant circumstances that led to the application of the disposition have changed. This flexibility is necessary to allow for changes in circumstances where an alternative disposition or condition would be appropriate.

9-25 Stopping chain of operations temporarily or controlling rate of operations

Section 9-25 permits an authorised officer to temporarily stop the chain of operations or control the rate of operations being carried out in relation to carcasses or carcase parts, or wild game meat or wild game meat products in certain circumstances.

These circumstances are if the authorised officer reasonably believes it is necessary for the purposes of accurately inspecting or applying a disposition to carcasses or carcase parts (under section 9-22), wild game meat or wild game meat products (under section 9-23), or for the purposes of performing other functions necessary to achieve the objects of the Act in relation to the carcasses or carcase parts, or wild game meat or wild game meat products.

This is necessary to ensure that wild game meat or wild game meat products are wholesome and their integrity can be ensured.

9-26 Functions to be performed by veterinary officer, or authorised officer acting under supervision of veterinary officer

The purpose of section 9-26 is to clarify those functions performed at a registered establishment by an authorised officer that must be performed by a veterinary officer or an authorised officer acting under the supervision of a veterinary officer.

If a veterinary officer is at the registered establishment, the function of inspecting carcasses or carcase parts and applying dispositions to carcase or carcase parts must be performed by a veterinary officer, or an authorised officer acting under the supervision of a veterinary officer.

If a veterinary officer is at the registered establishment, the function of implementing procedures for notifiable diseases must be performed by a veterinary officer.

The note following subsection 9-26(3) refers the reader to section 1-5 of the Wild Game Rules for the definition of *veterinary officer*.

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

Subsection 9-27(1) allows an authorised officer to inspect an establishment (or any area of an establishment), any facilities or equipment or other things at the establishment or any area of an establishment and any services provided at the establishment or any area of the establishment, where operations are being carried out to prepare or transport wild game meat or wild game meat products for export. This does not give an authorised officer power of entry. Entry to the establishment will need to be exercised in accordance with the powers provided for in the Act.

The note following subsection 9-27(1) provides examples of other things that may be at an establishment are vehicles or other conveyances.

Subsection 9-27(2) allows an authorised officer to secure an area of an establishment or facilities or equipment or any other thing at the establishment that has been, or is to be, inspected under subsection 9-27(1), if the authorised officer considers it necessary to do so in order to enable functions to be performed, or powers to be exercised, under the Act.

The area, facilities, equipment or other thing is to be secured by attaching or applying an identification tag or similar means of identification. This power is necessary to ensure all persons at the establishment are aware of areas that are secured so as to allow authorised officers to exercise their powers and functions (including to conduct inspections).

Subsection 9-27(3) requires the identification tag or other means of identification used under subsection 9-27(2), to be in a form approved by the Secretary. This ensures there is consistency with the means of identifying secured areas, facilities, equipment and other things.

Subsection 9-27(4) specifies that only an authorised officer or a person being directed by an authorised officer may remove the identification tag or other means of identification that has been attached or applied to an area of an establishment, or facilities, equipment or any other thing, under subsection 9-27(2). This ensures the identification is only removed when the area is no longer required to be secured.

The note following section 9-27(4) refers the reader to section 309 of the Act, which deals with how a direction may be given by an authorised officer.

9-28 Securing and identifying establishment or conveyance etc.

Subsection 9-28(1) specifies the things and areas, including establishments or conveyances, which an authorised officer may secure, or retain and identify, for the purpose of carrying out an assessment or inspection, or applying a treatment or a disposition. These are:

- a thing found at an establishment that is used, or is apparently used, for operations to prepare wild game meat or wild game meat products;
- a thing found in or on a conveyance that is used, or apparently used, to transport wild game meat or wild game meat products;
- an area of a registered establishment that is used or apparently used, for operations to prepare wild game meat or wild game meat products, including any facilities or equipment or services provided in that area;
- an establishment (other than a registered establishment) that is used, or apparently used, for operations to prepare wild game meat or wild game meat products;
- a conveyance that is used, or apparently used, to transport wild game meat or wild game meat products.

These functions are necessary to ensure that prescribed wild game meat or wild game meat products for export are wholesome and their integrity can be ensured.

Subsection 9-28(2) requires a thing, area, establishment or conveyance referred to in subsection 9-28(1) to be identified by attaching or applying an identification tag or similar means of identification to the thing, area, establishment or conveyance. This is necessary to ensure that all persons at the establishment are aware of the things and areas that are secured to allow authorised officers to deal with things or the area.

Subsection 9-28(3) provides that the identification tag, or other means of identification used, must be in a form approved by the Secretary. This ensures there is consistency with the means of identifying secured areas.

Subsection 9-28(4) specifies that only an authorised officer or a person acting in accordance with a direction given by an authorised officer may remove the identification tag or other means of identification. This ensures the identification is only removed when the thing or area is no longer being dealt with by an authorised officer.

The note following subsection 9-28(4) refers the reader to section 309 of the Act, which deals with how a direction may be given by an authorised officer.

9-29 Interference with identified establishment or conveyance etc.

Section 9-29 provides that only an authorised officer or a person acting in accordance with a direction given by an authorised officer can interfere with or use any area, thing, establishment or conveyance identified under section 9-28, or move any thing or conveyance identified under section 9-28.

The note following section 9-29 refers the reader to section 309 of the Act, which deals with how a direction may be given by an authorised officer.

9-30 Powers where integrity of prescribed wild game meat or wild game meat products may not be able to be ensured

Section 9-30 sets out powers that may be exercised by authorised officers when the integrity of prescribed wild game meat or wild game meat products may not be able to be ensured.

Subsection 9-30(1) permits an authorised officer to apply a disposition of unsuitable for export as food, or unsuitable for export as food to a specific country, to prescribed wild game meat or wild game meat products if they reasonably believe the integrity of the prescribed wild game meat or wild game meat products cannot be ensured.

The first note following subsection 9-30(1) provides an example of a situation where the authorised officer may reasonably believe the integrity of the prescribed wild game meat or wild game meat products cannot be ensured.

The second note following subsection 9-30(1) explains that, under subsection 305(1) of the Act, the authorised officer may also give a direction to the holder of an approved arrangement.

Subsection 9-30(2) provides a non-exhaustive list of grounds on which an authorised officer may reasonably believe the integrity of the prescribed wild game meat or wild game meat products cannot be ensured. These grounds include:

- where a trade description that does not comply with section 8-6 of the Wild Game Rules (dealing with general requirements for trade descriptions) or that has been altered or interfered with in contravention of subsection 250(1) or (2) of the Act, has been applied to the prescribed wild game meat or wild game meat products;
- a part of a trade description that has been applied to the prescribed wild game meat or wild game meat products, is in a language other than English and that part is inconsistent with the part that is in English;
- where an official mark, or a resemblance of an official mark, that has been applied to the prescribed wild game meat or wild game meat products does not meet the applicable requirements in Chapter 8 of the Wild Game Rules:
 - was manufactured, supplied or applied by a person other than a person who was permitted to manufacture or supply the official mark;
 - has been altered or interfered with (whether before or after it was applied);
 - does not comply with the requirement that official marks be legible and securely attached;
 - was required to be removed or defaced and has not been;

- was applied by a person using an official marking device that the person was not permitted to possess;
- was applied using an official marking device that was manufactured or supplied by a person other than a person who was permitted to manufacture or supply the official marking device;
- where a resemblance of an official mark has been applied to the wild game meat or wild game meat products in contravention of section 8-33 of the Wild Game Rules;
- where there has been non-compliance with conditions of the approved arrangement as provided for under Divisions 4 to 7 of Part 2 of Chapter 5 of the Wild Game Rules in relation to the wild game meat or wild game meat products in circumstances where the condition should have been complied with before the integrity of the wild game meat or wild game meat products was called into question.

The first note following subsection 9-30(2) refers the reader to the definition of *applied*, in relation to an official mark, in section 8-20 of the Wild Game Rules.

The second note following subsection 9-30(2) refers the reader to the definition of *applied*, in relation to a trade description, in section 247 of the Act.

The third note following subsection 9-30(2) refers the reader to Divisions 4 to 7 of Part 2 of Chapter 5 of the Wild Game Rules, which deals with conditions imposed on approved arrangements for operations to prepare prescribed wild game meat or wild game meat products for export in relation to trade descriptions, official marks, segregation, identification, security, traceability, integrity and transfers.

9-31 Giving certificate of condemnation

Section 9-31 sets out when an authorised officer may give a certificate of condemnation for a carcase or carcase part. A certification of condemnation may be given if:

- the carcase or carcase part has been condemned at a registered establishment; and
- the holder of the approved arrangement covering export operations carried out in relation to the carcase or carcase part at the registered establishment gives the authorised officer a written request for the certificate within 30 days after the carcase or carcase part was condemned; and
- 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 carcase or carcase part.

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

9-32 Other grounds for giving direction

Subsection 305(1) of the Act specifies the person to whom an authorised officer may give a direction under the Act to deal with non-compliance, and the grounds for which the direction may be given. Item 8 of the table in subsection 305(1) allows the rules to prescribe additional persons and grounds for direction to those prescribed persons.

Section 9-32 is made for the purposes of table item 8 in subsection 305(1) of the Act and specifies additional persons in relation to prescribed wild game meat or wild game meat products who may be given a direction by an authorised officer to deal with non-compliance, and the grounds under which a direction may be given. Persons that may be given directions to deal with non-compliance are listed in column 1 of the table and the grounds for giving the directions are in column 2 of the table.

The additional persons to whom an authorised officer may give a direction are applicants and holders of a government certificate and applicants and holders of export permits for prescribed wild game meat or wild game meat products. The relevant grounds for giving a direction to such persons generally relate to:

- the wild game meat or wild game meat products not complying, or not likely to comply, with the Act; or
- the wild game meat or wild game meat products not meeting, or not likely to meet, a relevant importing country requirement; or
- the wild game meat or wild game meat products not being wholesome or having deteriorated; or
- where the integrity of the wild game meat or wild game meat products cannot be ensured; or
- where a matter to be stated in the government certificate in relation to the wild game meat or wild game meat products is not true and correct.

Issuing directions enables authorised officers to deal with prescribed wild game meat or wild game meat products that may affect Australia's trading reputation or may not meet importing country requirements.

Division 4—Miscellaneous

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

Section 306 of the Act deals with identity cards. Subsection 306(5) provides that an authorised officer or approved auditor need not carry the identity card in the circumstances prescribed by the rules.

Section 9-33 is made for the purposes of subsection 306(5) of the Act and provides that an authorised officer or approved auditor is not required to carry an identity card at an establishment, or part of an establishment, where it would be unsafe or unhygienic to do so, or where there is a risk of the card, or of wild game meat or wild game meat products at the establishment, being contaminated.

CHAPTER 10—COMPLIANCE AND ENFORCEMENT

10-1 Samples taken in exercising monitoring or investigation powers

Section 326 of the Act triggers the basic monitoring powers in Part 2 of the *Regulatory Powers (Standard Provisions) Act 2014* (Regulatory Powers Act) for the purposes of the Act. Section 327 provides for additional monitoring powers on top of the basic monitoring powers. Those additional monitoring powers are taken to be monitoring powers under Part 2 of the Regulatory Powers Act.

Section 329 of the Act triggers the basic investigation powers in Part 3 of the Regulatory Powers Act for the purposes of the Act. Section 330 provides for additional investigation powers on top of the basic investigation powers. Those additional investigation powers are taken to be investigation powers under Part 3 of the Regulatory Powers Act.

One of the additional monitoring and investigation powers provided by paragraph 327(2)(a) and subsection 330(2) of the Act, is the power to take, test and analyse samples of anything on premises entered under Parts 2 or 3 of the Regulatory Powers Act.

Section 10-1 provides requirements for the taking of a sample under paragraph 372(2)(a) or subsection 330(2) of the Act. The sample must be identified with a mark or tag, and must be kept in the custody or control of an authorised officer until whichever of the listed events occurs first, in accordance with the Act. Either the sample is:

- destroyed during testing or analysis in accordance with section 412 of the Act; or
- given to an analyst appointed under section 413 of the Act; or
- otherwise disposed of.

10-2 Dealing with things seized in exercising investigation powers

Section 10-2 sets out the requirements if a thing is seized from premises entered by an authorised officer under an investigation warrant or under subsection 347(1) of the Act (where the authorised officer has reasonable grounds for suspecting there may be a thing on the premises that relates to an offence or contravention of a civil penalty provision).

The seized thing must be identified with a mark or tag and kept in the custody or control of an authorised officer until the first of one of the listed events occurs. The events include that the thing is:

- given to an analyst appointed under section 413 of the Act; or
- destroyed during testing or analysis in accordance with section 412 of the Act; or
- forfeited in accordance with subsection 416(1) of the Act; or
- destroyed or otherwise disposed of in accordance with section 418 of the Act; or
- returned or disposed of in accordance with, respectively, subsection 66(4) or section 68 of the Regulatory Powers Act.

The note following section 10-2 refers the reader to section 347 of the Act, which deals with entering premises without a warrant.

CHAPTER 11—MISCELLANEOUS

Part 1—Review of decisions

11-1 Reviewable decisions

Section 381 of the Act sets out the decisions under the Act that are *reviewable decisions* and who can seek a review of such decisions (**the relevant person**). A reviewable decision can be reviewed on its merits internally and, in certain circumstances, externally by the Administrative Appeals Tribunal (the AAT).

Subsection 381(2) of the Act allows the rules to prescribe additional decisions to be reviewable decisions under the Act, and the relevant person for such decisions.

Section 11-1 is made for the purposes of subsection 381(2) of the Act and prescribes the decisions made under the Wild Game Rules which can be reviewed internally or by the AAT if the Secretary personally made the decision. These decisions relate to determining allocations of meat inspection services to an establishment, and the approval of a person to conduct audits.

The specified relevant person may apply in writing for review of these decisions.

Section 383 of the Act sets out the process for internal review of reviewable decisions, other than decisions made by the Secretary personally. The review will be conducted by the Secretary or a delegate of the Secretary who has not been previously involved and who is senior to the original decision-maker. The Secretary or their delegate may affirm the decision, vary the decision, or set the decision aside and substitute a new decision. Review by the AAT is set out in section 385 of the Act.

Reviewable decisions are set out in column 1 of the table in section 11-1, the provisions under which the reviewable decision is made is set out in column 2 of the table and the relevant person for the decision is set out in column 3.

Prescribing the decisions and relevant persons is necessary to allow for review consistent with the Government's policy that an administrative decision that is likely to affect the rights or interests of an individual should be reviewable on its merits, unless to do so would be inappropriate or there are factors justifying the exclusion of merits review.

Part 2—Records

Retention of records is necessary for monitoring compliance with importing country requirements and government and industry standards. Records may also be relevant in relation to the traceability of goods if there is a need to recall those goods. Retaining records is essential for accountability and enables oversight of the export supply chain.

11-2 Purpose of this Part

Section 408 of the Act deals with requirements to retain records. Subsection 408(1) allows the rules to make provision for and in relation to requiring records to be retained by any of the following (relevantly):

- a person who carries out, or has carried out, export operations in relation to prescribed goods;
- a person who manages or controls, or who has managed or controlled, export operations at a registered establishment;
- a person who manages or controls, or has managed or controlled, export operations in accordance with an approved arrangement;
- a person who carries out, or has carried out, export operations in relation to non-prescribed goods in relation to which an application for a government certificate has been made or a government certificate has been issued.

Subsection 408(2) sets out a non-exhaustive list of matters that may be the subject of rules made under section 408.

Section 11-2 is made for the purposes of subsections 408(1) and (2) of the Act and provides that Part 2 of Chapter 11 of the Wild Game Rules (sections 11-2 to 11-11) makes provision for an in relation to requiring the retention of records in relation to wild game meat and wild game meat products.

The note following section 11-2 alerts the reader that a person may commit an offence of strict liability if the person is required to make a record in accordance with a provision of Part 2 of Chapter 11 of the Wild Game Rules and does not comply (subsection 408(3) of the Act).

11-3 General requirements for records

Section 11-3 sets out the general requirements for records required to be retained under this Part 2 of Chapter 11 of the Wild Game Rules in relation to wild game meat or wild game meat products.

Subsection 11-3(1) requires such records to be in English, and to be dated, accurate, legible and able to be audited. In addition, if the record was required to be in another language to meet importing requirements, it must also be kept in that other language (in addition to the English record).

Subsection 11-3(2) specifies that a person is considered to have complied with a requirement to retain a record under Part 2 of Chapter 11 of the Wild Game Rules if they retained a copy of a document where the original version was given to another person, as required, under a Commonwealth or State or Territory law, or in accordance with ordinary commercial practice.

11-4 Government certificates

Subsection 11-4(1) requires a person to whom a government certificate in relation to wild game meat or wild game meat products is issued under the Act, must retain the certificate in a secure place when it is not being used.

Subsection 11-4(2) provides that this requirement does not apply in relation to a government certificate issued by electronic means.

This ensures, for example, that a government certificate is not misused or lost.

11-5 Export permits

Subsection 11-5(1) requires the person to whom an export permit for prescribed wild game meat or wild game meat products is issued under the Act, to retain the permit in a secure place when it is not being used.

Subsection 11-5(2) provides that this requirement does not apply in relation to an export certificate issued by electronic means.

This ensures, for example, that an export permit is not misused or lost.

11-6 Records to be retained by exporter

Subsections 11-6(1) and (2) require an exporter of prescribed wild game meat or wild game meat products to retain the following records for at least two years starting on the day the record is made or when it comes into their possession:

- each declaration given to the exporter under subsection 5-11(2) of the Wild Game Rules;
- each application by the exporter for an export permit for prescribed wild game meat or wild game meat products; and
- any other document that is made by the exporter or comes into the exporter's possession that is relevant to showing whether they have complied or are complying with the applicable requirements of the Act and importing country requirements.

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

Subsection 11-7(1) requires the occupier of a registered establishment for a kind of export operations in relation to prescribed wild game meat or wild game meat products to retain each document they make or that comes into their possession and that is relevant to showing whether they have complied, or are complying, with the applicable requirements of the Act (including the conditions of the establishment's registration).

Subsection 11-7(2) provides that the occupier of a registered establishment must retain each record for at least 2 years, starting from the day the record is made or when it comes into the occupier's possession (as the case may be).

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

Subsection 11-8(1) requires the holder of an approved arrangement for a kind of export operations in relation to prescribed wild game meat or wild game meat products to retain each document they make or that comes into their possession that is relevant to showing compliance with the applicable requirements of the Act, the approved arrangement, and the conditions of the approved arrangement.

The note following subsection 11-8(1) provides examples of records the holder of an approved arrangement for operations to prepare wild game meat or wild game meat products must retain. These are the records under subsections 5-32(2) (verification of compliance), 5-33(2) (action to address non-compliance) and 5-34(3) (internal audits and management reviews).

Subsection 11-8(2) provides that the holder of the approved arrangement must retain each record for at least 2 years required by subsection 11-8(1), starting on the day the record is made or when it comes into the holder's possession (as the case may be).

11-9 Records relating to official marks

Subsection 11-9(1) requires 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 wild game meat or wild game meat products for export to retain each record made under section 8-29 of the Wild Game Rules for at least 3 years after making the record.

Subsection 11-9(2) requires the holder of an approved arrangement for operations to prepare prescribed wild game meat or wild game meat products for export at a registered establishment to retain each record made under section 8-30 of the Wild Game Rules for at least 3 years after making the record.

11-10 Records relating to official marking devices

Section 11-10 requires that a person who is required to make a record under sections 8-38 (official marking devices manufactured or supplied) or 8-39 (official marking devices received, used, damaged, destroyed or returned) of the Wild Game Rules must retain each record for at least 3 years after making the record.

11-11 Records must not be altered or defaced during retention period

Subsection 11-11(1) provides that records that are required to be maintained under Part 2 of Chapter 11 of the Wild Game Rules must not be altered or defaced during the period they are required to be kept (the *retention period*).

Subsection 11-11(2) clarifies that records can be marked up or have notations added to them in accordance with ordinary practice.

Subsection 11-11(3) provides that where a record (the *original record*) is altered or defaced in accordance with ordinary practice, the person responsible for keeping the record must also retain additional documents. These are any documents that come into the person's possession or are created by the person, which shows how the original record was altered or defaced.

Part 3—Samples

11-12 Storage of samples

Section 411 of the Act allows the rules to make provision for and in relation to the storage of samples that may be tested or analysed under the Act.

Subsection 11-12(1) is made for the purposes of section 411 of the Act and requires samples that may be tested or analysed under the Act to be held under conditions that are unlikely to affect the result of any testing or analysis of the samples. This is necessary to preserve the integrity of samples that may be used for regulatory purposes.

Subsection 11-12(2) provides that the requirement in subsection 11-12(1) does not apply in the context of samples that may be tested under Chapter 10 of the Act (compliance and enforcement) or the Regulatory Powers Act. This exception is necessary to allow for samples to be tested and analysed under those provisions in a manner that may destroy the sample.

Part 4—Damaged or destroyed wild game meat or wild game meat products

11-13 Division of compensation between owners

Section 419 of the Act allows the Secretary to approve the payment of a reasonable amount of compensation in respect of goods that are damaged or destroyed in the course of exercising powers or functions under the Act, if the Secretary considers it appropriate. Section 420 provides for matters relating to claims for compensation under section 419.

Subsection 420(2) of the Act sets out who can be paid compensation approved under section 419. Relevantly, paragraph 420(2)(b) provides that if there are two or more owners of the compensable goods, the compensation is to be divided among those owners as prescribed by the rules.

Section 11-13 is made for the purposes of paragraph 420(2)(b) of the Act and sets out how compensation is divided among two or more owners of damaged or destroyed wild game meat or wild game meat products. The total compensation payable must be divided among those owners according to their proportion of interest in the wild game meat or wild game meat products at the time of destruction or damage.

The Secretary must be satisfied the proportion represents the owner's interest at the time the goods were damaged or destroyed. This ensures each owner is paid an amount of compensation equal to their share of ownership that the Secretary considers is equitable in the circumstances.

11-14 Amount of compensation

Subsection 420(5) of the Act provides that the amount of compensation payable under subsection 419(1) is a reasonable amount prescribed by, or determined in accordance with, the rules.

Section 11-14 is made for the purposes of subsection 420(5) of the Act and specifies the amount of compensation payable under subsection 419(1) of the Act to the owners of damaged or destroyed wild game meat or wild game meat products, where the damage or destruction occurred in the course of performing functions or duties, or exercising powers, under the Act.

Subsection 11-14(1) provides the amount of compensation payable for goods damaged by a person who is performing functions or duties or exercising powers under the Act. This is the lesser of either the amount the Secretary determines was the market value of the wild game meat or wild game meat products immediately before they were damaged, or the cost of repairing the damage.

The note following subsection 11-14(1) refers the reader to subsection 419(2) of the Act, which deals with when compensation is not payable in respect of goods that are damaged as a result of samples of the goods being taken.

Subsection 11-14(2) provides that the amount of compensation payable for destroyed wild game meat or wild game meat products is the amount the Secretary determines was the market value of the wild game meat or wild game meat products immediately before their destruction.

Part 5—Relevant Commonwealth liabilities

11-15 Circumstances in which relevant Commonwealth liability of a person is taken to have been paid

Section 431 of the Act provides that a relevant Commonwealth liability of a person is taken to have been paid for the purposes of a specified provision of the Act in the circumstances prescribed by the rules.

Subsection 11-15(1) provides that section 11-15 is made for the purposes of section 431 of the Act, and prescribes circumstances in which a relevant Commonwealth liability of a person is taken to have been paid for the purposes of certain provisions of the Act. The specified provisions of the Act are:

- paragraph 112(2)(b) (registration of establishment);
- paragraph 117(2)(b) (renewal of registration of establishment);
- paragraph 151(2)(b) (approval of proposed arrangement);
- paragraph 156(2)(b) (renewal of approved arrangement);
- paragraph 161(3)(a) (variation of approved arrangement).

The note following subsection 11-15(1) refers the reader to section 12 of the Act for the definition of *relevant Commonwealth liability*.

Subsection 11-15(2) prescribes the circumstances that a relevant Commonwealth liability is taken to have been paid for the purposes of the provisions specified in subsection 11-15(1). These circumstances are where:

- the person, or another person, has given a written undertaking (a *payment undertaking*) to the Secretary to pay the amount;
- the payment undertaking includes a term that the relevant Commonwealth liability is to be reduced by the amount paid in accordance with the undertaking; and
- the Secretary accepts the undertaking.

When accepting an undertaking, the Secretary must consider the financial position of the person who gave the payment undertaking, the nature and likely cost of the export operations, whether the person will be able to comply with the undertaking and, if applicable, meet the cost of the export operations, and any other relevant considerations (paragraph 11-15(2)(c)).

This ensures that the Secretary is able to approve, among other things, the registration of an establishment or a proposed arrangement even where the relevant Commonwealth liability of the applicant person has not been paid, provided the requirements of this section are met.

Subsection 11-15(3) provides that the payment undertaking may be given by a person in relation to their relevant Commonwealth liability, or the relevant Commonwealth liability of another person.

Subsections 11-15(4) and (5) allow for a single undertaking to cover two or more Commonwealth liabilities. Should a single undertaking relate to two or more Commonwealth liabilities, or a person has provided two or more undertakings in relation to different Commonwealth liabilities, then the Secretary may then decide in which order payments are to be applied to reduce the outstanding Commonwealth liabilities.

Subsection 11-15(6) allows for a payment undertaking to be varied at any time by agreement between the Secretary and the person who gave the undertaking.

Subsection 11-15(7) allows the Secretary to agree to a variation to a payment undertaking if, having considered the matters at paragraph 11-15(2)(c), the Secretary considers the variation appropriate, and the variation does not reduce the amount of the remaining liability.

The matters the Secretary is required to consider in paragraph 11-15(2)(c) are the same matters that the Secretary must consider when deciding whether to accept the undertaking in the first place namely, the financial position of the person who gave the undertaking, the nature and likely cost of the relevant export operations, whether the person will be able to comply with the undertaking and, if applicable, meet the cost of the export operations and any other relevant considerations.

CHAPTER 12—TRANSITIONAL PROVISIONS

The transitional provisions in Chapter 12 will ensure that:

- persons who have submitted applications under the old *Export Control (Wild Game Meat) Orders 2005* (old Export Control (Wild Game Meat) Orders) do not have to resubmit those applications for a decision or determination to be made;
- decisions or determinations made under the old Export Control (Wild Game Meat) Orders remain effective;
- requests made by an authorised officer in relation to trade descriptions remain effective; and
- approvals for a person to make or possess an official mark or an official marking device remain effective.

These transitional provisions in Chapter 12 are in addition to transitional provisions provided for in the *Export Control (Consequential Amendments and Transitional Provisions) Act 2020* which provides transitional arrangements for matters that were under the old Export Control (Wild Game Meat) Orders and are now dealt with in the Act. This includes, for example, the transition of registered establishments, approved arrangements, and government certificates.

Part 1—Preliminary

12-1 Definitions

Section 12-1 defines terms which are used in Chapter 12 of the Wild Game Rules (sections 12-1 to 12-18).

The term ***commencement time*** is defined as the time when section 3 of the Act commences.

The term ***old Export Control (Wild Game Meat) Orders*** is defined as the *Export Control (Wild Game Meat and Wild Game Meat Products) Orders 2010*, as in force immediately before the commencement time.

Part 2—Registered establishments: meat inspection services

12-2 Allocations of inspection services in effect immediately before commencement time

Subsection 12-2(1) provides that section 12-2 applies if an allocation of inspection services for a registered establishment under the old Export Control (Wild Game Meat) Orders (Part 1 of Schedule 10) was in effect immediately before the commencement time.

Subsection 12-2(2) has the effect that, after the commencement time, such allocation of inspection services continues to have effect as if it were an allocation of meat inspection services to the registered establishment under Division 1 of Part 6 of Chapter 4 of the Wild Game Rules.

12-3 Application for inspection services not decided, or notice of decision not given, before commencement time

Subsection 12-3(1) provides that section 12-3 applies to an application for inspection services for a registered establishment that had been made the old Export Control (Wild Game Meat) Orders (paragraph 1.1(b) of Schedule 10) if no decision on the application had been made before the commencement time, or if a decision had been made before the commencement time but written notice had not been given to the applicant before that time.

In relation to applications where no decision had been made before the commencement time, subsection 12-3(2) provides that the application is taken, after the commencement time, to be an application under section 4-21 of the Wild Game Rules for a preliminary allocation of meat inspection services to the registered establishment, and subsections 4-21(2) and (3) of the Wild Game Rules (regarding application requirements) do not apply to the application.

In relation to applications where a decision had been made before the commencement time, but written notice of the decision had not been given to the applicant before that time, paragraph 12-3(3)(a) provides that 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 the Wild Game Rules. Paragraph 12-3(3)(b) further provides that the Secretary must as soon as practicable after the commencement time give the applicant written notice in accordance with section 4-23 of the Wild Game Rules.

The note following subsection 12-3(3) directs the reader to section 4-24 of the Wild Game Rules for the procedure following notice of the preliminary allocation.

12-4 Notice of preliminary determination of allocation given before commencement time

Subsection 12-4(1) provides that section 12-4 applies if the Secretary had given written notice of a preliminary determination of the allocation of inspection services to the occupier of a registered establishment under the old Export Control (Wild Game Meat) Orders (clause 3 of Schedule 10), and both of the following apply before the commencement time:

- a memorandum of agreed intent had not been completed by the Secretary and the occupier; and
- there had not been an application by the occupier to the Secretary for the establishment of a committee to review the preliminary determination.

Subsection 12-4(2) provides that the notice of preliminary determination 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 the Wild Game Rules.

The note following subsection 12-4(2) directs the reader to section 4-24 of the Wild Game Rules for the procedure following notice of the preliminary allocation.

12-5 Preliminary determination of allocation agreed before commencement time

Subsection 12-5 relates to memoranda of agreed intent, and determinations of the Secretary that have been deemed to be memoranda of agreed intent.

Subsection 12-5(1) provides that if the Secretary and the occupier of a registered establishment had completed a memorandum of agreed intent under the old Export Control (Wild Game Meat) Orders (clause 4 of Schedule 10), that memorandum continues to have effect after the commencement time as if it had been completed under subsection 4-24(1) of the Wild Game Rules.

Subsection 12-5(2) provides that a determination of the Secretary that had been deemed to be a memorandum of agreed intent under the old Export Control (Wild Game 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 the Wild Game Rules.

12-6 Revised determination made but notice not given before commencement time

Subsection 12-6(1) provides that section 12-6 applies if the Secretary had made a revised determination of the allocation of inspection services for a registered establishment under the old Export Control (Wild Game Meat) Orders (clause 6 of Schedule 10), but written notice of the revised determination had not been given to the occupier of the establishment before the commencement time.

Subsection 12-6(2) provides that the revised determination is taken to be a determination of a revised allocation of meat inspection services to the registered establishment under paragraph 4-25(2)(a) of the Wild Game Rules.

Subsection 12-6(3) provides that the Secretary must, as soon as practicable after the commencement time, give the occupier of the registered establishment written notice of the determination.

Subsection 12-6(4) provides that such a notice has effect as if it had been given under paragraph 4-25(2)(b) of the Wild Game Rules.

The note following subsection 12-6(4) directs the reader to section 4-26 of the Wild Game Rules for the procedure following notice of a revised allocation.

12-7 Notice of revised determination of inspection services given before commencement time

Subsection 12-7(1) provides that section 12-7 applies if the Secretary had given the occupier of a registered establishment written notice of a revised determination under the old Export Control (Wild Game Meat) Orders (clause 6 of Schedule 10), and both of the following apply before the commencement time:

- the Secretary and the occupier had not completed a memorandum of agreed intent under clause 7 of Schedule 10 of the old Export Control (Wild Game Meat) Orders; and

- the occupier had not applied to the Secretary under subclause 8.1 of Schedule 10 of the old Export Control (Wild Game Meat) Orders for the establishment of a committee to review the revised determination.

Subsection 12-7(2) provides that the notice of the revised determination 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 the Wild Game Rules.

The note following subsection 12-7(2) directs the reader to section 4-26 of the Wild Game Rules for the procedure following notice of a revised allocation.

12-8 Revised determination of allocation agreed before commencement time

Section 12-8 provides that if the Secretary and the occupier of a registered establishment had completed a memorandum of agreed intent under the old Export Control (Wild Game Meat) Orders (clause 7 of Schedule 10), 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 the Wild Game Rules.

12-9 Application for review committee made but committee not established before commencement time

Subsection 12-9(1) provides that:

- where an application had been made under the old Export Control (Wild Game Meat) Orders (subclause 5.1 of Schedule 10) to establish a committee to review a preliminary determination of the allocation of meat inspection services to a registered establishment; and
- the Secretary had not established the committee prior to the commencement time,

that application is taken, after the commencement time, to be an application made under subsection 4-24(3) of the Wild Game Rules.

Subsection 12-9(2) provides that:

- where an application had been made under the old Export Control (Wild Game Meat) Orders to establish a committee to review a revised determination of the allocation of meat inspection services to a registered establishment if anyone can it; and
- the Secretary had not established the committee prior to the commencement time,

that application is taken, after the commencement time, to have been made under subsection 4-26(4) of the Wild Game Rules.

12-10 Committee review in progress before commencement time

Subsection 12-10(1) provides that section 12-10 applies where a committee has been established under the old Export Control (Wild Game Meat) Orders (subclause 9.1 of Schedule 10) to review a determination (or a revised determination) of the allocation of meat inspection services for a registered establishment, and where the committee has either not completed its review or has completed its review but not made any recommendations to the Secretary prior to the commencement time.

Subsection 12-10(2) has the effect that where the committee has not completed its review prior to the commencement time, the committee must complete its review and provide a written recommendation to the Secretary after the commencement time as if the old Export Control (Wild Game Meat) Orders were still in force.

Subsection 12-10(3) has the effect that where the committee has completed its review, but has not provided any recommendations to the Secretary prior to the commencement time, the committee must provide a written recommendation to the Secretary as soon as practicable concerning the appropriate allocation of meat inspection services to the registered establishment.

Subsection 12-10(4) provides that a recommendation given under section 12-10 is taken to be given under subsection 4-27(4) of the Wild Game Rules.

12-11 Determination reconsidered but notice not given before commencement time

Subsection 12-11(1) provides that section 12-11 applies if the Secretary has determined the allocation of meat inspection services for the registered establishment under the old Export Control (Wild Game Meat) Orders (subclause 11.1 of Schedule 10) but has not given written notice of that decision prior to the commencement time (under subclause 12.1 of Schedule 10).

Subsection 12-11(2) has the effect that, in these circumstances, the determination made under the old Export Control (Wild Game Meat) Orders is taken, after the commencement time, to have been made under subsection 4-28(1) of the Wild Game Rules.

The note following subsection 12-11(2) explains that a determination made under subsection 4-28(1) of the Wild Game Rules replaces any earlier determination and is taken to be a memorandum of agreed intent between the Secretary and the occupier of the registered establishment.

Subsection 12-11(3) requires the Secretary to give written notice of the decision to the occupier as soon as practicable after the commencement time in accordance with subsections 4-28(4) and (5) of the Wild Game Rules.

The note following subsection 12-11(3) explains that a decision under subsection 4-28(1) is a reviewable decision (see section 11-1 of the Wild Game Rules and Part 2 of Chapter 11 of the Act).

12-12 Application to alter inspection services not decided before commencement time

Subsections 12-12(1) and (2) have the combined effect that where an application to alter an allocation of meat inspection services has been made under the old Export Control (Wild Game Meat) Orders (subclause 19.1 of Schedule 10), but no decision on that application had been made prior to the commencement time, the application is taken, after the commencement time, to have been made under subsection 4-29(1) of the Wild Game Rules.

Subsection 12-12(3) provides that subsections 4-29(2) to (4) of the Wild Game Rules (concerning application requirements) do not apply to such applications.

12-13 Application for additional inspection services not decided before commencement time

Subsections 12-13(1) and (2) have the combined effect that where an application for additional meat inspection services was made under the old Export Control (Wild Game Meat) Orders (subclause 20.1 of Schedule 10), but no decision on that application had been made prior to the commencement time, the application is taken, after the commencement time, to have been made under section 4-30 of the Wild Game Rules.

Subsection 12-13(3) sets out on what basis the application for additional meat inspection services to be allocated is taken to be. Specifically:

- if the applicant's allocation of meat inspection services immediately before the commencement time had been on an annual basis, the application is taken to be for additional meat inspection services to be allocated on a monthly or weekly basis;
- if the applicant's allocation of meat inspection services immediately before the commencement time had been on a monthly basis, the application is taken to be for additional meat inspection services to be allocated on a weekly basis;
- if the applicant's allocation of meat inspection services immediately before the commencement time had been on a weekly basis, the application is taken to be for additional meat inspection services to be allocated on a weekly or daily basis;
- if the applicant's allocation of meat inspection services immediately before the commencement time had been on a daily basis, the application is taken to be for additional meat inspection services to be allocated on a daily basis;
- if the applicant's allocation of meat inspection services immediately before the commencement time had been on an hourly basis, the application is taken to be for additional meat inspection services to be allocated on an hourly basis.

Subsection 12-13(4) provides that subsections 4-30(2) to (7) of the Wild Game Rules (concerning application requirements) do not apply to such applications.

12-14 Notice of termination of additional inspection services given before commencement time

Subsection 12-14(1) provides that section 12-14 applies where the occupier of a registered establishment had given written notice under the old Export Control (Wild Game Meat) Orders (subclause 21 of Schedule 10) to terminate additional inspection services (or any part thereof) allocated to the establishment, but the notice period had not ended prior to the commencement time.

Subsection 12-14(2) provides that, after the commencement time, the notice continues to have effect as if it had been given under section 4-33 of the Wild Game Rules. The notice period remains unchanged and the Secretary must terminate the additional inspection services (or part thereof) at the end of the period specified in the notice.

12-15 Notice of shutdown given before commencement time

Subsection 12-15(1) provides that section 12-15 applies where the occupier of a registered establishment had given written notice under the old Export Control (Wild Game Meat) Orders (subclause 22.1 of Schedule 10) that meat inspection services were not required for a shutdown period specified in the notice, but the notice period had not ended prior to the commencement time.

Subsection 12-15(2) provides that, after the commencement time, the notice continues to have effect as if it had been given under section 4-31 of the Wild Game Rules.

12-16 Variation of allocation for change of circumstances not advised before commencement time

Subsection 12-16(1) provides that section 12-16 applies if the Secretary had varied the allocation of meat inspection services for a registered establishment under the old Export Control (Wild Game Meat) Orders (subclause 23 of Schedule 10) but had not advised the occupier of the establishment of the variation prior to the commencement time.

Subsections 12-16(2) and (3) have the combined effect that, in these circumstances, the variation is, after the commencement time, taken to be a variation made under subsection 4-32(2) of the Wild Game Rules and the Secretary is required, as soon as practicable after the commencement time, to notify the occupier of the variation in accordance with the requirements of subsection 4-32(3) of the Wild Game Rules.

12-17 Disputed allocation not decided before commencement time

Subsection 12-17 has the effect that an application made under the old Export Control (Wild Game Meat) Orders (subclause 24.1 of Schedule 10) for reconsideration of a variation of the allocation of meat inspection services to a registered establishment for which no decision has been made prior to the commencement time, is taken, after the commencement time, to have been made under subsection 4-32(4) of the Wild Game Rules and will be processed as such.

12-18 Notice of reconsideration of disputed allocation not given before commencement time

Subsection 12-18(1) provides that section 12-18 applies where the Secretary had determined, under the old Export Control (Wild Game Meat) Orders (subclause 24.3 of Schedule 10), a new allocation of meat inspection services for a registered establishment following a reconsideration of a varied allocation, but written notice of the new allocation had not been given to the occupier prior to the commencement time (under clause 26 of Schedule 10).

Subsections 12-18(2) and (3) have the combined effect that, after the commencement time, the determination is taken to have been made under paragraph 4-32(6)(b) of the Wild Game Rules and the Secretary is required to give the occupier of the registered establishment written notice of the determination in accordance with paragraph 4-32(7)(b) of the Wild Game Rules.

The note following subsection 12-18(3) notifies the reader that a decision under paragraph 4-32(6)(b) of the Wild Game Rules is a reviewable decision (see section 11-1 of the Wild Game Rules and Part 2 of Chapter 11 of the Act).

Part 3—Approved arrangements

12-19 Information and declarations given before commencement time

Subsection 12-19(1) provides that section 12-19 applies if information and declarations had been given, under the old Export Control (Wild Game Meat) Orders (subclause 8.1 of Schedule 7), to a consignee that is the occupier of a registered establishment in relation to wild game meat or wild game meat products that were at the establishment immediately prior to the commencement time.

Subsection 12-19(2) has the effect that, at the commencement time, such information and declarations are taken to be information and declarations that are required to be given to the occupier under section 5-28 of the Wild Game Rules, and are taken to have been given to the occupier in accordance with paragraph 5-28(2)(b) of the Wild Game Rules.

Part 4—Other matters relating to export

Division 1—Trade descriptions

12-20 Request for translation not complied with before commencement time

Section 12-20 has the effect that if an authorised officer had, by written notice to a person under the old Export Control (Wild Game Meat) Orders (suborder 10.11(4)), requested a translation of part of a trade description or other information but the request had not been complied with prior to the commencement time, the notice continues to have effect after the commencement time as if it had been given to the person under subsection 8-7(3) of the Wild Game Rules.

Division 2—Official marks

12-21 Person approved before commencement time to manufacture an official mark

Subsection 12-21(1) provides that section 12-21 applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under the old Export Control (Wild Game Meat) Orders (paragraph 7.04(f) or subparagraph 7.04(h)(ii)) as a person who may manufacture an official mark in relation to prescribed wild game meat or wild game meat products.

Subsection 12-21(2) has the effect that, at the commencement time, the person is taken to have been given a written approval by the Secretary under paragraph 8-21(c) of the Wild Game Rules to manufacture or supply the official mark in relation to prescribed wild game meat or wild game meat products.

12-22 Person approved before commencement time to apply an official mark

Subsection 12-22(1) provides that section 12-22 applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under the old Export Control (Wild Game Meat) Orders (paragraph 7.01(2)(e)) as a person who may apply an official mark in a specified registered establishment in relation to prescribed wild game meat or wild game meat products.

Subsection 12-22(2) has the effect that, at the commencement time, the person is taken to have been given a written approval by the Secretary under paragraph 8-23(2)(d) of the Wild Game Rules to apply the official mark at the registered establishment in relation to prescribed wild game meat or wild game meat products.

Division 3—Official marking devices

12-23 Person approved before commencement time to manufacture an official marking device

Subsection 12-23(1) provides that section 12-23 applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under the old Export Control (Wild Game Meat) Orders (paragraph 7.04(f) or subparagraph 7.04(h)(ii)) to manufacture an official marking device that is capable of being used to apply an official mark to prescribed wild game meat or wild game meat products.

Subsection 12-23(2) has the effect that, at the commencement time, the person is taken to have been given a written approval by the Secretary under paragraph 8-35(1)(c) of the Wild Game Rules to manufacture or supply the official marking device.

12-24 Person approved before commencement time to possess an official marking device

Subsection 12-24(1) provides that section 12-24 applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under the old Export Control (Wild Game) Orders (paragraph 7.04(f) or subparagraph 7.04(h)(ii)) to possess an official marking device that is capable of being used to apply an official mark to prescribed wild game meat or wild game meat products.

Subsection 12-24(2) has the effect that, at the commencement time, the person is taken to have been given a written approval by the Secretary under paragraph 8-35(1)(c) of the Wild Game Rules 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

Subsection 12-25(1) provides that section 12-25 applies to an application by a person for approval as an approved auditor that had been made under the old Export Control (Wild Game Meat) Orders (subclause 2.1 of Schedule 9) prior to the commencement time, and for which:

- no decision was made, or
- a decision was made but written notice of that decision had not been given,

prior to the commencement time.

Subsection 12-25(2) deals with applications for which a decision was not made prior to the commencement time. Such applications are taken to have been made under subsection 9-7(1) of the Wild Game Rules and will be decided in accordance with the Wild Game Rules. However, the requirements in subsections 9-7(2) and (3) (concerning application requirements) do not apply to such applications.

Subsections 12-25(3) to (5) deal with applications for which a decision was made prior to the commencement time but written notice of that decision had not been given prior to the commencement time.

For such applications:

- if the decision that was made prior to the commencement time was to approve the person as an approved auditor, the decision is taken to have been a decision under paragraph 9-8(1)(a) of the Wild Game Rules. The Secretary must give the applicant written notice of the decision in accordance with section 9-11 of the Wild Game Rules as soon as practicable, or
- if the decision that was made prior to the commencement time 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 the Wild Game Rules.

The note following section 12-25 explains that a decision to refuse to approve the applicant as an approved auditor is a reviewable decision (referring to section 11-1 of the Wild Game Rules) and the Secretary must give the applicant written notice of the decision in accordance with section 382 of the Act.

12-26 Request for further information not complied with before commencement time

Subsection 12-26(1) has the effect that if the Secretary had, under the old Export Control (Wild Game Meat) Orders (clause 3 of Schedule 9), requested a person who applied for approval as an approved auditor provide further specified information or documents, but the request had not been complied with prior to the commencement time, the request must be complied with after the commencement time as if it had been given to the person under subsection 9-9(1) of the Wild Game Rules.

Subsection 12-26(2) provides that 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

Subsection 12-27(1) provides that where the Secretary had, prior to the commencement time, made a decision under the old Export Control (Wild Game Meat) Orders (subclause 12.1 of Schedule 9) to revoke the approval of a person as an approved auditor, but notice of the decision had not been given to the person prior to the commencement time, the Secretary is required to give the person written notice of the decision as soon as practicable after the commencement time.

Subsection 12-27(2) has the effect that after the commencement time the decision is taken to have been given under subsection 9-14(1) of the Wild Game Rules.

The note following section 12-27 explains that a decision under subsection 9-14(1) of the Wild Game Rules to revoke a person's approval to conduct audits is a reviewable decision (referring to section 11-1 of the Wild Game Rules) and the Secretary must give the person written notice of the decision in accordance with section 382 of the Act.

Division 2—Decisions and dispositions

12-28 Disposition applied but not complied with before commencement time

Subsection 12-28(1) provides that section 12-28 applies if an authorised officer applied a disposition to a carcass, carcass part, wild game meat or wild game meat product under the old Export Control (Wild Game Meat) Orders (paragraph 8.02(1)(b)), but the disposition had not been complied with prior to the commencement time.

Subsections 12-28(2) provides that a disposition that had been applied to carcass or carcass parts, and any conditions or requirements attached to the disposition (including any variations) must, after the commencement time, be complied with as if the disposition had been applied under paragraph 9-22(1)(b) of the Wild Game Rules.

Subsection 12-28(3) provides that a disposition that had been applied to wild game meat or wild game meat products, and any conditions or requirements attached to the disposition (including any variations) must, after the commencement time, be complied with as if the disposition had been applied under paragraph 9-23(b) of the Wild Game Rules.

12-29 Certificate of condemnation requested but not given before commencement time

Section 12-29 applies where the occupier of an establishment had, under the old Export Control (Wild Game Meat) Orders (paragraph 8.08(a)), given an authorised officer a written request for a certificate of condemnation for a carcase or carcase part that was condemned at the establishment, the certificate had not been given to the occupier before the commencement time, and an approved arrangement is in force for export operations carried out at the establishment after the commencement time,. In such circumstances, the request is taken to have been made by the holder of the approved arrangement in accordance with paragraph 9-31(b) of the Wild Game Rules.

Statement of Compatibility with Human Rights

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

Export Control (Wild Game Meat and Wild Game Meat Products) Rules 2021

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).

Overview of the instrument

The *Export Control (Wild Game Meat and Wild Game Meat Products) Rules 2021* (the **Wild Game Rules**) has the following purposes:

- In conjunction with the *Export Control Act 2020* (the Act), it implements an improved regulatory framework for the export of prescribed goods, reducing complexity and strengthening compliance;
- It reduces duplication in the regulatory framework and provides streamlined and consolidated export-related requirements;
- It imposes regulatory controls on wild game meat and wild game meat products that are to be exported from Australia so that these products meet trade requirements and maintain overseas market access; and
- It provides a scheme of transitional and savings provisions that will preserve accrued rights and liabilities under the *Export Control (Wild Game Meat) Orders 2010*. The provisions allow for decisions and approvals under the former Orders to continue, where applicable, under the Wild Game Rules.

List of human rights engaged

The Wild Game Rules engage the following rights:

International Covenant on Civil and Political Rights (ICCPR)

- Article 17 of the ICCPR – Right to protection from arbitrary interference with privacy;
- Article 22 of the ICCPR – Right to freedom of association.

Assessment of compatibility with human rights

Right to protection from arbitrary interference with privacy (Article 17 of the ICCPR) and right to freedom of association (Article 22 of the ICCPR)

Article 17 of the ICCPR prohibits arbitrary or unlawful interference with an individual's privacy, family, home or correspondence, and protects a person's honour and reputation from unlawful attacks. The right to privacy can be limited to achieve a legitimate objective where the limitations are lawful and not arbitrary. For an interference with the right to privacy to be permissible, the interference must be authorised by law, be for a reason consistent with the ICCPR and be reasonable in the circumstances. The United Nations Human Rights Committee has interpreted the requirement of 'reasonableness' as implying that any interference with privacy must be proportionate to a legitimate end and be necessary in the circumstances. While the United Nations Human Rights Committee has not defined 'privacy', the term is generally understood to comprise freedom from unwarranted and unreasonable intrusions into activities that society recognises as falling within the sphere of individual autonomy.

Chapters 2, 4, 5, 7, and 9 of the Wild Game Rules require a person to provide information or documents. Requiring persons to provide information or documents may incidentally require the provision of personal information. The collection, use, storage, and disclosure of personal information may engage the right to freedom from arbitrary or unlawful interference with privacy.

The collection of this information is necessary for the legitimate objective of assessing the suitability of a person to participate in export operations and to ensure those persons continue to comply with the legislative requirements in the Wild Game Rules.

A person who provides information in an application 'opts in' to the regulatory system. A person who has opted in should expect that a certain amount of personal information about the way their business operates will need to be provided to the Secretary to gain the benefits of that system.

Article 22(1) of the ICCPR protects the right to freedom of association with others. Article 22(2) permits limitations which are prescribed by law and which are necessary in the interests of national security, public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. This right may be engaged by the requirement to be a fit and proper person which incorporates an assessment of a person's associates.

Fit and proper person test

Participation in Australia's agricultural export markets is not a right; it is a privilege granted by the Australian Government to suitable persons. A person seeking the benefits of participating in those markets does so in the knowledge that the existence of certain prior conduct or associations may result in the rejection of an application, or suspension, variation or revocation of a registration or other approval.

The Wild Game Rules require that approved auditors and third party authorised officers must be fit and proper persons. The Secretary can apply the fit and proper person test. Persons are required to notify the Secretary if they have been convicted of certain specific offences or ordered to pay a pecuniary penalty in relation to certain specified contraventions. When determining whether a person is a fit and proper person, the Secretary may consider the nature of the offences, the interest of the industry or industries relating to the person's export business, and any other relevant matter. While these factors are considered by the Secretary when applying the fit and proper persons test, they may not automatically give rise to a negative finding. Rather, it will be up to the Secretary to consider whether a person is fit and proper after having regard to these matters.

A fit and proper person test can be used to consider a person's history of compliance with legislation and then deny approval to register an establishment, or to suspend, revoke or alter the conditions on an existing approved arrangement. This ensures that persons or companies are suitable entities to be responsible for the appropriate management of relevant risks.

Business associates and others may have influence over the primary person such that they may be able to compel them to undertake illegal activities on their behalf, through inducement or other means. Putting a 'fit and proper person' test in place will notify the department of any associates of the primary person who may pose a risk and allow them to take action to ensure Australia's agricultural exports are not compromised.

The associates' test is designed to ensure that an applicant for a regulatory control under the Act (e.g., a registered establishment) is a suitable person to be responsible for managing relevant risks, considering potential consequences of non-compliance. It is appropriate for associates to be included in the consideration to ensure that the conduct of all types of entities may be considered where the Secretary considers it appropriate to do so.

Enabling the Secretary to take into account a broad range of matters is important when considering whether a person is a fit and proper person because such a person might be involved in the export of a wide range of goods, with varying degrees of risk. This ensures that the integrity of the regulatory framework is not compromised by limiting conduct that can be considered in this context. As the agricultural export sector is regularly changing and evolving, this is reasonable and proportionate and ensures that the current level of market access can be maintained and possibly even increased in future.

Australia's access to markets and the ability to export agricultural goods depends on its trading reputation and the confidence of its trading partners. To the extent these requirements engage Article 17 of the ICCPR, any interference with privacy is not arbitrary as the fit and proper person test is necessary, reasonable and proportionate for the legitimate objective of ensuring that persons who are involved in exporting goods from Australian territory are trustworthy and demonstrate the required integrity necessary to uphold Australian law and protect our trading reputation. In addition, any information collected under the Wild Game Rules and the Act is protected from unauthorised disclosure by confidentiality provisions in sections 388 to 397 of the Act.

While the fit and proper person test could be seen to restrict the associations a relevant person may have, it does not prevent or prohibit a person from holding any particular associations. Rather, holding certain association may mean that a person's circumstances are not compatible with participation in Australia's agricultural export markets. Australia's

agricultural export industries are underpinned by trust. Importing country requirements relating to agricultural goods will often relate to the preservation of public health, with non-compliance representing a risk to Australia's participation in those markets. Consideration of a person's associations is necessary because associates may leverage their personal relationship with the primary person to engage in non-compliant export activities. This may pose a risk to public health and safety. Therefore, to the extent that the fit and proper person test limits the right to freedom of association, it is permissible under Article 22(2) as it is for the purpose of protecting public health.

Summary

The Wild Game Rules are compatible with the right to protection from arbitrary interference with privacy under Article 17 and the right to freedom of association under Article 22 of the ICCPR. To the extent that the 'fit and proper person' test required by the Wild Game Rules limits these rights, this limitation is necessary, proportionate and reasonable to achieve the legitimate objectives of the Act.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights because, to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

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