



Export Control (Animals) Rules 2021

made under section 432 of the

Export Control Act 2020

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About this compilation

This compilation

This is a compilation of the *Export Control (Animals) Rules 2021* that shows the text of the law as amended and in force on 30 April 2024 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Chapter 1—Preliminary

Part 1—Preliminary

1-1 Name

This instrument is the *Export Control (Animals) Rules 2021*.

1-3 Authority

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

1-4 Application of this instrument

This instrument does not apply in relation to the export of live fish as food.

Note: The *Export Control (Fish and Fish Products) Rules 2021* apply in relation to the export of live fish as food.

1-5 Simplified outline of this instrument

General

This instrument prescribes matters and makes other provision in relation to certain livestock (prescribed livestock), other live animals (prescribed live animals), and animal reproductive material (prescribed animal reproductive material) for the purposes of the *Export Control Act 2020* (the *Act*).

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

This instrument prescribes other matters and makes other provision in relation to the export of prescribed livestock, prescribed live animals and prescribed animal reproductive material, including in relation to the following:

- (a) exemptions;
- (b) government certificates;
- (c) registered establishments;
- (d) approved arrangements;
- (e) export licences (including exporter supply chain assurance systems);
- (f) export permits;

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- (g) notices of intention to export;
- (h) official marks and official marking devices;
- (i) audits;
- (j) assessments;
- (k) accreditation of veterinarians;
- (l) approved export programs;
- (m) review of decisions;
- (n) records;
- (o) samples;
- (p) damaged or destroyed live animals or animal reproductive material.

Structure of this instrument and Chapter numbering

This instrument is arranged in Chapters that have the same number and name as the corresponding Chapters in the Act. For example, the provisions of this instrument that are made for the purposes of Chapter 6—Export licences of the Act are included in Chapter 6—Livestock export licences of this instrument. This means there are gaps in the Chapter numbering because there are no provisions for the purposes of some Chapters of the Act.

Part 2—Interpretation

1-6 Definitions

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

- (a) animal reproductive material;
- (b) approved export program;
- (c) Australian territory;
- (d) authorised officer;
- (e) export;
- (f) export operations;
- (g) prepare;
- (h) Regulatory Powers Act.

In this instrument:

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

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

approved arrangement means an approved arrangement that covers a kind of export operations in relation to prescribed livestock.

approved ESCAS means a proposed ESCAS approved under paragraph 6-37(1)(a).

assurance rules has the meaning given by paragraph 5-11(1)(a).

assurance standards has the meaning given by paragraph 5-11(1)(b).

Australian Standards for the Export of Livestock (or **ASEL**) means the document titled *Australian Standards for the Export of Livestock* published by the Department as it exists from time to time.

Note: The Australian Standards for the Export of Livestock could in 2021 be viewed on the Department's website (<http://www.awe.gov.au>).

class of livestock means:

- (a) feeder livestock; or
- (b) slaughter livestock; or
- (c) livestock other than feeder livestock or slaughter livestock.

enclosed shed means a structure:

- (a) that has an overhead cover but may or may not have walls or windows; and
- (b) that is intended to enclose animals.

entity, when used in connection with exporter supply chain assurance operations, means:

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- (a) a facility in another country where operations in relation to a kind of feeder livestock or slaughter livestock are carried out; or
- (b) an importer of that kind of livestock; or
- (c) a person who exports that kind of livestock.

Note: Examples of facilities are feedlots and abattoirs.

ESCAS (short for exporter supply chain assurance system) has the meaning given by section 6-34.

exporter supply chain assurance operations means export operations to assist exporters to comply with their obligations under Part 9 of Chapter 6 (exporter supply chain assurance systems) to ensure the humane treatment and handling of feeder livestock or slaughter livestock that are exported up until, and including, the point of slaughter, including:

- (a) conducting audits in relation to entities; and
- (b) giving assurances to the Secretary and exporters in relation to entities that meet certain standards for the control, traceability and welfare of feeder livestock or slaughter livestock.

Note: An audit referred to in paragraph (a) is not an audit under Part 1 of Chapter 9 of the Act.

feeder livestock means livestock that are exported alive and that are intended to be fattened before being slaughtered for food.

heat stress management plan, for a voyage by a vessel transporting sheep, means a document that contains detailed plans and actions to be implemented during the voyage to manage heat stress in relation to the sheep.

heat-tolerant sheep breed means:

- (a) Awassi; or
- (b) Damara; or
- (c) Dorper; or
- (d) a breed of sheep (other than a Merino or a breed of sheep that is descended from a Merino) approved in writing by the Secretary.

holder of an approved export program means the exporter to whom the notice of approval of the program was given under subsection 9-34(9).

independent qualified mechanical engineer means a person who:

- (a) has relevant qualifications in relation to the operation of ventilation systems; and
- (b) is not an employee of the holder of a livestock export licence or the Department; and
- (c) is accredited by the National Association of Testing Authorities or an equivalent or similar organisation.

livestock means cattle, sheep, goats, deer, buffalo or camelids, and includes the young of any of those animals.

livestock export licence:

- (a) means an export licence to carry out export operations in relation to prescribed livestock; and
- (b) includes an export licence of that kind that has been renewed.

OIE recommendations means the recommendations and standards set out in section 7 of the *Terrestrial Animal Health Code* published by the Office International des Epizooties (also known as the World Organisation for Animal Health) as existing from time to time.

Note: The *Terrestrial Animal Health Code* could in 2021 be viewed on the website of the World Organisation for Animal Health (<http://www.oie.int>).

pen air turnover for a deck of a vessel means the ventilation rate measured in cubic metres per hour for each square metre of pen space on the deck, calculated using an industry standard, or equivalent, method.

prescribed animal reproductive material means animal reproductive material that is prescribed goods under paragraph 2-1(1)(c).

prescribed live animals means live animals that are prescribed goods under paragraph 2-1(1)(b).

Note: ***Prescribed live animals*** does not include livestock (see paragraph 2-1(1)(b)).

prescribed livestock means livestock that are prescribed goods under paragraph 2-1(1)(a).

radio frequency identification means a functioning radio tracking device that is inserted into an animal or forms part of an ear tag.

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

registered establishment means an establishment that is registered for operations to prepare prescribed livestock for export.

relevant importing country authority, for prescribed livestock, prescribed live animals or prescribed animal reproductive material, means the authority or body that is responsible for regulating the importation of prescribed livestock, prescribed live animals or prescribed animal reproductive material into that country from Australian territory.

sheep export licence means a livestock export licence to carry out export operations in relation to sheep.

slaughter livestock means livestock that are exported alive and that are intended to be slaughtered for food (without being fattened).

verified pen air turnover for a deck of a vessel means the pen air turnover for the deck, as verified by an independent mechanical engineer using an industry standard, or equivalent, method.

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veterinarian means a person who is registered under the law of a State or Territory as a veterinarian, a veterinary practitioner or a veterinary surgeon.

Chapter 2—Exporting goods

Part 1—Goods

Division 1—Prescribed goods

2-1 Livestock, other live animals and animal reproductive material that are prescribed goods

- (1) For the purposes of subsection 28(1) of the Act, the following goods are prescribed for the purposes of the Act:
- (a) livestock;
 - (b) live animals (other than livestock) to which subsection (2) of this section applies;
 - (c) animal reproductive material.

Note 1: For *livestock*, see section 1-6. For *animal reproductive material*, see section 12 of the Act.

- (2) This subsection applies to the following animals:
- (a) a warm-blooded animal that is intended to be exported alive;
 - (b) a cold-blooded animal that is intended to be exported alive if, for the purpose of meeting an importing country requirement, a government certificate stating certain matters relating to the animal is required.

Note: This instrument does not apply in relation to the export of live fish as food (see section 1-4).

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Division 2—Prohibited export and prescribed export conditions

2-2 Purpose and application of this Division

- (1) This Division is made for the purposes of section 29 of the Act.
- (2) This Division applies in relation to the following goods:
 - (a) prescribed livestock;
 - (b) prescribed live animals;
 - (c) prescribed animal reproductive material.

Note 1: See Division 1 of this Part in relation to goods that are covered by paragraphs (a), (b) and (c).

Note 2: *Prescribed live animals* does not include livestock (see paragraph 2-1(1)(b)).

- (3) However, a provision of this Division (the *relevant provision*) does not apply in relation to prescribed livestock or prescribed live animals if:
 - (a) the livestock or live animals are to be exported in a circumstance referred to in subsection 52(1) or (3) of the Act; and
 - (b) an exemption from the relevant provision is in force in relation to the livestock or live animals under Part 2 of Chapter 2 of the Act.

2-3 Export of prescribed livestock is prohibited unless prescribed conditions are complied with

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

Prescribed export conditions for prescribed livestock

Item	Prescribed export conditions
1	<p>Export by sea—registered establishment and approved arrangement</p> <p>If the livestock are to be exported by sea:</p> <ol style="list-style-type: none">(a) operations to prepare the livestock for export must be carried out at a registered establishment in relation to the livestock; and(b) at the time the operations are carried out, the registration of the establishment must not be suspended in relation to those operations; and(c) an approved arrangement held by the exporter that covers export operations in relation to the livestock up until they are unloaded at a port or landing place outside Australian territory, including operations to prepare the livestock for export at the registered establishment referred to in paragraph (a), must be in force; and(d) at the time the operations are carried out, the approved arrangement must not be suspended in relation to those operations.
2	<p>Export by air—pre-export quarantine or isolation premises, and approved arrangement</p> <p>If the livestock are to be exported by air and it is an importing country requirement that operations to prepare the livestock for export must be carried out at premises that are approved for pre-export quarantine or isolation:</p>

Prescribed export conditions for prescribed livestock

Item Prescribed export conditions

- (a) operations to prepare the livestock for export must be carried out at a registered establishment in relation to the livestock, or at premises that are approved under paragraph 8-5(2)(a) for pre-export quarantine or isolation of the livestock; and
 - (b) at the time the operations are carried out, the registration of the establishment or the approval of the premises (as the case may be) must not be suspended in relation to those operations; and
 - (c) an approved arrangement held by the exporter that covers export operations in relation to the livestock up until they are unloaded at a port or landing place outside Australian territory, including operations to prepare the livestock for export at the registered establishment or approved premises referred to in paragraph (a), must be in force; and
 - (d) at the time the operations are carried out, the approved arrangement must not be suspended in relation to those operations.
-

3 Livestock export licence

All of the following:

- (a) the exporter must hold a livestock export licence to carry out operations to export the livestock;
 - (b) if the livestock are feeder livestock or slaughter livestock—the exporter must hold an approved ESCAS covering export operations in relation to the livestock from preparation up until and including the point of slaughter;
 - (c) the livestock export licence must be in force and not suspended:
 - (i) at the time the operations referred to in paragraph (b) are carried out; and
 - (ii) at the time the livestock are exported.
-

4 Approved export program

The exporter must hold an approved export program under Division 2 of Part 4 of Chapter 9 that applies to some or all of the export operations carried out in relation to the livestock. At the time the operations are carried out, the approved export program must be in force, and not suspended, in relation to those operations.

5 Notice of intention to export consignment

A person prescribed by section 8-1 must, at the time prescribed by section 8-3, give the Secretary a notice of intention to export a consignment of the livestock.

An approval of the notice of intention to export the consignment must be in force under paragraph 8-6(2)(a). The conditions (if any) of the approval must be complied with.

6 Export permit

The person who intends to export the livestock must hold an export permit for the livestock and the export permit must be in force and not suspended at the time the livestock are exported.

7 Government certificate

If a government certificate in relation to the livestock is required to meet importing country requirements, the person who intends to export the livestock must hold a government certificate in relation to the livestock and the government certificate must be in force at the time the livestock are exported.

Note 1: 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).

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Note 2: The holder of an export permit may commit an offence or be liable to a civil penalty if conditions of the permit are contravened (see section 227 of the Act) and the permit may be revoked (see section 233 of the Act).

2-4 Export of prescribed live animals is prohibited unless prescribed conditions are complied with

The export from Australian territory of prescribed live animals is prohibited unless the conditions specified in the items in the following table are complied with.

Prescribed export conditions for prescribed live animals

Item	Prescribed export conditions
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1	Pre-export quarantine or isolation at approved premises
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If it is an importing country requirement that operations to prepare the live animals for export must be carried out at premises that are approved for pre-export quarantine or isolation:

- (a) operations to prepare the live animals for export must be carried out at premises that are approved under paragraph 8-10(2)(a) for pre-export quarantine or isolation of the live animals; and
 - (b) at the time the operations are carried out, the approval of the premises must not be suspended in relation to those operations.
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2	Notice of intention to export consignment
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A person prescribed by section 8-1 must, at the time prescribed by section 8-3, give the Secretary a notice of intention to export a consignment of the live animals.

An approval of the notice of intention to export the consignment must be in force under paragraph 8-11(2)(a). The conditions (if any) of the approval must be complied with.

3	Export permit
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The person who intends to export the live animals must hold an export permit for the animals and the export permit must be in force and not suspended at the time the animals are exported.

Note 1: **Prescribed live animals** does not include livestock (see paragraph 2-1(1)(b)).

Note 2: For the export of fish and fish products as food, see the *Export Control (Fish and Fish Products) Rules 2021*.

Note 3: A person may commit an offence or be liable to a civil penalty if prescribed goods are exported in contravention of prescribed export conditions (see Division 4 of Part 1 of Chapter 2 of the Act).

Note 4: The holder of an export permit may commit an offence or be liable to a civil penalty if conditions of the permit are contravened (see section 227 of the Act) and the permit may be revoked (see section 233 of the Act).

2-5 Export of prescribed animal reproductive material is prohibited unless prescribed conditions are complied with

The export from Australian territory of prescribed animal reproductive material is prohibited unless the conditions specified in the items in the following table are complied with.

Prescribed export conditions for prescribed animal reproductive material

Item Prescribed export conditions

1 Notice of intention to export consignment

A person prescribed by section 8-1 must, at the time prescribed by section 8-3, give the Secretary a notice of intention to export a consignment of the animal reproductive material.

2 Export permit

The person who intends to export the animal reproductive material must hold an export permit for the animal reproductive material and the export permit must be in force and not suspended at the time the animal reproductive material is exported.

Part 2—Exemptions

2-6 Application of this Part

This Part applies in relation to the following prescribed goods (in this Part called *relevant goods*):

- (a) prescribed livestock;
- (b) prescribed live animals.

Note: See Division 1 of Part 1 of this Chapter in relation to goods that are prescribed livestock and prescribed live animals.

2-7 Exports of small numbers of animals in infrequent consignments

For the purposes of paragraph 52(1)(e) of the Act, Part 2 of Chapter 2 of the Act applies in relation to prescribed livestock if the livestock are to be exported by a person who intends to export no more than 400 animals that are prescribed livestock in no more than 4 consignments during any calendar year.

2-8 Period for making application for exemption

For the purposes of subparagraph 53(3)(f)(i) of the Act, the period within which an application for an exemption in relation to relevant goods must be made is:

- (a) if operations to prepare the relevant goods for export have started—the period of 12 months ending on the day that is 10 business days before the earlier of the following:
 - (i) the date it is proposed to export the relevant goods;
 - (ii) (if applicable) the date pre-export quarantine or isolation begins; or
- (b) in any other case—the period of 12 months ending on the day that is 10 business days before the date it is proposed to start carrying out operations to prepare the relevant goods for export.

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

Note 2: An exemption in relation to relevant goods remains in force for 5 years or, if another period is specified in the instrument of exemption, for the specified period (see section 2-10).

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

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

2-10 Period of effect of exemption

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

- (a) for 5 years; or
- (b) if another period is specified in the instrument of exemption—for the specified period.

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

2-11 Variation of conditions of exemption—matters to which Secretary must have regard

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

2-12 Revocation of exemption—matter to which Secretary must have regard

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

Part 3—Government certificates

Division 1—General

2-13 Application of this Division

This Division makes provision in relation to government certificates in relation to prescribed livestock, prescribed live animals and prescribed animal reproductive material.

Note: Division 2 makes further provision in relation to prescribed livestock, and Division 3 makes further provision in relation to prescribed live animals.

2-14 When government certificate may be issued in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material

- (1) For the purposes of subsections 62(1) and (2) of the Act, a government certificate may be issued in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material that are to be, or that have been, exported.

Note 1: The issuing body for a government certificate in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material is the Secretary (see paragraph 63(1)(b) of the Act).

Note 2: A government certificate in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material issued under section 67 of the Act (other than by electronic means) must be retained in a secure place when it is not being used (see section 11-4 of this instrument).

Note 3: An exporter who applies for a government certificate in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material must retain certain records for at least 2 years (see section 11-6).

Matters to which issuing body may have regard—prescribed livestock

- (2) In deciding whether to issue a government certificate in relation to prescribed livestock, the issuing body may have regard to the following matters:
- (a) the health and welfare of the livestock;
 - (b) any information or undertaking included in the application for the government certificate, or in any document related to the application, as to the treatment, handling or transport of the livestock.

Matters to which issuing body may have regard—prescribed live animals

- (3) In deciding whether to issue a government certificate in relation to prescribed live animals, the issuing body may have regard to the following matters:
- (a) the health and welfare of the animals;
 - (b) whether the pre-export quarantine or isolation, treatment and testing requirements have been or will be met;

- (c) the number of animals to be exported;
- (d) a description and type of the animals, or each animal, to be exported;
- (e) the travel arrangements, including details of the vessel or aircraft, route, container specifications and feed and water arrangements;
- (f) the expected dates of arrival of the animals at, and departure of the animals from, the premises approved under paragraph 8-10(2)(a) for pre-export quarantine or isolation of the live animals.

Matters to which issuing body may have regard—prescribed animal reproductive material

- (4) In deciding whether to issue a government certificate in relation to prescribed animal reproductive material, the issuing body may have regard to the health and condition of the animal reproductive material.

2-14A Application for new government certificate if original government certificate is revoked

- (1) This section applies if a government certificate in relation to any of the following goods is revoked under subsection 75(1) of the Act:
 - (a) prescribed livestock;
 - (b) prescribed live animals;
 - (c) prescribed animal reproductive material.
- (2) For the purposes of paragraph 65(2)(c) of the Act, an application for a new government certificate in relation to the goods must include details of any changes from the information that was included in the application for the government certificate that was revoked.

Note: The issuing body may accept any information or document previously given to an issuing body in connection with the application as satisfying any requirement to give that information or document under subsection 65(2) of the Act (see subsection 65(3) of the Act).

2-15 Circumstances for refusing to issue government certificate

For the purposes of paragraph 67(3)(g) of the Act, each of the following circumstances is prescribed in relation to an application for a government certificate in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material:

- (a) a prescribed export condition that applies in relation to the livestock, live animals or animal reproductive material has not been complied with;
- (b) the applicant for the certificate failed to comply with a direction given to the applicant under subsection 305(1) of the Act (to deal with non-compliance with the requirements of the Act);
- (c) a condition or disease that is likely to affect the acceptability of the livestock, live animals or animal reproductive material to the importing country is present in Australian territory;

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- (d) the export of the livestock, live animals or animal reproductive material could result in trade in the export of goods from Australian territory being adversely affected;
- (e) the applicant for the certificate failed:
 - (i) to return a government certificate as required by section 2-17 of this instrument; or
 - (ii) to retain a government certificate in a secure place in accordance with section 11-4 of this instrument; or
 - (iii) to provide facilities and assistance to an auditor as required by section 271 of the Act.

2-16 Changes that require holder of certificate to give additional or corrected information to issuing body

- (1) This section applies in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material in relation to which a government certificate is in force.
- (2) For the purposes of paragraph 74(1)(b) of the Act, each of the following changes is prescribed:
 - (a) there are reasonable grounds to suspect that the health or welfare of the livestock or live animals or the health or condition of the animal reproductive material cannot be ensured;
 - (b) there are reasonable grounds to suspect that an importing country requirement relating to the livestock, live animals or animal reproductive material will not be, or is not likely to be, met before the livestock, live animals or animal reproductive material are imported into the importing country;
 - (c) there are reasonable grounds to suspect that a prescribed export condition relating to the livestock, live animals or animal reproductive material has not been complied with in circumstances where the condition should have been complied with.

Note: If a change prescribed by this subsection occurs, the holder of the government certificate must, as soon as practicable, give the issuing body additional or corrected information, to the extent that it is relevant to assessing the matters referred to in paragraph 74(2)(a) to (c) of the Act (see subsection 74(2) of the Act). The issuing body is the Secretary (see paragraph 63(1)(b) of the Act).

2-16A Circumstances for revocation of government certificate

- (1) For the purposes of paragraph 75(1)(h) of the Act, this section prescribes circumstances in which a government certificate in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material may be revoked.
- (2) The holder of the government certificate requests the issuing body that issued the certificate or the Secretary, in writing, to revoke the certificate.

2-17 Return of government certificate

- (1) For the purposes of paragraph 76(1)(a) of the Act, each of the following is a circumstance in which a government certificate in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material must be returned to an issuing body:
 - (a) the livestock, live animals or animal reproductive material are no longer intended to be exported to the country in relation to which the certificate was issued;
 - (b) the certificate has been revoked under section 75 of the Act.
- (2) For the purposes of paragraph 76(1)(b) of the Act, a government certificate in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material must be returned to an issuing body as soon as reasonably practicable after the day the event referred to in paragraph (1)(a) or (b) of this section (as applicable) occurs.
- (3) This section does not apply in relation to a government certificate that was issued by electronic means.

Division 2—Prescribed livestock

2-18 Application of this Division

This Division makes further provision in relation to government certificates in relation to prescribed livestock.

2-19 When application for government certificate may be made

For the purposes of subparagraph 62(2)(b)(i) of the Act, a person must not make an application for a government certificate in relation to prescribed livestock until:

- (a) unless paragraph (b) of this subsection applies, operations to prepare the livestock for export in accordance with an approved arrangement have been completed; or
- (b) if the holder of the livestock export licence that covers the livestock is required to prepare the livestock for export in accordance with the holder's operations and governance manual required under subsection 6-1(4) of this instrument—operations to prepare the livestock for export in accordance with that manual have been completed.

Note 1: Paragraph (b) will apply in relation to prescribed livestock if an exemption is in force under Part 2 of Chapter 2 of the Act from the requirement that the livestock be prepared for export in accordance with an approved arrangement (see subsection 6-1(4) and section 6-8 of this instrument).

Note 2: The Secretary may approve a single form that may be used to apply for a government certificate in relation to a kind of prescribed goods and an export permit for the goods (see subsection 239(4) of the Act).

2-21 Requirements that must be complied with before government certificate may be issued

- (1) For the purposes of subparagraph 62(2)(b)(iii) of the Act and subject to subsection (2) of this section, an issuing body must not issue a government certificate in relation to prescribed livestock unless an assessment of the livestock has been carried out under Part 2 of Chapter 9 of the Act at a location chosen by the assessor.

Note: An assessment is not required to be carried out of each animal in a consignment of prescribed livestock in relation to which an application for a government certificate has been made.

- (2) An assessment is not required to be carried out of prescribed livestock in relation to which an application for a government certificate has been made if:
 - (a) a government certificate had previously been issued in relation to the livestock; and
 - (b) the government certificate was revoked after the livestock were exported and before they were accepted into an importing country.

Note: See section 65 of the Act in relation to applications for a government certificate. See also subsection 2-14A(2) of this instrument.

2-22 Issuing body must consider conditions (if any) of approval of notice of intention to export consignment

For the purpose of deciding whether to issue a government certificate in relation to prescribed livestock, an issuing body must consider the conditions (if any) of the approval of the notice of intention to export a consignment including the livestock.

Note: An approval of a notice of intention to export a consignment of prescribed livestock may be given subject to conditions (see subsection 8-6(6)).

Division 3—Prescribed live animals

2-23 Application of this Division

This Division makes further provision in relation to government certificates in relation to prescribed live animals.

Note: *Prescribed live animals* does not include livestock (see paragraph 2-1(1)(b)).

2-24 Issuing body must consider conditions (if any) of approval of notice of intention to export consignment

For the purpose of deciding whether to issue a government certificate in relation to prescribed live animals, an issuing body must consider the conditions (if any) of the approval of the notice of intention to export a consignment including the live animals.

Note: An approval of a notice of intention to export a consignment of prescribed live animals may be given subject to conditions (see subsection 8-11(5)).

Chapter 4—Registered establishments

Part 1—Application of this Chapter

4-1 Application of this Chapter

This Chapter applies in relation to an establishment where operations to prepare prescribed livestock for export (by sea or air) are carried out.

Part 2—Requirements for registration and other matters

Division 1—Requirements for registration

4-2 Matters relating to construction, equipment and facilities

For the purposes of paragraph 112(2)(c) of the Act, the matters to which regard must be had in considering whether the construction of an establishment and its equipment and facilities are suitable for carrying out operations to prepare prescribed livestock for export are as follows:

- (a) whether the construction of the establishment and its facilities comply with Standard 3 of the Australian Standards for the Export of Livestock;
- (b) any other matters that would affect the suitability of the establishment for carrying out the export operations in relation to the kind, class and maximum number of livestock to be held at the establishment.

Note 1: The matters prescribed by this section also apply in relation to an application to renew the registration of the establishment (see subsection 4-11(1)).

Note 2: See also paragraphs 112(2)(a), (b), (d) and (e) of the Act and section 4-3 of this instrument which set out the requirements that must be met for the establishment to be registered for operations to prepare prescribed livestock for export.

4-3 Other requirements for registration

- (1) For the purposes of paragraph 112(2)(f) of the Act, this section prescribes other requirements that must be met for an establishment to be registered for operations to prepare prescribed livestock for export.
- (2) There must be an operations manual for the establishment that clearly states:
 - (a) the export operations to be carried out at the establishment; and
 - (b) the management system to be implemented at the establishment in relation to the export operations, including the supervision arrangements, the arrangements for keeping records, and the maintenance to be carried out at the establishment.

The operations manual must include sufficient detail to enable the export operations to be effectively monitored and audited.

Note: If the establishment is registered for operations to prepare prescribed livestock for export, the operations manual must not be varied except as permitted by section 4-9.

- (3) The occupier of the establishment must have the capacity:
 - (a) to carry out the export operations in accordance with the operations manual; and
 - (b) to comply with the conditions of registration of the establishment.
- (4) The occupier of the establishment must manage or control the day-to-day export operations carried out at the establishment.

- (5) If an approval or licence (or similar permission) from the relevant State or Territory body is required to carry out the export operations at the establishment, the occupier of the establishment must hold that approval or licence (or similar permission).
- (6) The location of the establishment must be appropriate for the kind, class and maximum number of livestock to be held at the establishment and the export operations.
- (7) Adequate measures must be in place to ensure security at the establishment.
- (8) Export operations in relation to prescribed livestock must be carried out at the establishment in a way that will ensure that the requirements of the Act are complied with.

Note 1: The requirements in this section also apply in relation to an application to renew the registration of the establishment (see subsection 4-11(2)).

Note 2: Other requirements that must be met are provided by paragraphs 112(2)(a), (b), (c) and (e) of the Act. In addition, an approved arrangement covering operations to prepare the prescribed livestock for export must be in force (see paragraph 112(2)(d) of the Act and item 1 of the table in section 2-3 of this instrument).

Division 2—Other matters relating to registration

4-4 Period of effect of registration

For the purposes of paragraph 115(5)(b) of the Act, the registration of an establishment for operations to prepare prescribed livestock for export remains in force for 5 years starting on the date the registration takes effect.

Note 1: The Secretary must give written notice of the date the registration takes effect (see subparagraph 114(a)(iv) of the Act).

Note 2: The last day of the 5 year period is the expiry date for the registration unless an expiry date set under subsection 112(3) or 117(3) or paragraph 123(1)(c) or (d) of the Act is in force in relation to the registration (see paragraph 115(4)(a) of the Act). The registration of the establishment remains in force until the end of the expiry date unless it is renewed or revoked on or before that date (see subsection 115(2) of the Act).

Part 3—Conditions of registration

4-5 Purpose of this Part

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

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

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

4-5A Australian Standards for the Export of Livestock

Export operations

- (1) Export operations to prepare prescribed livestock for export (by sea or air) at a registered establishment must be carried out in accordance with the Australian Standards for the Export of Livestock.

Reporting requirements

- (2) Without limiting subsection (1), the occupier of the registered establishment must give the Department written reports as required by the Australian Standards for the Export of Livestock.

Note: The Secretary may publish information given in those reports (see section 4-18).

4-6 Prescribed livestock at establishment must be covered by registration, and approved arrangement or operations and governance manual

- (1) Prescribed livestock for export must not be accepted, held or assembled at a registered establishment unless the livestock are covered by the registration of the establishment.
- (2) Prescribed livestock for export must not be accepted, held or assembled at a registered establishment unless the occupier of the establishment is satisfied the livestock can be held and assembled in accordance with:
 - (a) unless paragraph (b) applies, the standards and requirements provided in the approved arrangement covering operations to prepare the livestock for export; or
 - (b) if the holder of the livestock export licence covering the livestock has an exemption under Part 2 of Chapter 2 of the Act from the requirement that the livestock be prepared for export in accordance with an approved arrangement—the holder's operations and governance manual required under subsection 6-1(4) of this instrument.

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4-7 Occupier must provide reasonable assistance to accredited veterinarian

The occupier of a registered establishment must provide reasonable assistance to an accredited veterinarian who is carrying out export operations in an approved export program at the establishment.

4-8 Compliance with operations manual

- (1) Export operations and maintenance at a registered establishment must be carried out in accordance with the operations manual for the establishment required under subsection 4-3(2) (including any variations of the operations manual made as permitted by section 4-9).
- (2) However, if carrying out export operations at the registered establishment in accordance with the operations manual would be inconsistent with:
 - (a) the requirements of the Act; or
 - (b) a notice of intention to export a consignment of prescribed livestock held and assembled at the establishment;then subsection (1) does not apply to the extent of the inconsistency.

4-9 Variation of operations manual

- (1) The operations manual for a registered establishment required under subsection 4-3(2) must not be varied after the establishment is registered unless:
 - (a) the occupier of the establishment has applied to the Secretary under subsection 120(1) of the Act to vary the operations manual and the Secretary has approved the variation and given the occupier notice of the variation under subsection 121(1) of the Act; or
 - (b) the occupier was required to make the variation by notice in writing given to the occupier by the Secretary under subsection (2) of this section.
- (2) If the Secretary gives the occupier of a registered establishment a written notice requiring the occupier to vary the operations manual for the establishment required under subsection 4-3(2), the occupier must vary the operations manual as required within the period specified in the notice.
- (3) If the operations manual for a registered establishment is varied as required under subsection (2), the occupier of the establishment must give a copy of the varied operations manual to the Secretary as soon as practicable after the variation is made.

Part 4—Renewal of registration

4-10 Period within which application to renew registration must be made

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

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

4-11 Requirements for renewal of registration

Matters relating to construction, equipment and facilities

- (1) For the purposes of paragraph 117(2)(e) of the Act, the matters prescribed by section 4-2 of this instrument are prescribed in relation to a registered establishment.

Other requirements that must be met

- (2) For the purposes of paragraph 117(2)(g) of the Act, the requirements prescribed by section 4-3 of this instrument are prescribed in relation to a registered establishment.

Note: Other requirements that must be met are provided by paragraphs 117(2)(a) to (d) of the Act. In addition, an approved arrangement covering operations to prepare the prescribed livestock for export must be in force (see paragraph 117(2)(f) of the Act and item 1 of the table in section 2-3 of this instrument).

Part 5—Variation of registration

4-12 Variation by Secretary—other reasons for varying registration

For the purposes of paragraph 123(2)(h) of the Act, the following reasons for making a variation in relation to the registration of a registered establishment are prescribed:

- (a) trade in the export from Australian territory of prescribed livestock could be adversely affected if the registration is not varied;
- (b) the health or welfare of prescribed livestock to be exported from Australian territory cannot be ensured if the registration is not varied.

Part 6—Suspension of registration

4-13 Other grounds for suspension

- (1) For the purposes of paragraph 127(1)(k) of the Act, this section prescribes grounds for suspending the registration of a registered establishment.

Note: Other grounds for suspending the registration of a registered establishment are provided by paragraphs 127(1)(a) to (j) of the Act. One of these grounds is if a requirement (including a requirement prescribed by section 4-3 of this instrument) is no longer met (see paragraph 127(1)(c) of the Act).

Adverse effect on trading relationship

- (2) It is a ground for suspension that trade in the export from Australian territory of prescribed livestock could be adversely affected if the registration is not suspended.

Animal health or welfare

- (3) It is a ground for suspension that the health or welfare of prescribed livestock to be exported from Australian territory cannot be ensured if the registration is not suspended.

Note: The Australian Standards for the Export of Livestock includes requirements relating to animal health and welfare.

Failure to provide additional or corrected information

- (4) It is a ground for suspension that:
- (a) the occupier of the establishment was required to comply with subsection 378(2) of the Act (requirement to provide additional or corrected information) in relation to:
 - (i) information included in an application under a provision referred to in paragraph 376(1)(b) of the Act relating to the establishment; or
 - (ii) information or a document given to the Secretary in relation to such an application; and
 - (b) the occupier failed to comply with the requirement.

Part 7—Revocation of registration

4-14 Other grounds for revocation

- (1) For the purposes of paragraph 138(1)(k) of the Act, this section prescribes grounds for revoking the registration of a registered establishment.

Note: Other grounds for revoking the registration of a registered establishment are provided by paragraphs 138(1)(a) to (j) of the Act. One of these grounds is if a requirement (including a requirement prescribed by section 4-3 of this instrument) is no longer met (see paragraph 138(1)(c) of the Act).

Adverse effect on trading relationship

- (2) It is a ground for revocation that trade in the export from Australian territory of prescribed livestock could be adversely affected if the registration is not revoked.

Animal health or welfare

- (3) It is a ground for revocation that the health or welfare of prescribed livestock to be exported from Australian territory cannot be ensured if the registration is not revoked.

Note: The Australian Standards for the Export of Livestock includes requirements relating to animal health and welfare.

Failure to provide additional or corrected information

- (4) It is a ground for revocation that:
- (a) the occupier of the establishment was required to comply with subsection 378(2) of the Act (requirement to provide additional or corrected information) in relation to:
 - (i) information included in an application under a provision referred to in paragraph 376(1)(b) of the Act relating to the establishment; or
 - (ii) information or a document given to the Secretary in relation to such an application; and
 - (b) the occupier failed to comply with the requirement.

Part 8—Matters relating to applications

4-15 Application of this Part

This Part applies in relation to the following applications:

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

4-16 Initial consideration period

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

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

4-17 Maximum period within which request relating to application must be complied with

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

Part 9—Miscellaneous

4-18 Secretary may publish information in reports relating to prescribed livestock

The Secretary may publish information included in reports given to the Department by the occupier of a registered establishment as required by the Australian Standards for the Export of Livestock.

Chapter 5—Approved arrangements

Part 1—Approved arrangements other than for exporter supply chain assurance operations

Division 1—Requirements for approval

5-1 Other requirements for approval

- (1) For the purposes of paragraph 151(2)(d) of the Act, this section prescribes other requirements that must be met for approval of a proposed arrangement for a kind of export operations in relation to prescribed livestock (other than exporter supply chain assurance operations).

Note 1: The requirements provided by paragraphs 151(2) (b) and (c) of the Act must also be met.

Note 2: Part 2 of this Chapter deals with approved arrangements for exporter supply chain assurance operations.

- (2) The applicant for approval of the proposed arrangement must hold a livestock export licence to carry out operations to export the prescribed livestock covered by the arrangement.
- (3) The proposed arrangement must record that the applicant for approval of the arrangement is committed:
 - (a) to meeting the objects referred to in section 3 of the Act that are applicable to the export operations and the prescribed livestock covered by the arrangement; and
 - (b) to complying with the requirements of the Act in relation to those operations; and
 - (c) to carrying out the export operations in accordance with the arrangement.
- (4) The proposed arrangement must cover each step of:
 - (a) the operations to be carried out to prepare prescribed livestock for export; and
 - (b) the export operations to be carried out in relation to prescribed livestock that have been exported up until they are unloaded at a port or landing place outside Australian territory.
- (5) Carrying out a kind of export operations in relation to the prescribed livestock in accordance with the proposed arrangement will ensure compliance with the Australian Standards for the Export of Livestock.
- (6) Carrying out a kind of export operations in accordance with the proposed arrangement will provide a sound basis for issuing:
 - (a) an export permit for prescribed livestock covered by the arrangement; or
 - (b) a government certificate in relation to prescribed livestock covered by the arrangement.

Chapter 5 Approved arrangements

Part 1 Approved arrangements other than for exporter supply chain assurance operations

Division 1 Requirements for approval

Section 5-1

- (7) Carrying out a kind of export operations in relation to the prescribed livestock in accordance with the proposed arrangement will ensure compliance with any importing country requirements.

Division 2—Conditions of approved arrangement

5-2 Purpose of this Division

- (1) For the purposes of paragraph 152(1)(b) of the Act, this Division prescribes conditions of an approved arrangement for a kind of export operations in relation to prescribed livestock (other than exporter supply chain assurance operations).
- (2) A provision of this Division applies in relation to an approved arrangement referred to in subsection (1) if the provision relates to a kind of export operations that are covered by the arrangement.

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

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

5-3 Information for occupier of registered establishment where prescribed livestock are to be prepared for export by sea or air

- (1) This section applies in relation to an approved arrangement for operations to prepare prescribed livestock for export (by sea or air) at a registered establishment.
- (2) The holder of the approved arrangement must give the information referred to in subsection (4) to the occupier of a registered establishment where prescribed livestock covered by the approved arrangement are to be held and assembled for export.
- (3) The information must be given to the occupier of the registered establishment as soon as reasonably practicable before the prescribed livestock arrive at the establishment.
- (4) For the purposes of subsection (2), the information is as follows:
 - (a) a description (including number, kind, class and condition) of the prescribed livestock;
 - (b) the dates the prescribed livestock are expected to arrive at, and depart from, the registered establishment;
 - (c) the date the prescribed livestock are to be exported;
 - (d) the importing country requirements relating to sourcing, pre-export quarantine or isolation, treatment and testing, and the exporter's plans to meet those requirements;
 - (e) the Standards in the Australian Standards for the Export of Livestock that are relevant to the prescribed livestock while they are at the registered establishment, and the holder's plans to meet those Standards;
 - (f) the applicable requirements in this instrument, and the holder's plans to meet those requirements.

Note: Section 20 of the Act provides for when goods are exported for the purposes of the Act.

Chapter 5 Approved arrangements

Part 1 Approved arrangements other than for exporter supply chain assurance operations

Division 2 Conditions of approved arrangement

Section 5-4

- (5) If information given to the occupier of the registered establishment under subsection (2) needs to be changed (for example, because it is incomplete or incorrect) or additional information needs to be given, the holder of the approved arrangement must give the changed or additional information to the occupier as soon as reasonably practicable after becoming aware of the relevant facts.

5-4 Information for occupier of approved premises where prescribed livestock are to be prepared for export by air

- (1) This section applies in relation to an approved arrangement for operations to prepare prescribed livestock for export by air at premises (the *approved premises*) that are approved under paragraph 8-5(2)(a) for pre-export quarantine or isolation of the livestock.
- (2) The holder of the approved arrangement must give the information referred to in subsection (4) to the occupier of the approved premises where prescribed livestock covered by the approved arrangement are to be held and assembled for export.
- (3) The information must be given to the occupier of the approved premises as soon as reasonably practicable before the prescribed livestock arrive at the premises.
- (4) For the purposes of subsection (2), the information is as follows:
- (a) a description (including number, kind, class and condition) of the prescribed livestock;
 - (b) the dates the prescribed livestock are expected to arrive at, and depart from, the approved premises;
 - (c) the date the prescribed livestock are to be exported;
 - (d) the importing country requirements relating to sourcing, pre-export quarantine or isolation, treatment and testing, and the exporter's plans to meet those requirements;
 - (e) the Standards in the Australian Standards for the Export of Livestock that are relevant to the prescribed livestock while they are at the approved premises, and the holder's plans to meet those Standards;
 - (f) the applicable requirements in this instrument, and the exporter's plans to meet those requirements.

Note: Section 20 of the Act provides for when goods are exported for the purposes of the Act.

- (5) If information given to the occupier of the approved premises under subsection (2) needs to be changed (for example, because it is incomplete or incorrect) or additional information needs to be given, the holder of the approved arrangement must give the changed or additional information to the occupier as soon as reasonably practicable after becoming aware of the relevant facts.

5-4A Importing country requirements must be met

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

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

5-4B Requirements of Australian Standards for the Export of Livestock must be met

An approved arrangement must ensure that the requirements of the Australian Standards for the Export of Livestock are met in relation to the following:

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

Division 3—Renewal of approved arrangement

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

For the purposes of paragraph 155(4)(a) of the Act, the period within which an application to renew an approved arrangement for a kind of export operations in relation to prescribed livestock (other than exporter supply chain assurance operations) must be made is the period of 60 days starting on the day that is 180 days before the expiry date for the approved arrangement.

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

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

Division 4—Variation of approved arrangement

5-6 Application by holder for variation—grounds for refusing application

For the purposes of paragraph 161(3)(c) of the Act, it is a requirement in relation to an approved arrangement for a kind of export operations in relation to prescribed livestock (other than exporter supply chain assurance operations) that, if the approved arrangement is varied, or the conditions of the approved arrangement are varied, as proposed, the requirements prescribed by section 5-1 of this instrument will continue to be met.

Division 5—Suspension of approved arrangement

5-7 Other grounds for suspension

- (1) For the purposes of paragraph 171(1)(l) of the Act, this section prescribes grounds for suspending an approved arrangement for a kind of export operations in relation to prescribed livestock (other than exporter supply chain assurance operations).

Note: Other grounds for suspending an approved arrangement are provided by paragraphs 171(1)(a) to (k) of the Act. One of these grounds is if a requirement provided by subsection 151(2) of the Act (including a requirement prescribed by Division 1 of this Part) is no longer met (see paragraph 171(1)(c) of the Act).

Adverse effect on trading relationship

- (2) It is a ground for suspension that trade in the export from Australian territory of prescribed livestock could be adversely affected if the approved arrangement is not suspended.

Animal health or welfare

- (3) It is a ground for suspension that the health or welfare of prescribed livestock to be exported from Australian territory cannot be ensured if the approved arrangement is not suspended.

Note: The Australian Standards for the Export of Livestock includes requirements relating to animal health and welfare.

Failure to provide additional or corrected information

- (4) It is a ground for suspension that:
- (a) the holder of the approved arrangement was required to comply with subsection 378(2) of the Act (requirement to provide additional or corrected information) in relation to:
 - (i) information included in an application under a provision referred to in paragraph 376(1)(c) of the Act relating to the arrangement; or
 - (ii) information or a document given to the Secretary in relation to such an application; and
 - (b) the holder failed to comply with the requirement.

Division 6—Revocation of approved arrangement

5-8 Other grounds for revocation

- (1) For the purposes of paragraph 179(1)(1) of the Act, this section prescribes grounds for revoking an approved arrangement for a kind of export operations in relation to prescribed livestock (other than exporter supply chain assurance operations).

Note: Other grounds for revoking an approved arrangement are provided by paragraphs 179(1)(a) to (k) of the Act. One of these grounds is if a requirement provided by subsection 151(2) of the Act (including a requirement prescribed by Division 1 of this Part) is no longer met (see paragraph 179(1)(c) of the Act).

Adverse effect on trading relationship

- (2) It is a ground for revocation that trade in the export from Australian territory of prescribed livestock could be adversely affected if the approved arrangement is not revoked.

Animal health or welfare

- (3) It is a ground for revocation that the health or welfare of prescribed livestock to be exported from Australian territory cannot be ensured if the approved arrangement is not revoked.

Note: The Australian Standards for the Export of Livestock includes requirements relating to animal health and welfare.

Failure to provide additional or corrected information

- (4) It is a ground for revocation that:
- (a) the holder of the approved arrangement was required to comply with subsection 378(2) of the Act (requirement to provide additional or corrected information) in relation to:
 - (i) information included in an application under a provision referred to in paragraph 376(1)(c) of the Act relating to the arrangement; or
 - (ii) information or a document given to the Secretary in relation to such an application; and
 - (b) the holder failed to comply with the requirement.

Part 2—Approved arrangements for exporter supply chain assurance operations

Division 1—Requirements for approval

5-9 Purpose of this Division

For the purposes of paragraph 151(2)(d) of the Act, this Division prescribes other requirements that must be met for approval of a proposed arrangement for exporter supply chain assurance operations.

Note 1: For *exporter supply chain assurance operations*, see section 1-6 of this instrument.

Note 2: An ESCAS may provide that independent auditing and reporting in relation to certain matters covered by the ESCAS is to be carried out in accordance with an approved arrangement for exporter supply chain assurance operations held by a person specified in the ESCAS (see subsection 6-35(5) of this instrument).

Note 3: The requirements provided by paragraphs 151(2)(b) and (c) of the Act must also be met. It is also a requirement for approval of the proposed arrangement that the applicant is a fit and proper person (see paragraph 151(2)(a) of the Act and section 5-24 of this instrument).

5-10 Requirements relating to the applicant

- (1) The applicant for approval of the proposed arrangement:
 - (a) must be an Australian company; and
 - (b) must not hold a livestock export licence.
- (2) The applicant for approval of the proposed arrangement must not have any direct or indirect pecuniary or other interest that conflicts, or could conflict, with the proper carrying out of the exporter supply chain assurance operations covered by the arrangement.

Note: The application for approval must be accompanied by a declaration stating:

- (a) the interests (if any), direct or indirect and pecuniary or otherwise, of the applicant that conflict or could conflict with the applicant's ability to properly carry out the exporter supply chain assurance operations covered by the arrangement; or
 - (b) if the applicant has no such interests—that fact (see section 5-27).
- (3) The proposed arrangement must record that the applicant for approval of the proposed arrangement is committed:
 - (a) to meeting the objects referred to in section 3 of the Act that are applicable to the exporter supply chain assurance operations covered by the arrangement; and
 - (b) to complying with the requirements of the Act in relation to those operations; and
 - (c) to carrying out those operations in accordance with the arrangement.

5-11 Assurance rules and standards

- (1) The proposed arrangement must provide for:
 - (a) rules (the *assurance rules*) for carrying out exporter supply chain assurance operations covered by the arrangement; and
 - (b) standards (the *assurance standards*) that must be met for assurances to be given in relation to entities in accordance with the arrangement.
- (2) Without limiting paragraph (1)(a), the assurance rules must provide for the system to be implemented to deal with any identified non-conformity with the assurance standards by an entity, including the circumstances in which an assurance given in relation to an entity in accordance with the arrangement may be removed.

Note 1: The proposed arrangement (including the assurance rules and assurance standards) may be recorded in one or more separate documents (see paragraph 150(2)(a) of the Act).

Note 2: The assurance rules or assurance standards may need to be varied under Subdivision B of Division 1 of Part 4 of Chapter 5 of the Act if, for example, the International Organisation for Standardisation requirements or the OIE recommendations are varied or replaced. See also paragraph 5-21(c) of this instrument.

5-12 Applicant's management practices and business structure etc.

The proposed arrangement must record details of the following matters:

- (a) the applicant's management practices;
- (b) the business structure of the applicant;
- (c) the persons who are to manage or control the exporter supply chain assurance operations covered by the arrangement;
- (d) the system of controls to be implemented to ensure that the conditions prescribed by Division 2 will be complied with in relation to the exporter supply chain assurance operations covered by the arrangement.

5-13 Kinds of prescribed livestock and countries in relation to which exporter supply chain assurance operations are to be carried out

The proposed arrangement must specify:

- (a) each kind of feeder livestock or slaughter livestock in relation to which exporter supply chain assurance operations covered by the arrangement are to be carried out; and
- (b) each country in relation to which those operations are to be carried out in relation to that kind of livestock.

Division 2—Conditions of approved arrangement

5-14 Purpose of this Division

For the purposes of paragraph 152(1)(b) of the Act, this Division prescribes conditions of an approved arrangement for exporter supply chain assurance operations.

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

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

5-15 Requirements for approval must continue to be met

- (1) The requirements prescribed by Division 1 must continue to be met in relation to the approved arrangement and the holder of the approved arrangement.
- (2) For the purposes of subsection (1):
 - (a) a reference in Division 1 to a proposed arrangement is to be read as a reference to an approved arrangement; and
 - (b) a reference to the applicant for approval of a proposed arrangement is to be read as a reference to the holder of an approved arrangement.

5-16 Compliance with assurance rules and meeting assurance standards

- (1) The holder of an approved arrangement must ensure that exporter supply chain assurance operations covered by the approved arrangement are carried out in accordance with the assurance rules provided by the approved arrangement.

Note: An approved arrangement must provide for assurance rules (see paragraph 5-11(1)(a)).
- (2) The holder of an approved arrangement must not give an assurance in relation to an entity unless:
 - (a) an audit has been conducted in accordance with the approved arrangement in relation to:
 - (i) the export operations carried out at or by the entity in relation to a kind of feeder livestock or slaughter livestock; and
 - (ii) the construction of the premises, and the equipment and facilities used at the premises, where the operations are carried out; and
 - (b) the audit finds that the operations and the premises meet the assurance standards provided by the approved arrangement.

Note 1: An approved arrangement must provide for assurance standards (see paragraph 5-11(1)(b)).

Note 2: For *export operations*, see section 16 of the Act. Export operations includes operations in relation to goods that have been exported up until the delivery of the goods to their final overseas destination or, in the case of live animals intended to be slaughtered, up until and including the point of slaughter (see paragraph 16(d) of the Act).

- (3) The holder of an approved arrangement must conduct regular reviews of the assurance rules and assurance standards provided by the approved arrangement.

5-17 Information must be given to the Secretary about entities in relation to which exporter supply chain assurance operations have been carried out

- (1) The holder of an approved arrangement must, on written request by the Secretary, give the Secretary information or documents specified in the request relating to entities in relation to which exporter supply chain assurance operations have been carried out in accordance with the approved arrangement.

Note: The Secretary may publish information (including information contained in a document) given to the Secretary in compliance with a request made under this subsection (see section 5-25).

- (2) The holder of the approved arrangement must comply with the request:
- (a) no later than 10 business days after receiving it; or
 - (b) if a shorter period is specified in the request under subsection (3)—no later than the period specified in the request.
- (3) A request under subsection (1) may specify a period shorter than 10 business days (but not less than 1 business day) for complying with the request if the Secretary reasonably believes that the reason for the request is serious and urgent.

5-18 Report to Secretary on exporter supply chain assurance operations carried out

- (1) The holder of an approved arrangement must prepare and give to the Secretary a written report on the exporter supply chain assurance operations carried out in accordance with the approved arrangement during each period of 3 months (the *reporting period*) the approved arrangement is in force. The report must be given to the Secretary as soon as practicable after the end of the relevant reporting period.
- (2) If an approved arrangement ceases to be in force, the holder of the approved arrangement must prepare and give to the Secretary a written report on the exporter supply chain assurance operations carried out in accordance with the approved arrangement during the period (the *reporting period*) after the period covered by the most recent report given under subsection (1). The report must be given to the Secretary as soon as practicable after the approved arrangement has ceased to be in force.
- (3) Without limiting subsection (1) or (2), a report under that subsection must:
- (a) identify each entity in relation to which exporter supply chain assurance operations were carried out in accordance with the approved arrangement during the reporting period; and
 - (b) set out the findings of audits that were conducted in accordance with the approved arrangement during the reporting period; and

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Division 2 Conditions of approved arrangement

Section 5-18

- (c) identify each entity in relation to which assurances were given in accordance with the approved arrangement during the reporting period; and
- (d) include any other information in relation to the entities referred to in paragraph (a) that the holder considers is relevant to assist exporters to comply with their obligations under Part 9 of Chapter 6 (exporter supply chain assurance systems).

Note: The Secretary may publish information included in a report given to the Secretary under subsection (1) or (2) (see section 5-25).

Division 3—Renewal of approved arrangement

5-19 Period within which application to renew approved arrangement must be made

For the purposes of paragraph 155(4)(a) of the Act, the period within which an application to renew an approved arrangement for exporter supply chain assurance operations must be made is the period of 60 days starting on the day that is 180 days before the expiry date for the approved arrangement.

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

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

Division 4—Variation of approved arrangement

5-20 Application by holder for variation—grounds for refusing application

For the purposes of paragraph 161(3)(c) of the Act, it is a requirement in relation to an approved arrangement for exporter supply chain assurance operations that, if the approved arrangement is varied, or the conditions of the approved arrangement are varied, as proposed, the requirements prescribed by Division 1 of this Part of this instrument will continue to be met.

5-21 Significant variations

For the purposes of subparagraph 164(2)(c)(ii) of the Act, the following kinds of variations are prescribed in relation to an approved arrangement for exporter supply chain assurance operations:

- (a) a variation of the business structure of the holder of the approved arrangement;
- (b) a variation because of an event referred to in paragraph 186(1)(b) or (c) of the Act (relating to insolvency);
- (c) a variation (other than to correct a minor or technical error) to the assurance rules or assurance standards provided by the approved arrangement;
- (d) the removal of a country, or the addition of a country, in relation to which the exporter supply chain assurance operations are to be carried out;
- (e) a variation that may have the effect that carrying out exporter supply chain assurance operations in accordance with the approved arrangement will no longer ensure compliance with the requirements of the Act in relation to those operations.

Example: For the purposes of paragraph (a), each of the following would be a change in the holder's business structure:

- (a) a change in a person who manages or controls export operations covered by the approved arrangement;
- (b) if the holder is a partnership—a change in the membership of the partnership.

Note 1: If the holder of the approved arrangement wishes to make any of the variations prescribed by this section, or vary the arrangement to remove or add a kind of prescribed livestock, the holder must apply to the Secretary under subsection 161(1) of the Act to approve the variation. See also section 164 of the Act.

Note 2: The holder of the approved arrangement may commit an offence or be liable to a civil penalty if a variation of the approved arrangement prescribed by this section is implemented and the variation has not been approved by the Secretary under paragraph 161(2)(a) of the Act (see section 163 of the Act).

Division 5—Suspension of approved arrangement

5-21A Suspension requested by holder—prescribed circumstances

- (1) For the purposes of subsection 169(2) of the Act, subsections (2) and (3) of this section prescribe the circumstances in which the holder of an approved arrangement may request the Secretary to suspend the approved arrangement or a part of the approved arrangement.
- (2) The holder of the approved arrangement considers that some or all of the exporter supply chain assurance operations covered by the arrangement will not be carried out for a continuous period of 12 months or more.
- (3) The holder of the approved arrangement does not have personnel with appropriate qualifications or expertise to carry out some or all of the exporter supply chain assurance operations in accordance with the arrangement.

5-21B Suspension requested by holder—prescribed information

- (1) For the purposes of paragraph 169(4)(e) of the Act, subsections (2) and (3) of this section prescribe information that must be included in a request by the holder of an approved arrangement to suspend the approved arrangement or a part of the approved arrangement.
- (2) A plan for how each entity, in relation to which exporter supply chain assurance operations were carried out in accordance with the approved arrangement, will be transitioned to alternative export operations to assist the entity to ensure the humane treatment and handling of feeder livestock or slaughter livestock that are exported up until, and including, the point of slaughter.
- (3) A written declaration that, at the time the request is made, there are no export operations being carried out at or by any entity, in relation to which exporter supply chain assurance operations were carried out in accordance with the approved arrangement, involving feeder livestock or slaughter livestock.
- (4) The written declaration referred to in subsection (3):
 - (a) must not be made if there are no reasonable grounds for making it; and
 - (b) must not be false or misleading; and
 - (c) must be signed and dated by the person who made it; and
 - (d) if the Secretary has approved a form for making the declaration—must be in that form.

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

5-22 Suspension by Secretary—other grounds for suspension

For the purposes of paragraph 171(1)(l) of the Act, it is a ground for suspending an approved arrangement for exporter supply chain assurance operations that the

Chapter 5 Approved arrangements

Part 2 Approved arrangements for exporter supply chain assurance operations

Division 5 Suspension of approved arrangement

Section 5-22

holder does not have the financial resources to carry out the exporter supply chain assurance operations in accordance with the approved arrangement.

Note: Other grounds for suspending an approved arrangement are provided by paragraphs 171(1)(a) to (k) of the Act. One of these grounds is if a requirement provided by subsection 151(2) of the Act (including a requirement prescribed by Division 1 of this Part) is no longer met (see paragraph 171(1)(c) of the Act).

Division 6—Revocation of approved arrangement

5-23 Other grounds for revocation

For the purposes of paragraph 179(1)(l) of the Act, it is a ground for revoking an approved arrangement for exporter supply chain assurance operations that the holder does not have the financial resources to carry out the exporter supply chain assurance operations in accordance with the approved arrangement.

Note: Other grounds for revoking an approved arrangement are provided by paragraphs 179(1)(a) to (k) of the Act. One of these grounds is if a requirement provided by subsection 151(2) of the Act (including a requirement prescribed by Division 1 of this Part) is no longer met (see paragraph 179(1)(c) of the Act).

Division 7—Fit and proper persons

5-24 Kinds of persons who are required to be fit and proper persons

For the purposes of subsection 373(1) of the Act, the following kinds of persons are required, for the purposes of Chapter 5 of the Act (approved arrangements), to be fit and proper persons (having regard to the matters referred to in section 372 of the Act):

- (a) the applicant for approval of a proposed arrangement for exporter supply chain assurance operations;
- (b) a person who would manage or control exporter supply chain assurance operations in accordance with a proposed arrangement for those operations;
- (c) the holder of an approved arrangement for exporter supply chain assurance operations;
- (d) a person who manages or controls exporter supply chain assurance operations in accordance with an approved arrangement for those operations.

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

Note 2: Section 374 of the Act (notification of conviction of offence or order to pay pecuniary penalty) applies to a person who is required to be a fit and proper person by this section.

Division 8—Miscellaneous

5-25 Secretary may publish information given by holder of approved arrangement for exporter supply chain assurance operations

The Secretary may publish any of the following information:

- (a) information (including information contained in a document) given to the Secretary by the holder of an approved arrangement for exporter supply chain assurance operations in compliance with a request made under subsection 5-17(1);
- (b) information included in a report given to the Secretary by the holder of an approved arrangement for exporter supply chain assurance operations under subsection 5-18(1) or (2).

Part 3—Matters relating to applications

5-26 Application of this Part

This Part applies in relation to the following applications:

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

5-27 Documents to accompany application relating to arrangement for exporter supply chain assurance operations

For the purposes of paragraph 377(1)(d) of the Act, an application referred to in paragraph 5-26(a) or (b) of this instrument that relates to a proposed arrangement, or an approved arrangement, for exporter supply chain assurance operations must be accompanied by a declaration stating:

- (a) the interests (if any), direct or indirect and pecuniary or otherwise, of the applicant that conflict or could conflict with the applicant's ability to properly carry out the exporter supply chain assurance operations covered by the arrangement; or
- (b) if the applicant has no such interests—that fact.

Note 1: The proposed arrangement or approved arrangement, including the assurance rules and assurance standards required by section 5-11, must accompany the application or otherwise be made available to the Secretary for evaluation (see subsection 377(2) of the Act).

Note 2: The application must be accompanied by any other document required by the approved application form, for example, information relating to the applicant's financial resources (see subparagraph 377(1)(b)(ii) of the Act).

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

5-28 Initial consideration period

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

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

5-29 Maximum period within which request relating to application must be complied with

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

Chapter 6—Livestock export licences

Part 1—Requirements for grant of livestock export licence

Division 1—Requirements for grant of livestock export licence

6-1 Other requirements for grant of livestock export licence

- (1) For the purposes of paragraph 191(2)(d) of the Act, this section prescribes other requirements that must be met for the grant of a livestock export licence.

Note: The requirements provided by paragraphs 191(2)(b) and (c) of the Act must also be met. It is also a requirement for the grant of a livestock export licence that the applicant be a fit and proper person (see paragraph 191(2)(a) of the Act and section 6-30 of this instrument).

Applicant must be competent and of sound financial standing

- (2) The applicant must be:
- (a) competent to hold the licence; and
 - (b) of sound financial standing.

Grant of licence must not be contrary to interests of livestock industry

- (3) The grant of the licence to the applicant must not, for any reason, be contrary to the interests of the livestock industry.

Operations and governance manual

- (4) If the applicant intends to apply, or has applied, for an exemption under Part 2 of Chapter 2 of the Act from the requirement that prescribed livestock be prepared for export in accordance with an approved arrangement, the applicant must have an operations and governance manual for the applicant's livestock export business or proposed livestock export business.

Note 1: It is a prescribed export condition that an approved arrangement held by the exporter that covers operations to prepare prescribed livestock for export at a registered establishment or approved premises must be in force and not suspended in relation to those operations at the time they are carried out (see items 1 and 2 of the table in section 2-3).

Note 2: The Secretary may deal with an application for an export licence for a kind of export operations in relation to livestock and an application for an exemption at the same time.

Note 3: If the livestock export licence and the exemption are granted, the operations and governance manual must not be varied except as permitted by subsections 6-8(3) to (5).

- (5) The operations and governance manual must set out how the applicant's livestock export business will operate and be governed, and must include information about the following aspects of the business:
- (a) how the export operations to be carried out by the business will comply with the Australian Standards for the Export of Livestock;
 - (b) the structure of the business;

- (c) staff management and training;
- (d) risk management;
- (e) records management;
- (f) the strategy for managing compliance, and review of the strategy.

Section 6-2

Division 2—Other matters relating to livestock export licences

6-2 Other information to be stated in livestock export licence

For the purposes of paragraph 193(2)(h) of the Act, the following information is prescribed:

- (a) the kind and class of livestock covered by the licence;
- (b) the mode of transport (aircraft or vessel) covered by the licence.

6-3 Period of effect of livestock export licence

For the purposes of paragraph 194(5)(b) of the Act, a livestock export licence remains in force for 5 years starting on the day the licence takes effect.

Note 1: The Secretary must give written notice of the date the livestock export licence takes effect (see paragraph 193(2)(d) of the Act).

Note 2: The last day of the 5 year period is the expiry date for the livestock export licence unless an expiry date set under subsection 191(3) or 196(3) or paragraph 201(1)(c) or (d) of the Act is in force in relation to the licence (see paragraph 194(4)(a) of the Act). The livestock export licence remains in force until the end of the expiry date unless it is renewed or revoked on or before that date (see subsection 194(2) of the Act).

Part 2—Conditions of livestock export licence

Division 1—Purpose of this Part

6-4 Purpose of this Part

For the purposes of paragraph 192(1)(b) of the Act, this Part prescribes conditions of a livestock export licence.

- Note 1: If the livestock export licence is renewed, these conditions also apply in relation to the renewed licence (see paragraph 197(1)(b) of the Act).
- Note 2: A livestock export licence is also subject to:
- (a) the conditions (if any) specified in the licence under paragraph 192(1)(c) of the Act; and
 - (b) the condition that the holder of the licence must comply with any directions given from time to time to the holder under section 222 of the Act (see subsection 222(4) of the Act).
- Note 3: The holder of a livestock export licence may commit an offence or be liable to a civil penalty if a condition of the licence is contravened (see section 217 of the Act).
- Note 4: If the holder of a livestock export licence has the power, or is required, under this instrument to do a thing, the holder is taken to have done the thing if the holder causes another person to do the thing on behalf of the holder (see subsection 428(1) of the Act). For example, if the holder of a livestock export licence subcontracts to service providers, the holder is responsible for instructing the service provider to comply with this instrument.

Section 6-5

Division 2—General conditions

6-5 Audits

The holder of a livestock export licence must comply with any reasonable request by an auditor or the Secretary to remedy any deficiencies identified during an audit of export operations covered by the licence.

Note: The holder of the livestock export licence must provide an auditor with the facilities and assistance that are reasonably necessary for the conduct of the audit (see section 271 of the Act).

6-6 Australian Standards for the Export of Livestock

Export operations

- (1) Export operations covered by a livestock export licence must be carried out in accordance with the Australian Standards for the Export of Livestock.

Reporting requirements

- (2) Without limiting subsection (1), the daily reports and end of voyage report for prescribed livestock exported by sea and end of journey report for prescribed livestock exported by air must be given to the Department as required by the Australian Standards for the Export of Livestock.

Note: The Secretary may publish information given in those reports (see section 6-44).

6-7 Holder of licence must have, and comply with, an approved ESCAS

- (1) If the livestock export licence covers export operations in relation to feeder livestock or slaughter livestock:
 - (a) operations to prepare the feeder livestock or slaughter livestock for export must not be carried out unless the holder of the licence holds an approved ESCAS that applies to the livestock; and
 - (b) the holder must ensure that export operations in relation to the livestock are carried out in accordance with the ESCAS up until and including the point of slaughter of the livestock.

Note: The holder of a livestock export licence may need to have more than one approved ESCAS to cover different kinds of livestock or different places to which the livestock are intended to be exported.

- (2) If the Secretary requires the holder of the livestock export licence to vary the approved ESCAS under section 6-40, the holder must comply with the requirement.

Note 1: An ESCAS is not required in relation to livestock that are to be exported as breeder livestock.

Note 2: Part 9 deals with approval of a proposed ESCAS and other matters relating to an ESCAS.

6-8 Compliance with operations and governance manual

- (1) This section applies in relation to a livestock export licence if the holder of the licence has an exemption under Part 2 of Chapter 2 of the Act from the requirement that the livestock be prepared for export in accordance with an approved arrangement.
- (2) Export operations covered by the livestock export licence must be carried out in accordance with the operations and governance manual required under subsection 6-1(4) (the *holder's operations and governance manual*).

Variation of holder's operations and governance manual

- (3) The holder's operations and governance manual must not be varied unless:
 - (a) the holder has applied to the Secretary under subsection 199(1) of the Act to vary the operations and governance manual and the Secretary has approved the variation and given the holder notice of the variation under subsection 200(1) of the Act; or
 - (b) the holder was required to make the variation by notice in writing given to the holder by the Secretary under subsection (4) of this section.

Note: The holder's approved operations and governance manual may need to be varied if the Australian Standards for the Export of Livestock are varied or replaced, the conditions of the holder's livestock export licence are varied or new conditions are imposed on the licence.

- (4) If the Secretary gives the holder a written notice requiring the holder to vary the holder's operations and governance manual, the holder must vary the operations and governance manual as required within the period specified in the notice.
- (5) If the holder's operations and governance manual is varied as required under subsection (4), the holder must give a copy of the varied operations and governance manual to the Secretary as soon as practicable after the variation is made.

6-8A Orders made by authorised officer

The holder of a livestock export licence must comply with an order given to the holder by an authorised officer in accordance with section 9-54.

Section 6-9

Division 3—Exports of cattle to the Republic of Korea

6-9 Restrictions on export

The holder of a livestock export licence must not export a consignment of cattle to the Republic of Korea, cause a consignment of cattle to be exported to the Republic of Korea, or assist another person to export a consignment of cattle to the Republic of Korea, unless:

- (a) the consignment includes only steers; and
- (b) all previous consignments of cattle exported from Australian territory to the Republic of Korea by any person have been released from quarantine in the Republic of Korea before the new consignment is exported.

6-10 Conditions on export

- (1) This section applies in relation to the export of a consignment of cattle to the Republic of Korea.

Note: See section 6-9 for restrictions on the export of cattle to the Republic of Korea.

- (2) The conditions in subsections (3) and (4) must be complied with after confirmation of the initial negative enzootic bovine leucosis (EBL) test on the cattle.
- (3) The cattle must be individually identified using radio frequency identification.

Note: For *radio frequency identification*, see section 1-6.

- (4) At least 14 days before the expected date of export, the following documents must be given to the Department:
 - (a) a statement by a competent Korean authority that quarantine space is available for the expected weight and number of cattle in the proposed consignment;
 - (b) a written declaration from the importer in Korea that the importer has:
 - (i) access to at least 1 month's supply of fodder for the cattle after their release from quarantine in Korea; and
 - (ii) suitable land transport arrangements in place in Korea to transport the cattle to their final destination.

Division 4—Exports of sheep by sea to the Middle East

Subdivision A—Application of this Division

6-11 Application of this Division

- (1) This Division prescribes conditions of a sheep export licence that covers the export of sheep by sea to the Middle East.
- (2) To avoid doubt, this Division applies in relation to a vessel transporting sheep whether or not the vessel will transport, or is transporting, livestock other than sheep.
- (3) Nothing in this Division is intended to limit a condition or restriction in the Australian Standards for the Export of Livestock to which the export of sheep is subject but, to the extent of any inconsistency between such a condition or restriction and a condition in this instrument, this instrument prevails.

Note: For exports of sheep to the Kingdom of Saudi Arabia, see also Division 5.

Subdivision B—Prohibition on export to specific places

6-12 Sheep must not be exported to Oman between 8 May and 14 September

A consignment of sheep must not be exported to Oman by sea on a vessel that leaves an Australian port between 8 May in a year and 14 September in that year.

6-13 Sheep must not be exported to Qatar between 1 June and 21 September

A consignment of sheep must not be exported to Qatar by sea on a vessel that leaves an Australian port between 1 June in a year and 21 September in that year.

6-14 Sheep must not be exported to Bahrain, Iran, Iraq, Kingdom of Saudi Arabia, Kuwait or the United Arab Emirates between 1 June and 14 September

A consignment of sheep must not be exported to the following countries by sea on a vessel that leaves an Australian port between 1 June in a year and 14 September in that year:

- (a) Bahrain;
- (b) Iran;
- (c) Iraq;
- (d) Kingdom of Saudi Arabia;
- (e) Kuwait;
- (f) the United Arab Emirates.

Section 6-14A

6-14A Sheep must not be exported through certain waters between 15 June and 14 September

A consignment of sheep must not be exported by sea on a vessel:

- (a) that leaves an Australian port between 15 June in a year and 14 September in that year; and
- (b) that will travel, or travels, through waters in the Red Sea at any time during its voyage.

6-14B Sheep must not be exported to certain countries in the Middle East between 22 May and 31 May unless certain conditions satisfied

- (1) This section applies in relation to a consignment of sheep that is to be exported to any of the following countries by sea on a vessel that leaves an Australian port between 22 May in a year and 31 May in that year:
 - (a) Bahrain;
 - (b) Iran;
 - (c) Iraq;
 - (d) Kingdom of Saudi Arabia;
 - (e) Qatar;
 - (f) the United Arab Emirates.
- (2) The consignment of sheep must not be exported unless:
 - (a) the weight of each sheep in the consignment is:
 - (i) for a heat-tolerant sheep breed—66 kg or less; or
 - (ii) for any other sheep breed—56 kg or less; and
 - (b) the length of the wool or hair of each sheep in the consignment is:
 - (i) for a heat-tolerant sheep breed—25 mm or less; or
 - (ii) for any other sheep breed—20 mm or less; and
 - (d) the pen air turnover for each deck of the vessel on which sheep are to be transported, when the vessel is in port, is at least:
 - (i) if the weight of each sheep in the consignment is 56kg or less and the length of the wool or hair of each sheep is 10 mm or less—140 cubic metres per hour for each square metre of pen space on the deck; or
 - (ii) if the minimum pen space allocation to each sheep in the consignment is at least 10% more than the minimum pen space allocation specified for sheep exported by sea in the Australian Standards for the Export of Livestock—160 cubic metres per hour for each square metre of pen space on the deck; or
 - (iii) in any other case—180 cubic metres per hour for each square metre of pen space on the deck.

Note: Other conditions, including the reporting obligations under subsections 6-17(2) and 6-18(5), apply in relation to the export of sheep by sea to the Middle East during the northern summer.

- (3) However, if the vessel is also transporting a consignment of sheep to Kuwait, the condition mentioned in paragraph (2)(d) only applies in relation to the part of the journey that occurs after the vessel leaves the port in Kuwait.

Subdivision C—Exports during northern summer

6-15 Application of this Subdivision

- (1) This Subdivision applies in relation to sheep that are to be exported, or that are exported by sea between 1 May in a year and 31 October in that year if the vessel transporting the sheep:
- (a) leaves Australian territory after the commencement of this instrument; and
 - (b) will travel, or travels, through waters in the Arabian Sea, or the Red Sea, north of latitude 11°N at any time during the voyage.
- (2) This Subdivision does not permit the export of a consignment of sheep if export of the consignment is prohibited by Subdivision B.

6-16 General conditions

A consignment of sheep must not be exported unless:

- (a) the vessel on which the sheep are to be transported is equipped with functional automatic livestock watering systems that have water receptacles at a height suitable for the sheep; and
- (b) details of those watering systems are set out in the record of equipment and arrangements attached to the Australian certificate for the carriage of livestock for the vessel issued by the Australian Maritime Safety Authority under *Marine Order 43 (Cargo and cargo handling—livestock) 2018*; and
- (c) a heat stress management plan for the voyage is in place; and
- (d) bedding (such as straw, shavings or sawdust) of at least 1 tonne for every 10,000 sheep will be provided on the vessel; and
- (e) the daily amount of feed that will be provided to each sheep in the consignment while on the vessel is at least 3% of the sheep's weight.

6-17 Pen air turnover

- (1) A consignment of sheep must not be exported unless:
- (a) the pen air turnover for each deck of the vessel on which the sheep are to be transported has been verified by an independent qualified mechanical engineer within the 5 year period ending on the day before the sheep are to be exported; and
 - (b) if changes to a deck of the vessel have been made since the pen air turnover referred to in paragraph (a) was verified in relation to the deck and the changes may have affected the pen air turnover for the deck—the pen air turnover for the deck of the vessel has been verified by an independent qualified mechanical engineer after the changes to the deck were made; and

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- (c) the holder of the sheep export licence has taken reasonable steps to be satisfied that the most recent verified pen air turnover for each deck of the vessel is correct; and
- (d) the holder of the sheep export licence has made a written record stating the following:
 - (i) the name of the vessel on which the sheep are to be transported;
 - (ii) the name and qualifications of the independent qualified mechanical engineer who carried out the most recent verification of the pen air turnover for each deck of the vessel;
 - (iii) the method used to carry out the verification referred to in subparagraph (ii);
 - (iv) the date the verification referred to in subparagraph (ii) was carried out;
 - (v) the results of the verification referred to in subparagraph (ii).
- (2) The holder of the sheep export licence must:
 - (a) give the Secretary a written notice stating the most recent verified pen air turnover for each deck of the vessel and the method used to carry out the verification; and
 - (b) give the Australian Livestock Export Corporation Ltd (LiveCorp) a written notice stating the most recent verified pen air turnover for each deck of the vessel.
- (3) The notices required by subsection (2) must be given as soon as practicable after the most recent verification of the pen air turnover for each deck of the vessel was carried out.

6-18 Condition of sheep and of pens on vessel

- (1) A consignment of sheep must not be exported unless the conditions prescribed by this section are complied with.

Condition of sheep

- (2) The body condition score for each sheep in the consignment must be 2 or 3 as specified in Table 4 of the Australian Standards for the Export of Livestock.

Wet bulb temperature on vessel 140 metres long or less

- (3) If the vessel on which the sheep are to be transported is 140 metres long or less:
 - (a) the wet bulb temperature outside of the vessel must be:
 - (i) automatically measured and recorded every 20 minutes during the voyage; and
 - (ii) measured near the bridge of the vessel; and
 - (b) the wet bulb temperature in at least 2 representative pens on each deck of the vessel must be automatically measured and recorded every 20 minutes during the voyage; and

- (c) if a deck of the vessel has more than one hold in which sheep are being held—at least one measurement and recording under paragraph (b) must be taken in each hold on that deck.

Wet bulb temperature on vessel longer than 140 metres

- (4) If the vessel on which the sheep are to be transported is longer than 140 metres:
 - (a) the wet bulb temperature outside of the vessel must be:
 - (i) automatically measured and recorded every 20 minutes during the voyage; and
 - (ii) measured near the bridge of the vessel; and
 - (b) the wet bulb temperature in at least 3 representative pens on each deck of the vessel must be automatically measured and recorded every 20 minutes during the voyage; and
 - (c) if a deck of the vessel has more than one hold in which sheep are being held—at least one measurement and recording under paragraph (b) must be taken in each hold on that deck.

Report to Secretary

- (5) A written report of each record made under subsection (3) or (4) (as the case requires) must be given to the Secretary, by electronic means, within 5 days after the end of the voyage. The report must also state:
 - (a) the location of each device used to take measurements and make records under those subsections; and
 - (b) the time each record was made.

6-19 Exports to Kuwait

- (1) A consignment of sheep must not be exported to Kuwait unless Kuwait or Oman will be the first port of unloading for the vessel transporting the sheep.
- (2) Subsection (1) applies regardless of whether the holder of the sheep export licence covering the sheep became aware before or after the vessel left Australian territory that Kuwait would be a destination place for the vessel.

6-19A Conditions that apply in relation to the export of sheep between 1 May and 14 June—certain voyages

Vessels travelling through waters in the Persian Gulf

- (1) A consignment of sheep must not be exported by sea on a vessel that:
 - (a) leaves an Australian port (other than the Port of Fremantle) between 1 May in a year and 14 June in that year; and
 - (b) will travel, or travels, through waters in the Persian Gulf at any time during its voyage;unless the vessel is west of longitude 116°E on or before 31 May of that year.

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Vessels travelling through waters in the Red Sea

- (2) A consignment of sheep must not be exported by sea on a vessel that:
- (a) leaves an Australian port (other than the Port of Fremantle) between 1 May in a year and 14 June in that year; and
 - (b) will travel, or travels, through waters in the Red Sea at any time during its voyage;
- unless the vessel is west of longitude 116°E on or before 14 June of that year.

6-20 Restrictions on number of ports where vessel may dock—certain voyages

- A consignment of sheep must not be exported on a vessel that:
- (a) leaves an Australian port before 1 June in a year and will enter the waters in the Arabian Sea, or the Red Sea, north of latitude 11°N on or after 1 June in that year; or
 - (b) leaves an Australian port between 15 September in a year and 30 September in that year;
- unless the vessel will dock at no more than 2 ports to unload sheep or any other livestock from the vessel or for any other purpose.

Subdivision D—Exports during northern winter

6-21 Application of this Subdivision

This Subdivision applies in relation to sheep that are to be exported, or that are exported, by sea between 1 November in a year and 30 April in the next year if the vessel transporting the sheep:

- (a) leaves an Australian port after the commencement of this instrument; and
- (b) will travel, or travels, through waters in the Arabian Sea, or the Red Sea, north of latitude 11°N at any time during the voyage.

6-22 Watering systems

- A consignment of sheep must not be exported unless:
- (a) the vessel on which the sheep are to be transported is equipped with functional automatic livestock watering systems that have water receptacles at a height suitable for the sheep; and
 - (b) details of those watering systems are set out in the record of equipment and arrangements attached to the Australian certificate for the carriage of livestock for the vessel issued by the Australian Maritime Safety Authority under *Marine Order 43 (Cargo and cargo handling—livestock) 2018*.

6-23 Pen air turnover

- (1) A consignment of sheep must not be exported unless:
- (a) the pen air turnover for each deck of the vessel on which the sheep are to be transported has been verified by an independent qualified mechanical

engineer within the 5 year period ending on the day before the sheep are to be exported; and

- (b) if changes to a deck of the vessel have been made since the pen air turnover referred to in paragraph (a) was verified in relation to the deck and the changes may have affected the pen air turnover for the deck—the pen air turnover for the deck of the vessel has been verified by an independent qualified mechanical engineer after the changes to the deck were made; and
- (c) the holder of the sheep export licence has taken reasonable steps to be satisfied that the most recent verified pen air turnover for each deck of the vessel is correct; and
- (d) the holder of the sheep export licence has made a written record stating the following:
 - (i) the name of the vessel on which the sheep are to be transported;
 - (ii) the name and qualifications of the independent qualified mechanical engineer who carried out the most recent verification of the pen air turnover for each deck of the vessel;
 - (iii) the method used to carry out the verification referred to in subparagraph (ii);
 - (iv) the date the verification referred to in subparagraph (ii) was carried out;
 - (v) the results of the verification referred to in subparagraph (ii).

(2) The holder of the sheep export licence must:

- (a) give the Secretary a written notice stating the most recent verified pen air turnover for each deck of the vessel and the method used to carry out the verification; and
- (b) give the Australian Livestock Export Corporation Ltd (LiveCorp) a written notice stating the most recent verified pen air turnover for each deck of the vessel.

(3) The notices required by subsection (2) must be given as soon as practicable after the most recent verification of the pen air turnover for each deck of the vessel was carried out.

Division 5—Exports of sheep, goats and cattle to the Kingdom of Saudi Arabia

6-24 Pre-export conditions for sheep and goats

- (1) The holder of a livestock export licence must not export a consignment of sheep or goats to the Kingdom of Saudi Arabia unless the conditions prescribed by this section are complied with.

Note: See also Division 4 in relation to exports of sheep by sea to the Middle East.

Vaccination against scabby mouth

- (2) Each sheep or goat in the consignment:
 - (a) must have been vaccinated against scabby mouth, using a modified live virus, at least 30 days before the date of export of the consignment; and
 - (b) if vaccinated more than 12 months before the date of export of the consignment, must not have resided on properties that do not have an annual vaccination program for any continuous period of more than 12 months since their most recent vaccination.
- (3) The person (the **vaccinator**) who carried out the vaccination of the sheep or goats required by subsection (2) must make a written record (the **vaccination record**) of the following:
 - (a) the vaccinator's name and address;
 - (b) if the vaccinator is not the vendor of the sheep or goats—the vendor's name and address;
 - (c) the address and property identification code (being the identification code allocated to the property by the body responsible for stock identification in the State or Territory where the property is located) of the property from which the sheep or goats originated;
 - (d) the place where, the vaccination was carried out;
 - (e) the system used to identify each sheep or goat that was vaccinated (for example, property of origin tags, radio-frequency identification tags, eartags), the actual means of identification used (for example, red tags), and the number or other identifier used for each sheep and goat;
 - (f) the following details about the vaccine that was administered:
 - (i) the product name;
 - (ii) the batch number;
 - (iii) the expiry date or date of manufacture;
 - (g) confirmation that the vaccine was stored, handled and administered strictly in accordance with the manufacturer's directions;
 - (h) confirmation that the vaccinator has retained each invoice relating to the purchase of the vaccine and can provide a copy to the holder of the livestock export licence within 5 days of receiving a request to do so.

- (4) The vendor of the sheep or goats must give the following documents to the holder of the livestock export licence:
- (a) a declaration by the vaccinator stating that the vaccinator has vaccinated the sheep or goats in the consignment and has prepared and retained a vaccination record for the sheep or goats that is true and complete;
 - (b) a declaration by the vendor stating that:
 - (i) the sheep or goats in the consignment that have been vaccinated more than 12 months before the date of export of the consignment have not, since their most recent vaccination, resided on properties that do not have an annual vaccination program for any continuous period of more than 12 months; and
 - (ii) the vendor has evidence supporting the matters declared.

Note: The holder of the livestock export licence must retain the information and declarations given to the holder under this subsection for at least 2 years (see section 11-6).

- (4A) If sheep or goats in the consignment have been vaccinated as a group, a single declaration referred to in paragraph (4)(a) may be made for the group of sheep or goats and a separate declaration is not required for each animal in the group.
- (5) The declarations required to be given to the holder of the livestock export licence under subsection (4) must be in writing.
- (6) A declaration referred to in paragraph (4)(a) or (b):
- (a) must not be made if there are no reasonable grounds for making it; and
 - (b) must not be false or misleading; and
 - (c) must be signed and dated by the person who made it.

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

Examination for scabby mouth

- (8) A veterinarian must:
- (a) have examined each sheep or goat in the consignment not more than 48 hours before the sheep or goat enters:
 - (i) a registered establishment where it is to be held and assembled for export; or
 - (ii) if the sheep or goat is to be exported by air—a registered establishment in relation to the sheep or goat, or premises that have been approved for pre-export quarantine or isolation of sheep or goats under paragraph 8-5(2)(a); and
 - (b) have ensured that each sheep or goat (if any) showing clinical evidence of scabby mouth was removed from the consignment.

Note: For *veterinarian*, see section 1-6.

- (9) A veterinarian who carried out an examination of sheep or goats in a consignment under subsection (8) must:
- (a) make a written record of the examination stating the following:

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- (i) the veterinarian's name, address and identification number;
 - (ii) the date and time of the examination;
 - (iii) confirmation that the veterinarian examined each sheep or goat in the consignment;
 - (iv) confirmation that each sheep or goat to be exported in the consignment is free of clinical evidence of scabby mouth; and
- (b) give the record to the holder of the livestock export licence.

Note: The holder of the livestock export licence must retain each record made under this subsection for at least 2 years (see section 11-6).

6-25 Shipping conditions for sheep, goats and cattle

- (1) The holder of a livestock export licence must not export a consignment of sheep, goats or cattle to the Kingdom of Saudi Arabia by sea unless the conditions prescribed by this section are complied with.

Note: See also Division 4 in relation to exports of sheep by sea to the Middle East.

- (2) The holder of the livestock export licence must hold a government certificate in relation to the sheep, goats or cattle in the consignment.
- (3) The sheep, goats or cattle in the consignment must be accompanied by an accredited veterinarian during their journey from Australian territory, until all sheep, goats or cattle in the consignment are unloaded.
- (4) The vessel transporting the consignment must not dock at any other port, for any purpose, before the consignment is unloaded at a port in the Kingdom of Saudi Arabia.

Part 3—Renewal of livestock export licence

6-26 Period within which application to renew livestock export licence must be made

For the purposes of paragraph 195(4)(a) of the Act, the period within which an application to renew a livestock export licence must be made is the period of 60 days starting on the day that is 180 days before the expiry date for the licence.

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

Note 2: An application to renew a livestock export licence will only need to be made if there is an expiry date for the licence (see subsection 195(1) of the Act).

Part 4—Suspension of livestock export licence

6-27 Other grounds for suspension

- (1) For the purposes of paragraph 205(1)(j) of the Act, this section prescribes grounds for suspending a livestock export licence.

Note: Other grounds for suspending a livestock export licence are provided by paragraphs 205(1)(a) to (i) of the Act. One of these grounds is if a requirement provided by subsection 191(2) of the Act (including a requirement prescribed by section 6-1 of this instrument) is no longer met (see paragraph 205(1)(c) of the Act).

Failure to comply with requirement

- (2) It is a ground for suspension that:
- (a) the holder of the licence was required to comply with subsection 378(2) of the Act (requirement to provide additional or corrected information) in relation to:
 - (i) information included in an application under a provision referred to in paragraph 376(1)(d) of the Act relating to the licence; or
 - (ii) information or a document given to the Secretary in relation to such an application; and
 - (b) the holder failed to comply with the requirement.
- (3) It is a ground for suspension that:
- (a) an importing country requirement relating to operations to prepare a consignment of prescribed livestock for export was not met; and
 - (b) the failure to meet the requirement was the result of the negligence or dishonesty of the holder of the licence.

Animal health or welfare

- (4) It is a ground for suspension that the holder of the licence failed to ensure the health or welfare of prescribed livestock.

Note: The Australian Standards for the Export of Livestock includes requirements relating to animal health and welfare.

Adverse effect on trading relationship

- (5) It is a ground for suspension that trade in the export from Australian territory of prescribed livestock could be adversely affected if the licence is not suspended.

Part 5—Revocation of livestock export licence

6-28 Other grounds for revocation

- (1) For the purposes of paragraph 212(1)(j) of the Act, this section prescribes grounds for revoking a livestock export licence.

Note: Other grounds for revoking a livestock export licence are provided by paragraphs 212(1)(a) to (i) of the Act. One of these grounds is if a requirement provided by subsection 191(2) of the Act (including a requirement prescribed by section 6-1 of this instrument) is no longer met (see paragraph 212(1)(c) of the Act).

Failure to comply with requirement

- (2) It is a ground for revocation that:
- (a) the holder of the licence was required to comply with subsection 378(2) of the Act (requirement to provide additional or corrected information) in relation to:
 - (i) information included in an application under a provision referred to in paragraph 376(1)(d) of the Act relating to the licence; or
 - (ii) information or a document given to the Secretary in relation to such an application; and
 - (b) the holder failed to comply with the requirement.
- (3) It is a ground for revocation that:
- (a) an importing country requirement relating to operations to prepare a consignment of prescribed livestock for export was not met; and
 - (b) the failure to meet the requirement was the result of the negligence or dishonesty of the holder of the licence.

Animal health or welfare

- (4) It is a ground for revocation that the holder of the licence failed to ensure the health or welfare of prescribed livestock.

Note: The Australian Standards for the Export of Livestock includes requirements relating to animal health and welfare.

Adverse effect on trading relationship

- (5) It is a ground for revocation that trade in the export from Australian territory of prescribed livestock could be adversely affected if the licence is not revoked.

Part 6—Obligations of holders of livestock export licences

6-29 Other events of which Secretary must be notified

For the purposes of paragraph 219(1)(e) of the Act, the following events are prescribed in relation to a livestock export licence:

- (a) the holder of the licence ceases to operate the export business that carries out export operations covered by the licence;
- (b) the holder of the licence is notified by a relevant importing country authority that the holder is no longer regarded as an approved supplier of prescribed livestock to that country.

Part 7—Fit and proper persons

6-30 Kinds of persons who are required to be fit and proper persons

For the purposes of subsection 373(1) of the Act, the following kinds of persons are required, for the purposes of Chapter 6 of the Act (export licences), to be fit and proper persons (having regard to the matters referred to in section 372 of the Act):

- (a) an applicant for a livestock export licence;
- (b) the holder of a livestock export licence.

Part 8—Matters relating to applications

6-31 Application of this Part

This Part applies in relation to the following applications:

- (a) an application under section 190 of the Act for a livestock export licence;
- (b) an application under section 195 of the Act to renew a livestock export licence;
- (c) an application under section 199 of the Act to vary:
 - (i) a livestock export licence; or
 - (ii) the conditions of a livestock export licence.

6-32 Initial consideration period

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

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

6-33 Maximum period within which request relating to application must be complied with

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

Part 9—Exporter supply chain assurance systems

Division 1—Approval of ESCAS

6-34 Meaning of *ESCAS*

An *ESCAS* (short for exporter supply chain assurance system) is an assurance system that requires the holder of a livestock export licence that covers export operations in relation to feeder livestock or slaughter livestock to have arrangements with supply chain partners to ensure the humane treatment and handling of the livestock from arrival in the importing country up until and including the point of slaughter.

Note: It is a condition of a livestock export licence that covers export operations in relation to feeder livestock or slaughter livestock that the holder of the licence must have an approved *ESCAS* that applies to the kind and class of livestock covered by the licence and must comply with the *ESCAS* (see section 6-7).

6-35 Holder of livestock export licence may apply for approval of proposed *ESCAS*

- (1) The holder of a livestock export licence that covers feeder livestock or slaughter livestock may apply to the Secretary to approve a proposed *ESCAS* that applies to the kind and class of livestock covered by the licence.

Note: Section 6-36 sets out requirements for applications.

*Form and content of an *ESCAS**

- (2) A proposed *ESCAS* must be recorded in writing in a form approved by the Secretary.
- (3) A proposed *ESCAS* must include details of a supply chain that will apply to exports of a particular kind of livestock covered by a livestock export licence to one or more specified ports or landing places, up until and including the point of slaughter.
- (4) A proposed *ESCAS* must include details in relation to the following matters:
 - (a) the kind of livestock to which the *ESCAS* applies;
 - (b) each port or landing place where the livestock are intended to be unloaded;
 - (c) transport, handling and slaughter of the livestock;
 - (d) feedlots;
 - (e) identification, tracking, accounting and reconciliation of the livestock;
 - (f) independent auditing and reporting in relation to the matters referred to in paragraphs (a), (b), (c), (d), (e) and (h);
 - (g) access to premises where the livestock are to be held;
 - (h) any related operations and facilities.

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- (5) For the purposes of paragraph (4)(f), a proposed ESCAS may provide that independent auditing and reporting in relation to the matters referred to in paragraphs (4)(a), (b), (c), (d), (e) and (h) are to be carried out in accordance with an approved arrangement for exporter supply chain assurance operations held by a person specified in the ESCAS.

Note 1: Part 2 of Chapter 5 deals with approved arrangements for exporter supply chain assurance operations.

Note 2: An audit referred to in paragraph (4)(f) and subsection (5) is not an audit under Part 1 of Chapter 9 of the Act.

6-36 Requirements for applications

- (1) An application under subsection 6-35(1) for approval of a proposed ESCAS must:
- (a) if the Secretary has approved, in writing, a manner for making an application—be made in an approved manner; and
 - (b) be accompanied by the proposed ESCAS; and
 - (c) if the Secretary has approved a form for making an application:
 - (i) include the information required by the form; and
 - (ii) be accompanied by any documents required by the form; and
 - (d) be made no later than:
 - (i) if the importing country requirements for the port or landing place to which the proposed ESCAS relates require pre-export quarantine or isolation of the livestock—10 business days before the quarantine or isolation begins for the first export to which the ESCAS is to apply; or
 - (ii) in any other case—10 business days before the first export to which the proposed ESCAS is to apply.
- (2) Despite paragraph (1)(d), the Secretary may accept an application for approval of a proposed ESCAS at any time if the Secretary considers it reasonable to do so in all the circumstances.
- (3) The Secretary may accept any information or document previously given to the Secretary in connection with an application for approval of a proposed ESCAS as satisfying any requirement to give that information or document under subsection (1).
- (4) An application is taken not to have been made if the application does not comply with the requirements referred to in subsection (1).

6-37 Secretary may approve proposed ESCAS

Approval of proposed ESCAS

- (1) On receiving an application under section 6-35 to approve a proposed ESCAS, the Secretary must decide:
- (a) to approve the ESCAS; or
 - (b) to refuse to approve the ESCAS.

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Note: A decision to refuse to approve a proposed ESCAS is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act) and the Secretary must give the applicant written notice of the decision (see section 382 of the Act).

- (2) The Secretary must not approve the proposed ESCAS unless the Secretary is satisfied, having regard to any matter that the Secretary considers relevant, that the ESCAS will ensure that livestock to which it will apply will be transported, handled, slaughtered and subjected to any other related operations in accordance with relevant OIE recommendations.

Note: For *OIE recommendations*, see section 1-6.

- (3) For the purpose of deciding whether to approve the proposed ESCAS, the Secretary:
- (a) must consider how the ESCAS deals with the matters referred to in subsection 6-35(4); and
 - (b) may have regard to the record of the holder of the licence in relation to compliance with a previously approved ESCAS.

Request for further information or to vary proposed ESCAS

- (4) The Secretary may, by notice in writing, request the applicant:
- (a) to provide further information about a proposed export; or
 - (b) to provide further information about the proposed ESCAS; or
 - (c) to vary the proposed ESCAS in a specified way.

Proposed ESCAS may be approved subject to conditions

- (5) The Secretary may approve the proposed ESCAS subject to any conditions the Secretary considers appropriate.

Note: A decision to approve a proposed ESCAS subject to conditions is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

- (6) Without limiting subsection (5), the conditions may relate to the following matters:
- (a) the matters referred to in subsection 6-35(4);
 - (b) publication of information provided by the holder of the licence in relation to the supply chain set out in the proposed ESCAS;
 - (c) the number of consignments to which the proposed ESCAS may apply;
 - (d) any other matter the Secretary considers appropriate.

Notice of decision

- (7) If the Secretary approves the proposed ESCAS, the Secretary must give the applicant a written notice stating:
- (a) the kind of livestock covered by the approved ESCAS; and
 - (b) the conditions (if any) of the approved ESCAS.

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6-38 Period of effect of approved ESCAS

An approved ESCAS remains in force unless it is revoked under section 6-42.

Division 2—Variation of approved ESCAS

6-39 Holder of approved ESCAS may apply to Secretary to vary ESCAS or conditions of ESCAS

- (1) The holder of an approved ESCAS may apply, in writing, to the Secretary to approve a variation of:
 - (a) an approved ESCAS; or
 - (b) the conditions of an approved ESCAS.
- (2) If the Secretary receives an application under subsection (1) to approve a variation, the Secretary must decide:
 - (a) to approve the variation; or
 - (b) to refuse to approve the variation.

Note: A decision to refuse to approve a variation of an approved ESCAS, or the conditions of an approved ESCAS, is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under subsection (4) of this section must also include the reasons for the decision (see subsection 382(1) of the Act).

- (3) The Secretary must not approve the variation unless the Secretary is satisfied, having regard to any matter that the Secretary considers relevant, that the ESCAS as varied will ensure that livestock to which it will apply will be transported, handled, slaughtered and subjected to any other related operations in accordance with relevant OIE recommendations.

Note: For *OIE recommendations*, see section 1-6.

- (4) The Secretary must give the holder written notice of the Secretary's decision.

6-40 Secretary may require approved ESCAS to be varied or vary conditions of approved ESCAS

- (1) The Secretary may:
 - (a) give the holder of an approved ESCAS a written notice requiring the holder to vary any aspect of the approved ESCAS, as specified in the notice, by the date specified in the notice; or
 - (b) by written notice to the holder of an approved ESCAS, vary the conditions (if any) of the approved ESCAS (including by imposing new conditions).

Note: A decision to require the holder to vary an aspect of an approved ESCAS, or to vary the conditions of an approved ESCAS, is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice given under this subsection must also include the reasons for the decision (see subsection 382(1) of the Act).

- (2) The Secretary may require the holder to vary the approved ESCAS under paragraph (1)(a), or vary the conditions of an approved ESCAS under paragraph (1)(b), if:
 - (a) the Secretary is not satisfied that livestock to which the approved ESCAS apply will be dealt with in accordance with the approved ESCAS; or

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- (b) the holder has not complied with any conditions of the holder's livestock export licence; or
- (c) the Secretary considers the variation is needed for any other reason.

6-41 Effect of varied approved ESCAS

If:

- (a) a variation of an approved ESCAS, or the conditions of an approved ESCAS, is approved under paragraph 6-39(2)(a); or
- (b) an approved ESCAS, or the conditions of an approved ESCAS, are varied under section 6-40;

the varied approved ESCAS, and any varied conditions, apply in relation to all livestock to which the ESCAS applies, including livestock that have been exported but have not reached the point of slaughter.

Division 3—Revocation of approved ESCAS

6-42 Secretary may revoke approved ESCAS

- (1) The Secretary may revoke an approved ESCAS if:
 - (a) the Secretary is not satisfied that livestock to which the approved ESCAS apply will be dealt with in accordance with the approved ESCAS; or
 - (b) the holder of the approved ESCAS has not complied with any conditions of the approved ESCAS or the holder's livestock export licence; or
 - (c) the Secretary considers the ESCAS needs to be revoked for any other reason.

Note: A decision to revoke an approved ESCAS is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

Notice of proposed revocation

- (2) The Secretary must not revoke an approved ESCAS under subsection (1) unless the Secretary has given a written notice to the holder of the approved ESCAS in accordance with subsection (3).
- (3) A notice under subsection (2) must:
 - (a) state that the Secretary proposes to revoke the approval of the ESCAS; and
 - (b) specify the grounds for the proposed revocation; and
 - (c) specify the date the proposed revocation is to take effect; and
 - (d) subject to subsection (4), request the holder of the approved ESCAS to give to the Secretary within 14 days after the day the notice is given, or within such longer period specified in the notice, a written statement showing cause why the approved ESCAS should not be revoked; and
 - (e) include a statement setting out the holder's right to seek review of a decision to revoke the approved ESCAS; and
 - (f) if the notice includes the request referred to in paragraph (d)—state that the proposed revocation will take effect on the date specified under paragraph (c) if the Secretary does not receive a response to the request within:
 - (i) 14 days after the notice is given; or
 - (ii) if the notice specifies a longer period—that longer period.
- (4) A notice under subsection (2) is not required to include the request referred to in paragraph (3)(d) if the Secretary reasonably believes that the grounds for the revocation are serious and urgent.

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6-42A Notice of revocation

Notice of revocation

- (1) If the Secretary decides to revoke an approved ESCAS under subsection 6-42(1), the Secretary must give the holder of the approved ESCAS a written notice stating the following:
- (a) that the approval of the ESCAS is to be revoked;
 - (b) the grounds for the revocation;
 - (c) the date the revocation is to take effect.

When revocation takes effect

- (2) If:
- (a) the notice (the **show cause notice**) given to the holder of the approved ESCAS under subsection 6-42(2) included the request referred to in paragraph 6-42(3)(d); and
 - (b) the Secretary receives a response from the holder to the request within:
 - (i) 14 days after the show cause notice was given; or
 - (ii) if the show cause notice specified a longer period—that longer period;the revocation must not take effect before the day after the response is received.
- (3) If:
- (a) the notice (the **show cause notice**) given to the holder of the approved ESCAS under subsection 6-42(2) included the request referred to in paragraph 6-42(3)(d); and
 - (b) the Secretary does not receive a response from the holder to the request within:
 - (i) 14 days after the show cause notice was given; or
 - (ii) if the show cause notice specified a longer period—that longer period;the revocation takes effect on the date specified in the show cause notice under paragraph 6-42(3)(c).
- (4) If the notice given to the holder of the approved ESCAS under subsection 6-42(2) did not include the request referred to in paragraph 6-42(3)(d), the revocation takes effect on the date specified in the notice under paragraph 6-42(3)(c).

Division 4—Other matters

6-43 Holder of approved ESCAS must notify Secretary of change in circumstance

If there is any relevant change in any circumstance that relates to an approved ESCAS, the holder of the approved ESCAS must notify the Secretary, in writing, of the change as soon as practicable, but not later than 5 business days, after the holder becomes aware of the change.

Part 10—Miscellaneous

6-44 Secretary may publish information in daily, end of voyage or end of journey reports relating to prescribed livestock

The Secretary may publish information included in the daily reports or end of voyage report for prescribed livestock exported by sea or end of journey report for prescribed livestock exported by air given to the Department as required by the Australian Standards for the Export of Livestock.

Chapter 7—Export permits

Part 1—Issue of export permit

7-1 Other matters to which Secretary may have regard in relation to application for export permit

- (1) For the purposes of paragraph 225(2)(c) of the Act, this section prescribes other requirements to which the Secretary may have regard in relation to an application for an export permit for prescribed livestock, prescribed live animals or prescribed animal reproductive material.

Requirements in relation to prescribed livestock

- (2) The following requirements are prescribed in relation to an application for an export permit for prescribed livestock:
 - (a) a notice of intention to export a consignment including the livestock has been approved under paragraph 8-6(2)(a) and the approval is currently in force;
 - (b) the exporter holds a livestock export licence covering the livestock, the licence is in force and not suspended, and the exporter has complied with, or is in a position to comply with, the conditions of the licence;
 - (c) if a government certificate in relation to the livestock is required to meet importing country requirements:
 - (i) the exporter holds a government certificate in relation to the livestock and the government certificate is in force; and
 - (ii) there has been no change to any relevant circumstances since the livestock were assessed for the purposes of deciding whether to issue the government certificate;
 - (d) operations to prepare the livestock for export have been carried out in accordance with:
 - (i) the exporter's approved arrangement including the conditions of the approved arrangement; or
 - (ii) the exporter's operations and governance manual required under subsection 6-1(4) (if the exporter is required to prepare the livestock for export in accordance with that manual);
 - (e) an accredited veterinarian has carried out all required export operations in the approved export program held by the exporter that applies in relation to the livestock;
 - (f) if the exporter is required to hold an authorisation (however described) to export the livestock under another Commonwealth law—the exporter holds that authorisation;
 - (g) export operations in relation to the livestock have been, and will continue to be, carried out in accordance with the Australian Standards for the Export of Livestock;

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- (h) if the livestock are feeder livestock or slaughter livestock—the exporter has complied with, or is in a position to comply with, each approved ESCAS that applies to the livestock;
- (i) the livestock will not be dealt with other than in accordance with an approved ESCAS that applies to the livestock;
- (j) the livestock are fit enough to undertake the proposed export voyage or flight without any significant impairment of their health or welfare;
- (k) the travel arrangements for the livestock are adequate for their health and welfare;
- (l) there are no reasonable grounds to believe that:
 - (i) the condition of the vessel or aircraft on which the livestock are to be transported may cause the health or welfare of any of the livestock to deteriorate during an export voyage or flight; or
 - (ii) the actions of the exporter, or the consignee, of the livestock may cause the health or welfare of any of the livestock to deteriorate during an export voyage or flight;
- (m) the application for the export permit did not include false or misleading information;
- (n) there are no reasonable grounds to believe that the livestock will not be permitted to enter the intended overseas destination.

Requirements in relation to prescribed live animals

- (3) The following requirements are prescribed in relation to an application for an export permit for prescribed live animals:
 - (a) a notice of intention to export a consignment including the live animals has been approved under paragraph 8-11(2)(a) and the approval is currently in force;
 - (b) if a government certificate in relation to the live animals is required to meet importing country requirements:
 - (i) the exporter holds a government certificate in relation to the live animals and the government certificate is in force; and
 - (ii) there has been no change to any relevant circumstances since the live animals were assessed for the purposes of deciding whether to issue the government certificate;
 - (c) if the exporter is required to hold an authorisation (however described) to export the live animals under another Commonwealth law—the exporter holds that authorisation;
 - (d) the live animals are fit enough to undertake the proposed export voyage or flight without any significant impairment of their health or welfare, taking into account:
 - (i) the general condition of the live animals; and
 - (ii) the nature of the accommodation, feed and water for the live animals on the vessel or aircraft on which they are to be transported; and
 - (iii) if any other live animal not covered by the application is to be transported with the live animals—the species, health and general condition of each other live animal; and

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- (iv) the conditions that the live animals will be likely to encounter during the export voyage or flight;
- (e) there are no reasonable grounds to believe that:
 - (i) the condition of the vessel or aircraft on which the live animals are to be transported may cause the health or welfare of any of the live animals to deteriorate during an export voyage or flight; or
 - (ii) the actions of the exporter, or the consignee, of the live animals may cause the health or welfare of any of the live animals to deteriorate during an export voyage or flight;
- (f) there are no reasonable grounds to believe that the animals will not be permitted to enter the intended overseas destination.

Requirements in relation to prescribed animal reproductive material

- (4) The following requirements are prescribed in relation to an application for an export permit for prescribed animal reproductive material:
 - (a) a notice of intention to export a consignment including the animal reproductive material has been given in accordance with sections 8-1, 8-2 and 8-3;
 - (b) if a government certificate in relation to the animal reproductive material is required to meet importing country requirements:
 - (i) the exporter holds a government certificate in relation to the animal reproductive material and the government certificate is in force; and
 - (ii) there has been no change to any relevant circumstances since the animal reproductive material was assessed for the purposes of deciding whether to issue the government certificate;
 - (c) if the exporter is required to hold an authorisation (however described) to export the animal reproductive material under another Commonwealth law—the exporter holds that authorisation;
 - (d) a trade description that clearly identifies the animal reproductive material is applied to the primary container in which the animal reproductive material is packaged;
 - (e) the animal reproductive material has been collected and stored in accordance with the law of the State or Territory in which it was collected.

7-2 Requirements for export permit

- (1) For the purposes of paragraph 226(3)(b) of the Act, an export permit for prescribed livestock, prescribed live animals or prescribed animal reproductive material must include the following information:
 - (a) the date it is issued;
 - (b) if the export permit is for prescribed livestock—the maximum number, kind and class of livestock to be exported;
 - (c) if the export permit is for prescribed live animals—the maximum number, kind and class of live animals to be exported;

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- (d) if the export permit is for animal reproductive material—the amount and kind of animal reproductive material to be exported and whether it is frozen or fresh;
 - (e) the place to which the prescribed livestock, prescribed live animals or prescribed animal reproductive material are to be exported;
 - (f) the name of the vessel, or the number of the flight, on which the prescribed livestock, prescribed live animals or prescribed animal reproductive material are to be exported;
 - (g) the signature of the Secretary;
 - (h) if the export permit is issued by an authorised officer—the authorised officer's identity number on the authorised officer's identity card;
 - (i) the Australian Government official mark specified by section 8-20.
- (2) An export permit for prescribed livestock, prescribed live animals or prescribed animal reproductive material may also contain any information required by the importing country.

Note: An export permit for prescribed livestock, prescribed live animals or prescribed animal reproductive material and a government certificate in relation to the prescribed livestock, prescribed live animals or prescribed animal reproductive material may be included in the same document.

7-3 Conditions of export permit

General

- (1) For the purposes of paragraph 227(1)(a) of the Act, an export permit for prescribed livestock, prescribed live animals or prescribed animal reproductive material is subject to the condition that the livestock, live animals or animal reproductive material must be exported:
- (a) within 72 hours after the export permit is issued; or
 - (b) if the Secretary approves a different period in writing—within the approved period.

Export permit for prescribed livestock

- (2) For the purposes of paragraph 227(1)(a) of the Act, an export permit for prescribed livestock is subject to the condition that the livestock must be exported:
- (a) to the place specified in the export permit; and
 - (b) by the mode of transport specified in the export permit.

Export permit for prescribed live animals or prescribed animal reproductive material

- (3) For the purposes of paragraph 227(1)(a) of the Act, an export permit for prescribed live animals or prescribed animal reproductive material is subject to the condition that the animals or animal reproductive material must be exported to the place specified in the export permit.

Section 7-4

- Note 1: The holder of an export permit may commit an offence or be liable to a civil penalty if a condition of the permit is contravened (see subsections 227(4) and (5) of the Act).
- Note 2: An export permit may be revoked if conditions of the permit are contravened (see section 233 of the Act).

7-4 Period of effect of export permit

For the purposes of paragraph 228(b) of the Act, an export permit for prescribed livestock, prescribed live animals or prescribed animal reproductive material remains in force (unless it is revoked under section 233 of the Act) until the earlier of the following:

- (a) the day the livestock, live animals or animal reproductive material are accepted at their final overseas destination;
- (b) the end of the period specified in the permit.

- Note 1: An export permit takes effect when it is issued (see paragraph 228(a) of the Act).
- Note 2: An export permit (other than an export permit that was issued by electronic means) must be retained in a secure place when it is not being used (see section 11-5).

Section 7-5

Part 2—Variation, suspension and revocation of export permit

7-5 Circumstances for varying export permit for prescribed livestock

- (1) This section applies in relation to an export permit for prescribed livestock.
- (2) For the purposes of paragraph 229(1)(a) of the Act, the circumstances in which the Secretary may vary an export permit, or any conditions of an export permit specified under paragraph 227(1)(b) of the Act (including by imposing new conditions), are as follows:
 - (a) circumstances that were relevant to the decision to issue the export permit have changed;
 - (b) the number, kind or class of the livestock to be exported has changed;
 - (c) the livestock are to be exported to a place other than the place specified in the export permit.

7-6 Period of effect of varied export permit

For the purposes of paragraph 230(b) of the Act, a varied export permit for prescribed livestock, prescribed live animals or prescribed animal reproductive material remains in force (unless it is revoked under section 233 of the Act) until the earlier of the following:

- (a) the day the livestock, live animals or animal reproductive material are accepted at their final overseas destination;
- (b) the end of the period for which the export permit as originally issued was in force under section 7-4.

Note 1: A varied export permit takes effect when it is issued (see paragraph 230(a) of the Act).

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

7-7 Circumstances in which export permit may be suspended

For the purposes of subsection 231(1) of the Act, the following circumstances are prescribed in relation to an export permit for prescribed livestock, prescribed live animals or prescribed animal reproductive material:

- (a) a circumstance referred to in any of paragraphs 233(1)(a) to (f) of the Act;
- (b) a circumstance prescribed by section 7-8 of this instrument.

7-8 Other circumstances in which export permit may be revoked

General

- (1) For the purposes of paragraph 233(1)(g) of the Act, the Secretary may revoke an export permit for prescribed livestock, prescribed live animals or prescribed animal reproductive material if:
 - (a) circumstances that were relevant to the decision to issue the export permit have changed; or
 - (b) the holder of the permit requests the Secretary, in writing, to do so.

Note: Other grounds for revoking an export permit are provided by paragraphs 233(1)(a) to (f) of the Act.

Export permit for prescribed livestock or prescribed live animals

- (2) For the purposes of paragraph 233(1)(g) of the Act, the Secretary may revoke an export permit for prescribed livestock or prescribed live animals if:
 - (a) the health, welfare or condition of the livestock or live animals may deteriorate during the journey to the importing country; or
 - (b) the importing country will not accept the livestock or live animals.

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

Part 3—Other matters

7-9 Changes that require additional or corrected information to be given to the Secretary

For the purposes of paragraph 235(1)(b) of the Act, each of the following changes is prescribed in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material for which an export permit is in force but that have not been exported:

- (a) there are reasonable grounds to suspect that:
 - (i) an importing country requirement relating to the prescribed livestock, prescribed live animals or prescribed animal reproductive material will not be, or is not likely to be, met before the livestock, live animals or animal reproductive material are imported into the importing country; or
 - (ii) a prescribed export condition relating to the prescribed livestock, prescribed live animals or prescribed animal reproductive material has not been complied with in circumstances where the condition should have been complied with;
- (b) if the export permit is for prescribed livestock or prescribed live animals—there are reasonable grounds to suspect that the health or welfare of the livestock or live animals cannot be ensured;
- (c) if the export permit is for prescribed animal reproductive material—there are reasonable grounds to suspect that the health or condition of the animal reproductive material cannot be ensured.

7-10 Return of export permit

- (1) For the purposes of section 236 of the Act, a person to whom an export permit for prescribed livestock, prescribed live animals or prescribed animal reproductive material was issued must return the permit to the Secretary if the permit is revoked. The permit must be returned as soon as reasonably practicable after the day the permit was revoked.
- (2) Subsection (1) does not apply in relation to an export permit that was issued by electronic means.

7-11 Notification that prescribed livestock, prescribed live animals or prescribed animal reproductive material are not to be exported

- (1) For the purposes of section 237 of the Act, the holder of an export permit for prescribed livestock, prescribed live animals or prescribed animal reproductive material must notify the Secretary, in writing, if it is no longer intended to export the livestock, live animals or animal reproductive material because of a circumstance referred to in section 7-8.

Section 7-11

- (2) The notification must be given as soon as practicable, but not later than 10 business days, after the decision not to export the prescribed livestock, prescribed live animals or prescribed animal reproductive material is made.

Chapter 8—Other matters relating to export

Part 1—Notices of intention to export

Division 1—General

8-1 Person who must give notice of intention to export

For the purposes of paragraph 243(1)(e) of the Act, a notice of intention to export a consignment of, or including, prescribed livestock, prescribed live animals or prescribed animal reproductive material must be given by the person who intends to export the consignment.

8-2 Persons to whom notice of intention to export must be given

For the purposes of paragraph 243(1)(f) of the Act, a notice of intention to export a consignment of prescribed livestock, prescribed live animals or prescribed animal reproductive material must be given to the Secretary.

8-3 When notice of intention to export must be given

Prescribed livestock and prescribed live animals

- (1) For the purposes of paragraph 243(1)(g) of the Act, a notice of intention to export a consignment of prescribed livestock or prescribed live animals must be given:
 - (a) if, for the purpose of meeting importing country requirements, the livestock or live animals must be prepared for export at premises that are approved for pre-export quarantine or isolation:
 - (i) at least 10 business days before the quarantine or isolation begins; or
 - (ii) if the Secretary approves a different time, or a different period, in relation to the consignment under subsection (3)—at the time or within the period approved under that subsection; or
 - (b) if paragraph (a) does not apply:
 - (i) at least 10 business days before the date the consignment is proposed to be exported; or
 - (ii) if the Secretary approves a different time, or a different period, in relation to the consignment under subsection (3)—at the time or within the period approved under that subsection.

Prescribed animal reproductive material

- (2) For the purposes of paragraph 243(1)(g) of the Act, a notice of intention to export a consignment of prescribed animal reproductive material must be given:
 - (a) at least 10 business days before the date the consignment is proposed to be exported; or

- (b) if the Secretary approves a different time, or a different period, in relation to the consignment under subsection (3)—at the time or within the period approved under that subsection.

Note: It is a prescribed export condition in relation to the export of prescribed livestock, prescribed live animals or prescribed animal reproductive material that a person prescribed by section 8-1 must have given the Secretary, at the time prescribed by this section, a notice of intention to export a consignment of the prescribed livestock, prescribed live animals or prescribed animal reproductive material (see item 5 of the table in section 2-3, item 2 of the table in section 2-4 and item 1 of the table in section 2-5).

Circumstances for approving a different time or period for giving notice

- (3) The Secretary may approve a different time, or a different period, for a notice of intention to export a consignment of prescribed livestock, prescribed live animals or prescribed animal reproductive material to be given if:
- (a) the Secretary is satisfied that circumstances relating to the consignment that were not reasonably foreseeable to the exporter have occurred; or
 - (b) in relation to a consignment of prescribed livestock—the exporter was required to give the Secretary a new notice of intention to export the consignment under subsection 8-7(2) or 8-9(3); or
 - (c) in relation to a consignment of prescribed live animals—the exporter was required to give the Secretary a new notice of intention to export the consignment under subsection 8-12(2) or 8-14(3); or
 - (d) the Secretary is satisfied there are other special circumstances relating to the consignment.

8-4 Changes requiring additional or corrected information

For the purposes of paragraph 244(1)(b) of the Act, a change to any of the information included in a notice of intention to export a consignment of prescribed livestock, prescribed live animals or prescribed animal reproductive material is prescribed.

Note: If a change prescribed by this section occurs, the person who gave the notice of intention to export the consignment must give the Secretary additional or corrected information (see subsection 244(2) of the Act). The person may be liable to a civil penalty if the person does not give the information to the Secretary (see subsection 244(3) of the Act).

Division 2—Approval of notice of intention to export consignment

Subdivision A—Prescribed livestock

8-5 Approval of premises for pre-export quarantine or isolation

- (1) This section applies if:
- (a) a person (in this Division called the *exporter*) who intends to export a consignment of prescribed livestock has given a notice of intention to export the consignment to the Secretary in accordance with subsection 243(1) of the Act; and
 - (b) the notice has not been withdrawn; and
 - (c) the notice states:
 - (i) that the livestock are to be transported by air; and
 - (ii) that, for the purpose of meeting importing country requirements, the livestock must be prepared for export at premises that are approved for pre-export quarantine or isolation; and
 - (d) the notice specifies the premises where operations to prepare the livestock for export are to be carried out; and
 - (e) the premises are not a registered establishment in relation to the livestock.

Secretary must decide whether to approve premises for pre-export quarantine or isolation

- (2) The Secretary must decide, in writing:
- (a) to approve the premises for pre-export quarantine or isolation of the consignment; or
 - (b) to refuse to approve the premises for pre-export quarantine or isolation of the consignment.

Note 1: Operations to prepare the consignment for export must be carried out at an establishment that is registered for those operations or at premises that are approved for pre-export quarantine or isolation under paragraph (a) of this subsection (see item 2 of the table in section 2-3). A required period of pre-export quarantine or isolation at approved premises cannot start until the day after the approval is given (see paragraph (7)(a) of this section).

Note 2: A decision to refuse to approve the premises is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under subsection (5) of this section must also include the reasons for the decision (see subsection 382(1) of the Act).

- (3) The Secretary may approve the premises for pre-export quarantine or isolation of the consignment if the Secretary is satisfied the premises meet importing country requirements relating to those operations.

Secretary may request further information or consent to enter premises

- (4) For the purpose of making a decision under subsection (2), the Secretary may request the exporter:

- (a) to give the Secretary further specified information or documents; or
- (b) to obtain consent for an authorised officer to enter the premises to carry out an inspection of the premises.

Notice of decision

- (5) The Secretary must give the exporter written notice of the Secretary's decision under subsection (2).
- (6) If the decision is to refuse to approve the premises for pre-export quarantine or isolation of the consignment, the notice may also request the exporter to give the Secretary a new notice of intention to export the consignment.

Period of effect of approval

- (7) If the premises are approved under paragraph (2)(a) for pre-export quarantine or isolation of the consignment, the approval:
 - (a) takes effect on the day after the approval is given; and
 - (b) remains in force (unless it is revoked earlier) for the period in which operations to prepare the consignment for export are carried out at the premises.

Secretary may suspend or revoke approval

- (8) If the Secretary reasonably believes that importing country requirements relating to the pre-export quarantine or isolation of the consignment at premises approved under paragraph (2)(a) will not be met, the Secretary may, by written notice to the exporter:
 - (a) suspend or revoke the approval of the premises for those operations; and
 - (b) request the exporter to give the Secretary a new notice of intention to export the consignment.

Note: A decision to suspend or revoke the approval of the premises is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under this subsection must also include the reasons for the decision (see subsection 382(1) of the Act).

8-6 Approval of notice of intention to export consignment

- (1) This section applies if:
 - (a) an exporter who intends to export a consignment of prescribed livestock has given a notice of intention to export the consignment to the Secretary in accordance with subsection 243(1) of the Act; and
 - (b) the notice has not been withdrawn.

Secretary must decide whether to approve notice of intention to export consignment

- (2) The Secretary must decide, in writing:
 - (a) to approve the notice of intention to export the consignment; or

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Section 8-6

(b) to refuse to approve the notice of intention to export the consignment.

Note 1: An approval of the notice of intention to export the consignment must be in force and the conditions (if any) of the approval must be complied with (see item 5 of the table in section 2-3).

Note 2: A decision to refuse to approve the notice of intention to export the consignment is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under subsection 8-7(1) of this instrument must also include the reasons for the decision (see subsection 382(1) of the Act).

- (3) The Secretary may approve the notice of intention to export the consignment if the Secretary is satisfied that:
- (a) the requirements of the Act in relation to the export of the livestock in the consignment have been complied with, or will be complied with before the livestock are imported into the importing country; and
 - (b) the importing country requirements relating to the livestock have been met, or will be met before the livestock are imported into the importing country; and
 - (c) the proposed export of the livestock would not contravene any directions given to the holder of the relevant livestock export licence under section 222 of the Act or the conditions of the livestock export licence; and
 - (d) the arrangements for the transport of the livestock to their final overseas destination are appropriate to ensure their health and welfare.
- (4) If the prescribed livestock in the consignment are feeder livestock or slaughter livestock, the Secretary must not approve the notice of intention to export the consignment unless the Secretary is satisfied that an approved ESCAS is in force in relation to the livestock.

Secretary may request further information or documents or variation of notice

- (5) For the purpose of making a decision under subsection (2), the Secretary may, by written notice, request the exporter:
- (a) to give the Secretary further specified information or documents; or
 - (b) to vary the notice of intention to export the consignment in a specified way.

Approval may be given subject to conditions

- (6) The Secretary may approve a notice of intention to export a consignment of prescribed livestock subject to any conditions the Secretary considers appropriate. The conditions (if any) must be specified in the notice given to the exporter under section 8-7.

Note: A decision to approve the notice of intention to export the consignment subject to conditions is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

8-7 Notice of decision relating to approval of notice of intention to export consignment

- (1) The Secretary must give the exporter of a consignment of prescribed livestock written notice of the Secretary's decision under subsection 8-6(2) in relation to a notice of intention to export the consignment.
- (2) If the decision is to refuse to approve the notice of intention to export the consignment, the notice may also request the exporter to give the Secretary a new notice of intention to export the consignment.

8-8 Variation of approved notice of intention to export consignment or conditions of approval

Variation of approved notice of intention to export consignment

- (1) If:
 - (a) an approval of a notice of intention to export a consignment of prescribed livestock is in force; and
 - (b) circumstances change in relation to the consignment;the Secretary may request the exporter to vary the notice of intention to export the consignment or give the Secretary a new notice of intention to export the consignment.

Note: A decision to request the exporter to vary the notice of intention to export the consignment, or give the Secretary a new notice of intention to export the consignment, is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

Variation of conditions of approval

- (2) The Secretary may vary the conditions (if any) of an approval of a notice of intention to export a consignment of prescribed livestock (including by removing conditions or imposing new conditions).

Note 1: The Secretary may vary the conditions to take account of information given to the Secretary under subsection 244(2) of the Act.

Note 2: A decision to vary the conditions of the approval is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

- (3) If the Secretary varies the conditions (if any) of an approval of a notice of intention to export a consignment of prescribed livestock, the Secretary must give the exporter of the consignment a written notice stating the varied conditions.

8-9 Secretary may revoke approval of notice of intention to export consignment

- (1) The Secretary may revoke the approval of a notice of intention to export a consignment of prescribed livestock if:
 - (a) the Secretary is no longer satisfied of a matter referred to in subsection 8-6(3) in relation to the consignment; or

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- (b) a condition of the approval has been contravened; or
- (c) additional or corrected information in relation to the notice of intention to export the consignment has been given to the Secretary under subsection 244(2) of the Act; or
- (d) the exporter of the consignment:
 - (i) made a false, misleading or incomplete statement in the notice of intention to export the consignment; or
 - (ii) gave false, misleading or incomplete information or documents to the Secretary or to another person performing functions or exercising powers under the Act; or
 - (iii) gave false, misleading or incomplete information or documents to the Secretary or the Department under a prescribed agriculture law.

Note 1: If additional or corrected information in relation to the notice of intention to export the consignment is given to the Secretary under subsection 244(2) of the Act, there may not be sufficient time for the Secretary to consider the information before the proposed date of export of the consignment.

Note 2: A decision to revoke the approval of the notice of intention to export the consignment is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under subsection (2) of this section must also include the reasons for the decision (see subsection 382(1) of the Act).

- (2) If the Secretary decides to revoke the approval of a notice of intention to export a consignment of prescribed livestock, the Secretary must give the exporter of the consignment written notice of the decision.
- (3) A notice under subsection (2) may also request the exporter to give the Secretary a new notice of intention to export the consignment.

Subdivision B—Prescribed live animals

8-10 Approval of premises for pre-export quarantine or isolation

- (1) This section applies if:
 - (a) a person (in this Division called the *exporter*) who intends to export a consignment of prescribed live animals has given a notice of intention to export the consignment to the Secretary in accordance with subsection 243(1) of the Act; and
 - (b) the notice has not been withdrawn; and
 - (c) the notice states that, for the purpose of meeting importing country requirements, the live animals must be prepared for export at premises that are approved for pre-export quarantine or isolation; and
 - (d) the notice specifies the premises where operations to prepare the live animals for export are to be carried out.

Note: The premises may be a registered establishment.

Secretary must decide whether to approve premises for pre-export quarantine or isolation

- (2) The Secretary must decide, in writing:
-

- (a) to approve the premises for pre-export quarantine or isolation of the consignment; or
- (b) to refuse to approve the premises for pre-export quarantine or isolation of the consignment.

Note 1: Operations to prepare the consignment for export must be carried out at premises that are approved for pre-export quarantine or isolation under paragraph (a) of this subsection (see item 1 of the table in section 2-4). A required period of pre-export quarantine or isolation at approved premises cannot start until the day after the approval is given (see paragraph (7)(a) of this section).

Note 2: A decision to refuse to approve the premises is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under subsection (5) of this section must also include the reasons for the decision (see subsection 382(1) of the Act).

- (3) The Secretary may approve the premises for pre-export quarantine or isolation of the consignment if the Secretary is satisfied the premises meet importing country requirements relating to those operations.

Secretary may request further information or consent to enter premises

- (4) For the purpose of making a decision under subsection (2), the Secretary may request the exporter:
 - (a) to give the Secretary further specified information or documents; or
 - (b) to obtain consent for an authorised officer to enter the premises to carry out an inspection of the premises.

Notice of decision

- (5) The Secretary must give the exporter written notice of the Secretary's decision under subsection (2).
- (6) If the decision is to refuse to approve the premises for pre-export quarantine or isolation of the consignment, the notice may also request the exporter to give the Secretary a new notice of intention to export the consignment.

Period of effect of approval

- (7) If the premises are approved under paragraph (2)(a) for pre-export quarantine or isolation of the consignment, the approval:
 - (a) takes effect on the day after the approval is given; and
 - (b) remains in force (unless it is revoked earlier) for the period in which operations to prepare the consignment for export are carried out at the premises.

Secretary may suspend or revoke approval

- (8) If the Secretary reasonably believes that importing country requirements relating to the pre-export quarantine or isolation of the consignment at the premises will not be met, the Secretary may, by written notice to the exporter:
 - (a) suspend or revoke the approval of the premises for those operations; and

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- (b) request the exporter to give the Secretary a new notice of intention to export the consignment.

Note: A decision to suspend or revoke the approval of the premises is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under this subsection must also include the reasons for the decision (see subsection 382(1) of the Act).

8-11 Approval of notice of intention to export consignment

- (1) This section applies if:
- (a) an exporter who intends to export a consignment of prescribed live animals has given a notice of intention to export the consignment to the Secretary in accordance with subsection 243(1) of the Act; and
 - (b) the notice has not been withdrawn.

Secretary must decide whether to approve notice of intention to export consignment

- (2) The Secretary must decide, in writing:
- (a) to approve the notice of intention to export the consignment; or
 - (b) to refuse to approve the notice of intention to export the consignment.

Note 1: An approval of the notice of intention to export the consignment must be in force and the conditions (if any) of the approval must be complied with (see item 2 of the table in section 2-4).

Note 2: A decision to refuse to approve the notice of intention to export the consignment is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under subsection 8-12(1) of this instrument must also include the reasons for the decision (see subsection 382(1) of the Act).

- (3) The Secretary may approve the notice of intention to export the consignment if the Secretary is satisfied that:
- (a) the requirements of the Act in relation to the export of the live animals in the consignment have been complied with, or will be complied with before the live animals are imported into the importing country; and
 - (b) the importing country requirements relating to the live animals have been met, or will be met before the live animals are imported into the importing country; and
 - (c) the arrangements for the transport of the live animals to the importing country are appropriate to ensure their health and welfare.

Secretary may request further information or documents or variation of notice

- (4) For the purpose of making a decision under subsection (2), the Secretary may, by written notice, request the exporter:
- (a) to give the Secretary further specified information or documents; or
 - (b) to vary the notice of intention to export the consignment in a specified way.

Approval may be given subject to conditions

- (5) The Secretary may approve a notice of intention to export a consignment of prescribed live animals subject to any conditions the Secretary considers appropriate. The conditions (if any) must be specified in the notice given to the exporter under section 8-12.

Note: A decision to approve the notice of intention to export the consignment subject to conditions is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

8-12 Notice of decision relating to approval of notice of intention to export consignment

- (1) The Secretary must give the exporter of a consignment of prescribed live animals written notice of the Secretary's decision under subsection 8-11(2) in relation to a notice of intention to export the consignment.
- (2) If the decision is to refuse to approve the notice of intention to export the consignment, the notice may also request the exporter to give the Secretary a new notice of intention to export the consignment.

8-13 Variation of approved notice of intention to export consignment or conditions of approval

Variation of approved notice of intention to export consignment

- (1) If:
- (a) an approval of a notice of intention to export a consignment of prescribed live animals is in force; and
 - (b) circumstances change in relation to the consignment;
- the Secretary may request the exporter to vary the notice of intention to export the consignment or give the Secretary a new notice of intention to export the consignment.

Note: A decision to request the exporter to vary the notice of intention to export the consignment, or give the Secretary a new notice of intention to export the consignment, is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

Variation of conditions of approval

- (2) The Secretary may vary the conditions (if any) of an approval of a notice of intention to export a consignment of prescribed live animals (including by removing conditions or imposing new conditions).

Note 1: The Secretary may vary the conditions to take account of information given to the Secretary under subsection 244(2) of the Act.

Note 2: A decision to vary the conditions of the approval is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

- (3) If the Secretary varies the conditions (if any) of an approval of a notice of intention to export a consignment of prescribed live animals, the Secretary must

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give the exporter of the consignment a written notice stating the varied conditions.

8-14 Secretary may revoke approval of notice of intention to export consignment

- (1) The Secretary may revoke the approval of a notice of intention to export a consignment of prescribed live animals if:
- (a) the Secretary is no longer satisfied of a matter referred to in subsection 8-11(3) in relation to the consignment; or
 - (b) a condition of the approval has been contravened; or
 - (c) additional or corrected information in relation to the notice of intention to export the consignment has been given to the Secretary under subsection 244(2) of the Act; or
 - (d) the exporter of the consignment:
 - (i) made a false, misleading or incomplete statement in the notice of intention to export the consignment; or
 - (ii) gave false, misleading or incomplete information or documents to the Secretary or to another person performing functions or exercising powers under the Act; or
 - (iii) gave false, misleading or incomplete information or documents to the Secretary or the Department under a prescribed agriculture law.

Note 1: If additional or corrected information in relation to the notice of intention to export the consignment is given to the Secretary under subsection 244(2) of the Act, there may not be sufficient time for the Secretary to consider the information before the proposed date of export of the consignment.

Note 2: A decision to revoke the approval of the notice of intention to export the consignment is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under subsection (2) of this section must also include the reasons for the decision (see subsection 382(1) of the Act).

- (2) If the Secretary decides to revoke the approval of a notice of intention to export a consignment of prescribed live animals, the Secretary must give the exporter of the consignment written notice of the decision.
- (3) A notice under subsection (2) may also request the exporter to give the Secretary a new notice of intention to export the consignment.

Part 2—Official marks

Division 1—Marks that are official marks

8-15 Purpose of this Division

For the purposes of subsection 255(1) of the Act, this Division provides that specified marks are official marks for the purposes of the Act for prescribed livestock, prescribed live animals or prescribed animal reproductive material that are intended to be exported.

8-16 Tolerances for dimensions of official marks

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

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

8-17 Official mark—tamper-indicative metal strap seal

A seal that:

- (a) is a tamper-indicative metal strap seal that can be secured in a loop by inserting one end of the seal into or through a protected locking mechanism on the other end; and
- (b) complies with ISO 17712:2013 *Freight containers—Mechanical seals*, published by the International Organization for Standardization, as that document exists at the commencement of this instrument; and
- (c) bears the words “Australian Government”; and
- (d) bears a unique number, or a unique combination of letters and numbers, provided to the manufacturer of the seal by the Department;

is an official mark for the purposes of the Act.

8-18 Official mark—bolt seal

A seal that:

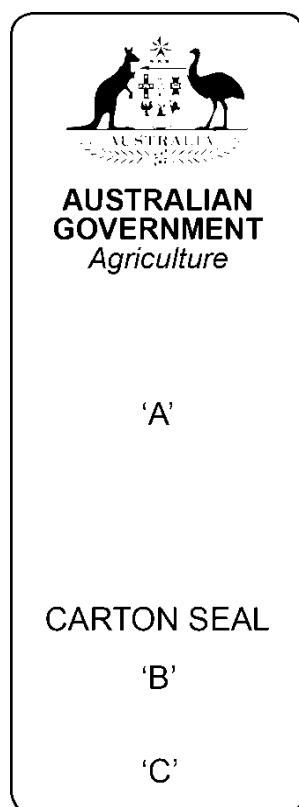
- (a) is a high security bolt seal; and
- (b) complies with ISO 17712:2013 *Freight containers—Mechanical seals*, published by the International Organization for Standardization, as that document exists at the commencement of this instrument; and
- (c) bears the words “Australian Government”; and
- (d)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

is an official mark for the purposes of the Act.

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8-19 Official mark—carton seal

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



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

8-20 Official mark—Australian Government

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



Division 2—General rules relating to official marks

8-21 Purpose and application of this Division

For the purposes of subsection 255(2) of the Act, this Division makes provision for and in relation to certain matters relating to official marks specified in Division 1 of this Part for prescribed livestock, prescribed live animals or prescribed animal reproductive material that are intended to be exported.

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

8-22 Meaning of *applied*

*When an official mark is **applied** to prescribed livestock*

- (1) For the purposes of this instrument, an official mark is **applied** to prescribed livestock if the official mark is:
 - (a) applied to, or included in, any document relating to the livestock; or
 - (b) applied to any covering, label, reel or other thing used in connection with the livestock.

*When an official mark is **applied** to prescribed live animals*

- (2) For the purposes of this instrument, an official mark is **applied** to prescribed live animals if the official mark is:
 - (a) applied to, or included in, any document relating to the live animals; or
 - (b) applied to any covering, label, reel or other thing used in connection with the live animals.

*When an official mark is **applied** to prescribed animal reproductive material*

- (3) For the purposes of this instrument, an official mark is **applied** to prescribed animal reproductive material if the official mark is:
 - (a) applied directly to the animal reproductive material, its packaging or any covering containing the animal reproductive material; or
 - (b) applied to anything attached to the animal reproductive material, its packaging or any covering containing the animal reproductive material; or
 - (c) inserted into anything in which the animal reproductive material is packaged or any covering containing the animal reproductive material; or
 - (d) applied to, or included in, any document relating to the animal reproductive material.

8-23 Persons who may manufacture official marks for prescribed livestock, prescribed live animals or prescribed animal reproductive material

A person may manufacture a kind of official mark for prescribed livestock, prescribed live animals or prescribed animal reproductive material only if the Secretary has given the person a written approval to manufacture that kind of official mark.

8-24 Persons who may possess official marks that have not been applied

A person may possess a kind of official mark for prescribed livestock, prescribed live animals or prescribed animal reproductive material that has not been applied to any of those goods only if:

- (a) the person is an authorised officer or is acting in accordance with a direction given by an authorised officer; or
- (b) the Secretary has given the person a written approval to possess the official mark, and the possession of the official mark is in accordance with that approval.

8-25 Persons who may apply official marks to prescribed livestock, prescribed live animals or prescribed animal reproductive material

A person may apply an official mark to prescribed livestock, prescribed live animals or prescribed animal reproductive material only if:

- (a) the person is an authorised officer or is acting in accordance with a direction given by an authorised officer; or
- (b) the Secretary has given the person a written approval to apply the official mark to the prescribed livestock, prescribed live animals or prescribed animal reproductive material, and the application of the official mark is in accordance with that approval.

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

8-26 Alteration of and interference with official marks

A person may alter, or interfere with, an official mark (whether or not it has been applied to any prescribed livestock, prescribed live animals or prescribed animal reproductive material) only if the alteration or interference is required or permitted by this Part or the Secretary.

Note: A person may commit an offence or be liable to a civil penalty if the person engages in conduct and the conduct has the result that an official mark applied to prescribed livestock, prescribed live animals or prescribed animal reproductive material or documents is altered so as to be false, misleading or deceptive (see sections 261 and 262 of the Act).

8-27 Official marks must be legible and securely applied

An official mark applied to prescribed livestock, prescribed live animals or prescribed animal reproductive material must be:

- (a) legible; and

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- (b) securely applied.

8-28 Security of official marks

A person who is in possession of an official mark that has not been applied to prescribed livestock, prescribed live animals or prescribed animal reproductive material must ensure that the official mark is stored securely.

8-29 Removal or defacement of official marks

- (1) An official mark that has been applied to prescribed livestock, prescribed live animals or prescribed animal reproductive material must be removed or defaced if it is no longer intended to export the prescribed livestock, prescribed live animals or prescribed animal reproductive material.
- (2) If an official mark is required to be removed or defaced under subsection (1), the official mark must be removed or defaced by:
 - (a) an authorised officer or a person acting in accordance with a direction given by an authorised officer; or
 - (b) a person to whom the Secretary has given a written approval to remove or deface the official mark, if the official mark is removed or defaced in accordance with the approval.

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

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

8-30 Records of official marks manufactured

A person who is permitted by section 8-23 to manufacture official marks to be applied to prescribed livestock, prescribed live animals or prescribed animal reproductive material must:

- (a) make a daily written record stating:
 - (i) each kind of official mark manufactured by the person on that day; and
 - (ii) the number of each kind of official mark manufactured by the person on that day; and
- (b) make a written record stating:
 - (i) each day the person sent a consignment of official marks to a person who is permitted by section 8-24 to possess the official marks in the consignment; and
 - (ii) each kind of official mark included in the consignment; and
 - (iii) the means used to transport the consignment.

Note: The person must retain each record made under this section for at least 2 years (see section 11-9).

8-31 Records of official marks applied, removed, defaced, destroyed or returned

A person who is permitted by section 8-24 to possess a kind of official mark must make a written record of the following:

- (a) official marks of that kind applied to prescribed livestock, prescribed live animals or prescribed animal reproductive material by the person;
- (b) official marks of that kind removed from prescribed livestock, prescribed live animals or prescribed animal reproductive material, or defaced, by the person;
- (c) official marks of that kind destroyed by the person;
- (d) official marks of that kind returned by the person.

Note: The person must retain each record made under this section for at least 2 years (see section 11-9).

Division 3—Official marking devices

8-32 Purpose of this Division

For the purposes of subsection 257(2) of the Act, this Division makes provision for and in relation to official marking devices that are capable of being used to apply an official mark specified in Division 1 of this Part to prescribed livestock, prescribed live animals or prescribed animal reproductive material that are intended to be exported.

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

8-33 Persons who may manufacture or possess official marking devices

A person may manufacture or possess an official marking device only if:

- (a) the person is an authorised officer or is acting in accordance with a direction given by an authorised officer; or
- (b) the Secretary has given the person a written approval to manufacture or possess the official marking device, and the manufacture or possession is in accordance with that approval.

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

8-34 Security of official marking devices

A person who is in possession of an official marking device, as permitted by section 8-33, must ensure that the official marking device is stored securely when it is not being used.

8-35 Damaged or destroyed official marking devices

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

8-36 Records of official marking devices manufactured

A person who is permitted by section 8-33 to manufacture official marking devices must:

- (a) make a daily written record stating:
 - (i) each kind of official marking device manufactured by the person on that day; and
 - (ii) the number of each kind of official marking device manufactured by the person on that day; and
 - (iii) the serial number of each official marking device manufactured by the person on that day; and
- (b) make a written record stating:
 - (i) each day the person sent an official marking device to a person who is permitted by section 8-33 to possess the official marking device; and
 - (ii) the means used to transport each official marking device sent by the person on that day.

Note: A person who is required to make a record under this section must retain the record for at least 2 years (see section 11-10).

8-37 Records of official marking devices used, destroyed or returned

A person who is permitted by section 8-33 to possess an official marking device must make a written record of the following:

- (a) official marking devices used by the person to apply official marks to prescribed livestock, prescribed live animals or prescribed animal reproductive material;
- (b) official marking devices destroyed by the person;
- (c) official marking devices returned by the person.

Note: A person who is required to make a record under this section must retain the record for at least 2 years (see section 11-10).

Chapter 9—Powers and officials

Part 1—Audits

Division 1—General

9-1 References to audit in this Part

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

- (a) of export operations carried out in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material; or
- (b) in relation to the performance of functions or the exercise of powers under the Act in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material by a person referred to in subparagraph 267(1)(a)(i), (iv) or (v) of the Act; or
- (c) in relation to compliance by a person referred to in subparagraph 267(1)(a)(i) or (iv) of the Act with the conditions applying to the performance of functions or the exercise of powers under the Act by the person in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material.

Division 2—Conduct of audit

9-2 Purpose of this Division

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

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

9-3 Manner in which audit must be conducted

An audit must be conducted:

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

9-4 Notice of non-compliance with requirements

Audits of export operations

(1) If:

- (a) an audit of export operations is conducted under subsection 266(1) of the Act; and
- (b) the result of the audit is that, in the auditor's opinion, there is, or there has been, a failure (or a combination of failures) to comply with a requirement to which the audit relates;

the auditor must, as soon as reasonably practicable after the audit is completed or ends, notify the relevant person for the audit, orally or in writing, of the auditor's opinion.

Note 1: For the *relevant person* for an audit, see section 269 of the Act.

Note 2: An audit may end before it is completed.

Audits in relation to accredited veterinarian

(2) If:

- (a) an audit is conducted under section 267 of the Act in relation to:
 - (i) the performance of functions and the exercise of powers under the Act by a person who is, or was, an accredited veterinarian; or
 - (ii) compliance by a person who is, or was, an accredited veterinarian with the conditions applying to the performance of functions or the exercise of powers by the person under the Act; and
- (b) in the auditor's opinion, there is, or there has been, a contravention of the conditions of the person's accreditation;

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the auditor must, as soon as reasonably practicable after the audit is completed or ends, notify the person, orally or in writing, of the auditor's opinion.

9-5 Audit reports

- (1) After an auditor completes an audit, or the audit ends, the auditor must make a written report (an **audit report**) of the audit.
Note: An audit may end before it is completed.
 - (2) The audit report must include the following:
 - (a) the name of the auditor;
 - (b) the day the audit commenced, the day the audit was completed or ended, and the total time spent (in hours) conducting the audit;
 - (c) the name of the relevant person for the audit;
 - (d) a description of the export operations, or the matters referred to in subsection 267(1) of the Act, to which the audit relates;
 - (e) a description of the nature and scope of the audit.
 - (3) The audit report must state:
 - (a) whether the audit was satisfactorily completed or was ended before it could be satisfactorily completed; and
 - (b) the findings of the audit including, whether, in the auditor's opinion, there is, or there has been, a failure to comply with the requirements of the Act in relation to a matter to which the audit relates, including a contravention of the conditions of (as the case requires):
 - (i) the registration of a registered establishment; or
 - (ii) an approved arrangement; or
 - (iii) a livestock export licence; or
 - (iv) an export permit; or
 - (v) a person's accreditation as an accredited veterinarian; and
 - (c) the reasons for the auditor's findings.
 - (4) The audit report may also:
 - (a) identify any risk of a potential non-compliance with a requirement to which an audit may relate; and
 - (b) include recommendations that any of the following actions be taken:
 - (i) action to address any non-compliance with a requirement to which the audit relates;
 - (ii) action to ensure that any such non-compliance does not recur;
 - (iii) action to address the risk of a potential non-compliance with a requirement to which an audit may relate;
 - (iv) action to assess the effectiveness of an action referred to in subparagraph (i), (ii) or (iii).
 - (5) Within 14 business days after the audit is completed or ends, the auditor must:
 - (a) give the audit report to the Secretary in a manner approved by the Secretary; and
-

(b) give a copy of the audit report to the relevant person for the audit.

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

Part 2—Assessments

Division 1—General

9-6 References to assessment in this Part

In this Part, a reference to an assessment is a reference to an assessment of prescribed livestock, prescribed live animals or prescribed animal reproductive material under Part 2 of Chapter 9 of the Act.

Division 2—Carrying out assessments

9-7 Circumstances in which assessment may be required or permitted

For the purposes of subsection 277(2) of the Act, the Secretary may require or permit an assessment to be carried out at any stage of operations to prepare prescribed livestock, prescribed live animals or prescribed animal reproductive material for export.

9-8 Process to be followed after assessment completed

- (1) For the purposes of section 279 of the Act, this section makes provision for and in relation to the process to be followed after the completion of:
 - (a) an assessment that was required or permitted to be carried out under section 9-7 of this instrument; or
 - (b) an assessment that was required to be carried out under paragraph 241(c) of the Act for the purpose of making a decision in relation to:
 - (i) an application for an export permit for prescribed livestock, prescribed live animals or prescribed animal reproductive material; or
 - (ii) an application to vary an export permit for prescribed livestock, prescribed live animals or prescribed animal reproductive material or the conditions of such an export permit.
- (2) The assessor must give a written notice to the Secretary and the relevant person for the assessment stating whether the assessor reasonably believes the following in relation to the prescribed livestock, prescribed live animals or prescribed animal reproductive material:
 - (a) that the requirements of the Act in relation to the export of the livestock, live animals or animal reproductive material have been complied with, or will be complied with before the livestock, live animals or animal reproductive material are imported into the importing country;
 - (b) that importing country requirements relating to the livestock, live animals or animal reproductive material have been met, or will be met before the livestock, live animals or animal reproductive material are imported into the importing country.

Note 1: For *assessor*, see section 12 of the Act. For an assessment of prescribed livestock, prescribed live animals or prescribed animal reproductive material, an assessor is an authorised officer.

Note 2: For the *relevant person* for an assessment, see section 278 of the Act.

- (3) A notice given by an assessor under subsection (2) must be signed and dated by the assessor.

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

Part 3—Accredited veterinarians

Division 1—Purpose of this Part

9-9 Purpose of this Part

For the purposes of section 312 of the Act, this Part makes provision for and in relation to the accreditation of veterinarians for the purposes of carrying out export operations in approved export programs.

Note: A person may commit an offence or be liable to a civil penalty for certain conduct relating to the carrying out of export operations in approved export programs by accredited veterinarians (see Division 3 of Part 5 of Chapter 9 of the Act).

Division 2—Application for accreditation

9-10 Requirements for accreditation

To be accredited as an accredited veterinarian, a veterinarian must have successfully completed:

- (a) the Initial Accreditation Training Program of the Accreditation Training Program for Australian Veterinarians; and
- (b) the Australian Government Accredited Veterinarian Program.

Note 1: Information about how to undertake the Initial Accreditation Training Program of the Accreditation Training Program for Australian Veterinarians is available by contacting Animal Health Australia.

Note 2: Information about how to undertake the Australian Government Accredited Veterinarian Program could in 2021 be viewed on the Department's website (<http://www.awe.gov.au>).

9-11 Application for accreditation

- (1) Subject to subsection (2), a veterinarian may apply to the Secretary to be accredited to carry out either or both of the following:
 - (a) pre-export preparation operations in approved export programs in one or more States or Territories;
 - (b) shipboard export operations in approved export programs.

Note: Division 9 sets out requirements for applications.

- (2) If:
 - (a) a veterinarian has been an accredited veterinarian; and
 - (b) the veterinarian's accreditation was revoked by the Secretary;the veterinarian must not make an application under subsection (1) unless the Secretary has given the veterinarian a written notice permitting the veterinarian to apply for accreditation.

9-12 Secretary must decide whether to accredit veterinarian

- (1) On receiving an application under subsection 9-11(1) to accredit a veterinarian, the Secretary must decide:
 - (a) to accredit the veterinarian to carry out either or both of the following:
 - (i) pre-export preparation operations in approved export programs in one or more States or Territories;
 - (ii) shipboard export operations in approved export programs; or
 - (b) to refuse to accredit the veterinarian to carry out either or both of the export operations referred to in subparagraphs (a)(i) and (ii) of this subsection.

Note 1: See Division 9 for matters relating to dealing with applications.

Note 2: A decision to refuse to accredit a veterinarian is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act) and the Secretary must give the applicant written notice of the decision (see section 382 of the Act).

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Accreditation to carry out pre-export preparation operations

- (2) The Secretary may accredit a veterinarian to carry out pre-export preparation operations in approved export programs in one or more States or Territories if:
- (a) the veterinarian meets the requirements in section 9-10; and
 - (b) if subsection 9-11(2) applies to the veterinarian—the Secretary has given the veterinarian a written notice permitting the veterinarian to apply for accreditation; and
 - (c) the veterinarian is a fit and proper person (having regard to the matters referred to in section 372 of the Act); and
 - (d) the Secretary is satisfied that the veterinarian is registered as a veterinarian in each State or Territory in which the applicant wishes to carry out the operations; and
 - (e) the veterinarian has given the Secretary a written notice stating:
 - (i) the interests, pecuniary or otherwise, of the veterinarian that conflict or could conflict with the veterinarian’s ability to properly carry out the operations; or
 - (ii) if the person has no such interests—that fact.

Accreditation to carry out shipboard export operations

- (3) The Secretary may accredit a veterinarian to carry out shipboard export operations in approved export programs if:
- (a) the veterinarian meets the requirements in section 9-10; and
 - (b) if subsection 9-11(2) applies to the veterinarian—the Secretary has given the veterinarian a notice permitting the veterinarian to apply for accreditation; and
 - (c) the veterinarian is a fit and proper person (having regard to the matters referred to in section 372 of the Act); and
 - (d) the Secretary is satisfied that the veterinarian is an Australian citizen; and
 - (e) the veterinarian has given the Secretary a written notice stating:
 - (i) the interests, pecuniary or otherwise, of the veterinarian that conflict or could conflict with the veterinarian’s ability to properly carry out the operations; or
 - (ii) if the person has no such interests—that fact.

Secretary may accredit veterinarian for less than 5 years

- (4) If the Secretary accredits a veterinarian under paragraph (1)(a), the Secretary may, if the Secretary considers it appropriate, accredit the veterinarian for a period of less than 5 years.

Note: A decision to accredit a veterinarian for a period of less than 5 years is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

9-13 Conditions of accreditation

- (1) The accreditation of a veterinarian is subject to:
-

- (a) the conditions provided by subsections (3) to (7); and
- (b) any additional conditions that the Secretary considers appropriate and that are specified in the notice given to the veterinarian under section 9-14.

Note: A decision to accredit a veterinarian subject to additional conditions is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

- (2) Without limiting paragraph (1)(b), additional conditions may relate to any matters stated in the notice given by the veterinarian under paragraph 9-12(2)(e) or (3)(e) relating to conflicts of interest.

Notice of interests or other changes that could affect ability to properly carry out export operations in approved export programs

- (3) An accredited veterinarian must give the Secretary written notice of the following:
 - (a) each interest, pecuniary or otherwise (if any), that the accredited veterinarian acquires and that:
 - (i) conflicts or could conflict with the accredited veterinarian's ability to properly carry out export operations in approved export programs; and
 - (ii) has not previously been notified to the Secretary;
 - (b) any other change that could affect the accredited veterinarian's ability to properly carry out export operations in approved export programs.

Note: Paragraph (3)(b) would cover, for example, a change to a matter referred to in paragraph 9-12(2)(c), (d) or (e) or (3)(c), (d) or (e).

- (4) A notice that is required to be given under subsection (3) must be given as soon as practicable after the interest is acquired or the change occurs (as the case may be).

Carrying out required export operations

- (5) An accredited veterinarian must carry out the export operations the accredited veterinarian is required to carry out in each approved export program for which the veterinarian is the accredited veterinarian.

Undertaking further training

- (6) If the Secretary gives an accredited veterinarian a written notice requiring the veterinarian to undertake specified further training that is likely to improve the veterinarian's ability to carry out export operations in approved export programs, the accredited veterinarian must complete the training satisfactorily as required by the notice.

Copies of documents must be given to the Secretary on request

- (7) An accredited veterinarian who has carried out export operations in an approved export program in relation to prescribed livestock must, on written request by the Secretary, give the Secretary a copy of each document that was given to the accredited veterinarian in connection with the export operations and that is specified or described in the request:

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- (a) within 14 days after receiving the request; or
- (b) if a shorter period is specified in the request—within the specified period.

Note: See also subsection 9-26(3) (requirement to keep a copy of certain documents).

9-14 Notice of accreditation

If the Secretary accredits a veterinarian under paragraph 9-12(1)(a), the Secretary must give the veterinarian a written notice stating the following:

- (a) a unique accreditation number;
- (b) the kind of export operations covered by the accreditation;
- (c) if the veterinarian is accredited to carry out pre-export preparation operations in approved export programs in one or more States or Territories—each State or Territory covered by the accreditation;
- (d) the date the accreditation takes effect;
- (e) the period the accreditation remains in force;
- (f) the additional conditions (if any) of the accreditation referred to in paragraph 9-13(1)(b).

9-15 Period of effect of accreditation

The accreditation of a veterinarian (including an accreditation that has been renewed under Division 3):

- (a) takes effect on the date stated in the notice given to the veterinarian under section 9-14 or subsection 9-17(5) (as the case may be); and
- (b) remains in force (unless it is revoked earlier under subsection 9-24(1) of this instrument):
 - (i) if the Secretary has accredited the veterinarian, or renewed the veterinarian's accreditation, for a period of less than 5 years—for the period decided by the Secretary; or
 - (ii) in any other case—for 5 years.

Note: The Secretary may accredit a veterinarian, or renew the accreditation of a veterinarian, for a period of less than 5 years (see subsections 9-12(4) and 9-17(4)).

Division 3—Renewal of accreditation

9-16 Application to renew accreditation

- (1) An accredited veterinarian (other than a veterinarian whose accreditation is suspended in whole or in part under subsection 9-20(1)) may apply to the Secretary to renew the veterinarian's accreditation.

Note: Division 9 sets out requirements for applications.

- (2) An application for renewal must be made within the period of 60 days starting on the day that is 180 days before the date the accreditation will cease to be in force.

Note: For example, if the accreditation of a veterinarian 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.

- (3) If an application to renew the accreditation of a veterinarian is made after the period applying under subsection (2):
- (a) the application is taken to be an application to accredit the veterinarian; and
 - (b) Division 2 applies in relation to the application; and
 - (c) the other provisions of this Division do not apply in relation to the application.

9-17 Secretary must decide whether to renew accreditation

- (1) On receiving an application under section 9-16 to renew the accreditation of a veterinarian, the Secretary must decide:
- (a) to renew the accreditation; or
 - (b) to refuse to renew the accreditation.

Note 1: See Division 9 for matters relating to dealing with applications.

Note 2: A decision to refuse to renew the accreditation of a veterinarian is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act) and the Secretary must give the applicant written notice of the decision (see section 382).

- (2) The Secretary may renew the accreditation if the Secretary is satisfied that the requirements in subsection 9-12(2) or (3) (as the case requires) are met.

Conditions of renewed accreditation

- (3) If the Secretary renews the accreditation of a veterinarian, the accreditation is subject to:
- (a) the conditions provided by subsections 9-13(3) to (7); and
 - (b) any additional conditions that the Secretary considers appropriate and that are specified in the notice given to the applicant under subsection (5) of this section.

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Secretary may renew accreditation for less than 5 years

- (4) If the Secretary renews the accreditation of a veterinarian, the Secretary may, if the Secretary considers it appropriate, renew the accreditation for a period of less than 5 years.

Note: A decision to renew the accreditation of a veterinarian for a period of less than 5 years is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

Notice of renewed accreditation

- (5) If the accreditation of a veterinarian is renewed, the Secretary must give the veterinarian a written notice stating the information referred to in section 9-14.

Note: The renewed accreditation remains in force as provided by section 9-15.

Division 4—Variation of accreditation

9-18 Application by accredited veterinarian

- (1) An accredited veterinarian may apply to the Secretary:
 - (a) to vary the accreditation in relation to:
 - (i) the kinds of export operations covered by the accreditation; or
 - (ii) if the veterinarian is accredited to carry out pre-export preparation operations in approved export programs in one or more States or Territories—a State or Territory covered by the accreditation; or
 - (b) to vary the conditions of the accreditation; or
 - (c) to vary the particulars relating to the accreditation to make a minor change to a matter (including to correct a minor or technical error); or
 - (d) to vary any other aspect of the accreditation.

Note: Division 9 sets out requirements for applications.

Secretary must decide whether to vary accreditation

- (2) If the Secretary receives an application under subsection (1) to make a variation in relation to the accreditation of a veterinarian, the Secretary must decide:
 - (a) to make the variation; or
 - (b) to refuse to make the variation.

Note 1: See Division 9 for matters relating to dealing with applications.

Note 2: A decision to refuse to make the variation is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act) and the Secretary must give the applicant written notice of the decision (see section 382 of the Act).

Criteria for making decision

- (3) The Secretary may make the variation if the Secretary is satisfied that, if the variation were made, the requirements in paragraphs 9-12(2)(c) and (d) or (3)(c) and (d) (as the case requires) would continue to be met.

Notice of variation

- (4) If the Secretary makes a variation in relation to the accreditation of a veterinarian under paragraph (2)(a), the Secretary must give the accredited veterinarian a written notice stating the following:
 - (a) details of the variation;
 - (b) if the variation is of the conditions of the accreditation—the varied conditions;
 - (c) the date the variation takes effect;
 - (d) any other information the Secretary considers appropriate.

Note: The accreditation, as varied, remains in force as provided by section 9-15.

Section 9-19

9-19 Secretary may make variations in relation to accreditation

- (1) The Secretary may do any of the following in relation to the accreditation of a veterinarian:
- (a) vary any aspect of the accreditation, including so that it does not cover:
 - (i) a kind of export operations covered by the accreditation; or
 - (ii) a specified approved export program covered by the accreditation; or
 - (iii) if the veterinarian is accredited to carry out pre-export preparation operations in approved export programs in one or more States or Territories—a State or Territory covered by the accreditation;
 - (b) vary the conditions of the accreditation (including by removing conditions or imposing new conditions).

Note: A decision to make a variation is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

- (2) The Secretary may make a variation in relation to the accreditation of a veterinarian under subsection (1) only if the Secretary reasonably believes that:
- (a) a requirement in paragraph 9-12(2)(c) or (d) or 9-12(3)(c) or (d) (as the case requires) is no longer being met; or
 - (b) a condition of the accreditation has been, or is being, contravened; or
 - (c) it is necessary to do so:
 - (i) to take account of information notified under subsection 9-13(3); or
 - (ii) to correct a minor or technical error.

Notice of proposed variation

- (3) The Secretary must not make a variation in relation to the accreditation of a veterinarian under subsection (1) unless the Secretary has given a written notice to the accredited veterinarian in accordance with subsection (4).
- (4) A notice under subsection (3) must:
- (a) specify each proposed variation; and
 - (b) specify the grounds for each proposed variation; and
 - (c) subject to subsection (5), request the accredited veterinarian to give a written statement to the Secretary within 14 days after the day the notice is given, or within such longer period specified in the notice, showing cause why the proposed variation should not be made; and
 - (d) include a statement setting out the accredited veterinarian's right to seek review of a decision to make the proposed variation.
- (5) A notice under subsection (3) is not required to include the request referred to in paragraph (4)(c) if the Secretary reasonably believes that the grounds for the proposed variation are serious and urgent.

Notice of variation

- (6) If the Secretary makes a variation in relation to the accreditation of a veterinarian under subsection (1), the Secretary must give the accredited veterinarian a written notice stating the following:
- (a) details of the variation;
 - (b) if the variation is of the conditions of the accreditation—the varied conditions and any new conditions;
 - (c) the date the variation takes effect;
 - (d) any other information the Secretary considers appropriate.
- (7) If the accredited veterinarian was given a notice (a *show cause notice*) under subsection (3) that included the request referred to in paragraph (4)(c), the variation must not take effect before the earlier of the following:
- (a) the day after any response to the request is received by the Secretary;
 - (b) the end of 14 days after the show cause notice was given or, if the show cause notice specified a longer period, the end of that longer period.

Note: The accreditation, as varied, remains in force as provided by section 9-15.

Section 9-20

Division 5—Suspension of accreditation

9-20 Secretary may suspend accreditation of veterinarian in whole or in part

Grounds for suspension

- (1) The Secretary may suspend the accreditation of a veterinarian, in whole or in part, if the Secretary reasonably believes any of the following:
 - (a) if the veterinarian is accredited to carry out pre-export preparation operations in approved export programs in a State or Territory—the accredited veterinarian ceases to be registered as a veterinarian in that State or Territory;
 - (b) a condition has been imposed on the accredited veterinarian’s registration in a State or Territory that prevents the veterinarian from examining, inspecting, testing or treating animals in that State or Territory;
 - (c) the accredited veterinarian is not a fit and proper person;
 - (d) the accredited veterinarian has contravened a condition of the accreditation;
 - (e) the accredited veterinarian failed to comply with a direction given to the accredited veterinarian under subsection 314(2) of the Act to remedy a deficiency in carrying out export operations in an approved export program;
 - (f) the accredited veterinarian:
 - (i) made a false, misleading or incomplete statement in an application under this Part; or
 - (ii) gave false, misleading or incomplete information or documents to the Secretary or to another person performing functions or exercising powers under the Act; or
 - (iii) gave false, misleading or incomplete information or documents to the Secretary or the Department under a prescribed agriculture law;
 - (g) the accredited veterinarian failed to keep records as required by section 9-26;
 - (h) the accredited veterinarian failed to make reports as required by subsection 9-27(1);
 - (i) the accredited veterinarian has contravened another requirement of the Act.

Note 1: A suspension must not be for more than 28 days (see subsection (5)).

Note 2: A decision to suspend the accreditation of a veterinarian is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

Note 3: If the accreditation of a veterinarian is suspended in whole or in part, the veterinarian may not apply to the Secretary to renew the accreditation (see subsection 9-16(1)).

Notice of proposed suspension

- (2) The Secretary must not suspend the accreditation of a veterinarian under subsection (1) unless the Secretary has given a written notice to the accredited veterinarian in accordance with subsection (3).

- (3) A notice under subsection (2) must:
- (a) state that the Secretary proposes to suspend the accreditation of the veterinarian in whole or in part; and
 - (b) if the Secretary proposes to suspend the accreditation of the veterinarian in part—give details of the part that is proposed to be suspended; and
 - (c) specify the grounds for the proposed suspension; and
 - (d) specify the date the proposed suspension is to start; and
 - (e) specify the period of the proposed suspension; and
 - (f) subject to subsection (4), request the accredited veterinarian to give to the Secretary within 14 days after the day the notice is given, or within such longer period specified in the notice, a written statement showing cause why the accreditation should not be suspended as proposed; and
 - (g) include a statement setting out the accredited veterinarian's right to seek review of a decision to suspend the accreditation as proposed; and
 - (h) if the notice includes the request referred to in paragraph (f)—state that the proposed suspension will start on the date specified under paragraph (d) if the Secretary does not receive a response to the request within:
 - (i) 14 days after the notice is given; or
 - (ii) if the notice specifies a longer period—that longer period.
- (4) A notice under subsection (2) is not required to include the request referred to in paragraph (3)(f) if the Secretary reasonably believes that the grounds for the suspension are serious and urgent.

Period of suspension

- (5) A suspension of the accreditation of a veterinarian under subsection (1) must not be for more than 28 days.

9-21 Notice and start of suspension

Notice of suspension

- (1) If the Secretary decides to suspend the accreditation, in whole or in part, of a veterinarian under subsection 9-20(1), the Secretary must give the accredited veterinarian a written notice stating the following:
- (a) that the accreditation of the veterinarian is to be suspended in whole or in part;
 - (b) if the suspension is in part—details of the part that is to be suspended;
 - (c) the reasons for the suspension;
 - (d) the date the suspension is to start;
 - (e) the period of the suspension.

Note: A suspension must not be for more than 28 days (see subsection 9-20(5)).

When suspension starts

- (2) If:
-

Section 9-22

- (a) the notice (the *show cause notice*) given to the accredited veterinarian under subsection 9-20(2) included the request referred to in paragraph 9-20(3)(f); and
 - (b) the Secretary receives a response from the accredited veterinarian to the request within:
 - (i) 14 days after the show cause notice was given; or
 - (ii) if the show cause notice specified a longer period—that longer period;the suspension must not start before the day after the response is received.
- (3) If:
- (a) the notice (the *show cause notice*) given to the accredited veterinarian under subsection 9-20(2) included the request referred to in paragraph 9-20(3)(f); and
 - (b) the Secretary does not receive a response from the accredited veterinarian to the request within:
 - (i) 14 days after the show cause notice was given; or
 - (ii) if the show cause notice specified a longer period—that longer period;the suspension starts on the date specified in the show cause notice under paragraph 9-20(3)(d).
- (4) If the notice given to the accredited veterinarian under subsection 9-20(2) did not include the request referred to in paragraph 9-20(3)(f), the suspension starts on the date specified in the notice under paragraph 9-20(3)(d).

9-22 Revocation of suspension

The Secretary may revoke a suspension of the accreditation of a veterinarian under subsection 9-20(1) by written notice to the accredited veterinarian.

9-23 Effect of suspension

- (1) If the accreditation of a veterinarian is suspended in whole or in part under subsection 9-20(1):
- (a) the accreditation remains in force while it is suspended; and
 - (b) the requirements of the Act in relation to the accreditation (including the conditions of the accreditation) must be complied with while the accreditation is suspended.
- (2) However, the veterinarian must not carry out export operations in approved export programs in relation to which the accreditation is suspended during the period of the suspension.

Note: If the accreditation of a veterinarian is suspended in whole or in part under subsection 9-20(1), the veterinarian may not apply to the Secretary to renew the accreditation (see subsection 9-16(1)).

Division 6—Revocation of accreditation

9-24 Secretary may revoke accreditation of veterinarian

Grounds for revocation

- (1) The Secretary may revoke the accreditation of a veterinarian if the Secretary reasonably believes any of the following:
 - (a) if the veterinarian is accredited to carry out pre-export preparation operations in approved export programs in a State or Territory—the accredited veterinarian ceases to be registered as a veterinarian in that State or Territory;
 - (b) a condition has been imposed on the accredited veterinarian’s registration in a State or Territory that prevents the veterinarian from examining, inspecting, testing or treating animals in that State or Territory;
 - (c) the accredited veterinarian is not a fit and proper person;
 - (d) the accredited veterinarian has contravened a condition of the accreditation;
 - (e) the accredited veterinarian failed to comply with a direction given to the accredited veterinarian under subsection 314(2) of the Act to remedy a deficiency in carrying out export operations in an approved export program;
 - (f) the accredited veterinarian:
 - (i) made a false, misleading or incomplete statement in an application under this Part; or
 - (ii) gave false, misleading or incomplete information or documents to the Secretary or to another person performing functions or exercising powers under the Act; or
 - (iii) gave false, misleading or incomplete information or documents to the Secretary or the Department under a prescribed agriculture law;
 - (g) the accredited veterinarian failed to keep records as required by section 9-26;
 - (h) the accredited veterinarian failed to make reports as required by subsection 9-27(1);
 - (i) the accredited veterinarian has contravened another requirement of the Act.

Note 1: A decision to revoke the accreditation of a veterinarian is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

Note 2: If the accreditation of a veterinarian is revoked, the veterinarian must not make an application for accreditation under subsection 9-11(1) unless the Secretary has given the veterinarian a written notice permitting the veterinarian to apply for accreditation (see subsection 9-11(2)).

Notice of proposed revocation

- (2) The Secretary must not revoke the accreditation of a veterinarian under subsection (1) unless the Secretary has given a written notice to the accredited veterinarian in accordance with subsection (3).

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- (3) A notice under subsection (2) must:
 - (a) state that the Secretary proposes to revoke the accreditation of the veterinarian; and
 - (b) specify the grounds for the proposed revocation; and
 - (c) specify the date the proposed revocation is to take effect; and
 - (d) subject to subsection (4), request the accredited veterinarian to give to the Secretary within 14 days after the day the notice is given, or within such longer period specified in the notice, a written statement showing cause why the accreditation should not be revoked; and
 - (e) include a statement setting out the accredited veterinarian's right to seek review of a decision to revoke the accreditation; and
 - (f) if the notice includes the request referred to in paragraph (d)—state that the proposed revocation will take effect on the date specified under paragraph (c) if the Secretary does not receive a response to the request within:
 - (i) 14 days after the notice is given; or
 - (ii) if the notice specifies a longer period—that longer period.
- (4) A notice under subsection (2) is not required to include the request referred to in paragraph (3)(d) if the Secretary reasonably believes that the grounds for the revocation are serious and urgent.

9-25 Notice of revocation

Notice of revocation

- (1) If the Secretary decides to revoke the accreditation of a veterinarian under subsection 9-24(1), the Secretary must give the accredited veterinarian a written notice stating the following:
 - (a) that the accreditation of the veterinarian is to be revoked;
 - (b) the reasons for the revocation;
 - (c) the date the revocation is to take effect.

When revocation takes effect

- (2) If:
 - (a) the notice (the **show cause notice**) given to the accredited veterinarian under subsection 9-24(2) included the request referred to in paragraph 9-24(3)(d); and
 - (b) the Secretary receives a response from the accredited veterinarian to the request within:
 - (i) 14 days after the show cause notice was given; or
 - (ii) if the show cause notice specified a longer period—that longer period;the revocation must not take effect before the day after the response is received.
- (3) If:

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- (a) the notice (the *show cause notice*) given to the accredited veterinarian under subsection 9-24(2) included the request referred to in paragraph 9-24(3)(d); and
 - (b) the Secretary does not receive a response from the accredited veterinarian to the request within:
 - (i) 14 days after the show cause notice was given; or
 - (ii) if the show cause notice specified a longer period—that longer period;the revocation takes effect on the date specified in the show cause notice under paragraph 9-24(3)(c).
- (4) If the notice given to the accredited veterinarian under subsection 9-24(2) did not include the request referred to in paragraph 9-24(3)(d), the revocation takes effect on the date specified in the notice under paragraph 9-24(3)(c).

Section 9-26

Division 7—Records and reports

9-26 Records

- (1) An accredited veterinarian who is engaged to carry out export operations in an approved export program that relates to prescribed livestock must keep records of the following:
 - (a) if the accredited veterinarian administers or supervises any veterinary examination, inspection, testing or treatment of prescribed livestock in connection with the approved export program:
 - (i) details of the examination, inspection, testing or treatment; and
 - (ii) the date when the examination, inspection, testing or treatment was administered or supervised; and
 - (iii) the place where the examination, inspection, testing or treatment was administered or supervised; and
 - (iv) if a treatment involving the administration of a drug or product to prescribed livestock is carried out—the name of the active constituent in the drug or product and the amount of the drug or product that was administered; and
 - (v) the results of any testing carried out;
 - (b) if samples have been taken in connection with the approved export program—details of how the samples were handled, stored and transported;
 - (c) subject to subsection (1B), details about pre-export quarantine or isolation of prescribed livestock to which the approved export program relates, including the length and conditions of the quarantine or isolation;
 - (d) subject to subsection (1B), sufficient information to identify (either generally or specifically as required to meet importing country requirements) prescribed livestock that have been examined, inspected, tested, treated, or prepared for export at premises that have been approved for pre-export quarantine or isolation under paragraph 8-5(2)(a);
 - (e) details about whether the holder of the approved export program has, in accordance with section 9-43A, provided the accredited veterinarian with copies of the parts of the approved export program relating to the program of export operations to be undertaken by the accredited veterinarian.
- (1A) The accredited veterinarian must also keep a copy of all invoices received relating to the purchase of a drug or product for administration to prescribed livestock as mentioned in subparagraph (1)(a)(iv).
- (1B) Paragraphs (1)(c) and (d) do not apply during the period that the accredited veterinarian accompanies, or is engaged to accompany, the prescribed livestock during their transport from Australia to their overseas destination in connection with the approved export program.
- (2) The accredited veterinarian must retain each record referred to in subsection (1), and copies of invoices referred to in subsection (1A), for at least 2 years after the

prescribed livestock to which the record relates leave the registered establishment where they were held and assembled for export.

Copies of documents

- (3) An accredited veterinarian who carries out export operations in an approved export program in relation to prescribed livestock must keep a copy of each document given to the accredited veterinarian in connection with the export operations for at least 2 years after the livestock leave the registered establishment where they were held and assembled for export.

Note: An accredited veterinarian may commit an offence of strict liability if the accredited veterinarian contravenes subsection (2) or (3) (see section 316 of the Act).

9-27 Reports

- (1) An accredited veterinarian who is engaged to accompany prescribed livestock during their journey from Australia to their overseas destination in connection with an approved export program must give the Secretary written reports in accordance with the reporting requirements provided by the Australian Standards for the Export of Livestock.

Note: An accredited veterinarian may commit an offence of strict liability if the accredited veterinarian contravenes this section (see section 316 of the Act).

- (2) The Secretary may publish information included in a daily report or an end of voyage report given to the Secretary by an accredited veterinarian as required by subsection (1).

Division 8—Fit and proper persons

9-28 Fit and proper person test

- (1) For the purposes of paragraph 372(1)(d) of the Act, the following provisions of this instrument are prescribed:
 - (a) section 9-12 (decision to accredit a veterinarian);
 - (b) section 9-17 (decision to renew the accreditation of a veterinarian);
 - (c) subsection 9-20(1) (decision to suspend, in whole or in part, the accreditation of a veterinarian);
 - (d) subsection 9-24(1) (decision to revoke the accreditation of a veterinarian).
- (2) For the purposes of subparagraph 372(2)(e)(v) of the Act, section 9-11 of this instrument (application by veterinarian to be accredited) is prescribed.
- (3) For the purposes of paragraph 372(4)(b) of the Act, an accredited veterinarian is prescribed.
- (4) For the purposes of paragraph 374(1)(g) of the Act, an accredited veterinarian is prescribed.

Division 9—Matters relating to applications

9-29 Applications to which this Division applies

This Division applies to the following applications:

- (a) an application under subsection 9-11(1) to accredit a veterinarian;
- (b) an application under subsection 9-16(1) to renew the accreditation of a veterinarian;
- (c) an application under subsection 9-18(1) to make a variation in relation to the accreditation of a veterinarian.

9-30 Requirements for applications

- (1) An application must:
 - (a) be made in a manner and form approved by the Secretary; and
 - (b) include the information required by the form; and
 - (c) be accompanied by any documents required by the form.
- (2) The Secretary may accept any information or document previously given to the Secretary in connection with an application to which this Division applies as satisfying any requirement to give that information or document under subsection (1).
- (3) An application is taken not to have been made if the application does not comply with the requirements referred to in subsection (1) for the application.

9-31 Dealing with applications

Consideration period

- (1) The Secretary must make a decision in relation to an application within the period of 120 days starting on the day after the application is received (the **consideration period**) if:
 - (a) the application complies with the requirements referred to in subsection 9-30(1) for the application; and
 - (b) the application has not been withdrawn.

Note: An application that does not comply with the requirements referred to in subsection 9-30(1) for the application is taken not to have been made (see subsection 9-30(3)).

- (2) If the Secretary does not make a decision in relation to the application within the consideration period, the Secretary is taken to have refused the application at the end of that period.

Section 9-31

Secretary may request further information or documents

- (3) For the purpose of making a decision under subsection (1), the Secretary may request the applicant to give the Secretary further specified information or documents.

Part 4—Approved export programs

Division 1—Purpose of this Part

9-32 Purpose of this Part

For the purposes of subsections 311(4) and (5) of the Act, this Part makes provision for and in relation to programs of export operations to be carried out by an accredited veterinarian or an authorised officer for the purpose of ensuring the health and welfare of prescribed livestock.

Division 2—Exporter's approved export programs

Subdivision A—Approval of program of export operations

9-33 Application by exporter for approval of program of export operations

- (1) An exporter who wants to export one or more kinds or classes of livestock may:
 - (a) prepare a program of export operations to be undertaken by an accredited veterinarian for the purpose of ensuring the health and welfare of each kind or class of livestock in the course of some or all of the export operations of the exporter in relation to each kind or class of livestock; and
 - (b) apply, in writing, to the Secretary for approval of the program of export operations.
- (2) For the purposes of paragraph (1)(a) and in addition to the matters covered by subsection 311(2) of the Act, a program of export operations in relation to one or more kinds or classes of livestock:
 - (a) may be undertaken within or outside Australian territory; and
 - (b) may include operations other than those referred to in subparagraphs 311(2)(a)(i) to (v) of the Act.
- (3) An application under paragraph (1)(b) for approval of a program of export operations:
 - (a) must be accompanied by a written record of the program of export operations; and
 - (b) may be made at the same time as an application under subsection 150(1) of the Act for approval of a proposed arrangement for those export operations.

9-34 Assessment of application and Secretary's decision

- (1) This section applies if an exporter makes an application under paragraph 9-33(1)(b) for approval of a program of export operations.

Request for further information or documents

- (2) For the purpose of deciding whether to approve the program of export operations under subsection 311(1) of the Act, the Secretary may request the applicant, or another person who the Secretary considers may have information or documents relevant to the application, to give the Secretary further specified information or documents relevant to the application.

Note: An approval by the Secretary of a program of export operations must be in writing (see subsection 311(1) of the Act).

- (3) A request under subsection (2):
 - (a) may be made orally or in writing; and
 - (b) must specify the period within which the request must be complied with.

Approval of program of export operations

- (4) The Secretary may approve the program of export operations if the Secretary is satisfied that the program is for the purpose of ensuring the health and welfare of each kind or class of livestock to which the program relates in the course of export operations included in the program.

Note 1: An exporter may commit an offence under Division 3 of Part 5 of Chapter 9 of the Act for certain contraventions relating to approved export programs.

Note 2: The Secretary may direct an authorised officer to undertake some or all of the export operations in an exporter's approved export program (see section 313 of the Act).

- (5) For the purposes of subsection (4), the Secretary may have regard to whether the program of export operations complies with the Australian Standards for the Export of Livestock in relation to the livestock to which the program relates.
- (6) If the Secretary approves the program of export operations, the Secretary may, if the Secretary considers it appropriate, set an expiry date for the approved export program.

When Secretary is taken to have decided not to approve program of export operations

- (7) The Secretary is taken to have decided not to approve the program of export operations if the Secretary has not made a decision on the application within 120 days (the **initial consideration period**), or such extended period as may apply under subsection (8), after:
- (a) the day the application was received; or
 - (b) if the application was varied—the day the application was varied.
- (8) The initial consideration period for the application is extended, for each request made under subsection (2), by the number of days in the period beginning on the day the request was made and ending on:
- (a) the day the request was complied with; or
 - (b) if the request was not complied with within the period specified in the request—the last day of that period.

Notice of decision

- (9) If the Secretary approves the program of export operations, the Secretary must give the applicant a written notice stating:
- (a) the day the approved export program takes effect; and
 - (b) either:
 - (i) that the approved export program remains in force unless it is suspended or revoked; or
 - (ii) if applicable, the expiry date for the approved export program.
- (10) If the Secretary decides not to approve the program of export operations or is taken to have decided not to approve the program of export operations, the Secretary must give the applicant written notice of the decision.

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Note: A decision to refuse to approve a program of export operations is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under this subsection must also include the reasons for the decision (see subsection 382(1) of the Act).

9-35 Period of effect of approved export program

- (1) An approved export program under this Division remains in force:
 - (a) if there is an expiry date for the approved export program—until that expiry date unless the approved export program is revoked under section 9-42 or 9-43; or
 - (b) if there is no expiry date for the approved export program—until the approved export program is revoked under section 9-42 or 9-43.
- (2) However, if the whole or a part of an approved export program is suspended under paragraph 9-39(3)(a) or subsection 9-41(1), the whole or the part of the approved export program (as the case may be) is not in force during the period of the suspension.

Subdivision B—Variation of approved export program

9-36 Holder may apply for approval of variation of approved export program

- (1) The holder of an approved export program may apply to the Secretary, in writing, to approve a variation of the approved export program.
- (2) On receiving an application under subsection (1) to approve a variation, the Secretary must decide:
 - (a) to approve the variation; or
 - (b) to refuse to approve the variation.

Note: A decision to refuse to approve a variation of an approved export program is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act) and the Secretary must give the applicant written notice of the decision (see section 382 of the Act).

Request for further information or documents

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

Approval of variation

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

livestock in the course of export operations to which the approved export program relates.

- (6) For the purposes of subsection (5), the Secretary may have regard to whether the approved export program, as proposed to be varied, complies with the Australian Standards for the Export of Livestock in relation to the livestock to which the approved export program relates.

Notice of decision to approve variation

- (7) If the Secretary approves a variation, the Secretary must give the applicant a written notice stating:
- (a) details of the variation; and
 - (b) the day the variation takes effect.

When Secretary is taken to have decided not to approve variation

- (8) The Secretary is taken to have decided not to approve a variation of the approved export program if the Secretary has not made a decision on the application within 120 days (the **initial consideration period**), or such extended period as may apply under subsection (9), after:
- (a) the day the application was received; or
 - (b) if the application was varied—the day the application was varied.
- (9) The initial consideration period for the application is extended, for each request made under subsection (3), by the number of days in the period beginning on the day the request was made and ending on:
- (a) the day the request was complied with; or
 - (b) if the request was not complied with within the period specified in the request—the last day of that period.

9-37 Secretary may require holder to vary approved export program

- (1) The Secretary may, by written notice (a **variation notice**) to the holder of an approved export program, require the holder to vary the approved export program if the Secretary is satisfied that the variation is necessary for the purpose of ensuring the health and welfare of a kind or class of livestock in the course of export operations to which the approved export program relates.

Note: A decision to require the holder to vary an approved export program is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act).

- (2) For the purposes of subsection (1), the Secretary may have regard to whether the variation is necessary to ensure that the approved export program complies with the Australian Standards for the Export of Livestock in relation to the livestock to which the approved export program relates.
- (3) A variation notice must:
- (a) identify (in general or specific terms) the variation required; and

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- (b) require the holder of the approved export program to give the varied approved export program to the Secretary within a specified period; and
- (c) set out:
 - (i) the reasons for the decision to require the holder to vary the approved export program; and
 - (ii) the holder's right to apply for review of the decision.
- (4) The holder must comply with the variation notice.
- (5) If the holder complies with the variation notice, the Secretary may approve the varied approved export program by written notice given to the holder. The notice must state the day the varied approved export program takes effect.
- (6) The Secretary may amend or revoke the variation notice by giving a further written notice to the holder.

9-38 When approved export program includes a variation

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

- (a) the variation was approved under paragraph 9-36(2)(a); or
- (b) the variation was required by a notice given under subsection 9-37(1) and the Secretary approved the varied approved export program under subsection 9-37(5).

Subdivision C—Suspension of approved export program

9-39 Holder may request suspension of approved export program

Request for suspension

- (1) The holder of an approved export program may request the Secretary to suspend the whole or a part of the approved export program.
- (2) A request under subsection (1) must:
 - (a) be in writing; and
 - (b) specify whether the whole or a part of the approved export program is to be suspended; and
 - (c) if a part of the approved export program is to be suspended—specify (as the case requires):
 - (i) the part of the approved export program that is to be suspended; or
 - (ii) the export operations that are to be suspended; or
 - (iii) any other aspects in relation to which the approved export program is to be suspended (for example, in relation to the kinds or classes of livestock, the countries to which the livestock are to be exported, or the methods of transport of the livestock); and
 - (d) specify the reason for the suspension.

Decision on request

- (3) If the Secretary receives a request from the holder of an approved export program under subsection (1), the Secretary must decide:
- (a) to suspend the whole or the part of the approved export program as requested; or
 - (b) to refuse to suspend the whole or the part of the approved export program as requested.

Note: A decision to refuse to suspend the whole or the part of the approved export program is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act) and the Secretary must give the applicant written notice of the decision (see section 382 of the Act).

Request for further information or documents

- (4) For the purpose of making a decision in relation to a request from the holder of an approved export program under subsection (1), the Secretary may request the holder, or another person who the Secretary considers may have information or documents relevant to the application, to give the Secretary further specified information or documents relevant to the holder's request.
- (5) A request by the Secretary under subsection (4):
- (a) may be made orally or in writing; and
 - (b) must specify the period within which the request must be complied with.

Grounds for refusing request

- (6) The Secretary may refuse to suspend the whole or the part of the approved export program, as requested under subsection (1), if the Secretary is satisfied the refusal is necessary for the purpose of ensuring the health or welfare of a kind or class of livestock in the course of export operations to which the approved export program relates.
- (7) For the purposes of subsection (6), the Secretary may have regard to whether the approved export program complies with the Australian Standards for the Export of Livestock in relation to the livestock to which the approved export program relates.

Notice of suspension

- (8) If the Secretary suspends the whole or the part of the approved export program, as requested under subsection (1), the Secretary must give the holder written notice of the suspension. The suspension takes effect on:
- (a) the day specified in the notice; or
 - (b) if no day is specified in the notice—the day the notice is given to the holder.

Note: An approved export program, or a part of an approved export program, that is suspended is not in force during the period of the suspension (see subsection 9-35(2)).

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When Secretary is taken to have decided not to suspend whole or part of approved export program

- (9) The Secretary is taken to have decided not to suspend the whole or the part of the approved export program, as requested under subsection (1), if the Secretary has not made a decision on the request within 120 days (the ***initial consideration period***), or such extended period as may apply under subsection (10), after the day the request was received.
- (10) The initial consideration period for the request under subsection (1) is extended, for each request made by the Secretary under subsection (4), by the number of days in the period beginning on the day the Secretary's request was made and ending on:
 - (a) the day the Secretary's request was complied with; or
 - (b) if the Secretary's request was not complied with within the period specified in the Secretary's request—the last day of that period.

9-40 Request to revoke suspension

- (1) If the whole or a part of an approved export program is suspended under paragraph 9-39(3)(a), the holder of the approved export program may request the Secretary to revoke the suspension.
- (2) A request under subsection (1) must:
 - (a) be in writing; and
 - (b) state the reason for the request.
- (3) If the Secretary receives a request under subsection (1) from the holder of an approved export program, the Secretary may:
 - (a) if the Secretary is satisfied that the reasons for the suspension no longer exist and there is no reason why the suspension should not be revoked—revoke the suspension by written notice to the holder; or
 - (b) in any other case:
 - (i) suspend the whole or a part of the approved export program under section 9-41; or
 - (ii) revoke the approved export program under section 9-43.

9-41 Secretary may suspend approved export program

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

Note 1: An approved export program, or a part of an approved export program, that is suspended is not in force during the period of the suspension (see subsection 9-35(2)).

Note 2: A decision to suspend an approved export program, or a part of an approved export program, is a reviewable decision (see section 11-1 of this instrument and Part 2 of

Chapter 11 of the Act). The notice under subsection (1) of this section must also include the reasons for the decision (see subsection 382(1) of the Act).

- (2) For the purposes of subsection (1), the Secretary may have regard to whether the approved export program complies with the Australian Standards for the Export of Livestock in relation to the livestock to which the approved export program relates.
- (3) A period of suspension must not exceed 12 months.
- (4) The notice under subsection (1) must:
 - (a) state that the whole or a part of an approved export program is to be suspended; and
 - (b) if a part of the approved export program is to be suspended—specify (as the case requires):
 - (i) the part of the approved export program that is to be suspended; or
 - (ii) the export operations that are to be suspended; or
 - (iii) any other aspects in relation to which the approved export program is to be suspended (for example, in relation to the kinds or classes of livestock, the countries to which the livestock are to be exported, or the methods of transport of the livestock); and
 - (c) set out the reasons for the suspension; and
 - (d) specify the date the suspension is to take effect and the period of the suspension; and
 - (e) set out the holder's right to apply for review of the decision.
- (5) The Secretary may, under section 9-43, revoke an approved export program that is suspended, or a part of which is suspended:
 - (a) even if the period of the suspension has not expired; and
 - (b) on grounds that are the same as, or similar to, the grounds for the suspension.

Subdivision D—Revocation of approved export program

9-42 Holder may request revocation of approved export program

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

Note: If the holder does not wish to revoke the approved export program for all purposes, the holder may apply to the Secretary under section 9-36 to approve a variation of the approved export program.
- (2) If the Secretary receives a request from the holder of an approved export program under subsection (1), the Secretary must, by written notice to the holder, revoke the approved export program with effect on:
 - (a) the day specified in the notice; or
 - (b) if no day is specified in the notice—the day the notice is given to the holder.

Section 9-43

9-43 Secretary may revoke approved export program

- (1) The Secretary may, by written notice to the holder of an approved export program, revoke the approved export program if the Secretary is satisfied that the revocation is necessary for the purpose of ensuring the health or welfare of each kind or class of livestock in the course of export operations to which the approved export program relates.

Note: A decision to revoke an approved export program is a reviewable decision (see section 11-1 of this instrument and Part 2 of Chapter 11 of the Act). The notice under subsection (1) of this section must also include the reasons for the decision (see subsection 382(1) of the Act).

- (2) For the purposes of subsection (1), the Secretary may have regard to whether the approved export program complies with the Australian Standards for the Export of Livestock in relation to the livestock to which the approved export program relates.
- (3) The notice under subsection (1) must:
 - (a) state that the approved export program is to be revoked; and
 - (b) set out the reasons for the revocation; and
 - (c) specify the date the revocation is to take effect.

Subdivision E—Copies of approved export program

9-43A Holder must provide copies of approved export program

- (1) The holder of an approved export program must provide an accredited veterinarian with a copy of the parts of the approved export program relating to the program of export operations to be undertaken by the accredited veterinarian.
- (2) If an approved export program is varied in accordance with Subdivision B of this Division, the holder of the approved export program must provide an accredited veterinarian with a copy of the parts of the varied approved export program relating to the program of export operations to be undertaken by the accredited veterinarian.
- (3) The holder of an approved export program must provide the copies mentioned in subsections (1) and (2) to the accredited veterinarian:
 - (a) for each consignment of prescribed livestock to which the approved export program relates; and
 - (b) before the accredited veterinarian undertakes the program of export operations in relation to the consignment.
- (4) The holder of an approved export program must make a record of the provision of each copy to an accredited veterinarian in accordance with subsection (1) or (2).

Note: The holder of the approved export program must retain each record made under this subsection for at least 2 years (see section 11-6).

Division 3—Secretary's approved export programs

9-44 Approvals of programs of export operations to be undertaken by authorised officers

- (1) This section applies if, on the Secretary's own initiative, the Secretary approves one or more programs of export operations, to be undertaken by authorised officers, for the purpose of ensuring the health and welfare of each kind or class of livestock that is to be exported by sea, in the course of export operations.

Note 1: The Secretary may approve a program of export operations under subsection 311(1) of the Act on the Secretary's own initiative (see subparagraph 311(3)(a)(ii) of the Act).

Note 2: An approval by the Secretary of a program of export operations must be in writing (see subsection 311(1) of the Act).

Note 3: Export operations in an approved export program covered by this Division will only be required to be undertaken if the Secretary directs an authorised officer to carry out the export operations under section 313 of the Act.

Note 4: An approved export program under Division 2 and an approved export program under this Division may apply to the same export operations of an exporter.

Matters to which program of export operations may relate

- (2) For the purposes of subsection (1) and in addition to the matters covered by subsection 311(2) of the Act, a program of export operations in relation to one or more kinds or classes of livestock:
- (a) may be undertaken within or outside Australian territory; and
 - (b) may include operations other than those referred to in subparagraphs 311(2)(a)(i) to (v) of the Act.
- (3) The Secretary may, if the Secretary considers it appropriate, set an expiry date for an approved export program covered by this Division.

9-45 Period of effect of approved export program

An approved export program covered by this Division remains in force:

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

9-46 Secretary may vary approved export program

- (1) The Secretary may vary an approved export program covered by this Division if the Secretary is satisfied that the approved export program, as proposed to be varied, is for the purpose of ensuring the health and welfare of a kind or class of livestock in the course of export operations to which the approved export program relates.

Chapter 9 Powers and officials

Part 4 Approved export programs

Division 3 Secretary's approved export programs

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- (2) If the Secretary varies an approved export program under subsection (1), the Secretary must, in writing, notify the exporters to whose export operations the approved export program relates.
- (3) The notice under subsection (2) must state:
 - (a) details of the variation; and
 - (b) the day the variation takes effect.

Division 4—Other powers of Secretary

9-47 Secretary may give direction to exporter in relation to implementation of approved export program

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

9-48 Secretary may publish information in records and reports in relation to approved export programs

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

Note: Sections 9-26 and 9-27 require an accredited veterinarian to keep records and make reports in connection with approved export programs. An accredited veterinarian who contravenes section 9-26 or 9-27 may commit an offence of strict liability (see section 316 of the Act).

Division 5—Other provisions

9-49 Circumstances in which exporter must allow accredited veterinarian or authorised officer to accompany livestock

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

Note: An exporter may commit an offence if the exporter contravenes this subsection (see section 319 of the Act).

- (2) If:
- (a) under subsection 267(1) of the Act, the Secretary requires an authorised officer who is an auditor to conduct an audit in relation to the performance of functions and the exercise of powers by an accredited veterinarian in connection with an approved export program; or
 - (b) under subsection 313(1) of the Act, the Secretary directs an authorised officer to carry out some or all of the export operations in an approved export program; or
 - (c) under subsection 314(1) of the Act, the Secretary directs an authorised officer to monitor or review:
 - (i) the carrying out by an accredited veterinarian of the export operations in an approved export program; or
 - (ii) export operations in an approved export program carried out by an exporter;

the exporter to whose export operations the approved export program relates must allow the authorised officer to accompany the livestock to which the approved export program relates during their transport from Australia to their overseas destination in connection with the approved export program.

Note: An exporter may commit an offence if the exporter contravenes this subsection (see section 319 of the Act).

9-50 Inconsistency between Secretary's approved export program and exporter's approved export program

- (1) This section applies if, under section 313 of the Act, the Secretary has directed an authorised officer to carry out some or all of the export operations in an approved export program covered by Division 3 of this Part (the *Secretary's approved export program*) in relation to export operations of an exporter.
- (2) The Secretary's approved export program prevails over an approved export program held by the exporter under Division 2 of this Part that is inconsistent with the Secretary's approved export program.

Part 5—Powers of the Secretary

9-51 Powers of Secretary that must not be delegated

For the purposes of paragraph 288(4)(a) of the Act, the power of the Secretary under paragraph (d) of the definition of *heat-tolerant sheep breed* in section 1-6 must not be delegated under subsection 288(1) of the Act.

9-52 Powers of Secretary that must not be subdelegated

For the purposes of paragraph 288(4)(b) of the Act, the power of the Secretary under subsection 9-54(3) of this instrument must not be subdelegated under subsection 288(2) of the Act.

Part 6—Functions and powers of authorised officers

9-53 Purpose of this Part

For the purposes of section 300 of the Act, this Part confers functions and powers on authorised officers, or a class of authorised officers, for the purposes of achieving the objects of the Act in relation to livestock for export.

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

9-54 Power to give orders in relation to prescribed livestock for export

Orders relating to prescribed livestock for export

(1) An authorised officer may order the holder of a livestock export licence to not do any of the following in relation to prescribed livestock:

- (a) move prescribed livestock to a landing place, port or other place for the purpose of being exported;
- (b) unload a consignment of prescribed livestock at a landing place, port or other place for the purposes of being exported;
- (c) load, or continue to load, a consignment of prescribed livestock onto any aircraft or vessel for export.

Note: The decision of an authorised officer to give an order under this subsection is a reviewable decision (see section 11-1).

(2) However, the order may be given only if:

- (a) the authorised officer has been notified by the Secretary under subsection (3); and
- (b) the authorised officer has reasonable grounds to suspect that the prescribed livestock will not be permitted to enter the intended overseas destination because of the disease, infection or infestation notified by the Secretary.

(3) The Secretary may notify an authorised officer of the suspected presence in Australian territory of a disease, infection or infestation if:

- (a) the Secretary reasonably suspects that the disease, infection or infestation is present in Australian territory; and
- (b) the disease, infection or infestation is not endemic to Australia; and
- (c) either:
 - (i) the disease, infection or infestation is listed in Chapter 1.3 of the *Terrestrial Animal Health Code* published by the Office International des Epizooties (also known as the World Organisation for Animal Health), as existing from time to time; or
 - (ii) the Secretary reasonably believes that the disease, infection or infestation has the potential to cause significant harm to human,

animal or plant health and could result in the export of prescribed livestock from Australian territory being adversely affected.

Note: The *Terrestrial Animal Health Code* could in 2023 be viewed on the website of the World Organisation for Animal Health (<http://www.woah.org>).

Notification

- (4) Before making an order under subsection (1), the authorised officer must, if reasonably practicable in the circumstances, give the holder of the livestock export licence particulars of the order.
- (5) If the authorised officer decides to make the order, the officer must, as soon as practicable after making the decision, notify the licence holder of the order.
- (6) If the authorised officer notifies the licence holder orally under subsection (5), the officer must, as soon as practicable after notifying the licence holder, also notify the licence holder in writing.

Period of effect

- (7) An order made under subsection (1):
 - (a) takes effect when notification of the order is given under subsection (5);
and
 - (b) remains in effect for 72 hours unless revoked earlier.

Revocation of order

- (8) An authorised officer may, by written notice to the licence holder, revoke an order made under subsection (1) if the authorised officer is satisfied that the reason for the order no longer exists and there is no reason why the order should not be revoked.

Failure to comply does not invalidate order

- (9) A failure to comply with subsection (4) or (6) does not invalidate an order given under this section.

Chapter 10—Compliance and enforcement

10-1 Samples taken in exercising monitoring or investigation powers

- (1) This section applies if a sample is taken as permitted by paragraph 327(2)(a) of the Act (additional monitoring power) or subsection 330(2) of the Act (additional investigation power).
- (2) The sample must be:
 - (a) identified with a mark or a tag; and
 - (b) kept under conditions that are unlikely to affect the result of any testing or analysis of the sample; and
 - (c) kept in the custody or control of an authorised officer until whichever of the following first occurs:
 - (i) the sample is given to an analyst appointed under section 413 of the Act;
 - (ii) the sample is destroyed during testing or analysis in accordance with section 412 of the Act;
 - (iii) the sample is otherwise disposed of.

10-2 Dealing with things seized in exercising investigation powers

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

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

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

Chapter 11—Miscellaneous

Part 1—Review of decisions

11-1 Reviewable decisions

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

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

Reviewable decisions			
Item	Column 1 Reviewable decision	Column 2 Provision of this instrument under which the reviewable decision is made	Column 3 Relevant person for the reviewable decision
1	To refuse to approve a proposed ESCAS	Paragraph 6-37(1)(b)	The person who applied for the approval
2	To approve a proposed ESCAS subject to conditions	Subsection 6-37(5)	The person who applied for the approval
3	To refuse to approve a variation of an approved ESCAS or the conditions of an approved ESCAS	Paragraph 6-39(2)(b)	The holder of the approved ESCAS
4	To require an aspect of an approved ESCAS to be varied	Paragraph 6-40(1)(a)	The holder of the approved ESCAS
5	To vary the conditions of an approved ESCAS	Paragraph 6-40(1)(b)	The holder of the approved ESCAS
6	To revoke an approved ESCAS	Subsection 6-42(1)	The person who was the holder of the approved ESCAS
7	To refuse to approve premises for pre-export quarantine or isolation of a consignment of prescribed livestock	Paragraph 8-5(2)(b)	The exporter of the consignment
8	To suspend or revoke the approval of premises for pre-export quarantine or isolation of a consignment of	Subsection 8-5(8)	The exporter of the consignment

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Reviewable decisions			
Item	Column 1 Reviewable decision	Column 2 Provision of this instrument under which the reviewable decision is made	Column 3 Relevant person for the reviewable decision
	prescribed livestock		
9	To refuse to approve a notice of intention to export a consignment of prescribed livestock	Paragraph 8-6(2)(b)	The exporter of the consignment
10	To approve a notice of intention to export a consignment of prescribed livestock subject to conditions	Subsection 8-6(6)	The exporter of the consignment
11	To request an exporter to vary a notice of intention to export a consignment of prescribed livestock or give the Secretary a new notice of intention to export a consignment of prescribed livestock	Subsection 8-8(1)	The exporter of the consignment
12	To vary the conditions of an approval of a notice of intention to export a consignment of prescribed livestock	Subsection 8-8(2)	The exporter of the consignment
13	To revoke the approval of a notice of intention to export a consignment of prescribed livestock	Subsection 8-9(1)	The exporter of the consignment
14	To refuse to approve premises for pre-export quarantine or isolation of a consignment of prescribed live animals	Paragraph 8-10(2)(b)	The exporter of the consignment
15	To suspend or revoke the approval of premises for pre-export quarantine or isolation of a consignment of prescribed live animals	Subsection 8-10(8)	The exporter of the consignment
16	To refuse to approve a notice of intention to export a consignment of prescribed live animals	Paragraph 8-11(2)(b)	The exporter of the consignment

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Reviewable decisions			
Item	Column 1 Reviewable decision	Column 2 Provision of this instrument under which the reviewable decision is made	Column 3 Relevant person for the reviewable decision
17	To approve a notice of intention to export a consignment of prescribed live animals subject to conditions	Subsection 8-11(5)	The exporter of the consignment
18	To request an exporter to vary a notice of intention to export a consignment of prescribed live animals or give the Secretary a new notice of intention to export a consignment of prescribed live animals	Subsection 8-13(1)	The exporter of the consignment
19	To vary the conditions of an approval of a notice of intention to export a consignment of prescribed live animals	Subsection 8-13(2)	The exporter of the consignment
20	To revoke the approval of a notice of intention to export a consignment of prescribed live animals	Subsection 8-14(1)	The exporter of the consignment
21	To refuse to accredit a veterinarian	Paragraph 9-12(1)(b)	The veterinarian who applied for accreditation
22	To accredit a veterinarian for a period of less than 5 years	Subsection 9-12(4)	The accredited veterinarian
23	To accredit a veterinarian subject to additional conditions	Paragraph 9-13(1)(b)	The accredited veterinarian
24	To refuse to renew the accreditation of an accredited veterinarian	Paragraph 9-17(1)(b)	The accredited veterinarian
25	To renew the accreditation of a veterinarian for a period of less than 5 years	Subsection 9-17(4)	The accredited veterinarian
26	To refuse to make a variation in relation to the accreditation of a	Paragraph 9-18(2)(b)	The accredited veterinarian

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Reviewable decisions			
Item	Column 1 Reviewable decision	Column 2 Provision of this instrument under which the reviewable decision is made	Column 3 Relevant person for the reviewable decision
	veterinarian		
27	To vary an aspect of the accreditation of a veterinarian	Paragraph 9-19(1)(a)	The accredited veterinarian
28	To vary the conditions of the accreditation of a veterinarian	Paragraph 9-19(1)(b)	The accredited veterinarian
29	To suspend, in whole or in part, the accreditation of a veterinarian	Subsection 9-20(1)	The accredited veterinarian
30	To revoke the accreditation of a veterinarian	Subsection 9-24(1)	The veterinarian whose accreditation has been revoked
31	To refuse to approve a program of export operations	Subsection 9-34(10)	The person who applied for the approval
32	To refuse to approve a variation of an approved export program	Paragraph 9-36(2)(b)	The holder of the approved export program
33	To require the holder to vary an approved export program	Subsection 9-37(1)	The holder of the approved export program
34	To refuse to suspend the whole or a part of an approved export program	Paragraph 9-39(3)(b)	The holder of the approved export program
35	To suspend the whole or a part of an approved export program	Subsection 9-41(1)	The holder of the approved export program
36	To revoke an approved export program	Subsection 9-43(1)	The person who was the holder of the approved export program
37	To give an order to a holder of a livestock export licence	Subsection 9-54(1)	The holder of the livestock export licence

Part 2—Records

11-2 Purpose of this Part

For the purposes of subsections 408(1) and (2) of the Act, this Part makes provision for and in relation to the retention of records in relation to prescribed livestock, prescribed live animals and prescribed animal reproductive material.

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

11-3 General requirements for records

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

11-4 Government certificates

- (1) A person to whom a government certificate in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material is issued under the Act must retain the certificate in a secure place when it is not being used.
- (2) Subsection (1) does not apply in relation to a government certificate that was issued by electronic means.

11-5 Export permits

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

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11-6 Records to be retained by exporter

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

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

- (1) The occupier of a registered establishment must retain each document:
 - (a) that is made by the occupier or that comes into the occupier's possession; and
 - (b) that is relevant to showing whether the occupier has complied, or is complying, with the applicable requirements of the Act (including whether the conditions of the registration of the establishment have been, and are being, complied with).
- (2) The occupier of the registered establishment must retain each record referred to in subsection (1) for at least 2 years starting on the day the record is made by the occupier or comes into the occupier's possession (as the case may be).

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

- (1) The holder of an approved arrangement for a kind of export operations in relation to prescribed livestock must retain each document:
 - (a) that is made by the holder or that comes into the holder's possession; and
 - (b) that is relevant to showing whether the holder has complied, or is complying, with:
 - (i) the applicable requirements of the Act; and
 - (ii) the approved arrangement; and
 - (iii) the conditions of the approved arrangement.
- (2) The holder of the approved arrangement must retain each record referred to in subsection (1) for at least 2 years starting on the day the record is made by the holder or comes into the holder's possession (as the case may be).

11-9 Records relating to official marks

A person who is required to make a record by section 8-30 or 8-31 must retain each record made under that section for at least 2 years after making it.

11-10 Records relating to official marking devices

A person who is required to make a record by section 8-36 or 8-37 must retain each record made under that section for at least 2 years after making it.

11-11 Records must not be altered or defaced during retention period

- (1) A record that is retained as required under this Division must not be altered or defaced during the period (the *retention period*) in which it is required to be retained.
- (2) However, subsection (1) does not prevent notations or markings being made on the record in accordance with ordinary practice.
- (3) If, during the retention period, notations or markings are made on the record (the *original record*) in accordance with ordinary practice, the person who is required to retain the original record must also retain, during the retention period, each document:
 - (a) that the person creates or that comes into the person's possession; and
 - (b) that shows how the original record was changed.

Part 3—Samples

11-12 Storage of samples

- (1) For the purposes of section 411 of the Act, a sample that may be tested or analysed under the Act must be held under conditions that are unlikely to affect the result of any testing or analysis of the sample.
- (2) Subsection (1) does not apply in relation to a sample that may be tested or analysed in the performance of functions or duties or the exercise of powers under Chapter 10 of the Act (compliance and enforcement) or the Regulatory Powers Act.

Part 4—Damaged or destroyed prescribed livestock, prescribed live animals or prescribed animal reproductive material

11-13 Division of compensation between owners

For the purposes of paragraph 420(2)(b) of the Act, compensation in respect of prescribed livestock, prescribed live animals or prescribed animal reproductive material that are owned by 2 or more owners must be divided among those owners so that each owner is paid an amount of compensation that is equal to the proportion that the Secretary is satisfied represents the owner's interest in the livestock, live animals or animal reproductive material at the time they were damaged or destroyed.

11-14 Amount of compensation

Damaged prescribed livestock, prescribed live animals or prescribed animal reproductive material

- (1) For the purposes of subsection 420(5) of the Act, the amount of compensation payable under subsection 419(1) of the Act in respect of prescribed livestock, prescribed live animals or prescribed animal reproductive material that are damaged by a person in the course of performing functions or duties, or exercising powers, under the Act is the lesser of the following amounts:
- (a) the amount that the Secretary determines was the market value of the livestock, live animals or animal reproductive material immediately before they were damaged;
 - (b) the cost to repair the damage.

Note: Subsection 419(2) of the Act provides that compensation is not payable in respect of goods that are damaged as a result of samples of the goods being taken:

- (a) during an audit conducted in relation to the goods under Part 1 of Chapter 9 of the Act; or
- (b) during an assessment of the goods carried out under Part 2 of that Chapter; or
- (c) as permitted by subsection 327(2) or 330(2) of the Act.

Destroyed prescribed livestock, prescribed live animals or prescribed animal reproductive material

- (2) For the purposes of subsection 420(5) of the Act, the amount of compensation payable under subsection 419(1) of the Act in respect of prescribed livestock, prescribed live animals or prescribed animal reproductive material that are destroyed under the Act is the amount that the Secretary determines was the market value of the livestock, live animals or animal reproductive material immediately before they were destroyed.

Part 5—Relevant Commonwealth liabilities

11-15 Circumstances in which relevant Commonwealth liability of a person is taken to have been paid

Purpose of this section

- (1) For the purposes of section 431 of the Act, this section prescribes circumstances in which a relevant Commonwealth liability of a person is taken to have been paid for the purposes of any of the following provisions of the Act (a **relevant provision**):
- (a) paragraph 112(2)(b) (registration of establishment);
 - (b) paragraph 117(2)(b) (renewal of registration of establishment);
 - (c) paragraph 151(2)(b) (approval of proposed arrangement);
 - (d) paragraph 156(2)(b) (renewal of approved arrangement);
 - (e) paragraph 161(3)(a) (variation of approved arrangement);
 - (f) paragraph 191(2)(b) (grant of export licence);
 - (g) paragraph 196(2)(b) (renewal of export licence);
 - (h) paragraph 199(3)(a) (variation of export licence).

Note: For **relevant Commonwealth liability**, see section 12 of the Act.

Payment undertaking may be given

- (2) A relevant Commonwealth liability of a person is taken to have been paid for the purposes of a relevant provision if:
- (a) the person, or another person, has given a written undertaking (a **payment undertaking**) to the Secretary to pay the amount of the relevant Commonwealth liability; and
 - (b) the payment undertaking includes a term that the relevant Commonwealth liability is to be reduced by each amount paid in accordance with the undertaking; and
 - (c) the Secretary has accepted the payment undertaking, having considered the following matters:
 - (i) the financial position of the person who gave the payment undertaking;
 - (ii) the nature and likely cost of the export operations to which a decision under the relevant provision relates;
 - (iii) whether the person who gave the payment undertaking will be able to comply with the undertaking and, if applicable, meet the cost of the export operations referred to in subparagraph (ii);
 - (iv) any other relevant considerations.
- (3) A payment undertaking may be given by a person in relation to:
- (a) a relevant Commonwealth liability of the person; or

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(b) a relevant Commonwealth liability of another person.

Payment undertaking may relate to 2 or more relevant Commonwealth liabilities

(4) A single payment undertaking may relate to 2 or more relevant Commonwealth liabilities.

(5) If:

(a) a payment undertaking relates to 2 or more relevant Commonwealth liabilities; or

(b) a person has given 2 or more payment undertakings in relation to different relevant Commonwealth liabilities of the person or of another person;

the Secretary may determine the order in which payments are to be applied to reduce the outstanding relevant Commonwealth liabilities.

Variation of payment undertaking

(6) A payment undertaking may be varied at any time by agreement between the Secretary and the person who gave the undertaking.

(7) The Secretary may agree to a variation of a payment undertaking if:

(a) having considered the matters referred to in paragraph (2)(c), the Secretary considers the variation is appropriate; and

(b) the variation does not reduce the amount of any relevant Commonwealth liability covered by the undertaking that has not been paid.

Part 6—Miscellaneous

11-16 Collection of information from agriculture regulators

- (1) The Secretary may collect information to which subsection (2) applies from a body to which subsection (3) applies for either or both of the following purposes:
 - (a) ensuring the health and welfare of prescribed livestock or prescribed live animals, or the health and condition of prescribed animal reproductive material, in the course of export operations;
 - (b) administering or enforcing the Act.
- (2) This subsection applies in relation to personal information, or information that is commercial-in-confidence, if the information relates to prescribed livestock, prescribed live animals or prescribed animal reproductive material that are included in a consignment for which a notice of intention to export was given.
- (3) This subsection applies to the following bodies:
 - (a) a Commonwealth, State or Territory authority or other body that is responsible for the health and welfare of animals, the health and condition of animal reproductive material or the regulation of agricultural production;
 - (b) a body that is authorised to perform functions or exercise powers in relation to the health and welfare of animals, the health and condition of animal reproductive material or the regulation of agricultural production under an Australian law.

Note 1: The collection of the information may also be authorised in other circumstances. For example, see the *Privacy Act 1988*.

Note 2: See Part 3 of Chapter 11 of the Act for provisions dealing with the use and disclosure of relevant information.

Chapter 12—Application, saving and transitional provisions

Part 1—Preliminary

12-1 Definitions

In Parts 2 to 5 of this Chapter:

commencement time means the time when section 3 of the *Export Control Act 2020* commences.

old Export Control (Animals) Order means the *Export Control (Animals) Order 2004*, as in force immediately before the commencement time.

old Export Control (General) Order means the *Export Control (Prescribed Goods—General) Order 2005*, as in force immediately before the commencement time.

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Part 2—Registered establishments

12-2 Application to alter operations manual made, but not decided, before commencement time

- (1) This section applies in relation to a registered establishment if:
 - (a) the establishment was registered premises under the old Export Control (Animals) Order; and
 - (b) an application had been made under subsection 2.11(1) of that Order for approval to alter the approved operations manual for the registered premises; and
 - (c) no decision on the application had been made before the commencement time.
- (2) After the commencement time, the application is taken to be an application made under subsection 120(1) of the Act to vary the operations manual for the registered establishment.

12-3 Direction given to operator of registered premises before commencement time to alter operations manual

- (1) This section applies in relation to a registered establishment if:
 - (a) the establishment was registered premises under the old Export Control (Animals) Order; and
 - (b) the Secretary had, under subsection 2.11(4) of that Order, directed the operator of the registered premises, by notice in writing, to alter the approved operations manual for the premises in a specified way within a specified reasonable time; and
 - (c) the specified time had not ended before the commencement time; and
 - (d) the operator had not complied with the notice before the commencement time.
- (2) The notice continues to have effect after the commencement time as if it were a notice given to the operator of the registered establishment under subsection 4-9(2) of this instrument to vary the operations manual for the establishment.

Part 3—Livestock export licences: exporter supply chain assurance systems

12-4 ESCAS approved before commencement time

If:

- (a) the Secretary had approved an ESCAS under subsection 1A.21(2) of the old Export Control (Animals) Order; and
- (b) the approval was in force immediately before the commencement time;

then the approval continues to have effect after the commencement time as if it had been given under paragraph 6-37(1)(a) of this instrument and subject to the conditions (if any) to which the approval was subject immediately before the commencement time.

12-5 Request to vary ESCAS made before commencement time

If:

- (a) an exporter had requested the Secretary under paragraph 1A.23(1)(b) or (c) of the old Export Control (Animals) Order to approve a variation of an approved ESCAS or vary the conditions imposed on an approved ESCAS; and
- (b) no decision on the request had been made before the commencement time;

then, after the commencement time, the application is taken to be an application made under subsection 6-39(1) of this instrument to approve a variation of the approved ESCAS or the conditions of the approved ESCAS (as the case requires).

12-6 Variation of approved ESCAS required by Secretary before commencement time

If:

- (a) the Secretary had, under paragraph 1A.23(1)(a) of the old Export Control (Animals) Order, required an exporter to vary an approved ESCAS in a specified manner; and
- (b) the exporter had not complied with the requirement before the commencement time;

then the exporter must comply with the requirement as soon as practicable after the commencement time.

Part 4—Other matters relating to export

Division 1—Notices of intention to export

12-7 Notice of intention to export consignment of livestock approved, but consignment not exported, before commencement time

If:

- (a) the Secretary had approved a notice of intention to export (the *NOI*) for a proposed export of livestock (the *consignment*) under subsection 1A.25A(1) of the old Export Control (Animals) Order; and
- (b) the Secretary had not, under subsection 1A.26(2) of that Order:
 - (i) cancelled the approval; or
 - (ii) required the exporter to vary the NOI; or
 - (iii) required the exporter to give the Secretary a new NOI for the proposed export; and
- (c) the consignment had not been exported before the commencement time;

then the approval continues to have effect after the commencement time as if it were an approval of the notice of intention to export the consignment given under paragraph 8-6(2)(a) of this instrument.

Note 1: The NOI continues in force after the commencement time as if it were a notice of intention to export the consignment given in compliance with subsection 243(1) of the Act (see item 51 of Schedule 3 to the *Export Control (Consequential Amendments and Transitional Provisions) Act 2020*). If the NOI had not been approved by the Secretary and had not been withdrawn before the commencement time, the Secretary must decide after the commencement time whether to approve the notice of intention to export the consignment under subsection 8-6(2) of this instrument.

Note 2: If the Secretary had required the exporter to vary the NOI or give the Secretary a new NOI for the consignment under paragraph 1A.26(2)(b) of the old Export Control (Animals) Order and the exporter had not complied with the requirement before the commencement time, the exporter must comply with the requirement (by giving the Secretary a notice of intention to export the consignment in compliance with subsection 243(1) of the Act) as soon as practicable after the commencement time (see subitem 52(2) of Schedule 3 to the *Export Control (Consequential Amendments and Transitional Provisions) Act 2020*).

12-8 Approval of premises for pre-export quarantine or isolation of consignment of livestock given before commencement time

If:

- (a) the Secretary had, under subsection 1A.27(4) of the old Export Control (Animals) Order, approved premises for pre-export quarantine or isolation of livestock (the *consignment*) that are to be exported by air; and
- (b) the consignment had not been exported before the commencement time;

then the approval continues to have effect after the commencement time as if it were an approval of the premises for pre-export quarantine or isolation of the consignment given under paragraph 8-5(2)(a) of this instrument.

12-9 Notice of intention to export consignment of live animals approved, but consignment not exported, before commencement time

If:

- (a) the Secretary had approved a notice of intention to export (the *NOI*) for a proposed export of live animals (the *consignment*) under section 3.07 of the old Export Control (Animals) Order; and
- (b) the Secretary had not, under subsection 3.09(2) of that Order:
 - (i) cancelled the approval; or
 - (ii) directed that the approved NOI be varied in a specified manner; or
 - (iii) required the exporter to submit a new NOI for the proposed export; and
- (c) the consignment had not been exported before the commencement time; then the approval continues to have effect after the commencement time as if it were an approval of the notice of intention to export the consignment given under paragraph 8-11(2)(a) of this instrument.

Note 1: The NOI continues in force after the commencement time as if it were a notice of intention to export the consignment given in compliance with subsection 243(1) of the Act (see item 51 of Schedule 3 to the *Export Control (Consequential Amendments and Transitional Provisions) Act 2020*). If the NOI had not been approved by the Secretary and had not been withdrawn before the commencement time, the Secretary must decide after the commencement time whether to approve the notice of intention to export the consignment under subsection 8-11(2) of this instrument.

Note 2: If the Secretary had directed that the approved NOI be varied or had required the exporter to give the Secretary a new NOI for the consignment under subsection 3.09(2) of the old Export Control (Animals) Order and the exporter had not complied with the requirement before the commencement time, the exporter must comply with the requirement (by giving the Secretary a notice of intention to export the consignment in compliance with subsection 243(1) of the Act) as soon as practicable after the commencement time (see subitem 52(2) of Schedule 3 to the *Export Control (Consequential Amendments and Transitional Provisions) Act 2020*).

12-10 Approval of premises for pre-export quarantine or isolation of consignment of live animals given before commencement time

If:

- (a) the Secretary had, under subsection 3.06(4) of the old Export Control (Animals) Order, approved premises for pre-export quarantine or isolation of live animals (the *consignment*) that are to be exported; and
- (b) the consignment had not been exported before the commencement time; then the approval continues to have effect after the commencement time as if it were an approval of the premises for pre-export quarantine or isolation of the consignment given under paragraph 8-10(2)(a) of this instrument.

Division 2—Official marks

12-11 Person approved before commencement time to manufacture an official mark

- (1) This section applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under subsection 13.18(2) of the old Export Control (General) Order to manufacture an official mark for prescribed livestock, prescribed live animals or prescribed animal reproductive material.
- (2) The person is taken, at the commencement time, to have been given a written approval by the Secretary under section 8-23 of this instrument to manufacture the official mark for prescribed livestock, prescribed live animals or prescribed animal reproductive material (as the case may be).

12-12 Person approved before commencement time to possess an official mark

- (1) This section applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under paragraph 13.18(3)(e) of the old Export Control (General) Order as a person who may possess an official mark (other than an official mark that has been applied to goods) for prescribed livestock, prescribed live animals or prescribed animal reproductive material.
- (2) The person is taken, at the commencement time, to have been given a written approval by the Secretary under paragraph 8-24(b) of this instrument to possess the official mark for prescribed livestock, prescribed live animals or prescribed animal reproductive material (as the case may be).

12-13 Person approved before commencement time to apply an official mark

- (1) This section applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under paragraph 13.18(3)(e) of the old Export Control (General) Order as a person who may apply an official mark to prescribed livestock, prescribed live animals or prescribed animal reproductive material.
- (2) The person is taken, at the commencement time, to have been given a written approval by the Secretary under paragraph 8-25(b) of this instrument to apply the official mark to prescribed livestock, prescribed live animals or prescribed animal reproductive material (as the case may be).

Division 3—Official marking devices

12-14 Person approved before commencement time to manufacture an official marking device

- (1) This section applies in relation to a person who, immediately before the commencement time, was a person approved by the Secretary under subsection 13.18(2) of the old Export Control (General) Order to manufacture an official marking device that is capable of being used to apply an official mark to prescribed livestock, prescribed live animals or prescribed animal reproductive material.
- (2) The person is taken, at the commencement time, to have been given a written approval by the Secretary under paragraph 8-33(b) of this instrument to manufacture or supply the official marking device.

12-15 Person approved before commencement time to possess an official marking device

- (1) This section applies in relation to a person who, immediately before the commencement time, was a person approved by the Secretary under subsection 13.18(2) of the old Export Control (General) Order to possess an official marking device that is capable of being used to apply an official mark to prescribed livestock, prescribed live animals or prescribed animal reproductive material.
- (2) The person is taken, at the commencement time, to have been given a written approval by the Secretary under paragraph 8-33(b) of this instrument to possess the official marking device.

Part 5—Powers and officials

Division 1—Accredited veterinarians

12-16 Accreditations of veterinarians in force immediately before commencement time

- (1) If:
- (a) a veterinarian had been accredited under subsection 4A.06(1) of the old Export Control (Animals) Order to provide pre-export preparation services under approved export programs in one or more States or Territories; and
 - (b) the accreditation was in force immediately before the commencement time;
- then the accreditation (the *continuing accreditation*) continues to have effect after the commencement time as if the veterinarian had been accredited, under subparagraph 9-12(1)(a)(i) of this instrument, to carry out pre-export preparation operations in approved export programs in those States or Territories.
- (2) If:
- (a) a veterinarian had been accredited under subsection 4A.06(1) of the old Export Control (Animals) Order to provide shipboard services under approved export programs; and
 - (b) the accreditation was in force immediately before the commencement time;
- then the accreditation (the *continuing accreditation*) continues to have effect after the commencement time as if the veterinarian had been accredited, under subparagraph 9-12(1)(a)(ii) of this instrument, to carry out shipboard export operations in approved export programs.
- Note: If a veterinarian had been accredited to provide both the services referred to in paragraph (1)(a) of this section and the services referred to in paragraph (2)(a) of this section, then the continuing accreditation continues to have effect as if the veterinarian had been accredited to carry out both the export operations referred to in subsection (1) of this section and the export operations referred to in subsection (2) of this section.
- (3) The continuing accreditation of a veterinarian:
- (a) has effect subject to the conditions (if any) to which the accreditation had been subject under the old Export Control (Animals) Order; and
 - (b) remains in force for the period of accreditation under that Order.

12-17 Application for accreditation of veterinarian made, but not decided, before commencement time

- (1) This section applies if:
- (a) a veterinarian had made an application to the Secretary under subsection 4A.04(2) of the old Export Control (Animals) Order for accreditation as a veterinarian; and
 - (b) no decision on the application had been made before the commencement time.

- (2) After the commencement time, the application is taken to be an application made under subsection 9-11(1) of this instrument.
- (3) Section 9-30 of this instrument does not apply in relation to the application.
- (4) Subsection 9-31(1) of this instrument has effect in relation to the application as if:
 - (a) the reference to the period of 60 days starting on the day the application is received were a reference to the period of 60 days starting on the day the commencement time occurs; and
 - (b) paragraph (a) of that subsection were omitted.

12-18 Notice requiring accredited veterinarian to undertake further training given before commencement time

If:

- (a) Secretary had given a written notice to an accredited veterinarian under subsection 4A.09(1) of the old Export Control (Animals) Order requiring the veterinarian to undertake specified further training; and
- (b) the accredited veterinarian had not completed the training before the commencement time;

then the accredited veterinarian must complete the training after the commencement time as required by the notice as if it had been given under subsection 9-13(6) of this instrument.

12-19 Application to vary accreditation made, but not decided, before commencement time

If:

- (a) an accredited veterinarian had applied to the Secretary under section 4A.08 of the old Export Control (Animals) Order for the accreditation of the veterinarian to be varied; and
- (b) no decision on the application had been made before the commencement time;

then, after the commencement time, the application is taken to be an application made under subsection 9-18(1) of this instrument.

12-20 Notice of varied conditions of accreditation given before commencement time to take effect after that time

If:

- (a) the Secretary had given a written notice to an accredited veterinarian under subsection 4A.06(3) of the old Export Control (Animals) Order adding, varying or removing conditions of the accreditation of the veterinarian; and
 - (b) the varied conditions had not taken effect before the commencement time;
- then the varied conditions take effect after the commencement time in accordance with the notice as if the variation had been made under

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subsection 9-18(3) of this instrument and the notice had been given under subsection 9-18(4) of this instrument.

12-21 Suspension of accreditation

Suspension of accreditation in force immediately before commencement time

- (1) If:
- (a) the accreditation of a veterinarian had been suspended under section 4A.10 or 4A.11 of the old Export Control (Animals) Order; and
 - (b) the suspension was in force immediately before the commencement time;
- then, after the commencement time, the accreditation of the veterinarian is taken to be suspended under subsection 9-20(1) of this instrument.

Show cause notice given before commencement time

- (2) If:
- (a) a notice (a **show cause notice**) had been given to an accredited veterinarian under subsection 4A.10(2) of the old Export Control (Animals) Order directing the accredited veterinarian to show cause, within the period set out in the notice, why the accredited veterinarian's accreditation should not be suspended; and
 - (b) the period had not ended before the commencement time;
- then the show cause notice continues to have effect after the commencement time as if it were a notice given to the accredited veterinarian under subsection 9-20(2) of this instrument.

Notice of suspension given before commencement time

- (3) If:
- (a) the Secretary had given a written notice to an accredited veterinarian under subsection 4A.10(6) or 4A.11(1) of the old Export Control (Animals) Order of the suspension of the accreditation of the veterinarian; and
 - (b) the suspension had not taken effect before the commencement time;
- then:
- (c) the Secretary is taken to have decided, at the commencement time, to suspend the accreditation under subsection 9-20(1) of this instrument; and
 - (d) the notice has effect after the commencement time as if it had been given under subsection 9-21(1) of this instrument; and
 - (e) the suspension takes effect in accordance with the notice.

Note: The Secretary may revoke the suspension (see section 9-22 of this instrument).

12-22 Revocation of accreditation

Show cause notice given before commencement time

- (1) If:
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(a) a notice (a *show cause notice*) had been given to an accredited veterinarian under subsection 4A.10(2) of the old Export Control (Animals) Order directing the accredited veterinarian to show cause, within a period set out in the notice, why the accredited veterinarian's accreditation should not be revoked; and

(b) the period had not ended before the commencement time;

then the show cause notice continues to have effect after the commencement time as if it were a notice given to the accredited veterinarian under subsection 9-24(2) of this instrument.

Notice of revocation given before commencement time

(2) If:

(a) the Secretary had given a written notice to an accredited veterinarian under subsection 4A.10(6) of the old Export Control (Animals) Order of the revocation of the accreditation of the veterinarian; and

(b) the revocation had not taken effect before the commencement time;

then:

(c) the Secretary is taken to have decided, at the commencement time, to revoke the accreditation under subsection 9-24(1) of this instrument; and

(d) the notice has effect after the commencement time as if it had been given under subsection 9-25(1) of this instrument; and

(e) the revocation takes effect in accordance with the notice.

Division 2—Approved export programs

Subdivision A—Exporter’s approved export programs

12-23 Exporter’s approved export program in force immediately before commencement time

- (1) An approved export program that was in force under Subdivision A of Division 1A.7 of Part 1A of the old Export Control (Animals) Order immediately before the commencement time continues in force after that time as if it had been approved by the Secretary under subsection 311(1) of the Act.

Period of effect of approved export program

- (2) If there was no expiry date for the approved export program under the old Export Control (Animals) Order, the approved export program continues in force unless it is revoked under section 9-42 or 9-43 of this instrument.
- (3) If there was an expiry date for the approved export program under the old Export Control (Animals) Order, the approved export program continues in force until that expiry date unless it is revoked under section 9-42 or 9-43 of this instrument on or before that date.

12-24 Application for approval of program of export operations made, but not decided, before commencement time

- (1) This section applies if:
 - (a) an exporter had made an application to the Secretary under paragraph 1A.35(1)(a) of the old Export Control (Animals) Order for approval of a program of activities; and
 - (b) no decision on the application had been made before the commencement time.
- (2) After the commencement time, the application is taken to be an application made under paragraph 9-33(1)(b) of this instrument for approval of a program of export operations.
- (3) If:
 - (a) the Secretary had under subsection 1A.36(2) of the old Export Control (Animals) Order requested further information or documents relevant to the application to be given to the Secretary; and
 - (b) the request had not been complied with before the commencement time;then, after the commencement time, the request is taken to be a request made under subsection 9-34(2) of this instrument.

12-25 Variation of approved export program

Application to approve variation made but not decided before commencement time

- (1) If:
- (a) the holder of an approved export program had made an application to the Secretary under subsection 1A.38(1) of the old Export Control (Animals) Order to approve a variation of the approved export program; and
 - (b) no decision on the application had been made before the commencement time;

then, after the commencement time, the application is taken to be an application made under subsection 9-36(1) of this instrument.

Approval of variation given before commencement time to take effect after commencement time

- (2) If:
- (a) the Secretary had approved a variation of an approved export program under subsection 1A.38(5) of the old Export Control (Animals) Order; and
 - (b) the Secretary had given the holder of the approved export program a written notice under subsection 1A.38(8) of that Order; and
 - (c) the variation is to take effect after the commencement time;

then the variation takes effect after the commencement time in accordance with the notice.

Variation notice given by Secretary before commencement time but notice not complied with before commencement time

- (3) If:
- (a) the Secretary had given a written notice to the holder of an approved export program under subsection 1A.39(1) of the old Export Control (Animals) Order requiring the holder to vary the approved export program; and
 - (b) the holder had not complied with the notice before the commencement time; and
 - (c) the period specified in the notice for complying with the notice had not ended before the commencement time;

then the notice has effect after the commencement time as if it had been given under subsection 9-37(1) of this instrument.

12-26 Approved export program suspended before commencement time

Suspension in force immediately before commencement time

- (1) If:
- (a) the whole or a part of an approved export program had been suspended under subsection 1A.41(3) of the old Export Control (Animals) Order; and
 - (b) the period of the suspension had not ended before the commencement time;

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then, after the commencement time, the whole or the part of the approved export program is taken to be suspended under paragraph 9-39(3)(a) of this instrument.

(2) If:

- (a) the whole or a part of an approved export program had been suspended under subsection 1A.42(1) of the old Export Control (Animals) Order; and
- (b) the period of the suspension had not ended before the commencement time;

then, after the commencement time, the whole or the part of the approved export program is taken to be suspended under subsection 9-41(1) of this instrument.

Suspension to take effect after commencement time

(3) If:

- (a) the Secretary had suspended the whole or a part of an approved export program by written notice given to the holder of the approved export program under subsection 1A.41(3) of the old Export Control (Animals) Order; and
- (b) the suspension is to take effect after the commencement time;

then, after the commencement time:

- (c) the Secretary is taken to have decided to suspend the accreditation under paragraph 9-39(3)(a) of this instrument; and
- (d) the notice has effect as if it had been given under subsection 9-39(8) of this instrument; and
- (e) the suspension takes effect in accordance with the notice.

Note: The holder may request the Secretary to revoke the suspension (see section 9-40 of this instrument).

(4) If:

- (a) the Secretary had given a written notice to the holder of an approved export program under subsection 1A.42(1) of the old Export Control (Animals) Order stating that the whole or a part of the approved export program is to be suspended; and
- (b) the suspension is to take effect after the commencement time;

then, after the commencement time:

- (c) the Secretary is taken to have decided to suspend the accreditation under subsection 9-41(1) of this instrument; and
- (d) the suspension takes effect in accordance with the notice.

12-27 Request by holder of approved export program to cancel suspension

If:

- (a) the whole or a part of an approved export program had been suspended under subsection 1A.41(3) of the old Export Control (Animals) Order; and
- (b) the holder of the approved export program had requested the Secretary, under subsection 1A.41(4) of that Order, to cancel the suspension; and
- (c) no decision on the request had been made before the commencement time;

then, after the commencement time, the request is taken to be a request made under subsection 9-40(1) of this instrument to revoke the suspension of the whole or the part of the approved export program.

12-28 Request to suspend approved export program made, but not decided, before commencement time

If:

- (a) the holder of an approved export program had requested the Secretary under subsection 1A.41(1) of the old Export Control (Animals) Order to suspend the whole or a part of the approved export program; and
- (b) no decision on the request had been made before the commencement time;

then, after the commencement time, the request is taken to be a request made under subsection 9-39(1) of this instrument.

12-29 Cancellation of approved export program

Request for cancellation made by holder before commencement time

(1) If:

- (a) the holder of an approved export program had requested the Secretary under subsection 1A.43(1) of that Order to cancel the approved export program; and
- (b) the Secretary had not given a written notice to the holder, under subsection 1A.43(2) of that Order, cancelling the approved export program;

then, after the commencement time, the request is taken to be a request made under subsection 9-42(1) of this instrument to revoke the approved export program.

Cancellation by Secretary to take effect after commencement time

(2) If:

- (a) the Secretary had given a written notice to the holder of an approved export program under subsection 1A.44(1) of the old Export Control (Animals) Order stating that the approved export program is to be cancelled; and
- (b) the cancellation is to take effect after the commencement time;

then, after the commencement time:

- (c) the Secretary is taken to have decided to revoke the approved export program under subsection 9-43(1) of this instrument; and
- (d) the revocation takes effect in accordance with the notice.

Subdivision B—Secretary’s approved export programs

12-30 Secretary’s approved export program in force immediately before commencement time

- (1) An approved export program that was in force under Subdivision B of Division 1A.7 of Part 1A of the old Export Control (Animals) Order immediately
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before the commencement time continues in force after that time as if it had been approved by the Secretary under subsection 311(1) of the Act.

Period of effect of approved export program

- (2) If there was no expiry date for the approved export program under the old Export Control (Animals) Order, the approved export program continues in force until it is revoked.
- (3) If there was an expiry date for the approved export program under the old Export Control (Animals) Order, the approved export program continues in force until that expiry date unless it is revoked.

12-31 Variation of approved export program before commencement time to take effect after commencement time

Notice of variation given before commencement time

- (1) If:
 - (a) the Secretary had varied an approved export program under subsection 1A.47(1) of the old Export Control (Animals) Order; and
 - (b) the Secretary had notified the exporters to whose export activities the approved export program relates under subsection 1A.47(2) of that Order; and
 - (c) the variation is to take effect after the commencement time;then the variation takes effect after the commencement time in accordance with the notice.

Notice of variation not given before commencement time

- (2) If:
 - (a) the Secretary had varied an approved export program under subsection 1A.47(1) of the old Export Control (Animals) Order; and
 - (b) the Secretary had not, under subsection 1A.47(2) of that Order, notified the exporters to whose export activities the approved export program relates;then, after the commencement time, the Secretary must, under subsection 9-46(2) of this instrument, notify the exporters to whose export operations the approved export program relates.

Part 6—Amendments made by the Export Control (Animals) Amendment (Northern Hemisphere Summer Prohibition) Rules 2022

12-32 Application of amendments

The amendments of this instrument made by the *Export Control (Animals) Amendment (Northern Hemisphere Summer Prohibition) Rules 2022* apply in relation to a consignment of sheep exported by sea on a vessel that leaves an Australian port on or after the commencement of that instrument (whether the sheep export licence was granted before, on or after that commencement).

Part 7—Amendments made by the Export Control (Animals) Amendment (Northern Hemisphere Summer Conditions) Rules 2023

12-33 Application of amendments

The amendments of this instrument made by the *Export Control (Animals) Amendment (Northern Hemisphere Summer Conditions) Rules 2023* apply in relation to a consignment of sheep exported by sea on a vessel that leaves an Australian port on or after the commencement of that instrument (whether the sheep export licence was granted before, on or after that commencement).

Part 8—Amendments made by the Export Control (Animals) Amendment (Improving Regulatory Outcomes) Rules 2023

12-34 Definitions

In this Part:

amending Rules means the *Export Control (Animals) Amendment (Improving Regulatory Outcomes) Rules 2023*.

commencement day means the day the amending Rules commence.

12-35 Conditions of approved arrangements

Sections 5-4A and 5-4B, as inserted by the amending Rules, apply in relation to approved arrangements granted before, on or after the commencement day.

12-36 Conditions of livestock export licence—orders made by authorised officers

Section 6-8A, as inserted by the amending Rules, applies in relation to livestock export licences granted before, on or after the commencement day.

12-37 Revocation of approved ESCAS

Section 6-42, as amended by the amending Rules, applies in relation to notices of proposed revocation given on or after the commencement day.

12-38 Revocation of approval of notice of intention to export consignment

Section 8-9 and 8-14, as amended by the amending Rules, apply in relation to statements made, or information or documents given to the Secretary, the Department or another person, before, on or after the commencement day.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Export Control (Animals) Rules 2021	24 March 2021 (F2021L00319)	28 March 2021 (s 1-2(1) item 1)	
Export Control (Animals) Amendments (Exports to Kingdom of Saudi Arabia) Rules 2021	16 July 2021 (F2021L00992)	17 July 2021 (s 2(1) item 1)	—
Export Control Legislation Amendment (2021 Measures No. 1) Rules 2021	7 December 2021 (F2021L01730)	Sch 1: 1 January 2022 (s 2(1) item 2)	—
Export Control (Animals) Amendment (Northern Hemisphere Summer Prohibition) Rules 2022	5 April 2022 (F2022L00537)	6 April 2022 (s 2(1) item 1)	—
Export Control (Animals) Amendment (Northern Hemisphere Summer Conditions) Rules 2023	31 March 2023 (F2023L00391)	1 April 2023 (s 2(1) item 1)	—
Export Control (Animals) Amendment (Improving Regulatory Outcomes) Rules 2023	18 December 2023 (F2023L01700)	19 December 2023 (s 2(1) item 1)	—
Export Control Legislation Amendment (2024 Measures No. 1) Rules 2024	29 April 2024 (F2024L00481)	Sch 1 (item 1): 30 April 2024 (s 2(1) item 1)	—

Endnote 4—Amendment history

Provision affected	How affected
Chapter 1	
s 1-2	rep LA s 48D
Part 2	
s 1-6	am F2022L00537; F2023L00391
Chapter 2	
Part 3	
Division 1	
s 2-14A	ad F2023L01700
s 2-16A	ad F2023L01700
Division 2	
s 2-20	rep F2023L01700
s 2-21	am F2023L01700
Division 3	
s 2-24	am F2021L01730
Chapter 4	
Part 3	
s 4-5A	ad F2021L01730
Part 9	
Part 9	ad F2021L01730
s 4-18	ad F2021L01730
Chapter 5	
Part 1	
Division 1	
s 5-1	am F2023L01700
Division 2	
s 5-4A	ad F2023L01700
s 5-4B	ad F2023L01700
Part 2	
Division 5	
s 5-21A	ad F2023L01700
s 5-21B	ad F2023L01700
s 5-22	am F2023L01700
Chapter 6	
Part 2	
Division 2	
s 6-6	am F2021L01730
s 6-8A	ad F2023L01700

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Division 4	
Subdivision B	
s 6-13	am F2022L00537
s 6-14	rs F2022L00537
s 6-14A	ad F2022L00537
s 6-14B.....	ad F2022L00537
	am F2023L00391
Subdivision C	
s 6-16	am F2023L00391
s 6-17	am F2023L00391
s 6-18	am F2023L00391
s 6-19	am F2023L00391
s 6-19A	ad F2023L00391
Subdivision D	
s 6-23	am F2023L00391
Division 5	
s 6-24	am F2021L00992
Part 9	
Division 3	
s 6-42	am F2023L01700
s 6-42A	ad F2023L01700
Part 10	
s 6-44	am F2021L01730
Chapter 8	
Part 1	
Division 2	
s 8-6	am F2021L01730
s 8-9	am F2023L01700
s 8-11	am F2021L01730
s 8-14	am F2023L01700
Part 2	
Division 2	
s 8-26	am F2021L01730
Chapter 9	
Part 1	
Division 2	
s 9-4	am F2021L01730
Part 3	
Division 4	
s 9-19	am F2023L01700

Endnote 4—Amendment history

Provision affected	How affected
Division 5	
s 9-20	am F2023L01700
s 9-21	am F2023L01700
Division 6	
s 9-24	am F2023L01700
s 9-25	am F2023L01700
Division 7	
s 9-26	am F2023L01700
s 9-27	am F2021L01730
Part 4	
Division 2	
Subdivision E	
Subdivision E.....	ad F2023L01700
s 9-43A	ad F2023L01700
Division 4	
s 9-48	am F2021L01730
Part 5	
Part 5.....	ad F2022L00537
s 9-51	ad F2022L00537
s 9-52	ad F2023L01700
Part 6	
Part 6.....	ad F2023L01700
s 9-53	ad F2023L01700
s 9-54	ad F2023L01700
Chapter 11	
Part 1	
s 11-1	am F2023L01700
Part 6	
s 11-16	am F2024L00481
Chapter 12	
Chapter 12 heading.....	am F2022L00537
Part 1	
s 12-1	am F2022L00537
Part 6	
Part 6.....	ad F2022L00537
s 12-32	ad F2022L00537
Part 7	
Part 7.....	ad F2023L00391
s 12-33	ad F2023L00391

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Part 8	
Part 8.....	ad F2023L01700
s 12-34.....	ad F2023L01700
s 12-35.....	ad F2023L01700
s 12-36.....	ad F2023L01700
s 12-37.....	ad F2023L01700
s 12-38.....	ad F2023L01700
