

EXPLANATORY STATEMENT

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

Export Control Act 2020

Export Control (Meat and Meat Products) Rules 2021

Authority

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

The *Export Control (Meat and Meat Products) Rules 2021* (the Meat Rules) prohibit the export of prescribed meat and meat products from Australian territory, or from a part of Australian territory, unless prescribed export conditions are adhered to. These conditions ensure the importing country requirements are satisfied, reflect industry standards, and meet Australia's international obligations. Prescribed meat and meat products are regulated by the Meat Rules.

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

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

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

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

Purpose

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

By setting out key requirements for the export of meat or meat products in the Meat Rules, and having those Rules made by the Secretary, the regulatory framework can be kept fit for purpose if importing country requirements change. Many changes are technical matters, concerning the way that goods are to be produced, prepared, or exported. Having the capacity to change the Meat Rules quickly is crucial to ensuring that Australian producers, processors and exporters do not experience disruption in market access and can continue to export goods that meet requirements. This is particularly important because one non-compliant export of goods can have significant consequences for other exports, including restrictions on, or the closure of, market access.

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

Background

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

Based on these findings, 2 regulatory options were considered:

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

On considering the findings of the Review, the Australian Government agreed to improve the legislative framework to address the issues identified by the Review. As part of that process, existing export-related requirements were streamlined and consolidated into an improved legislative framework comprising of the Act and commodity specific rules, which will support the Act. These improvements reduce duplication as well as make it easier to understand and comply with export requirements.

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

Impact and Effect

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

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

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

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

Chapter 3 deals with matters relating to accredited properties. These include:

- requirements for accreditation;
- conditions of accreditation;
- application for accreditation and renewal, variation and revocation of accreditation; and
- obligations of managers of accredited properties.

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

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

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

- requirements for approval;
- conditions of an approved arrangement;
- application for an approved arrangement and renewal and variation of an approved arrangement; and
- for Halal meat certification operations, obligations of holders of approved arrangements and fit and proper person requirements.

Chapter 6 deals with meat export licences. These include:

- requirements for and conditions of a meat export licence;
- application for a meat export licence and renewal, suspension and revocation of a meat export licence; and
- obligations of holders of meat export licences and fit and proper person requirements.

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

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

Chapter 9 deals with matters relating to powers and officials. These include provisions for the conduct of audits and carrying out of assessments of goods. Chapter 9 also provides for powers and functions of authorised officers, decisions that may be made by the operation of a computer program and matters relating to inspections.

Chapter 10 provides for compliance and enforcement in relation to samples taken in exercising monitoring or investigation powers. Chapter 10 also deals with things seized in exercising investigation powers.

Chapter 11 deals with miscellaneous matters such as review of decisions, record-keeping, storage of samples, compensation for the damage or destruction of goods and relevant Commonwealth liabilities.

Chapter 12 provides a scheme of transitional and savings provisions that will preserve the rights and liabilities under the former Orders (the old *Export Control (Meat and Meat Products) Orders 2005*, the old *Export Control (Prescribed Goods—General) Order) 2005*. The provisions also allow for eligibility that commenced under the former Orders to continue, where applicable, under the Meat Rules.

Consultation

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

A public consultation draft of the Meat Rules was published on the Department website from 30 March 2020 to 26 June 2020. During this time, the Department consulted with stakeholders through information sessions held on 7 May, 14 May, 21 May, 28 May and 4 June 2020. Seven written submissions were received and considered in further developing these rules.

An exposure draft of the Meat Rules was released on 7 September 2020 as part of a package of revised commodity specific rules for 60 days of public consultation to ensure Australia's compliance with international obligations under the World Trade Organization's Sanitary and Phytosanitary Agreement. Seven submissions were received during this time, and feedback obtained from all consultation rounds was considered in the development of the Meat Rules.

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

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

Details and Operation

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

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

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

The Meat Rules incorporate the Australian Meat Standard as existing at the commencement of the Meat Rules. In 2021, this standard was available on the CSIRO website (<https://www.publish.csiro.au>).

Other

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

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

CHAPTER 1—PRELIMINARY

Part 1—Preliminary

1-1 Name

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

1-2 Commencement

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

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

1-3 Authority

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

1-4 Simplified outline of this instrument

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

The Meat Rules prescribe matters and make other provisions in relation to meat and meat products for the purposes of the Act. Chapters in the Meat Rules have the same name and number as corresponding Chapters in the Act.

Part 2—Interpretation

Division 1—Definitions

1-5 Definitions

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

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

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

Meat is defined as any part of an animal (including an animal carcass and offal) that is slaughtered other than in a wild state. Here, **animal** means a bovine animal, bubaline animal, camelid animal, caprine animal, cervid animal, ovine animal, porcine animal or soliped animal. The note after the definition of **animal** explains that examples are cattle and bison (bovine animals), Asian water buffalo (bubaline animals), camels (camelid animals), goats (caprine animals), deer (cervid animals), sheep (ovine animals), pigs (porcine animals) and horses and donkeys (soliped animals). A **meat product** is defined as a product containing meat.

The **Australian Meat Industry Classification System** is a publication system published by AUS-MEAT Limited (<https://www.ausmeat.com.au>). AUS-MEAT Limited (Authority for Uniform Specification-MEAT) is an industry owned body operating as a joint venture under the control of a Board of Directors appointed by MLA and AMPC. Since 1993, AUS-MEAT has been providing the Australian Meat Industry with information relevant to trade description, overseas country requirements, carcass measurements and branding schemes through the Australian Meat Industry Classification System Information Manual. The manual provides a clear separation between the Industry National Accreditation Standards which are administered by AUS-MEAT on behalf of the Australian Meat Industry Language and Standards Committee from other commercial information.

The Australian Meat Industry Classification System is incorporated as it exists at the time of commencement of the Meat Rules as a necessary document for the Australian Meat Industry. The manual provides a common language which uses objective descriptions to describe meat products accurately to meet market requirements both nationally and internationally. The language has been adopted throughout the Australian meat industry and provides customers with an accurate way of describing and ordering meat products. In 2021, the Australian Meat Industry Classification System Information Manual is freely available on the AUS-MEAT website (<https://www.ausmeat.com.au/members/publications/australian-meat-industry-classification-system/>).

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

The purpose of the definition of **EU-listed establishment** is to incorporate the list of establishments published by the European Commission in accordance with Article 12 of Regulation (EC) No 854/2004 as it exists from time to time. This list is incorporated from time to time under the provisions of paragraph 432(3)(c) of the Act. It is necessary to define this term on the basis of a list that exists from time to time as there are regular amendments made to the list requiring reference to the most up-to-date version to ensure new

establishments can export to the European Union (EU) as soon as they are included on the list. As of 2021, this list is freely available on the EU website (<https://ec.europa.eu>).

The note following the definition of ***EU-listed establishment*** explains that an establishment is included in the list if it meets the requirements of the EU for operations to prepare meat or meat products for export to a member state of the EU as food. The list is freely available on the European Commission website (<https://ec.europa.eu>).

The purpose of the definitions of ***ineligible breeding bull*** and ***ineligible breeding female*** is to be clear this refers to specified live bovine animals held on accredited farms for breeding purposes, but not born on the accredited farm, and not treated with hormonal growth promotant (***HGP***). ***HGP*** means a veterinary chemical product that contains a substance that is, or a mixture of substances that are, responsible for oestrogenic, androgenic, gestagenic or thyrostatic activity to enhance growth or production in cattle, and is registered for use for this purpose in Australia under section 14 of the Agricultural and Veterinary Chemicals Code set out in the Schedule to the *Agricultural and Veterinary Chemicals Code Act 1994*. These specific definitions are necessary for export to the European Union.

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

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

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

A ***restricted slaughter animal*** is an animal to which a disposition under paragraph 8.9(b) of the Australian Meat Standard (ante-mortem dispositions) has been applied. Animals are inspected to the extent necessary to determine the disposition to be applied. The note following this definition provides that an animal may be passed for slaughter subject to conditions (see paragraph 8.9(b) of the Australian Meat Standard).

1-6 Meaning of loaded for export

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

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

These obligations under the Meat Rules include:

- that prescribed meat or meat products must, at the time they are loaded for export, be packaged to effectively protect them from contamination and deterioration in the conditions under which they are loaded, stored, and transported from Australian territory (section 5-17 of the Meat Rules); and
- that prescribed meat or meat products must not be loaded for export in a container system unit or area on an aircraft or vessel, unless the container system unit or area used for loading is clean, free from contamination, free of odours and materials capable of contaminating meat or meat products or their packaging, maintained in a good state of repair and working order having regard to its use, and if necessary, has appropriate and adequate refrigeration (section 5-18 of the Meat Rules).

Division 2—Other interpretation provisions

1-7 References to authorised officer and meat safety inspector

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

The note following subsection 1-7(1) explains that an authorised officer may perform all of the functions of a meat safety inspector specified in the Australian Meat Standard, with reference to section 9-21 of the Meat Rules.

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

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

Subsection 1-8(1) provides that certain matters in the Australian Meat Standard is taken to be modified for the purposes of the Meat Rules. This ensures there is consistency with terms used in the Meat Rules and the Act.

Subsection 1-8(2) provides the definition of *dried meat* in the Australia Meat Standard (clause 1.3) is taken to be omitted and substituted with:

dried meat does not include slow-dried cured meat.

Subsection 1-8(3) provides that reference to a ‘meat business’ in the Australian Meat Standard is to be read as a reference to an establishment where operations to prepare meat or meat products for export are carried out, or if the context requires, the occupier of such an establishment.

Subsection 1-8(4) provides that a reference to a ‘meat transport vehicle’ in the Australian Meat Standard is to be read as a reference to the definition of that term in section 1-5 of the Meat Rules. *Meat transport vehicle* is defined in section 1-5 as a conveyance that is used to transport or transfer prescribed meat or meat products, and includes the meat carrying compartment of the conveyance.

Subsection 1-8(5) provides that reference to the ‘operator or proprietor of meat premises’ in the Australian Meat Standard is to be read, in the context of the Meat Rules, as a reference to the occupier of an establishment. This ensures consistency between the Australian Meat Standard, the Meat Rules and the Act in respect of the requirements and conditions that apply to occupiers of establishments.

The note following subsection 1-8(5) explains that *establishment* has the same meaning as *premises*, as provided for in section 12 of the Act. This is to ensure consistency between the Australian Meat Standard, the Meat Rules and the Act when the requirements and conditions apply to occupiers. *Premises* includes a structure, building or conveyance, or a place (whether or not enclosed or built on), including a place situated underground or under water, or a part of any of these things.

1-9 Circumstances in which alternative procedure, standard or other requirement is taken to meet requirements of Australian Meat Standard

Section 1-9 sets out the circumstances in which an alternative procedure, standard or other requirement is, for the purposes of the Meat Rules, taken to meet the requirements of the Australian Meat Standard. This is in circumstances where:

- the Australian Meat Standard requires a particular technique to be implemented in carrying out operations to prepare prescribed meat or meat products for export; and
- meeting the requirements of the Australian Meat Standard is a condition of the registration of the registered establishment where operations to prepare the meat or meat products for export are carried (under section 4-3 of the Meat Rules); and

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

In such circumstances, the implementation of that alternative procedure, standard or requirement when carrying out operations to prepare prescribed meat or meat products for export is taken to meet the requirement in the Australian Meat Standard to implement a particular technique.

The purpose of section 1-9 is to provide flexibility to allow for innovation in preparing meat and meat products, while maintaining the integrity of the goods. The alternative procedures, standards or other requirements will not be taken to fulfil the Australian Meat Standard unless they have been approved as part of an approved arrangement.

The first note following section 1-9 explains that the holder of an approved arrangement may need to apply to the Secretary under paragraph 161(1)(b) of the Act to approve a variation of the arrangement in order to implement an alternative procedure, standard or other requirement.

The second note following section 1-9 alerts the reader to the fact that the holder of an approved arrangement may commit an offence or be liable to a civil penalty under section 163 of the Act if

- the approved arrangement needs to be varied to provide for an alternative procedure, standard or other requirement to be implemented in carrying out operations to prepare prescribed meat or meat products for export; and
- the variation is implemented; and
- the variation has not been approved by the Secretary under paragraph 161(2)(a) of the Act, or the variation has been approved under that paragraph but the Secretary has not given the holder notice of the approval under section 162 of the Act.

CHAPTER 2—EXPORTING GOODS

Part 1—Goods

Division 1—Prescribed goods

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

2-1 Meat and meat products that are prescribed goods

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

Subsection 2-1(1) prescribes meat or meat products that are derived from listed types of animals which are intended to be exported as food as prescribed goods for the purposes of subsection 28(1) of the Act. This means that meat or meat products:

- derived from a bovine animal, bubaline animal, camelid animal, caprine animal, cervid animal, ovine animal, porcine animal or soliped animal; and
- are intended to be exported as food,

will be subject to the regulatory controls in the Act and the Meat Rules, including the requirement to comply with prescribed export conditions. This general rule is, however, subject to the express exceptions set out in subsections 2-1(3) and (4), and the circumstances set out in section 2-2 of the Meat Rules which details the meat and meat products that are taken not to be prescribed goods.

The first note following subsection 2-1(1) provides for examples of the animals (as defined in section 1-5 of the Meat Rules) referred to in paragraph 2-1(1)(a).

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

The third note following subsection 2-1(1) explains that meat and meat products covered by subsection 2-1(1) are taken not to be *prescribed goods* for the purposes of the Act in the circumstances prescribed by section 2-2 of the Meat Rules.

Subsection 2-1(2) provides that meat or meat products listed under subsection 2-1(3) will be considered to be prescribed meat or meat products (*prescribed goods*) for the purpose of subsection 28(1) of the Act in the circumstance where the goods are intended to be exported

to a particular country (the *importing country*) as food and one or more requirements of the Act must be met in order to meet an importing country requirement.

In such circumstances the goods will be considered prescribed goods (and thus be subject to the requirements of the Act and the Meat Rules) for the purposes of importing to that country, but will not be prescribed goods when exported to another country that does not have the same importing requirements.

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

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

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

- soup, soup powder or soup concentrate derived from meat;
- meat extracts;
- tallow, gelatine or regenerated collagen products derived from meat;
- any other meat or meat products that are not covered by subsection 2-1(1);
- meat products containing less than 5% mass of meat;
- meat or meat products for export in a consignment of not more than 10 kilograms; and
- meat or meat products for export to New Zealand for consumption in New Zealand.

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

Paragraph 2-1(i) gives effect to the Trans-Tasman Mutual Recognition Arrangement that came into force between Australia and New Zealand in May 1998. The arrangement seeks to minimise regulatory barriers to the export of goods to New Zealand.

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

requirements. This also provides for the regulation of meat and meat products for export where there is a need to focus on exports that attract the most risk.

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

2-2 Meat and meat products that are taken not to be prescribed goods

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

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

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

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

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

The note following section 2-2 explains that for the purposes of paragraph 2-2(f), a resource industry structure that is not installed is taken to be a vessel in accordance with the *Sea Installations Act 1987*.

Division 2—Prohibited export and prescribed export conditions

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

2-3 Purpose and application of this Division

Subsections 2-3(1) and (2) provide that Division 2 of Part 1 of Chapter 2 of the Meat Rules is made for the purposes of section 29 of the Act and that it applies to prescribed meat and meat products (i.e. meat and meat products prescribed under section 2-1).

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

The second note following subsection 2-3(2) alerts the reader to the fact that, under section 2-2 of the Meat Rules, meat and meat products are taken not to be prescribed goods in the specified circumstances. The note also refers to the definition of *prescribed goods* in section 12 of the Act.

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

This acknowledges that Part 2 of Chapter 2 of the Act allows certain persons to apply for and be granted an exemption from one or more provisions of the Act in the circumstances listed in section 52 of the Act. For instance, a person may be granted an exemption from having to comply with one or more of the prescribed export conditions in relation to the export of prescribed meat or meat products for experimental purposes.

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

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

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

The prescribed export conditions that apply to the export of prescribed meat or meat products are:

- that all applicable importing country requirements relating to the meat or meat products, and the operations to prepare them for export, must be met; and
- that if a Halal certificate is required by an exporter or importing country authority, the operations must be carried out by an Islamic organisation in accordance with an approved arrangement for Halal meat certification operations held by the Islamic Organisation and the approved arrangement must not be suspended at the time the operations are carried out; and
- that if the meat or meat products are derived from a bovine animal and are intended to be exported to the European Union (EU) as food, the animals (unless they are bobby calves) must be sourced from a property accredited for EU export meat production

operations and the accreditation of the property must not be suspended at the time the animals are sourced. The registered establishment where operations to prepare the meat or meat products for export are carried out must be an EU-listed establishment; and

- that the operations to prepare meat or meat products for export must be carried out at an establishment that is registered for those operations in relation to the meat or meat products, and that the registration is not suspended in relation to those operations at the time the operations are carried out; and
- that an approved arrangement covering operations to prepare the meat or meat products for export at the registered establishment must be in force and not suspended in relation to those operations at the time the operations are carried out; and
- that if the meat or meat products are derived from a bovine (other than a buffalo), a caprine or an ovine animal, the exporter must hold a meat export licence which must be in force and not suspended when the meat or meat products are exported; and
- that, for each consignment of meat or meat products to be exported, a person prescribed by section 8-2 of the Meat Rules (the person who intends to export the consignment) must provide the Secretary, at the time prescribed by section 8-4 (as soon as reasonably practicable), with a notice of intention to export the consignment; and
- that, at the time of the export, the exporter must hold an export permit for the meat or meat products that is in force and not suspended.

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

For the purpose of export to the EU (section 2-4, table item 3) a **bobby calf** means a bovine animal that is less than 30 days old and weighs less than 80 kilograms live weight.

The first note following section 2-4 alerts the reader that additional conditions may also apply to the export of particular prescribed meat or meat products that also fit within other regimes – such as particular meat products that are also covered by the *Export Control (Organic Goods) Rules 2021*.

The second note following section 2-4 explains that if the meat or meat product is derived from bovine animals and are for export to a member state of the EU (item 3), the conditions in items 4 (registered establishment), 5 (approved arrangement), and 6 (meat export licence) of the table, must also be complied with in relation to the preparation of that meat or meat product.

The third note following section 2-4 explains that in addition to the conditions in item 6 (meat export licence), the conditions in items 4 (registered establishment) and 5 (approved arrangement) of the table must also be complied with in relation to the preparation of meat or meat products derived from an animal referred to in item 6 that are for export as food.

The fourth note following section 2-4 alerts the reader that a person may commit an offence or be liable to a civil penalty if prescribed goods are exported in contravention of prescribed export conditions (see Division 4 of Part 1 of Chapter 2 of the Act).

The fifth note following section 2-4 explains that export operations must not be carried out while accreditation of a property is suspended. Section 100 of the Act makes it an offence and the contravention of a civil penalty provision to carry out export operations in relation to which the accreditation was suspended, if the manager of an accredited property was given notice of suspension in relation to the accreditation of the property under subsections 92(5) or 96(1) of the Act.

The sixth and seventh notes following section 2-4 explain that the occupier of a registered establishment or the holder of an approved arrangement may commit an offence or be liable for a civil penalty if export operations are carried out while their registration or arrangement (as relevant) is suspended (sections 136 and 177 of the Act).

The eighth note following section 2-4 clarifies that while an export permit which is suspended under subsection 231(1) of the Act remains in force, it does not authorise the export of goods for which it was issued (subsection 232(2) of the Act).

Part 2—Exemptions

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

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

2-5 Application of this Part

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

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

The second note following section 2-5 alerts the reader that, under section 2-2, meat and meat products are taken not to be prescribed goods (see section 12 of the Act) in the specified circumstances.

2-6 Period for making application for exemption

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

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

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

The second note following section 2-6 explains that an application for an exemption must comply with the requirements in subsection 53(3) of the Act.

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

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

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

This requirement is intended to ensure that exemptions are approved in circumstances where the objectives of the Act are met and goods exported from Australian territory are of the highest standard, maintaining Australia's reputation as a trading partner.

2-8 Period of effect of exemption

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

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

The note following section 2-8 explains that, under paragraph 57(a) of the Act, an exemption takes effect on the date specified in the instrument of exemption.

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

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

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

This requirement is intended to ensure that exemptions are only approved in circumstances where the objectives of the Act are met and goods exported from Australian territory are of the highest standard, strengthening Australia's reputation as a trading partner.

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

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

Section 2-10 prescribes, for the purposes of subsection 59(2) of the Act, a matter to which the Secretary must have regard in considering whether to revoke an exemption. The Secretary must consider whether the conditions of the exemption have been or are being complied with.

Part 3—Government certificates

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

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

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

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

Section 2-11 is made for the purposes of subsections 62(1) and (2) of the Act and sets out when government certificates may be issued for meat or meat products that will be, or have been, exported. A certificate can be issued for any meat or meat products, whether they are prescribed or non-prescribed goods, so long as the goods are intended for export or have been exported.

2-12 Halal certificates

Section 2-12 is made for the purposes of subsections 62(1) and (2) of the Act, and provides that a Halal certificate may be issued for Halal meat that is to be exported to a country if a certificate is required by the relevant importing country authority or the exporter of the Halal meat requires a certificate.

Halal meat is defined in section 1-5 of the Meat Rules as prescribed meat derived from animals that have been slaughtered in accordance with Islamic rites, or meat products containing only prescribed meat derived from such animals.

The note following section 2-12 refers the reader to section 1-5 for the definition of a *Halal certificate*. A *Halal certificate* is a government certificate that is jointly issued by an Islamic organisation and the Secretary and certifies the meat or meat products are Halal meat and have maintained their integrity as Halal meat.

2-13 Issuing bodies for Halal certificates

Section 63 of the Act allows the rules to prescribe a person or body to be the issuing body for a government certificate in relation to a kind of goods for export. If no person or body is prescribed by the rules in relation to goods of that kind, then the Secretary is the issuing body.

Subsection 2-13(1) prescribes, for the purposes of section 63 of the Act, that a relevant Islamic organisation and the Secretary are jointly an issuing body for a Halal certificate.

Subsection 2-13(2) details when an Islamic organisation is a *relevant Islamic organisation* for the issue of Halal certificates. This is where:

- the organisation is the holder of an approved arrangement for Halal meat certification operations; and
- an approved arrangement for operation to prepare Halal meat for export at a registered establishment provides that the organisation may issue a Halal certificate in relation to Halal meat prepared for export at the establishment.

2-14 Declaration to accompany application for government certificate

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

Subsection 2-14(1) is made for the purposes of paragraph 65(2)(d) of the Act and provides that, where a government certificate in relation to meat or meat products is required to meet importing country requirements, the application for the government certificate must include a declaration by the applicant stating that the importing country requirements relating to the meat or meat products have been, or will be, met before the meat or meat products are imported into the importing country.

The first note following subsection 2-14(1) refers the reader to the *Electronic Transactions Act 1999* for requirements for electronic communications (including declarations).

The second note following subsection 2-14(1) refers the reader to section 11-4 of the Meat Rules, which requires a government certificate to be retained in a secure place when it is not being used, unless it was issued by electronic means.

Subsections 2-14(2) and (3) have the combined effect that the declaration must:

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

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

The note following subsection 2-14(3) alerts the reader that a person may commit an offence or be liable to a civil penalty if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code Act 1995* and sections 368 and 369 of the Act).

2-15 Circumstances for refusing to issue government certificate

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

Subsection 2-15(1) sets out, for the purposes of paragraph 67(3)(g) of the Act, additional circumstances for an issuing body to refuse to issue a government certificate in relation to all meat or meat products. These additional provisions are necessary to protect Australia's trade reputation and ensure Australia complies with international obligations and sanitary matters relating to food safety, animal health or human health. The circumstances for refusing to issue a certificate include:

- if a condition or disease that is present in Australian territory is likely to affect whether the importing country will accept the meat or meat products to the importing country;
- if the export of the meat or meat products could adversely affect trade; or
- if the applicant fails to return a government certificate as required, retain a government certificate in a secure place, or failed to provide facilities and assistance to an auditor as required by section 271 of the Act.

Subsection 2-15(2) sets out, for the purposes of paragraph 67(3)(g) of the Act, circumstances in addition to subsection 2-15(1) where an issuing body may refuse to issue a government certificate in relation to prescribed meat or meat products. The additional circumstances include where:

- a prescribed export condition that applies in relation to the meat or meat products has not been complied with;
- an applicant has failed to comply with a direction under subsection 305(1) of the Act (dealing with non-compliance with the Act);
- an export permit is not in force for the meat or meat products; or
- the relevant importing country authority has not specified in writing that it will accept meat or meat products of that kind that have been prepared for export under a State or Territory inspection and audit arrangement.

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

The note following subsection 2-15(2) explains that paragraphs 67(3)(a) to (f) of the Act set out other grounds for refusal of a government certificate.

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

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

Section 2-16 is made for the purposes of paragraph 74(1)(b) of the Act and has the effect that the holder of the government certificate must provide the issuing body with relevant additional or corrected information in certain circumstances. These include where there are reasonable grounds to suspect that:

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

The purpose of this provision is to place an obligation on the holder of the government certificate to monitor the goods (to the extent it is reasonable to do so) to ensure the government certificate continues to accurately reflect the circumstances for the issue of the

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

2-17 Return of government certificate

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

Subsection 2-17(1) is made for the purposes of paragraph 76(1)(a) of the Act and requires a government certificate to be returned to an issuing body if the meat or meat products are no longer intended for export to the country for which the government certificate was issued, or where the certificate has been revoked under section 75 of the Act. The purpose of this requirement is to ensure that government certificates are not misused by placing an obligation on the holder to return the certificate where the meat or meat products are no longer intended for export or the certificate has been revoked.

Subsection 2-17(2) is made for the purposes of paragraph 76(1)(b) of the Act and provides that a government certificate must be returned within 10 business days starting on the day the circumstance listed in subsection 2-17(1) of the Meat Rules occurs. Ten business days is a reasonable timeframe for the holder to return the certificate to the issuing body but is short enough to mitigate against the risk that the certificate would be misused.

Subsection 2-17(3) provides that the requirement in section 2-17 to return the government certificate does not apply to a government certificate that was issued electronically, as there will not necessarily be a physical certificate to return.

Failure to comply with the requirement to return a government certificate in the circumstances set out in section 2-17 will be a contravention of a civil penalty provision (subsection 76(2) of the Act).

CHAPTER 3—ACCREDITED PROPERTIES

Part 1—Introduction

Chapter 3 sets out matters relating to accredited properties. Accredited properties are farms, feedlots or saleyards that are required to be accredited under the Act to produce or prepare goods for export for recognition by an importing country authority. The Secretary may, on application by the manager of a property, accredit the property for export operations in relation to prescribed goods. The accreditation of a property is subject to certain conditions.

3-1 Application of this Chapter

Section 3-1 provides that Chapter 3 of the Meat Rules applies in relation to the accreditation of a property that is a farm, a feedlot or a saleyard for a kind of export operations in relation to prescribed meat or meat products.

3-2 When an animal is taken to have been treated with an HGP

Section 3-2 details when an animal is taken to have been treated with a hormonal growth promotant (HGP), for the purposes of the Meat Rules. It is important to identify when an animal is treated with an HGP as there are HGP free requirements for meat and meat products, and the animals from which they are derived, where the products are for export to a member state of the European Union (EU).

An animal is taken to have been *treated with an HGP* if:

- the animal or its carcase is identified as having been treated with an HGP by the application of a triangular ear punch;
- a marker indicative of treatment with an HGP is found during inspection or other handling of the animal or its carcase; or
- residue of an HGP above physiologically normal levels is detected in the animal or its carcase during residue testing.

The note following section 3-2 provides examples of other handling of the animal or its carcase would include dressing or processing the animal or its carcase.

Part 2—Requirements for accreditation etc.

Division 1—Requirements for accreditation

3-3 Purpose of this Division

Section 79 of the Act provides that, on receiving an application under section 78 of the Act to accredit a property, the Secretary must decide whether to accredit a property, or to refuse to accredit the property. In addition to the requirements set out in paragraph 79(2)(a) of the Act, paragraph 79(2)(b) of the Act allows the rules to prescribe other requirements which the Secretary must be satisfied are being met, before a property is accredited, having regard to any matter the Secretary considers relevant.

Section 3-3 provides, for the purposes of paragraph 79(2)(b) of the Act, that Division 1 of Part 2 of Chapter 3 of the Meat Rules prescribes requirements that must be met for a property to be accredited for European Union (EU) export meat production operations.

The note following section 3-3 explains that the requirements for accreditation also apply in relation to a renewal of accreditation of the property (see paragraph 84(2)(a) of the Act). Section 2-4 of the Meat Rules also provides that meat or meat products derived from bovine animals, which are for export to the EU as food, must come from animals sourced from accredited properties.

3-4 Requirements for farms

Section 3-4 sets out the specific requirements for farms to be accredited for EU export meat production operations. The farm must have a property identification code, none of the bovine animals on the farm have been or will be treated with an HGP and there are no HGPs on the farm.

The first note following section 3-4 refers the reader to the definition of *property identification code* in section 1-5 of the Meat Rules, which is defined as the identification code allocated to a property by State or Territory bodies responsible for stock identification. These requirements ensure accredited farms for EU export meat production operations meet EU requirements and allows full traceability of animals through the export supply chain.

The second note following section 3-4 refers the reader to section 3-2 of the Meat Rules for when an animal is taken to have been treated with an HGP.

3-5 Requirements for feedlots

Subsection 3-5(1) sets out the requirements for a feedlot to be accredited for EU export meat production operations. The feedlot must have a property identification code, none of the bovine animals held in the feedlot that are to be slaughtered to derive EU export meat have been or will be treated with an HGP and there is a management system in place for the EU export meat production operations for which the feedlot is to be accredited.

Subsection 3-5(2) sets out the requirements for the management system that is referred to in subsection 3-5(1). The management system must:

- ensure that all bovine animals held in the feedlot can be traced and identified; and
- ensure all bovine animals in the feedlot to be slaughtered for EU export meat are kept separate from other animals held in the feedlot at all times; and
- ensure each bovine animal transferred to the feedlot that is to be slaughtered for EU export meat has an identification tag attached, is accompanied by an original EU vendor declaration, and can be traced to the accredited property from where the animal was transferred; and
- set out the manner in which the conditions of accreditation of the feedlot for export operations in relation to prescribed meat or meat products will be met.

The first note following section 3-5 refers the reader to section 1-5 of the Meat Rules for the definition of **animal identification tag**. An **animal identification tag** means a device for permanently identifying a single animal. For example, electronic ear tags for cattle.

The second note following section 3-5 refers the reader to section 1-5 of the Meat Rules for the definition of **EU vendor declaration**. An EU vendor declaration form may be in any form that is approved by the Secretary.

The third note following section 3-5 notifies the reader that it is a condition of accreditation that the management system be implemented. This condition is addressed at section 3-18 of the Meat Rules.

3-6 Requirements for saleyards

Subsection 3-6(1) sets out the requirements for a saleyard to be accredited for EU export meat production operations. The saleyard must have a property identification code and a saleyard ID, none of the bovine animals held in the saleyard that are to be slaughtered to derive EU export meat have been or will be treated with an HGP and there is a management system in place for the EU export meat production operations for which the saleyard is to be accredited.

A **saleyard ID** is defined in section 1-5 of the Meat Rules as the identification number allocated to a saleyard by the body responsible for stock identification in the State or Territory where the saleyard is located.

Subsection 3-6(2) sets out the requirements for the management system that is referred to in subsection 3-6(1). The management system requirements ensure bovine animals can be identified and traced to ensure they meet importing requirements of the EU. The management system must ensure that:

- all bovine animals in the saleyard that are to be slaughtered for EU export meat are kept separate at all times from all other animals at the saleyard;
- each bovine animal transferred to the saleyard that is to be slaughtered for EU export meat has an animal identification tag attached, is accompanied by an original EU vendor declaration for the animal, and the animal (except if the animal is a bobby calf) can be traced to the accredited property from where it was transferred (if the animal is a bobby calf, that the animal can be traced to the property from where the animal was transferred).

A **bobby calf** is defined in section 1-5 of the Meat Rules as a bovine animal that is less than 30 days old and weighs less than 80 kilograms live weight.

The management system must also ensure that the details of how the conditions of accreditation have been, and continue to be met, are recorded; that compliance with the Meat Rules by users of the saleyard is monitored; and that the manner in which the conditions of accreditation of the saleyard will be met, are set out.

The first note following section 3-6 refers the reader to section 1-5 of the Meat Rules for the definition of *EU vendor declaration* and clarifies that an EU vendor declaration form may be in any form that is approved by the Secretary.

The second note following section 3-6 notifies the reader that it is a condition of accreditation that the management system be implemented. This condition is addressed at section 3-24 of the Meat Rules.

Division 2—Other matters relating to accreditation

3-7 Other information to be stated in notice of decision to accredit property

Section 81 of the Act sets out information which the Secretary must include in the written notice given to the applicant if the Secretary decides to accredit a property. Paragraph 81(i) allows the rules to prescribe any other information to be included in the written notice.

Section 3-7 prescribes, for the purposes of paragraph 81(i) of the Act, additional information (other than that required by section 81 of the Act), which must be stated in a notice of a decision to accredit a property. The notice must contain: the property identification code and the name of each person (other than the manager of the accredited property) who may sign an EU vendor declaration in relation to bovine animals transferred from the property.

The purpose of this requirement is to link an accredited property's identification code with the accreditation. This enhances the traceability of meat and meat products and ensures compliance with the importing requirements of the EU.

3-8 Period of effect of accreditation of farm

Section 82 of the Act deals with the period of effect of accreditation. Subsection 82(5) allows the rules to prescribe the period during which the accreditation of a property remains in force.

Subsection 3-8(1) prescribes, for the purposes of subsection 82(5) of the Act, the period the accreditation of a farm for EU export meat production operations remains in force is 12 months starting on the day the accreditation takes effect.

The first note following subsection 3-8(1) explains that the Secretary must give written notice of the date the accreditation takes effect.

The second note following subsection 3-8(1) explains that the last day of the 12 month period is the expiry date for the accreditation unless an expiry date set under subsection 79(4) or 84(3) or paragraph 90(1)(c) or (d) of the Act is in force. The accreditation of a farm remains in force until the end of the expiry date unless it is renewed or revoked before that date.

Subsection 3-8(2) provides that subsection 3-8(1) does not apply in relation to the renewed accreditation of a farm for EU export meat production operations.

The note following subsection 3-8(2) explains that the Secretary may set an expiry date for the renewed accreditation of a property. If there is no expiry date for the renewed accreditation, the accreditation remains in force unless it is revoked.

Part 3—Conditions of accreditation

Division 1—Conditions for accredited farms

3-9 Purpose of this Division

Section 80 of the Act deals with conditions of accreditation. In addition to the conditions set out in paragraphs 80(1)(a) and (c), paragraph 80(1)(b) allows the rules to prescribe conditions to which accreditation of the property is subject to, other than any of those conditions that the Secretary decides are not to be conditions of the accreditation.

Section 3-9 provides that, for the purposes of paragraph 80(1)(b) of the Act, Division 1 of Part 3 of Chapter 3 of the Meat Rules prescribes conditions of the accreditation of a farm for European Union (EU) export meat production operations.

The first note following section 3-9 explains that these conditions also apply in relation to the renewed accreditation of the farm (see section 3-27 of the Meat Rules).

The second note following section 3-9 alerts the reader that the manager may commit an offence or be liable to a civil penalty if a condition of the accreditation of the property is contravened (see section 106 of the Act).

3-10 Requirements for accreditation continue to be met

Section 3-10 provides that the requirements for accreditation of a farm under section 3-4 of the Meat Rules must continue to be met after the farm is accredited. This is to ensure farms continue to meet the requirements for accreditation and EU export.

3-11 Identification and traceability

Section 3-11 sets out how and when bovine animals on an accredited farm are to be identified. The conditions ensure that bovine animals can be identified and traced to ensure they meet the importing requirements of the EU.

Subsection 3-11(1) provides for when an animal identification tag must be attached to each bovine animal (other than a mature ineligible breeding bull) held on an accredited farm on or after the accreditation date. The animal identification tag must be attached by the earliest of the following:

- the day the animal is weaned (if the animal was not weaned before the accreditation date);
- the day the animal is transferred to another accredited property or EU-listed establishment; or
- the day after the end of the 12 months starting on the accreditation date.

Subsection 3-11(2) provides for how bovine animals admitted to an accredited farm must be traced and identified. For bovine animals that are not mature ineligible breeding bulls, an animal identification tag must be attached before that animal is admitted to the farm, and for an animal that is a mature ineligible breeding bull, that animal must be identified by another method approved by the State or Territory body responsible for stock identification. Bovine animals admitted to an accredited farm must be traceable to the property the animal came from, and if the animal is to be slaughtered to derive EU export meat, the animal must be accompanied by an original EU vendor declaration for the animal.

The note following subsection 3-11(2) refers the reader to section 1-5 for the definition of *EU vendor declaration* and explains that the EU vendor declaration may be in any form approved by the Secretary.

Subsection 3-11(3) provides that each bovine animal that is to be slaughtered to derive EU export meat and is transferred to an accredited farm must have an animal identification tag attached to it to enable identification of each property where the animal has been to.

3-12 Bovine animals must not be treated with an HGP

Section 3-13 prohibits bovine animals held on an accredited farm from being treated with an hormonal growth promotant (HGP). This is to ensure compliance with the importing requirements of the EU.

3-13 Integrity

Section 3-13 provides the conditions of accreditation relating to the transfer of animals to and from accredited properties. The purpose of these requirements is to ensure all meat or meat products for export to the EU comes from bovine animals that have not been treated with HGP and that can be identified and traced.

Subsection 3-13(1) provides that a bovine animal that is not an ineligible breeding bull or ineligible breeding female, must not be transferred to an accredited farm from a property that is not an accredited property at the time of the proposed transfer. Subsection 3-13(2) provides that unless the Secretary has approved the transfer, ineligible breeding bulls and ineligible breeding females must not be transferred to an accredited farm from a property that is not an accredited property.

The first note following subsection 3-13(2) explains that the Secretary may approve a single form for an application for approval to transfer ineligible breeding bulls or ineligible breeding females to an accredited farm from a property that is not accredited, and for an application for accreditation of the farm.

The second note under subsection 3-13(2) explains that ineligible breeding bulls and ineligible breeding females can be transferred between accredited properties without approval of the Secretary.

Subsection 3-13(3) provides that an original EU vendor declaration for each animal must be given to the consignee if a consignment of bovine animals to be slaughtered to derive EU export meat is transferred from an accredited farm to another accredited property or to an EU-listed establishment, and all animals in the consignment meet the requirements for export to an EU member state as food.

The note following subsection 3-13(3) refers the reader to section 1-5 of the Meat Rules for the definition of *EU vendor declaration* and explains that the EU vendor declaration may be in any form approved by the Secretary.

Subsection 3-13(4) provides that an EU vendor declaration must not be given for an animal to the consignee unless all animals in a consignment meet the requirements for export to a member state of the EU as food.

3-14 Records

Section 3-14 requires the manager of an accredited farm to make records in relation to bovine animals, animal identification tags and matters that demonstrate compliance with the conditions of accreditation. This includes records of:

- all admissions, transfers, transactions and movements (including births, deaths, sales and losses) of bovine animals;
- the number of animal identification tags purchased for use on the farm;
- if any animal identification tags were lost or stolen, the details of the loss or theft, including the number of tags lost or stolen, when the loss or theft occurred, and the kind of tags lost or stolen; and
- any other matter necessary to demonstrate that conditions prescribed by Division 1 of Part 3 of Chapter 3 of the Meat Rules have been, and are being, complied with.

The note following section 3-14 refers the reader to section 11-7 of the Meat Rules which requires the manager of the accredited farm to retain each record for at least 2 years.

This ensures there are records available to verify compliance with the identification, traceability and integrity conditions of accreditation of the property.

Division 2—Conditions for accredited feedlots

3-15 Purpose of this Division

Section 80 of the Act deals with conditions that apply to accreditation. In addition to the conditions set out in paragraphs 80(1)(a) and (c), paragraph 80(1)(b) allows the rules to prescribe conditions to which accreditation of the property is subject to, other than any of those conditions that the Secretary decides are not to be conditions of the accreditation.

Section 3-15 provides that, for the purposes of paragraph 80(1)(b) of the Act, Division 2 of Part 3 of Chapter 3 of the Meat Rules prescribes conditions of the accreditation of a feedlot for European Union (EU) export meat production operations.

The first note following section 3-15 explains that these conditions also apply in relation to the renewed accreditation of the feedlot (see section 3-27).

The second note following section 3-15 alerts the reader that the manager of an accredited property may commit an offence or be liable to a civil penalty if a condition of the accreditation of the property is contravened (see section 106 of the Act).

3-16 Requirements for accreditation continue to be met

Section 3-16 provides that the requirements for accreditation of a feedlot under section 3-5 must continue to be met after the feedlot has been accredited. This is to ensure feedlots continue to meet the requirements for accreditation for EU export meat production operations.

3-17 Identification, traceability and integrity

Section 3-17 sets out the conditions of accreditation for feedlots relating to identification, traceability and integrity. Subsection 3-11(1) prohibits bovine animals that are to be slaughtered to derive EU export meat from being transferred to an accredited feedlot from a property that is not an accredited property at the time of the proposed transfer.

Subsection 3-17(2) requires the National Livestock Identification System Database to be updated if the animals are to be slaughtered to derive EU export meat and are sold before slaughter. The update must be made on the day of the sale and must record the new owner of the animals.

The note following subsection 3-17(2) explains that the National Livestock Identification System Database could in 2021 be viewed at the National Livestock Identification System website (<https://nlis.com.au>).

Subsection 3-17(3) prohibits animals that are to be slaughtered for EU export meat from having been treated, or being treated, with an HGP. These conditions enable bovine animals to be identified and traced to certify they meet the importing requirements for EU export meat production operations.

Subsection 3-17(4) provides that an original EU vendor declaration must be given to the consignee for each bovine animal. The vendor declaration is needed where:

- a consignment of bovine animals is to be slaughtered for EU export meat is transferred from an accredited feedlot to another accredited property or to an EU-listed establishment; and
- no animals in the consignment have been treated with an HGP.

The note following subsection 3-17(4) refers the reader to section 1-5 of the Meat Rules for the definition of ***EU vendor declaration*** and explains that the EU vendor declaration may be in any form approved by the Secretary.

Subsection 3-17(5) provides that an EU vendor declaration must not be given to the consignee under subsection 3-17(4) if any animal in the consignment has been treated with an HGP.

The purpose is to ensure prescribed meat or meat products being exported for EU operations are able to be identified, traceable and are HGP free and ensures the integrity of the product. This is important to maintain Australia's reputation as an exporter.

3-18 Feedlot management system must be implemented

Subsection 3-18(1) provides that the management system required by paragraph 3-5(1)(c) of the Meat Rules (requirements for feedlots to be accredited), including any variations of the system approved by the Secretary under subsection 87(2) of the Act, must be implemented.

Subsection 87(2) of the Act provides that, on receiving an application under subsection 87(1) for a variation of accreditation, or approval of alteration, of a property, the Secretary must decide to make the variation or give the approval, or refuse to make the variation or give the approval.

Subsection 3-18(2) provides the manager of an accredited feedlot must not implement a variation of the management system in relation to the EU export meat production operations unless:

- the manager has applied to the Secretary for a variation under subsection 87(1) of the Act to vary the management system; and
- the variation has been approved under subsection 87(2) of the Act; and
- the notice of the approval has been given to the manager under section 88 of the Act.

3-19 Records

Section 3-19 requires the manager of an accredited feedlot to make records in relation to bovine animals, animal identification tags and matters that record compliance with the conditions of accreditation. This includes records of:

- all admissions and transfers of bovine animals to and from the feedlot;
- the number of animal identification tags purchased for use in the feedlot;
- if any animal identification tags were lost or stolen, the details of the loss or theft, including the number of tags lost or stolen, when the loss or theft occurred, and the kind of tags lost or stolen; and
- any other matter necessary to demonstrate that conditions prescribed by Division 2 of Part 3 of Chapter 3 of the Meat Rules have been, and are being, complied with.

The note following section 3-19 refers the reader to section 11-7 of the Meat Rules which requires the manager of the accredited feedlot to retain each record for at least 2 years.

This ensures there are records available to verify compliance with the identification, traceability and integrity conditions of accreditation of the property.

Division 3—Conditions for accredited saleyards

3-20 Purpose of this Division

Section 80 of the Act deals with conditions of accreditation. In addition to the conditions set out in paragraphs 80(1)(a) and (c), paragraph 80(1)(b) allows the rules to prescribe conditions to which accreditation of the property is subject to, other than any of those conditions that the Secretary decides are not to be conditions of the accreditation.

Section 3-20 provides that, for the purposes of paragraph 80(1)(b) of the Act, Division 3 of Part 3 of Chapter 3 of the Meat Rules prescribes conditions of the accreditation of a saleyard for European Union (EU) export meat production operations.

The first note following section 3-20 explains that these conditions also apply in relation to the renewed accreditation of the saleyard.

The second note following section 3-20 alerts the reader that the manager of an accredited property may commit an offence or be liable to a civil penalty if a condition of the accreditation of the property is contravened (see section 106 of the Act).

3-21 Requirements for accreditation continue to be met

Section 3-21 provides that the requirements for accreditation of a saleyard under section 3-6 must continue to be met after the saleyard is accredited. This is to ensure saleyards continue to meet the requirements for accreditation for EU export meat production operations.

3-22 Identification and traceability

Section 3-22 sets out the conditions of accreditation for saleyards relating to identification, traceability and integrity. Subsection 3-22(1) requires the status of each bovine animal that is admitted to an accredited saleyard and that is to be slaughtered to derive EU export meat, as stated in the original EU vendor declaration for the animal, confirmed under the National Identification System (NLIS) database before the animal is offered for sale.

The NLIS is Australia's system for the identification and traceability of cattle and reflects our commitment to biosecurity and food safety and provides a competitive advantage in a global market.

The note following subsection 3-22(1) explains that the National Livestock Identification System Database could in 2021 be viewed at the National Livestock Identification System website (<https://nlis.com.au>).

Subsection 3-22(2) provides that, if the animals are to be slaughtered to derive EU export meat and are sold at an accredited saleyard, the manager must:

- make a record of the sale; and

- ensure that the National Livestock Identification System Database is updated no later than the day the animal is transferred from the saleyard, to record the new owner of the animal.

These conditions ensure that bovine animals can be identified and traced to ensure they meet the importing requirements for EU export meat production operations.

The note following subsection 3-22(2) refers the reader to section 11-7 of the Meat Rules which requires the manager of the accredited saleyard to retain records for at least 2 years.

3-23 Bovine animals must not be treated with an HGP

Section 3-23 prohibits bovine animals that are to be slaughtered to derive EU export meat and are held at an accredited saleyard from being treated with a hormonal growth promotant (HGP). This is to ensure compliance with the importing requirements of the EU.

3-24 Saleyard management system must be implemented

Subsection 3-24(1) provides that the management system required by paragraph 3-6(1)(c) of the Meat Rules (requirements for saleyards to be accredited), including any variations of the system approved by the Secretary under subsection 87(2) of the Act, must be implemented.

Subsection 87(2) of the Act provides that, on receiving an application under section 87 for a variation of accreditation, or approval of alteration, of property, the Secretary must decide to make the variation or give the approval, or to refuse to make the variation or refuse to give the approval.

Subsection 3-24(2) provides the manager of an accredited saleyard must not implement a variation of the management system in relation to the EU export meat production operations unless:

- the manager has applied to the Secretary for a variation under subsection 87(1) of the Act to vary the management system; and
- the variation has been approved under subsection 87(2) of the Act;
- the notice of the approval has been given to the manager under section 88 of the Act.

3-25 Records

Section 3-25 requires the manager of an accredited saleyard to make records in relation to bovine animals, animal identification tags and matters that record compliance with the conditions of accreditation. This includes records of:

- all admissions of bovine animals to the saleyard;
- each bovine animal sold at the saleyard that is intended to be slaughtered to derive EU export meat;
- the number of animal identification tags purchased for use at the saleyard;

- if any animal identification tags were lost or stolen, the details of the loss or theft, including the number of tags lost or stolen, when the loss or theft occurred, and the kind of tags lost or stolen; and
- any other matter necessary to demonstrate that conditions prescribed by Division 3 of Part 3 of Chapter 3 of the Meat Rules have been, and are being, complied with.

The note following section 3-25 refers the reader to section 11-7 of the Meat Rules which requires the manager of the accredited saleyard to retain each record for at least 2 years.

This ensures there are records available to verify compliance with the identification, traceability and integrity conditions of accreditation.

Part 4—Renewal of accreditation

3-26 Period within which application to renew accreditation must be made

Section 83 of the Act deals with applications to renew the accreditation of a property. Subsection 83(4) provides that an application for renewal must be made within the period prescribed by the rules (paragraph 83(4)(a)), or a longer period allowed by the Secretary (paragraph 83(4)(b)).

Section 3-26 prescribes, for the purposes of paragraph 83(4)(a) of the Act, the period within which an application to renew the accreditation of an accredited property must be made. This period is 60 days starting on the day that is 180 days before the expiry date of the accreditation. In other words, the application must be made when the accreditation is between 180 days and 120 days from expiring. The period allows the Secretary sufficient time to consider the application and make a decision before the accreditation expires.

The first note following section 3-26 provides an example if the accreditation of a property expires on 8 July in a year (other than a leap year), an application for renewal can be made at any time between 9 January and 10 March in that year.

The second note following section 3-26 explains that under the Act, applications to renew accredited properties will only need to be made if there is an expiry date for the accreditation (see subsection 83(1) of the Act).

The third note following section 3-26 explains that the Secretary may decide not to renew the accreditation of the property if the requirements prescribed by Part 2 of Chapter 3 of the Meat Rules are not continuing to be met in relation to the property.

3-27 Conditions of renewed accreditation

Section 85 of the Act deals with conditions of a renewed accreditation of the property. In addition to the conditions set out at paragraphs 85(a) and (c) of the Act, paragraph 85(b) allows the rules to prescribe conditions to which the renewal of accreditation of the property is subject to, other than any of those conditions that the Secretary decides are not to be conditions of the accreditation. If the Secretary renews the accreditation of a property, the

accreditation is subject to the conditions of the Act, conditions prescribed by the Rules and other conditions the Secretary considers appropriate.

Section 3-27 prescribes, for the purposes of paragraph 85(b) of the Act, the conditions prescribed by Division 1, 2 and 3 of Part 3 of Chapter 3 of the Meat Rules for the renewal of the accreditation of a farm, feedlot and saleyard respectively. For consistency, it is appropriate the conditions for renewing an accreditation are the same as those for initial accreditation.

Part 5—Variation of accreditation

3-28 Alteration of boundaries of property (other than because of increase in area)

Section 87 of the Act relates to applications by a manager of an accredited property for variation of accreditation or approval of alteration of property. Subparagraph 87(1)(b)(i) of the Act provides that the manager of an accredited property may apply to the Secretary for approval of a variation of the accreditation so that it covers an alteration of the property, being of a kind prescribed by the rules.

Subsection 3-28(1) provides that, for the purposes of subparagraph 87(1)(b)(i) of the Act, an alteration to the boundaries of a property (other than because of an increase in the area of the property) is prescribed. This means that manager of accredited properties may apply to the Secretary to approve a variation of the accreditation so that it covers an alteration of the boundaries of the property.

The note following subsection 3-28(1) refers the reader to section 3-29 of the Meat Rules for varying the accreditation of a property if the property area has increased.

Paragraph 87(3)(b) of the Act provides that the Secretary may make the variation, or give the approval, if the Secretary is satisfied, having regard to any matter that the Secretary considers relevant that if the variation were made or approval were given, that any other requirement prescribed by the rules would be met.

Subsection 3-28(2) is made for the purposes of paragraph 87(3)(b) of the Act and provides that the Secretary may make or approve a variation of accreditation resulting from alteration of the boundaries of the property if satisfied:

- the State or Territory body responsible for stock identification has permitted the alteration of the boundaries of the accredited farm or feedlot associated with the property identification code for the farm or feedlot; or
- the State or Territory body responsible for property boundaries has approved the alteration of the boundaries of the accredited saleyard associated with the property identification code for the saleyard.

The purpose of subsection 3-28(2) is to ensure that State or Territory bodies have permitted or approved the alteration of the boundaries as these changes relate to the property identification code for that property. The property identification code is integral to identifying the property for traceability of meat or meat products.

3-29 Carrying out export operations on additional part of property or on another property

Section 87 of the Act relates to applications by a manager of an accredited property for variation of accreditation or approval of alteration of property. Subparagraph 87(1)(b)(ii) of the Act provides that the manager of an accredited property may apply to the Secretary to approve a variation of the accreditation so that it covers the carrying out of export operations on an additional part of the property, or on another property, in the circumstances prescribed by the rules.

Subsection 3-29(1) provides that, for the purposes of subparagraph 87(1)(b)(ii) of the Act, an increase in the property area is prescribed. This means that the manager of an accredited property may apply to the Secretary to approve a variation of the accreditation so that it covers an increase to the property area.

Paragraph 87(3)(b) of the Act provides that Secretary may make the variation, or give the approval, if the Secretary is satisfied that if the variation were made or approval were given, that any other requirement prescribed by the rules would be met.

Subsection 3-29(2) is made for the purposes of paragraph 87(3)(b) of the Act and provides the Secretary may make or approve a variation of accreditation resulting from alteration of the boundaries of the property if the Secretary is satisfied:

- the State or Territory body responsible for stock identification has approved the new boundaries of the accredited farm or feedlot associated with the property identification code for the farm or feedlot; or
- the State or Territory body responsible for property boundaries has approved the new boundaries of the accredited saleyard associated with the property identification code for the saleyard.

The purpose of subsection 3-29(2) is to ensure that State or Territory bodies have permitted or approved the new boundaries as these changes relate to the property identification code for that property. The property identification code is integral to identifying the property for traceability of meat or meat products.

Part 6—Revocation of accreditation

3-30 Other grounds for revocation

Subsection 102(1) of the Act provides the Secretary may revoke the accreditation of a property (including a property in relation to which a suspension is in effect). Paragraph 102(1)(h) allows the rules to prescribe additional grounds where the Secretary may revoke the accreditation of a property, in addition to other grounds listed in paragraphs 102(1)(a) to (g) of the Act.

Section 3-30 prescribes, for the purposes of paragraph 102(1)(h) of the Act, that an additional ground for the revocation of an accreditation of a property is where the manager of the property failed to provide facilities and assistance reasonably required by an external reviewer for the purpose of conducting a review of export operations. A review in this section

is referring to an inspection of the accredited property by an officer from the European Commission to check whether the property is correctly implementing EU importing country requirements.

The note following section 3-30 explains to the reader that a review referred to in section 3-30 is not an audit under Part 1 of Chapter 9 of the Act.

Part 7—Obligations of managers of accredited properties etc.

3-31 Circumstances of which Secretary must be notified

Under subsection 108(1) of the Act, the manager of an accredited property must notify the Secretary in writing as soon as practicable after an event or circumstance prescribed by the rules occurs.

Section 3-31 is made for the purposes of subsection 108(1) of the Act and provides that an additional circumstance where the manager of an accredited property must notify the Secretary in writing as soon as practicable, is when a person who is designated in the notice of accreditation as a person who may sign an EU vendor declaration for a bovine animal at an accredited property is no longer performing that function.

This is important for safeguarding the integrity of the prescribed meat or meat products derived from bovine animals that are intended for export to the EU.

3-32 Accredited properties that no longer have a manager or in relation to which manager has changed

Subsection 109(1) of the Act requires a manager who ceases to be the manager of a property (or a person who is legally authorised to act on behalf of the former manager) to notify the Secretary as soon as practicable after their cessation. Subsection 109(3) of the Act allows the rules to make provision for and in relation to the accreditation of a property that no longer has a manager or in relation to which there has been a change of manager.

Subsection 3-32(1) is made for the purposes of subsection 109(3) of the Act and provides that section 3-32 makes provision for and in relation to an accredited property that no longer has a manager or in relation to which there has been a change of manager.

Subsection 3-32(2) provides the accreditation of a property is suspended for a period of 60 days (the *suspension period*) starting on the day a former manager of the property ceased to be the manager unless the suspension is revoked under subsection 3-32(4) before the end of that period. A suspension of accreditation is considered necessary where the manager changes as this ensures the integrity of bovine animals at the accredited property.

Subsection 3-32(3) requires the person who has become the *new manager* to advise the Secretary in writing as soon as practicable after becoming the new manager.

Subsection 3-32(4) provides that the Secretary must revoke the suspension of the accreditation if the Secretary receives:

- a notice from the new manager under subsection 3-32(3) before the suspension period ends; and
- the Secretary is satisfied that the requirements under Part 2 of Chapter 3 of the Meat Rules for the property will continue to be met under the new manager; and
- there is no reason why the suspension should not be revoked.

Subsection 3-32(5) provides if the Secretary has not revoked the suspension of the accreditation under subsection 3-32(4) before the end of the suspension period:

- the Secretary is taken to have decided to revoke the accreditation of the property under Division 2 of Part 6 of Chapter 3 of the Act on the day after the end of that period; and
- subsection 102(2) of the Act (the Secretary must not revoke the accreditation of a property unless the Secretary has given written notice to the manager of the property) does not apply in relation to the revocation.

The note following subsection 3-32(5) explains that a decision to revoke the accreditation of a property is a reviewable decision under Part 2 of Chapter 11 of the Act (see section 381 of the Act).

Part 8—Matters relating to applications

3-33 Application of this Part

Section 3-33 provides that Part 8 of Chapter 3 of the Meat Rules applies in relation to applications made under the following:

- section 78 of the Act to accredit a property for a kind of export operations in relation to prescribed meat or meat products;
- section 83 of the Act to renew the accreditation of a property for a kind of export operations in relation to prescribed meat or meat products; and
- an application under section 87 of the Act to any of the following in relation to an accredited property for a kind of export operations in relation to prescribed meat or meat products:
 - vary the accreditation or the particulars relating to the accreditation of the property;
 - approve a variation of the accreditation of the property; or
 - vary the conditions of the accreditation of the property.

3-34 Documents to accompany application

Section 377 of the Act provides for the requirements for applications. Paragraph 377(1)(d) of the Act provides that an application must be accompanied by any documents prescribed by the rules.

Subsection 3-34(1) is made for the purposes of paragraph 377(1)(d) of the Act and provides that an application relating to accreditation of a farm or feedlot must be accompanied by:

- a copy of a document showing the address of the farm or feedlot; and
- if the application relates to the accreditation for EU export meat production operations, a written undertaking by the manager of the farm or feedlot that the conditions prescribed by Division 1 or 2 of Part 3 of Chapter 3 of the Meat Rules (conditions for accredited farms or conditions for accredited feedlots respectively) will be complied with in relation to export operations in relation to prescribed meat or meat products carried out at the farm or feedlot.

This information enables the Secretary to identify the property and consider the application for accreditation of the farm or feedlot.

The first note following subsection 3-34(1) provides examples of documents showing the address of a property which could include a rates notice or a government property map.

The second note following subsection 3-34(1) notifies the reader that the Secretary may accept any document previously provided in connection with an application under the Act or a notice of intention to export a consignment of prescribed meat or meat products as satisfying the requirement to provide documents under subsection 377(1) of the Act.

This gives the Secretary the discretion to consider relevant information provided by applicants in relation to different types of applications.

Subsection 3-34(2) is made for the purposes of paragraph 377(1)(d) of the Act and provides that an application relating to accreditation of a saleyard for EU export meat production operations must be accompanied by a written undertaking by the manager that the conditions prescribed by Division 3 of Part 3 of Chapter 3 of the Meat Rules (conditions for accredited saleyards) will be complied with in relation to export operations carried out at the saleyard in relation to prescribed meat or meat products.

This information enables the Secretary to consider the application for accreditation for the saleyard.

3-35 Initial consideration period

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

Section 3-35 prescribes, for the purposes of subsection 379(3) of the Act, that the initial consideration period for an application for an accredited property is 120 days. The initial consideration period may be extended in accordance with subsection 379(5) of the Act. The period of 120 days is appropriate, having regard to the matters the Secretary must consider in granting or refusing an application. The period provides certainty for applicants on the maximum amount of time required for an application to be processed.

The note following section 3-35 explains that under subsection 379(4) of the Act, the initial consideration period for an application starts on the day after the day the Secretary receives the application.

3-36 Period within which request relating to application must be complied with

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

Section 3-36 prescribes, for the purposes of paragraph 379(10)(b) of the Act, a period of 6 months within which a request from the Secretary in relation to an application to accredit a property must be complied with. The maximum period prescribed by this section is appropriate as it permits sufficient time to comply with matters provided in subsection 379(9) of the Act. This period provides certainty for industry.

CHAPTER 4—REGISTERED ESTABLISHMENTS

Chapter 4 sets out matters relating to registered establishments. The purpose of registering an establishment is to ensure that:

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

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

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

Part 1—Requirements for registration

4-1 Purpose of this Part

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

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

This means that the requirements prescribed in Part 1 of Chapter 4 (sections 4-1 to 4-9) of the Meat Rules are requirements that the Secretary must be satisfied of prior to registering an establishment for operations to prepare prescribed meat or meat products for export (for the purposes of paragraph 112(2)(f) of the Act) and matters that the Secretary must be satisfied of when deciding whether the construction of the establishment and its equipment and facilities are suitable for carrying out export operations to prepare prescribed meat or meat products for export (for the purposes of paragraph 112(2)(c) of the Act).

The first note following section 4-1 explains that the requirements under Part 1 of Chapter 4 of the Meat Rules also apply to an application to renew the registration of an establishment under section 4-17 of the Meat Rules.

The second note following section 4-1 explains that other requirements under subsection 112(2) of the Act and section 2-4 of the Meat Rules must also be met before the Secretary can register an establishment, including that an approved arrangement covering operations to prepare the meat or meat products for export must be in force.

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

Section 4-2 provides that operations at an establishment to prepare prescribed meat or meat products for export, must be carried out in a way that will ensure the requirements of the Act are complied with.

4-3 Requirements of Australian Meat Standard must be met

Subsection 4-3(1) provides that the requirements of the Australian Meat Standard, as modified by a provision of the Meat Rules must be met in relation to operations at an establishment to prepare prescribed meat or meat products for export.

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

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

- clauses 3.1 to 3.10 (management and production practices);
- clause 10.12 (post-mortem dispositions for carcasses and carcase parts);
- clause 16.7 (identification of packaged meat or meat products);
- section 18 (record keeping);
- section 22 (management of wholesomeness during transport);
- any other provision excepted under another provision of the Meat Rules.

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

4-4 Equipment, facilities and essential services

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

Subsection 4-4(1) requires an establishment to have the buildings, equipment, facilities and essential services necessary to ensure that operations to prepare prescribed meat or meat products for export can be carried out in accordance with the requirements of the Meat Rules. This subsection also requires establishments to have the necessary measuring devices, for example, temperature measuring devices, to assess compliance with the Meat Rules prior to

registration. This ensures only those establishments that operate safely and hygienically are eligible for registration. These requirements must continue to be met once the establishment is registered (see section 4-11). It is important for businesses to continue to operate out of approved premises with appropriate facilities to ensure the health and safety of workers and wholesomeness of the export goods.

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

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

The note following subsection 4-4(2) alerts the reader to the requirement in subsections 4-9(1) and (2) that if animals are to be slaughtered at the establishment or there is a permanent position for one or more Commonwealth authorised officers at the establishment, there must be a toilet room for the exclusive use of those authorised officers.

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

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

4-6 Meat examination facility

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

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

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

This guarantees satisfactory facilities for authorised officers to undertake their duties and the storage of prescribed meat or meat product in accordance with the Meat Rules.

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

4-7 Slaughter establishments must have laboratory facility

Section 4-7 requires establishments where animals are slaughtered to have a laboratory facility and details the specific requirements of that facility. Subsection 4-7(1) provides that an establishment where animals are slaughtered must have a laboratory facility that:

- in a separate room; and
- is suitably equipped; and
- has ready access to a telephone; and
- is set up to ensure authorised officers can perform their functions unimpeded; and
- is able to be secured (for example, by key or electronic means).

The specific requirement for a laboratory facility is to assist authorised officers conducting sampling or testing of meat products.

Subsection 4-7(2) requires authorised officers to be given sufficient access to the laboratory facility to enable them to perform their functions unimpeded, but provides that the facility need not be for their exclusive use.

4-8 Secure storage area

Section 4-8 requires an establishment where prescribed meat or meat products are loaded for export to have an area where all products required to be held under security can be securely stored. The secure storage area must:

- be separate from other parts of the establishment;
- able to be secured (for example, by key or electronic means); and
- be constructed and used in a way that does not jeopardise the security of, or affect the ability to ensure integrity of, prescribed meat or meat products held in the area.

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

4-9 Amenities for Commonwealth authorised officers

Subsections 4-9(1) to (3) detail the amenities which must be provided at an establishment where animals are slaughtered or there is a permanent position for one or more Commonwealth authorised officers. The amenities that must be provided are:

- an office (which meets the requirements of subsection 4-9(3));
- a dining room;

- a change room;
- a shower room;
- a toilet room; and
- a rest room where amenities are provided for female authorised officers.

The required amenities must be kept separate from the amenities provided for employees (but may be in the same building), be suitable and suitably and conveniently located, and be for the exclusive use of Commonwealth authorised officers.

Subsection 4-9(3) requires the office to be equipped with a telephone, connection to a computer terminal, a lockable metal cabinet, as well as handwashing and drying facilities (if those facilities are not conveniently located nearby). The office must also be equipped with a desk, chair and locker for each Commonwealth authorised officer requiring the use of the office.

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

Commonwealth authorised officers are accountable for a range of decision-making responsibilities under the Act. This includes decisions that affect the whole, or a substantial part of an establishment. The availability of exclusive facilities will support the health and safety of the authorised officers while they are carrying out their duties in or around the establishment. By creating a clear separation between the amenities used by authorised officers and the employees at the establishment, this minimises the potential risk of influence from employees or conflicts of interest on the performance of functions and exercise of powers by authorised officers.

Subsections 4-9(4) and (5) provide that any other establishment (i.e. where animals are not slaughtered or where there is no permanent position for Commonwealth authorised officers) must provide an appropriate office for the exclusive use of Commonwealth authorised officers to perform functions when they are at the establishment. This requirement guarantees appropriate working conditions are available for Commonwealth authorised officers to conduct their official functions.

Subsection 4-9(6) provides that, for the avoidance of doubt, section 4-9 applies in addition to sections 4-4 to 4-8 of the Meat Rules, which requires establishments to have specific facilities and equipment.

Part 2—Conditions of registration

4-10 Purpose of this Part

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

Section 4-10 provides that Part 2 of Chapter 4 of the Meat Rules prescribes, for the purposes of paragraph 113(1)(b) of the Act, conditions for the registration of an establishment for operations to prepare prescribed meat or meat products for export.

The first note following section 4-10 explains that the conditions in Part 2 of Chapter 4 (sections 4-10 to 4-15 of the Meat Rules) also apply in relation to the registration of an establishment that has been renewed, as per paragraph 118(b) of the Act.

The second note following section 4-10 alerts the reader that the occupier of a registered establishment may commit an offence or be liable to a civil penalty for the contravention of conditions of registration for the establishment. Failure to comply with the provisions of this Part may result in contravention of section 144 of the Act.

4-11 Requirements for registration continue to be met

Section 4-11 provides that requirements for the registration of an establishment for operations to prepare prescribed meat or meat products for export prescribed by Part 1 of Chapter 4 of the Meat Rules must continue to be met after the establishment is registered.

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

The note following section 4-11 refers the reader to sections 4-2 to 4-8 (for requirements relating to establishments) and section 4-9 (for specific requirements relating to establishments where authorised officers perform functions).

4-12 Certificate of registration must be displayed

Section 4-12 requires a copy of the current certificate of registration for an establishment for operations to prepare prescribed meat or meat products for export to be prominently displayed at the establishment. This requirement can, for example, assist regulators when conducting an audit of the establishment.

4-13 Notice of certain matters must be given to persons who manage or control export operations at registered establishment

Subsection 4-13(1) provides that an occupier of a registered establishment for operations to prepare prescribed meat or meat products must give a written notice to each person who manages or controls export operations. The notice is to inform each person that:

- they have a duty to comply with section 374 of the Act (requiring a person to notify the Secretary of certain convictions or orders to pay a pecuniary penalty); and
- failure to comply may result in the person being liable for a civil penalty.

Subsection 4-13(2) details timeframes for giving the required written notice. The notice must be given to each person:

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

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

4-14 List of persons who manage or control export operations at registered establishment

Section 4-14 requires the occupier of a registered establishment for operations to prepare prescribed meat or meat products for export to keep and maintain a list of persons who manage or control, or who have managed and controlled, operations to prepare prescribed meat or meat products for export at the establishment.

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

4-15 Meat inspection services

Section 4-15 sets out the obligations on the occupier of a registered establishment for operations to prepare prescribed meat or meat products for export that apply to meat inspection services allocations.

Subsection 4-15(1) provides that section 4-15 applies where an approved arrangement for operations to prepare prescribed meat or meat products for export at a registered establishment requires, or is subject to a condition that requires, an authorised officer to be present at the establishment while operations of that kind are being carried out.

Subsection 4-15(2) requires the occupier of the registered establishment to have a preliminary allocation of meat inspection services for the establishment before commencing operations to prepare prescribed meat or meat products for export.

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

- ensures the Secretary has sufficient time to allocate authorised officers to the registered establishment prior to the commencement of operations;
- does not delay the commencement of operations; and
- ensures that prescribed meat and meat products prepared at registered establishments are processed and assessed in compliance with the Act and the Meat Rules.

The note following subsection 4-15(2) refers the reader to Division 1 of Part 6 of Chapter 4 of the Meat Rules, which deals with applications for meat inspection services to be allocated to an establishment.

Subsection 4-15(3) applies if meat inspection services have been allocated to the registered establishment under Part 4 of Chapter 4 of the Meat Rules. The occupier of the establishment must, as soon as practicable, notify the Secretary in writing of any proposed changes to the construction of the establishment, or the operations that may be carried out at the establishment, that may affect the allocation of meat inspection services.

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

The note following subsection 4-15(3) explains that certain alterations of registered establishments must not be made without approval under the Act (see paragraph 120(1)(b) and section 122 of the Act).

Part 3—Renewal of registration

4-16 Period within which application to renew registration must be made

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

Section 4-16 prescribes, for the purposes of paragraph 116(4)(a) of the Act, the timeframe in which an application to renew the registration of an establishment for operations to prepare prescribed meat or meat products for export must be made. This timeframe is 60 days starting on the day that is 180 days before the expiry date for the registration. In other words, the application must be submitted when the registration is between 180 days and 120 days from expiring. This period allows the Secretary sufficient time to consider the application before a decision is made.

The first note following section 4-16 gives an example that if the registration expires on 8 July in a year (other than a leap year), an application for renewal can be made at any time between 9 January and 10 March in that year.

The second note following section 4-16 explains that, under subsection 116(1) of the Act, an application for renewal of the registration of an establishment will only need to be made if there is an expiry date for the registration.

4-17 Requirements for renewal of registration

Subsection 117(1) of the Act provides that, on receiving an application under section 116 to renew the registration of an establishment, the Secretary must decide to renew the registration or to refuse to renew the registration. Subsection 117(2) sets out the requirements of which the Secretary must be satisfied before deciding to refuse to renew the registration, having regard to any matter the Secretary considers relevant. Paragraphs 117(2)(e) and (g) allow additional matters and requirements (respectively) to be prescribed by the rules.

Section 4-17 prescribes, for the purposes of paragraphs 117(2)(e) and (g) of the Act, additional requirements of which the Secretary must be satisfied before refusing renewal of the registration of an establishment for operations to prepare prescribed meat or meat products (in addition to the existing requirements in subsection 117(2) of the Act). The additional requirements are that the Secretary may refuse an application for renewal of registration of an establishment for operations to prepare prescribed meat or meat products if not satisfied the requirements set out in Part 1 of Chapter 4 of the Meat Rules (sections 4-1 to 4-9), which relate to the requirements for registered establishments for operations to prepare prescribed meat or meat products, have been met.

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

The note following section 4-17 refers the reader to the additional requirements for renewal of registration of an establishment in paragraphs 117(2)(a) to (d) of the Act, and also notes that an approved arrangement covering operations to prepare the meat or meat products for export must also be in force (referring to paragraph 117(2)(f) of the Act and section 2-4 of the Meat Rules).

Part 4—Variation of registration

4-18 Alterations for which approval is not required

Subsection 122(1) of the Act provides that certain alterations of a registered establishment must not be made unless approved by the Secretary and notice has been given to the occupier. Subsection 122(2) of the Act allows the rules to prescribe alterations to a registered establishment that do not require approval.

Section 4-18 is made for the purposes of subsection 122(2) of the Act and prescribes alterations to a registered establishment that do not affect compliance with the conditions of registration as alterations that do not require approval.

Part 5—Matters relating to applications

4-19 Application of this Part

Section 4-19 provides that Part 5 of Chapter 4 of the Meat Rules applies in relation to applications made under the following:

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

4-20 Initial consideration period

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

Section 4-20 prescribes, for the purposes of subsection 379(3) of the Act, the initial consideration period for an application is 120 days. The period of 120 days is appropriate, having regard to the matters the Secretary must consider in granting or refusing an application. The initial consideration period may be extended in accordance with subsection 379(5) of the Act. The period provides certainty for applicants on the maximum amount of time required for an application to be processed.

The note following section 4-20 explains that under subsection 379(4) of the Act, the consideration period for an application starts on the day after the day the Secretary receives the application.

4-21 Period within which request relating to application must be complied with

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

Section 4-21 prescribes, for the purposes of paragraph 379(10)(b) of the Act, a period of 6 months within which a request from the Secretary in relation to an application to register an establishment must be complied with. The period prescribed by this section is appropriate as it permits sufficient time to comply with matters provided in subsection 379(9) of the Act. The period provides certainty for industry.

Part 6—Meat inspection services

Division 1—Allocation of meat inspection services

Division 1 of Part 6 of Chapter 4 of the Meat Rules relates to the allocation of suitably qualified authorised persons to provide services related to the inspection of prescribed meat and meat products for export.

4-22 Application for allocation of meat inspection services to establishment

Section 4-22 sets out when and how an application for preliminary allocation of meat inspection services can be made.

Subsection 4-22(1) provides that an occupier of an establishment carrying out operations to prepare prescribed meat or meat products for export may apply to the Secretary for a preliminary allocation of meat inspection services.

The first note following subsection 4-22(1) refers the reader to the condition of registration at section 4-15 of the Meat Rules, which provides the occupier must have a preliminary allocation of meat inspection services before commencing operations to prepare prescribed meat or meat products for export.

The second note following subsection 4-22(1) refers the reader to section 12 of the Act for the definitions of *establishment* and to section 1-5 of the Meat Rules for the definition of *registered establishment*.

Subsection 4-22(2) details specific requirements for making an application for allocation of meat inspection services to an establishment. The application must:

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

The note following subsection 4-22(2) provides examples of types of animals are cattle, bison or goats.

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

The authorised officer may under section 9-27 of the Meat Rules temporarily stop the chain of operations or control the rate of operations to ensure the wholesomeness of the prescribed meat or meat products or to perform any other functions necessary to achieve the objects of the Act.

Subsection 4-22(3) provides that an application is taken not to have been made if the application does not comply with the requirements under subsection 4-22(2) of the Meat Rules. This is to ensure all relevant information is included and allows a timely decision to be made by the Secretary.

4-23 Preliminary allocation

Section 4-23 sets out the matters the Secretary must consider in determining the preliminary allocation of meat inspection services for a registered establishment preparing meat or meat products for export.

The registered establishment must have a preliminary allocation of meat inspection services before commencing operations to prepare prescribed meat or meat products for export. Authorised officers provide independent control of prescribed meat or meat products to ensure compliance with the Act and the Meat Rules, and to allow market access for products exported from Australian territory.

Subsection 4-23(1) provides that the Secretary must, as soon as practicable after receiving an application under subsection 4-22(1) for meat inspection services to be allocated to the establishment, determine the preliminary allocation of meat inspection services, which may be zero. This ensures businesses have certainty around the allocation of authorised officers at the earliest point possible and will allow industry to determine the cost and pace at which it can manage its export operations in compliance with the Act and the Meat Rules.

Subsection 4-23(2) requires the Secretary to consider a number of matters in determining the allocation of meat inspection services to an establishment. This includes:

- the overall requirements of the industry;
- Australia's international obligations;
- any staffing formula agreed to by the Department and the relevant union of authorised officers;

- the availability of authorised officers to carry out meat inspection services;
- the need to protect the health and safety of authorised officers while they are carrying out their duties in or around the establishment;
- the management practices at the establishment in relation to meat inspection services; and
- the construction and intended operations of the establishment.

Subsection 4-23(3) permits the Secretary to allocate meat inspection services on an annual, monthly, or weekly basis or any combination of these. This provides flexibility to ensure efficient use of authorised officers and may reduce costs for industry as charges may be reduced through appropriate allocation of authorised officers.

Subsection 4-23(4) provides that meat inspection services (excluding slaughter floor inspection services) may also be allocated on a daily or hourly basis. Subsection 4-23(4) does not limit the ability for the Secretary to allocate meat inspection services on the other bases provided in subsection 4-23(3). This provides flexibility and ensures the efficient use of authorised officers.

Slaughter floor inspection services are excluded from subsection 4-23(4) to reduce the financial burden on the industry and to allow appropriate allocation of time by authorised officers when carrying out their duties at the registered establishment. Slaughter floor inspection services do not need to be conducted on a daily or hourly basis as prescribed meat or meat products for export may not operate on a daily or hourly basis.

The note following subsection 4-23(4) refers the reader to the definition of *slaughter floor meat inspection service* in section 1-5 of the Meat Rules. *Slaughter floor meat inspection service* means a meat inspection service that provides an inspection of carcasses or carcass parts on the slaughter floor of an abattoir.

4-24 Notice of preliminary allocation

Subsection 4-24(1) requires the Secretary to give written notice of the determination relating to the preliminary allocation of meat inspection services to the occupier of a registered establishment, as soon as practicable after making the determination under subsection 4-23. This requirement allows the occupier sufficient time to decide whether they wish to accept or seek review of the initial determination.

Subsection 4-24(2) provides that the notice given by the Secretary may also include advice to the occupier of the establishment on suggested ways the occupier could reduce the allocation of meat inspection services if the Secretary considers it appropriate. This will assist industry to reduce unnecessary costs associated with meat inspection services while maintaining sufficient oversight to ensure the health and safety of staff and the hygiene and wholesomeness of the meat. The occupier is provided with an opportunity to consider any advice that may have been included in the notice from the Secretary about ways in which the occupier could reduce the preliminary allocation of meat inspection services to the

establishment and implement changes to reduce the costs associated with meat inspection services.

4-25 Procedure following notice of preliminary allocation

The purpose of the sections 4-25 to 4-27 is to detail the procedures that follow the Secretary's notice to the occupier of a registered establishment of the preliminary or revised allocation of meat inspection services at the establishment.

Subsection 4-25(1) deals with the situation where the occupier of the establishment where operations to prepare prescribed meat or meat products for export are to be carried out accepts the preliminary allocation of meat inspection services determined by the Secretary under section 4-23. In such circumstances, the occupier of the establishment and the Secretary must complete a memorandum of agreed intent in the form approved by the Secretary. If no memorandum is completed within 7 days after the occupier receives notice of the preliminary allocation, and there is no application for review or revised allocation, then the Secretary's determination of the preliminary allocation is taken to be a memorandum of agreed intent between the Secretary and the occupier (subsection 4-25(2)).

Subsection 4-25(3) deals with the situation where the occupier of the establishment does not accept the preliminary allocation of meat inspection services to the establishment. In such circumstances, the occupier may apply to the Secretary for the establishment of a committee to review the determination. The application must be made by the occupier in writing within 7 days of receiving notice of the preliminary allocation.

The note following section 4-25 refers the reader to section 4-28 in relation to the establishment of a review committee.

4-26 Revised allocation

Section 4-26 applies where the notice of the preliminary allocation under section 4-24 contains advice on suggested ways the occupier could reduce the allocation of meat inspection services, the occupier implements some or all of the advice, and the implementation of the suggestions means the preliminary allocation of meat inspection services should be revised. In such circumstances, the Secretary must, as soon as practicable, determine a revised allocation, and give the occupier a written notice of the revised allocation.

4-27 Procedure following notice of revised allocation

Section 4-27 applies if the Secretary gives the occupier of an establishment notice of a revised allocation of meat inspection services under subsection 4-26. Section 4-27 has the effect that, on the occupier receiving written notice of the revised allocation, the same procedure applies as for the notice of the preliminary allocation.

Namely, the occupier can:

- accept the revised allocation and complete a memorandum of agreed intent with the Secretary, in the form approved by the Secretary; or

- apply to the Secretary, in writing, for the establishment of a committee to review the Secretary’s determination of the revised allocation within 7 days of the notice of the revised allocation.

If within 7 days of receiving the notice, a memorandum of agreed intent has not been completed, and no review has been sought by the occupier, the Secretary’s determination of the revised allocation will be taken to be a memorandum of agreed intent.

The purpose of section 4-27 is to provide requirements relating to circumstances in which the revised allocation is, or is not, accepted by the occupier. Where the occupier does not agree with the revised allocation, these provisions provide an appropriate mechanism for review of the decision.

The note following section 4-27 refers the reader to section 4-28 of the Meat Rules in relation to the establishment of a review committee.

4-28 Review of Secretary’s determination

Section 4-28 sets out the processes and considerations for the review of determinations on preliminary and revised allocations of meat inspections services for establishment where operations to prepare prescribed meat or meat products for export are to be carried out. Subsections 4-25(3) and 4-27(4) allow the occupier of such an establishment to apply to the Secretary for the establishment of a committee to review the determination.

Subsection 4-28(1) provides that, where an occupier of an establishment makes application for review, the Secretary must establish a review committee, comprising of:

- the occupier or a representative of the occupier;
- a Departmental employee at the SES level;
- a meat industry representative nominated by the occupier; and
- if the allocation was not accepted by the occupier due to a staffing issue—a representative of each of the relevant union of authorised officers.

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

Subsection 4-28(2) provides that the Secretary is required to convene the committee’s first meeting. While the Secretary convenes the first meeting, the Secretary is not required to form part of the review committee.

Subsections 4-28(3) and (4) provide requirements for the review process. The committee must review the application, any advice provided to the occupier under section 4-24, and the determination that the application relates to. The committee’s written recommendation on the appropriate allocation of meat inspection services to the establishment must be provided to

the Secretary as soon as practicable and not later than 14 days after the first meeting. This period allows sufficient time for robust discussion among committee members.

4-29 Determination of new allocation

Subsection 4-29(1) provides that as soon as practicable upon receiving the recommendation from the review committee under subsection 4-28(4), the Secretary must determine a new allocation of meat inspection services to the establishment.

The note following subsection 4-29(1) explains that the Secretary's determination of a new allocation of meat inspection services is a reviewable decision for the purposes of Part 2 of Chapter 11 of the Act, and that the notice required under subsection 4-29(4) must include the reason for the decision.

Subsection 4-29(2) provides that in making a determination under subsection 4-29(1), the Secretary must take into account the review committee's recommendation and the considerations that would be taken into account when making a determination of meat inspection services under subsection 4-23(2).

Subsection 4-29(3) provides that the Secretary's determination of a new allocation of meat inspection services under subsection 4-29(1) replaces any earlier determination and is taken to be a memorandum of agreed intent between the Secretary and the occupier.

Subsections 4-29(4) and (5) provide that the Secretary must give a notice advising the occupier of the new allocation, as soon as practicable and not later than 45 days after the day the relevant application for review was received by the Secretary. This timeframe is appropriate as it provides sufficient time for the Secretary to consider the recommendation of the review committee

The occupier may seek an internal review of a decision made under section 4-29 under section 383 of the Act. Following the internal review, excluding a determination made personally by the Secretary, the occupier may apply for external review of the determination by the Administrative Appeals Tribunal (see section 385 of the Act and section 11-1 of the Meat Rules).

Division 2—Variation of meat inspection services

4-30 Application to vary allocation of meat inspection services

Section 4-30 enables the occupier of a registered establishment where operations to prepare prescribed meat or meat products for export are to be carried out to apply to the Secretary to vary the allocation of meat inspection services to that establishment. This may be where the volume of the goods requiring inspection has been significantly reduced, or the operations have been adjusted to allow inspections to occur at a different interval. This section is not intended to apply to applications for additional allocations as this is provided for in section 4-31. This provision enables the occupier to reduce regulatory costs and allows the Secretary to redistribute the allocation of inspection services.

Subsections 4-30(1) and (2) provide that an occupier who has an allocation of meat inspection services may apply to the Secretary, in writing, to vary that allocation. The

application must be made in an approved manner (if any) and contain information or documents required by the approved form (if any).

Subsection 4-30(3) provides timeframes for applying to vary the allocation of meat inspection services to reduce the allocation. These timeframes are:

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

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

Subsection 4-30(4) provides timeframes for applying to vary the allocation of meat inspection services other than by reducing or increasing the allocation. These timeframes are that the application must be made:

- at least 90 days before the proposed variation is to start; or
- if the Secretary allows a shorter period, at least that period before the proposed variation is to start.

The first note following subsection 4-30(4) provides for an example that an application may be made to change the proportion of third party authorised officers and Commonwealth authorised officers carrying out inspection services.

The second note following subsection 4-30(4) refers the reader to section 4-31 of the Meat Rules which deals with applications for additional meat inspection services.

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

Subsections 4-30(5) to (7) provide that, on receiving an application under section 4-30, the Secretary must decide to either vary, or refuse to vary, the allocation of meat inspection services to the establishment. In making the decision, the Secretary must have regard to the matters in subsection 4-23(2) (matters to consider in the preliminary allocation of meat inspection services). The Secretary must give the occupier written notice of the decision as soon as practicable after making the decision (subsection 4-30(7)).

The note following subsection 4-30(5) explains that a decision to refuse to vary an allocation of meat inspection services is reviewable, and that reasons must be provided in the notice for such a decision, as per subsection 382(1) of the Act.

Subsection 4-30(8) provides that section 4-30 does not apply to a variation relating to additional meat inspection services or for a shutdown under sections 4-31 or 4-32.

4-31 Application for additional allocation of meat inspection services

Section 4-31 provides that the occupier of a registered establishment where operations to prepare prescribed meat or meat products for export are to be carried out can apply to the Secretary for an additional allocation of meat inspection services. This allows occupiers to apply for additional inspection services when they wish to increase their outputs and require more inspection services to do so.

Subsections 4-31(1) and (2) provide that an occupier who has an allocation of meat inspection services may apply to the Secretary in writing for additional meat inspection services to be allocated. The application must be made in an approved manner (if any) and contain information or documents required by the form (if any).

Subsections 4-31(3) to (7) detail the additional meat inspection services an occupier may apply for, depending on their existing allocation, and the specified timeframes for making an application:

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

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

Subsections 4-31(8) and (9) provide that the Secretary must decide to either grant or refuse the request for additional meat inspection services. The Secretary must give the occupier written notice of the decision and, if the Secretary decides to refuse to allocate the additional inspection services, provide details of the right to review the decision. Providing reasons for the decision may assist the occupier in understanding what they can do to reduce the need for additional inspection services.

The note following subsection 4-31(8) explains that a decision to refuse a request for additional meat inspection services is a reviewable decision (see section 11-1 of the Meat

Rules and Part 2 of Chapter 11 of the Act). The note also explains that the notice provided under subsection 4-31(9) must also include the reasons for the decision (see subsection 382(1) of the Act).

Subsection 4-31(10) provides that if an application is not made within the timeframes specified in section 4-31, the Secretary must make a decision under subsection 4-31(8) as soon as possible, if it is reasonable in the circumstances to do so. This provides the occupier with the flexibility to increase or reduce the allocation of inspection services outside of the specified timeframes if necessary.

Subsection 4-31(11) provides that where additional meat inspection services are allocated to a registered establishment, and the application for the additional services specifies the period during which the additional services are to be provided, the Secretary must not terminate any of the additional services until the end of the specified period unless the occupier of the establishment has given notice under section 4-34 of the Meat Rules that they wish to terminate some, or all, of the additional meat inspection services.

4-32 Notification that meat inspection services not required during shutdown period

Subsection 4-32(1) provides that an occupier of a registered establishment may notify the Secretary in writing that meat inspection services are not required for a specified continuous period of at least 14 days. This applies if the existing meat inspection services are allocated on an annual basis or on a combination of an annual basis and another basis. This is to allow industry to reduce costs by pausing the meat inspection services during the periods where services are not required. The period of at least 14 continuous days of shut down is appropriate as savings associated with a shorter timeframe would be counterbalanced by the an unnecessary administrative costs in reviewing the notice and reallocating the services.

Subsection 4-32(2) provides that the notice must be given at least 14 days before the start of the specified period.

4-33 Variation by Secretary of allocation of meat inspections services

Subsections 4-33(1) and (2) have the combined effect that the Secretary may initiate a variation of the allocation of meat inspection services at a registered establishment in the circumstances specified in paragraphs 4-33(1)(a) and (b).

The circumstances specified in paragraph 4-33(1)(a) generally reflect where there has been a change in the matters which the Secretary was required to have regard to when determining the preliminary allocation of meat inspection services to that establishment.

Paragraph 4-33(1)(b) allows the Secretary to initiate a variation of the allocation of meat inspection services to a registered establishment where there has been an audit report that includes a recommendation to vary the allocation of meat inspection services to that establishment for a specified period of time.

It is appropriate for the Secretary to be able to initiate a variation of the allocation in the circumstances listed as these matters generally ensure the inspection of prescribed meat and meat products meet industry standards and international obligations, facilitate the distribution

of authorised officers, and protect the health and safety of workers and the hygiene and wholesomeness of the goods.

Subsection 4-33(3) provides that the Secretary must notify the occupier of the registered establishment in writing of the variation to the allocation of meat inspection services under section 4-33. The notice must include the varied allocation and, if an audit report recommends that the varied allocation be carried out for a specified period of time, the date the varied allocation ceases to have effect.

The note following subsection 4-33(3) explains that the Secretary may, under section 406 of the Act, direct that meat inspection services are not carried out at a registered establishment if a cost-recovery charge in relation to meat inspection services provided at the establishment remains unpaid after becoming due and payable.

Subsections 4-33(4) to (6) detail what happens when the occupier of a registered establishment is notified under subsection 4-33(3) and does not agree with the Secretary's decision to vary the allocation of meat inspection services to that establishment. The occupier may apply to the Secretary in writing for reconsideration of the varied allocation. On receiving the application, the Secretary must enter negotiations with the occupier in relation to the varied allocation. If agreement cannot be reached at the completion of such negotiations, the Secretary must seek to reach agreement with a representative of the relevant industry organisation nominated by the occupier. If agreement with the occupier's representative cannot be reached, the Secretary must determine a new allocation of meat inspection services after having considered the views put forward by the occupier and the occupier's representative and the matters referred to in paragraph 4-33(1)(a).

The note following subsection 4-33(6) explains that a decision to determine a new allocation of meat inspection services to an establishment is a reviewable decision (see section 11-1 of the Meat Rules and Part 2 of Chapter 11 of the Act). The notice under paragraph 4-33(7)(b) of the Meat Rules must include the reasons for the decision (see subsection 382(1) of the Act).

Subsection 4-33(7) provides that if the Secretary determines a new allocation of meat inspection services to a registered establishment under subsection 4-33(6), the new determination replaces any earlier determination made under subsection 4-33(2), which ceases to have effect. The Secretary must give notice advising the occupier of the new allocation and the reasons for the decision as soon as practicable and not later than 45 days after the day the application for reconsideration of the varied allocation is received.

4-34 Notification of termination of meat inspection services

Subsection 4-34(1) provides that the occupier of a registered establishment to which meat inspection services are allocated may notify the Secretary, in writing, that the occupier wishes to terminate some, or all, of the meat inspection services (including any additional meat inspection services allocated to the registered establishment under section 4-31 of the Meat Rules).

Subsection 4-34(2) requires that the notice must be given at least 14 days before the proposed termination of the meat inspection services.

CHAPTER 5—APPROVED ARRANGEMENTS

Part 1—Approved arrangements for export operations other than Halal meat certification operations

Division 1—Requirements for approval

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

5-1 Purpose of this Division

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

Section 5-1 provides, for the purposes of paragraph 151(2)(d) of the Act, that Division 1 of Part 1 of Chapter 5 of the Meat Rules (section 5-1 to 5-3) prescribes, other requirements of which the Secretary must be satisfied before approving a proposed arrangement for export operations in relation to prescribed meat or meat products (other than Halal meat certification operations). Requirements for approval of a proposed arrangement for export operations in relation to Halal meat certification are prescribed under Part 2 of Chapter 5 of the Meat Rules. Approved arrangements provide the framework for an inspection, verification and certification system.

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

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

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

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

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

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

- the system of controls to be implemented to ensure that the conditions of the approved arrangement (set out in Subdivisions B to H of Division 2 of Part 1 of Chapter 5 of the Meat Rules) will be complied with; and
- any other system of controls that will be implemented to ensure that there will be reasonable grounds for issuing an export permit or a government certificate for prescribed meat or meat products to be covered by the arrangement.

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

Subsection 5-2(6) requires the proposed arrangement to specify any importing country requirements that will not be met through ordinary compliance with the Act (other than section 5-5 of the Meat Rules), and the system of controls to be implemented to ensure those importing country requirements will be met. This allows for flexibility where the requirements of the importing country are different from the requirements of the Act, while ensuring transparency about the control measures needed to meet importing country requirements.

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

Subsection 5-2(7) requires the implementation of a Hazard Analysis and Critical Control Point (HACCP) plan for each stage of the operations to prepare the prescribed meat or meat products for export. This process control is designed to prevent the occurrence of problems by assuring that controls are applied at any point in the production of meat or meat products for export, where hazardous or critical situations could occur. A hazard could include physical, biological or chemical contamination of the product or the product packaging. Details of the requirements for a HACCP plan are in section 3.11 of the Australian Meat Standard. A guide to implementing a HACCP is available on the CSIRO website (<https://www.publish.csiro.au>).

The note following subsection 5-2(7) refers the reader to section 3.11 of the Australian Meat Standard, which details of the requirements for a HACCP plan.

Subsection 5-2(8) deals with requirements relating to operations to prepare meat or meat products that are not for export, or that are for animal food or pharmaceutical material. If such operations are also to be carried out at the registered establishment (alongside operations to prepare prescribed meat or meat products for export), the proposed arrangement must:

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

The note following subsection 5-2(8) refers the reader to section 5-32 of the Meat Rules, which sets restrictions on operations to prepare prescribed meat or meat products at establishments where there are also operations to prepare meat or meat products that are not for export, or that are animal food or pharmaceutical products.

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

Subsection 5-2(10) applies if the proposed arrangement provides for refrigeration for chilling to be applied to carcasses or carcase parts. In such circumstances, the arrangement must also provide for control measures to be implemented to ensure the required refrigeration index criteria for the carcasses or carcase parts is achieved. The refrigeration index criteria are described in section 5-13 of the Meat Rules, which deals with the effectiveness of refrigeration.

5-3 Other requirements—proposed arrangement for operations to prepare Halal meat

Section 5-3 applies in relation to export operations to prepare Halal meat for export at a registered establishment if a Halal certificate is required. The proposed arrangement must:

- specify each Muslim slaughterman for the Halal meat; and
- each Islamic organisation permitted to issue a Halal certificate in relation to Halal meat prepared for export at the establishment (subsection 5-3(2)).

The note following subsection 5-3(2) notifies the reader that Islamic organisations referred to in paragraph 5-3(2)(b) must be the holder of an approved arrangement for Halal meat certification operations.

Subsection 5-3(3) clarifies that the requirements of section 5-3 apply to approved arrangements to prepare prescribed meat or meat products for export at a registered establishment in addition to the general requirements contained in section 5-2.

Division 2—Conditions of approved arrangement

Subdivision A—Purpose of this Division

Subdivision A (section 5-4) sets out the purpose of Division 2 of Part 1 of Chapter 5 of the Meat Rules, concerning conditions on approved arrangements for operations to prepare prescribed meat or meat products for export.

5-4 Purpose of this Division

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

Subsection 5-4(1) provides that Division 2 of Part 2 of Chapter 5 of the Meat Rules (sections 5-4 to 5-47) prescribe, for the purposes of paragraph 152(1)(b) of the Act, the conditions of an approved arrangement for a kind of export operations in relation to prescribed meat or meat products (other than Halal meat certification operations).

Subsection 5-4(2) has the effect that each condition set out in Division 2 of Part 2 of Chapter 5 of the Meat Rules applies to approved arrangements for export operations in relation to prescribed meat or meat products (other than Halal meat certification operations) if the provision relates to a kind of export operations covered by the arrangement.

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

The first note following section 5-4 refers the reader to paragraph 157(1)(b) of the Act, which provides that the conditions also apply to an approved arrangement that has been renewed.

The second note following section 5-4 alerts the reader that failure to comply with a condition of an approved arrangement is an offence and the contravention of a civil penalty provision under section 184 of the Act.

Subdivision B—General

Subdivision B (sections 5-5 and 5-6) impose general requirements on approved arrangements for operations to prepare prescribed meat or meat products for export.

5-5 Importing country requirements must be met

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

Ensuring all applicable importing country requirements are covered by the approved arrangement and are met enables ongoing market access for prescribed meat or meat products that are exported from Australian territory.

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

5-6 Requirements of Australian Meat Standard must be met

Section 5-6 requires an approved arrangement to ensure the requirements of the Australian Meat Standard (as modified by the Meat Rules, other than in subsection 4-3(2)) are met in relation to both the export operations that are carried out in relation to prescribed meat or meat products, and the prescribed meat or meat products themselves.

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

The note following section 5-6 refers the reader to Division 2 of Part 2 of Chapter 1 of the Meat Rules for modifications of the Australian Meat Standard.

Subdivision C—Preparation and transport

Subdivision C (sections 5-7 to 5-20) imposes conditions that apply to approved arrangements concerning the preparation and transport of prescribed meat or meat products for export.

5-7 Dressing an animal

Section 5-7 provides that an animal must be unconscious, and that primary bleeding must be completed before dressing takes place. This condition is important to ensure animal health and welfare is not compromised and to meet Australian animal welfare obligations. This section provides that handling and stress to the animals is limited and prevents any animals that have been inhumanely treated from entering the export supply chain.

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

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

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

5-9 Compliance with decisions and dispositions

Section 5-9 sets requirements relating to compliance with decisions or dispositions by a veterinary officer or an authorised officer that are applied to animals, carcasses or carcase parts, or prescribed meat or meat products.

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

A disposition is a specific type of decision made in accordance with the Meat Rules under sections 9-22 to 9-26 of the Meat Rules, which refer specifically to ante-mortem (a decision made prior to slaughter) and post-mortem (decision about the carcasses, carcase parts, meat or meat products after slaughter) dispositions. The authorised officer can vary a disposition applied to prescribed meat or meat products following inspection, or specify a condition, if further information is obtained about the product or the product deteriorates.

Subsection 5-9(1) requires a decision or disposition, and any conditions specified in relation to a decision or disposition, that has been applied to animals by a veterinary officer or an authorised officer, to be complied with.

The note following subsection 5-9(1) explains that decisions and dispositions may be applied to animals only by a veterinary officer or an authorised officer (see section 9-28 of the Meat Rules).

Subsection 5-9(2) requires a disposition, and any conditions specified in relation to a disposition, that has been applied to carcasses or carcase parts, or to prescribed meat or meat products, by an authorised officer, to be complied with.

Subsection 5-9(3) defines a *decision* or *disposition* as a decision about the admission of animals for slaughter, or a disposition that may be applied to animals, carcasses or carcase parts, or prescribed meat or meat products, by an authorised officer under Division 2 of Part 4 of Chapter 9 of the Meat Rules, and expressly includes a variation of such a decision or disposition and any conditions specified in relation to such a decision or disposition.

The first note following subsection 5-9(3) refers the reader to sections 9-22 to 9-25 of the Meat Rules which provides details for decisions and dispositions that may be applied by an authorised officer in relation to animals, carcasses or carcase parts, or prescribed meat or meat products.

The second note following section 5-9 notifies the reader that under paragraphs 9-24(3)(d) and 9-24(4)(a) of the Meat Rules, carcasses or carcase parts may be retained for further inspection, tests or treatment pending final disposition.

5-10 Chilling carcasses and carcase parts

Section 5-10 deals with when refrigeration for chilling carcasses or carcase parts is taken to meet the Australian Meat Standard.

Section 5-10 has the effect that where the control measures for the refrigeration process specified in an approved arrangement are complied with, refrigeration for chilling carcasses or carcase parts is taken to meet paragraphs 11.6(a), (b) or (c) of the Australian Meat Standard.

The purpose of this provision is to require the holder of an approved arrangement to comply with refrigeration control measures to ensure the chilling and freezing of meat is maintained and that it does not jeopardise the wholesomeness of the prescribed goods.

The first note following section 5-10 explains that under section 5-13, the effectiveness of the refrigeration process is assessed using the refrigeration index criteria.

The second note following section 5-10 refers the reader to section 1-5 of the Meat rules and clause 1.3 of the Australian Meat Standard where *carcase part* is defined as including offal.

5-11 Temperature controls for and after processing raw meat

Subsection 5-11(1) requires the processing of raw meat removed from refrigeration to take place in a temperature controlled environment no warmer than 10 degrees Celsius if processing is likely to result in any of the surfaces of the meat reaching a temperature of no warmer than 7 degrees Celsius. This requirement applies despite clause 12.4 of the Australian Meat Standard.

Subsection 5-11(2) provides that the refrigeration for chilling raw meat after the processing is completed is taken to meet subparagraph 12.5(b)(i) or (ii) of the Australia Meat Standard if the raw meat reaches a temperature no warmer than 7 degrees Celsius on all surfaces of the raw meat.

This ensures adequate temperature controls for processing raw meat are in place to maintain integrity and wholesomeness of the prescribed goods.

The note following subsection 5-11(2) explains that under section 5-13, the effectiveness of the refrigeration process is assessed using the refrigeration index criteria.

Subsection 5-11(3) provides that the term *processing*, for the purposes of section 5-11, has the same meaning as in subclause 12.1(2) of the Australian Meat Standard.

The note following subsection 5-11(3) explains that this definition of *processing* includes boning.

5-12 Temperature requirements for storing, handling and transporting certain prescribed meat or meat products

Section 5-12 sets temperature requirements for storing, handling and transporting prescribed meat or meat products other than shelf-stable meat products. *Shelf-stable* is defined in section 1-5 of the Meat Rules as having the same meaning as in the Australian Meat Standard, and means the meat or meat products will not deteriorate when stored and handled at ambient temperature.

Subsection 5-12(2) and (3) deal with the temperature requirements for the storage and handling prescribed meat or meat products (other than shelf-stable products) prepared for export at a registered establishment under an approved arrangement. The requirements in subparagraphs 15.2(a)(i) and (ii) of the Australian Meat Standard are taken to be met if the prescribed meat or meat products are stored and handled at a temperature no warmer than 7 degrees Celsius on any of their surfaces (subsection 5-12(2)).

The requirements in paragraph 15.7(a) of the Australian Meat Standard are taken to be met if the prescribed meat or meat products are:

- at a temperature no warmer than 7 degrees Celsius on any of their surfaces; or
- are still being reduced in temperature in accordance with the approved arrangement (subsection 5-12(3)).

The note following subsection 5-12(3) explains that if the meat or meat products are still being cooled in accordance with the approved arrangement, the refrigeration index criteria at section 5-13 of the Meat Rules is used to assess the effectiveness of the refrigeration process.

Subsection 5-12(4) sets out the temperature requirements relating to the transport of prescribed meat or meat products prepared for export at a registered establishment under an approved arrangement.

The requirements of subparagraphs 24.3(a)(i) and (ii) of the Australian Meat Standard are taken to be met if the meat or meat products are:

- transported at a temperature no warmer than 7 degrees Celsius on any of their surfaces; or
- are still being reduced in temperature in accordance with the approved arrangement.

The note following subsection 5-12(4) explains that if the meat or meat products are still being cooled in accordance with the approved arrangement, the refrigeration index criteria at section 5-13 of the Meat Rules is used to assess the effectiveness of the refrigeration process.

The purpose of section 5-12 is to ensure there are adequate temperature controls for storing, handling and transporting prescribed meat or meat products.

5-13 Assessing the effectiveness of refrigeration

Section 5-13 applies to assessing the effectiveness of the refrigeration process applied to a carcass, carcass part or raw meat from the time it is first placed under refrigeration until it is maintained continuously at a temperature of no warmer than 7 degrees Celsius at all sites of microbiological concern, or further processed in accordance with section 13 of the Australian Meat Standard.

The control measures for chilling that are applied to prescribed meat or meat products must achieve the refrigeration index criteria set out in subsection 5-13(3). This means that:

- the refrigeration index average must be not more than 1.5;
- 80% of refrigeration indices must be not more than 2.0; and
- no refrigeration index may be more than 2.5.

The **refrigeration index** means the valued obtained by using a recognised predictive model to calculate the potential growth of *E. coli* at a site of microbiological concern (as defined in section 1-5 of the Meat Rules).

The note under subsection 5-13(2) refers the reader to clause 11.3 of the Australian Meat Standard, which requires carcasses and carcase parts to be placed under refrigeration for chilling or freezing within 2 hours of stunning.

5-14 Thawing of meat

Section 5-14 deals with the thawing of meat under an approved arrangement. The thawing of met is taken to meet the requirements of paragraph 12.11(a) of the Australian Meat Standard if it results in a temperature no warmer than 7 degrees Celsius on any surfaces of the meat.

This provides flexibility while ensuring adequate temperature controls are in place and ensures the thawing of raw meat does not jeopardise the wholesomeness of the prescribed goods.

The note following section 5-14 refers the reader to section 1-5 of the Meat Rules for the definition of **thawing**, which is the same as in the Australian Meat Standard which provides that **thawing** means warming to a temperature warmer than minus 2 degrees Celsius.

5-15 Loading prescribed meat or meat products for transfer between registered establishments

Section 5-15 provides the conditions that must be met for vehicles used for the transfer of prescribed meat or meat products between registered establishments. The meat vehicle must satisfy the standards specified in paragraphs 5-15(a) to (g) and must:

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

The purpose of this condition is to prevent contamination and ensure the wholesomeness of the prescribed meat and meat products during transport.

The note following section 5-15 refers the reader to clauses 5.1, 15.2 and 15.3 of the Australian Meat Standard, which deal with the same issues.

5-16 Loading of prescribed meat or meat products—supervision

Section 5-16 deals with how the loading of prescribed meat or meat products for export must be supervised.

Subsection 5-16(1) provides that the loading of prescribed meat or meat products for export must be supervised by an authorised officer, or by a person who manages or controls operations to prepare meat or meat products for export at the registered establishment where operations to prepare the meat or meat products for export were last carried out (provided that person is designated in the approved arrangement as a person who may supervise the loading of prescribed meat or meat products for export, and does so in accordance with the arrangement).

Subsection 5-16(2) requires a person who supervises the loading of prescribed meat or meat products for export to give the exporter a declaration stating that, at the date the declaration is made, the prescribed export conditions, applicable importing country requirements, and any other condition that applies to the meat or meat products under the Act, are met.

The first note following subsection 5-13(2) refers the reader to the United Nations Rules for Electronic Data Interchange for Administration, Commerce and Transport. In 2021, these Rules could be accessed from the United Nations Economic Commission for Europe website (<https://www.unece.org>), which deals with electronic message formats.

The second note following subsection 5-13(2) refers the reader to the *Electronic Transactions Act 1999*, regarding the requirements to give information (including a declaration) in writing (see section 10 of that Act for electronic signatures).

The third note following subsection 5-16(2) explains that under subsection 11-6(2) of the Meat Rules, the exporter is required to retain the declaration referred to in this section for at least 2 years.

The declaration under subsection 5-16(2) must not be made if there are no reasonable grounds for making it, must not be false or misleading and must be signed and dated by the person who made it (subsection 5-16(3)).

The note following subsection 5-16(3) alerts the reader that providing false or misleading information or documents is an offence and the contravention of a civil penalty provision under sections 368 and 369 of the Act and sections 137.1 and 137.2 of the *Criminal Code*.

5-17 Prohibitions on loading

Subsection 5-17(1) requires prescribed meat or meat products, at the time they are loaded for export, to be packaged effectively to protect them from contamination and deterioration in the conditions in which they are loaded, stored or transported from Australian territory.

Subsection 5-17(2) prohibits prescribed meat or meat products that are not wholesome from being loaded for export.

The note following section 5-17 refers the reader to section 14 of the Australian Meat Standard, which deals with packaging requirements.

5-18 Container system units and equipment for loading aircraft and vessels

Section 5-18 sets requirements for loading prescribed meat or meat products into a container system unit or onto an aircraft or vessel.

Subsection 5-18(1) provides that prescribed meat or meat products must not be loaded for export unless the container system unit, or the area on an aircraft or vessel, into which the meat or meat products are to be loaded is:

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

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

The note following subsection 5-18(1) refers the reader to section 8-15 of the Meat Rules which deals with bolt seals.

Subsection 5-18(2) requires prescribed meat or meat products to be stowed in a container system unit, or an area of an aircraft or vessel, in a manner that ensures their condition and packaging are not likely to be adversely affected during the flight or voyage.

The combined effect of sections 5-16, 5-17 and 5-18 is to ensure a suitably trained and qualified person will determine, at loading, that prescribed goods are wholesome, have been packaged in way that prevents contamination and deterioration, including during transport. This provides end chain assurance for trading partners.

5-19 When a bolt seal must be applied to container system unit

Section 5-19 requires the application of a bolt seal, that is an official mark, to a container system unit (other than a container system unit intended to be transported by air) if prescribed meat or meat products are loaded into the container system unit. A bolt seal is a locking device that is tamper-evident, requires a tool (such as a bolt cutter) to open and may only be applied by persons set out in subsection 8-26(2) of the Meat Rules.

The first note following section 5-19 refers the reader to the Manual of Importing Country Requirements (MICO_R) for guidance on when a seal may need to be applied to a container system unit intended to be transported by air if it transits another country. MICO_R could in 2021 be viewed on the Department's website (<http://www.awe.gov.au>). Access to the document may require a password.

The second and third notes refer the readers to sections 8-15 and 8-26 of the Meat Rules which deal with bolt seals and who must apply them.

The fourth note following section 5-19 alerts the reader that a person may commit an offence or be liable for a civil penalty under the Act for altering or interfering with an official mark.

5-20 Meat transport vehicles, measuring devices and other equipment

Section 5-20(1) provides that prescribed meat or meat products must be transported between registered establishments by meat transport vehicles and equipment that comply with the applicable conditions prescribed by the Meat Rules.

Subsection 5-20(2) requires meat transport vehicles and other equipment used in transporting prescribed meat or meat products to be of a kind that ensures that the transport of the meat or meat products complies with the applicable conditions prescribed by Part 1 of Chapter 5 of the Meat Rules.

The first note following subsections 5-20(1) and (2) refers the reader to sections 5-15 and 5-18 of the Meat Rules in relation to meat transport vehicles.

The second note following subsections 5-20(1) and (2) notifies the reader that there must also be compliance with the applicable requirements of the Australian Meat Standard as well as section 5-6 of the Meat Rules.

Subsection 5-20(3) provides that meat transport vehicles and container system units used to transport prescribed meat and meat products must have accurate measuring devices to assess whether the applicable conditions prescribed by Part 1 of Chapter 5 of the Meat Rules are complied with during transport and loading.

This section operates to ensure the prescribed meat or meat products are not contaminated during transport and remain wholesome.

Subdivision D—Trade descriptions

Subdivision D (sections 5-21 to 5-24) imposes conditions on approved arrangements concerning the application of trade descriptions on prescribed meat and meat products.

The note at the start of Subdivision D refers the reader to Part 2 of Chapter 8 of the Act and Part 2 of Chapter 8 of the Meat Rules in relation to trade descriptions.

5-21 Trade description must be applied to prescribed meat and meat products that are intended to be exported

Section 5-21 imposes requirements relating to the application of trade descriptions for prescribed meat or meat products that are intended to be exported.

Subsection 5-21(1) requires a trade description that includes the information specified in subsection 5-21(3) to be applied to prescribed meat or meat products that are intended for export.

The first note following subsection 5-21(1) explains that the body responsible for setting trade description standards for meat and meat products derived from bovine, caprine, ovine and porcine animals, at the time of commencement of the Meat Rules, was AUS-MEAT Limited.

The second and third notes following subsection 5-21(1) refer the reader to the definitions of *trade description* and *applied* which are found in sections 246 and 247 of the Act.

The fourth note following subsection 5-21(1) notifies the reader that clause 16.7 of the Australian Meat Standard is not required to be complied with, and directs the reader to subsection 4-3(2) of the Meat Rules which modifies the Australian Meat Standard to this effect.

The fifth note following subsection 5-21(1) refers the reader to section 5-24 for alternative requirements for prescribed meat or meat products that are intended for further processing.

The sixth note following subsection 5-21(1) explains that if the relevant importing country authority specifies that it does not require a trade description requirement prescribed by Subdivision D of Division 2 of Part 1 of Chapter 5 of the Meat Rules to be met, the Secretary may approve a variation of the approved arrangement to provide that the trade description requirement does not apply.

Subsection 5-21(2) provides that the trade description must be applied no later than the time the prescribed meat or meat products are packed.

Subsection 5-21(3) provides a description of the required information to be in a trade description which must be applied to prescribed meat or meat products which are intended for export. The required information is the following:

- the type of animal (including an additional description for some animals, such as ‘beef’ or ‘lamb’), net weight and country or countries of origin of the meat or meat products;
- the registration number of the registered establishment where the meat or meat products were last packed before export;
- the name and address of the occupier of the registered establishment, or the exporter or consignee of the meat or meat products;
- where meat or meat products were packed on behalf of a person other than the occupier of the registered establishment, where operations to prepare the meat or meat products for export were carried out, the name of the person who packed the meat or meat products, and the name of the person on whose behalf the meat or meat products were packed;
- for packaged meat or meat products—the date of packaging (for example: 02Feb2020);
- where the meat or meat products contain 2 or more ingredients, a list of ingredients (other than any processing aids) in descending order of ingoing weight;

- the identity of the batch;
- a statement indicating whether the meat or meat products should be kept chilled or frozen if they are not shelf-stable; and
- for canned meat or meat products, the registration number allocated to the registered establishment preceded by the letters “EX”, the date of packaging, and description of the contents of the cans.

The first note following subsection 5-21(3) notifies the reader that the trade description must be accurate, as prescribed by 8-6 of the Meat Rules. Additionally, the note alerts the reader of Division 3 of Part 2 of Chapter 8 of the Act concerning offences and civil penalty provisions in relation to false trade descriptions.

The second note following subsection 5-21(3) refers the reader to the Australian Consumer Law (within the meaning of the *Competition and Consumer Act 2010*), which contains prohibitions on engaging in conduct that is misleading or deceptive or is likely to mislead or deceive, and prohibitions on making false or misleading representations (see sections 18, 29 and 151 of the Australian Consumer Law).

The third note following subsection 5-21(3) provides that examples of types of animals are cattle, bison and goats.

The fourth note following subsection 5-21(3) refers to section 1-5 of the Meat Rules for the definition of *date of packaging*.

Subsection 5-21(4) sets out that, for the purposes of paragraph 5-21(3)(e), the registration number must be clearly identifiable as being the registration number of the registered establishment.

Subsection 5-21(5) also requires prescribed meat and meat products to meet each applicable requirement for the labelling and naming of ingredients and compound ingredients specified in Standard 1.2.4 of the Australia New Zealand Food Standards Code. This Standard is available from the Food Standards Australia New Zealand website (<https://www.foodstandards.gov.au>).

The note following subsection 5-21(5) refers the reader to section 12 of the Act for the definition of the *Australian New Zealand Food Standards Code*.

The inclusion of this information is important to ensure the identity of the prescribed meat or meat products can be ascertained, and provides assurance of the integrity of the goods to trading partners.

5-22 Use of trade description “Grain Fed”

Section 5-22 prohibits the “Grain Fed” trade description from being applied to prescribed meat or meat products unless:

- the meat or meat products are derived from a beef carcass that meets the carcass criteria and meets the meat quality assessments specified for Grain Fed, Grain Fed Finished or Grain Fed Young Beef in the Australian Meat Industry Classification System; or
- the meat or meat products are derived from a lamb carcass that meets the carcass criteria specified for Grain Fed Lamb in the Australian Meat Industry Classification System.

The note following section 5-22 refers the reader to subsection 5-21(3) of the Meat Rules, which deals with the use of the trade descriptions ‘beef’ and ‘lamb’.

The purpose of this section is to allow the Meat Rules to protect and support the grain fed industry by limiting the use of grain fed in the descriptions of other meat and meat products.

5-23 Prescribed meat or meat products in cartons or cans

Section 5-23 deals with the requirements for trade descriptions applied to prescribed meat or meat products contained in cartons or cans.

Subsection 5-23(1) provides that for trade descriptions applied to prescribed meat or meat products contained in cartons, the trade description must be applied to one end panel of the carton.

The note following subsection 5-23(1) refers the reader to section 1-5 of the Meat Rules for the definition of *carton*. *Carton* includes a case, crate and barrel.

Subsection 5-23(2) provides that, for trade descriptions relating to canned prescribed meat or meat products, the information required by paragraph 5-21(3)(1) must be either embossed on, or indelibly applied directly to, the cans. Paragraph 5-21(3)(1) concerns the registration number of the registered establishment where the canning was carried out preceded by the letters “EX”, the date of packaging and a description of the contents of the cans.

The inclusion of this information is important to ensure the identity of the prescribed meat or meat product can be ascertained, and provides assurance of the integrity of the goods to trading partners.

5-24 Prescribed meat or meat products for further processing

Section 5-24 provides for trade descriptions in relation to prescribed meat or meat products that are to be transferred between registered establishments for further processing.

Subsection 5-24(1) allows the trade description for prescribed meat or meat products that are to be transferred between registered establishments for further processing to include only the following information (despite subsection 5-21(1)):

- the type of animal from which the meat or meat products were derived;
- the date of packaging (for packaged meat or meat products); and

- the words ‘FOR FURTHER PROCESSING BEFORE EXPORT’.

The first note following subsection 5-24(1) provides examples of types of animals are cattle, bison or goats.

The second note following subsection 5-24(1) refers the reader to section 1-5 of the Meat Rules for the definition of *date of packaging*.

Subsection 5-24(2) requires the words ‘FOR FURTHER PROCESSING BEFORE EXPORT’ to be removed from the trade description before the meat or meat products are loaded for export, and replaced with a trade description that contains all the information required by subsection 5-21(3).

The note following subsection 5-24(2) refers the reader to Subdivision E of Division 2 of Part 1 of Chapter 5 of the Meat Rules for the requirement to apply an official mark to the meat or meat products.

Subdivision E—Official marks

Subdivision E (sections 5-25 to 5-30) sets out conditions that apply to approved arrangements for prescribed meat or meat products in respect of official marks.

The note at the beginning of Subdivision E refers the reader to Part 3 of Chapter 8 of both the Act and Part 3 of Chapter 8 of the Meat Rules for further requirements relating to official marks.

5-25 References to particular official marks

Section 5-25 provides that a reference to a particular official mark in Subdivision E of Division 2 of Part 1 of Chapter 5 of the Meat Rules is a reference to the official mark with that description specified in Division 1 of Part 3 of Chapter 8 of the Meat Rules.

5-26 Carcasses and carcase parts

Section 5-26 sets out requirements for applying official marks to prescribed meat or meat products. These requirements are in addition to the requirements in Part 3 of Chapter 8 of the Meat Rules.

Subsections 5-26(1) and (2) require:

- the Australia Inspected (lamb) official mark to be applied to prescribed meat or meat products that are lamb carcasses or carcase parts and that have been passed by an authorised officer as fit for human consumption;
- the Australia Inspected official mark to be applied to prescribed meat or meat products that are carcase or carcase parts (other than lamb carcasses or carcase parts) and that have been passed by an authorised officer as fit for human consumption.

The first note following subsection 5-26(1) explains to the reader that the official mark must be applied by a person referred to in subsection 8-26(2) of the Meat Rules.

The second note following subsection 5-26(1) notifies the reader that the importing country may require another mark to be applied to the carcasses or carcase parts in addition to the official mark.

Subsections 5-26(3) and (4) require the Australia Approved (lamb) official mark to be applied to prescribed meat or meat products that are lamb carcasses or carcase parts where:

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

Subsection 5-26(3) and (4) also require the Australia Approved official mark to be applied to prescribed meat or meat products that are other (i.e. not lamb) carcasses or carcase parts where the same requirements are satisfied.

The first note following subsection 5-26(3) explains that the official mark must be applied by a person referred to in subsection 8-26(2) of the Meat Rules.

The second note following subsection 5-26(3) alerts the reader that importing countries may require an additional mark to be applied to carcasses or carcase parts.

Subsection 5-26(5) requires an official mark applied under subsection 5-26(1) or (3) to the carcasses or carcase parts to be applied as soon as practicable after the carcase or carcase parts are dressed and before they are removed from the registered establishment where they are dressed.

Subsection 5-26(6) requires an official mark applied under subsection 5-26(1) or (3) to the carcasses or carcase parts to be applied to a conspicuous part of:

- each carcase or carcase part; or
- a label attached to the carcase or carcase part; or
- the packaging of the carcase or carcase part.

This is to ensure that the official mark is visible during handling of the prescribed meat or meat products that are carcasses or carcase parts.

Subsection 5-26(7) has the effect that the requirements in section 5-26 do not apply in relation to prescribed meat or meat products that are carcasses or carcase parts if the carcasses

or carcase parts are packed in cartons at the registered establishment, and the approved arrangement that covers operations to prepare the carcasses or carcase part for export provides that section 5-26 does not apply.

This allows for integrated establishments, whereby the establishments are set up as to allow the carcasses or carcase parts to be packed into cartons after dressing, bypassing the requirement for the official mark to be directly stamped onto the carcasses or carcase parts. This allows market access to be maintained in relation to importing countries that do not support the use of marks applied directly to meat.

The note following subsection 5-23(7) notifies the reader that if section 5-26 does not apply in relation to the carcasses or carcase parts, an official mark must, under section 5-27, be applied to each carton in which the carcasses or carcase parts are packed before the carton is removed from the registered establishment where it was packed.

5-27 Cartons containing prescribed meat or meat products

Section 5-27 provides details of the official mark that must be applied to prescribed meat or meat products packed in cartons, and when and where the official mark must be applied.

Subsection 5-27(1) provides that an Australia Inspected official mark must be applied to each carton in which prescribed meat or meat products are packed when the goods have been passed as fit for human consumption by an authorised officer.

Subsection 5-27(2) provides that an Australia Approved official mark must be applied to each carton in which prescribed meat or meat products are packed when:

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

This means that which official mark is required to be applied to the carton will depend on who passed the prescribed meat or meat products in the carton as fit for human consumption.

The first note following both subsections 5-27(1) and (2) refer the reader to section 8-26 of the Meat Rules, which sets out which persons can apply the official mark.

The second note following both subsections 5-27(1) and (2) notes that importing countries may require additional marks to be applied to the cartons containing prescribed meat or meat products.

Subsections 5-27(3) and (4) set out how and when the official mark required by section 5-27 must be applied. The official mark must be applied to the carton as soon as practicable after it is packed and before the carton is removed from the establishment where it was packed, and must be applied to the same end of the carton as the trade description required under subsection 5-23(1) and in a location that is conspicuous during handling.

Subsection 5-27(5) clarifies that the requirements of section 5-27 apply in addition to those in section 5-26, except where subsection 5-26(7) has the effect that section 5-26 does not apply to the particular prescribed meat or meat products.

The note following subsection 5-27(5) provides that section 5-27 does not apply to a carton in which prescribed meat or meat products are packed to which section 5-28 applies.

The purpose of this section is to maintain market access and to provide that the official mark is applied in a way that is visible, secure and maintains the integrity of the goods.

5-28 Cartons containing prescribed meat products that contain imported meat or meat products

Section 5-28 provides details of the official mark that must be applied to meat products packed in cartons if the products contain meat or meat products previously imported into Australia for further processing, and when and where that official mark must be applied.

Subsection 5-28(1) requires an Australia Approved official mark to be applied to each carton in which prescribed meat products are packed if:

- the meat products contain meat or meat products not prepared at a registered establishment that were previously imported into Australian territory for further processing at a registered establishment; and
- the meat products are packed on or after 1 October 2021 and are intended to be exported, and
- the relevant importing country authority for the meat products specifies that the Australian Approved official mark may be applied to the meat products.

The first note following subsection 5-28(1) explains that the official mark must be applied by a person referred to in subsection 8-26(2).

The second note following 5-28(1) alerts the reader that in addition to the official mark, an importing country may require that another mark be applied to a carton containing prescribed meat products.

Subsection 5-28(2) requires an Australia Approved official mark to be applied to the carton as soon as practicable after it is packed and before it is removed from the registered establishment where it was packed.

Subsection 5-28(3) requires the Australia Approved official mark to be applied to the same end panel of the carton as the trade description required under subsection 5-23(1) and in a location that is conspicuous during handling.

Subsection 5-28(4) provides that section 5-27 does not apply to a carton in which prescribed meat or meat products are packed to which section 5-28 applies.

The purpose of this section is to maintain market access and to provide that the official mark is applied in a way that is visible, secure and maintains the integrity of the goods.

5-29 Halal meat

Subsection 5-29(1) provides that the Halal meat official mark must be applied to Halal meat derived from animals slaughtered in accordance with the requirements in the approved arrangement covering operations to prepare Halal meat for export.

The first note following subsection 5-29(1) directs the reader to subsection 8-27(2) of the Meat Rules and notifies the reader that the Halal meat official mark must not be applied to non-Halal meat.

The second note following subsection 5-29(1) explains that the Halal meat official mark must be applied by a person referred to in subsection 8-26(2) of the Meat Rules.

The third note following subsection 5-29(1) refers the reader to section 5-35 of the Meat Rules, which deals with maintaining the integrity of Halal meat.

Subsection 5-29(2) requires the Halal meat official mark to be applied to the Halal meat before it is removed from the registered establishment where the animal from which it was derived was slaughtered.

Subsection 5-29(3) requires that the Halal meat official mark must be applied to a conspicuous part of either the Halal meat, a label or tag attached to the Halal meat, or the packaging containing the Halal meat, so that the official mark is visible during handling.

Subsection 5-29(4) provides that these requirements are in addition to the requirements set out in sections 5-26 and 5-27.

5-30 State or Territory classification marks must not be applied

Section 5-30 provides that prescribed meat or meat products for export must not bear a mark indicating a classification under State or Territory law. This is necessary to differentiate between the domestic market and export market for meat and meat products.

Subdivision F—Segregation, identification, security, traceability and integrity

Subdivision F (sections 5-31 to 5-37) sets out the conditions that apply to approved arrangements for prescribed meat or meat products in respect of segregation, identification, security, traceability and integrity.

5-31 Segregation, identification, security and traceability—general

Section 5-31 provides the general requirements for segregation, identification, security, and traceability of prescribed goods during preparation and transportation.

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

- must be identified and segregated during preparation and transportation from other animals or from meat or meat products not meeting that description; and
- must not be confused with other animals or with meat or meat products not meeting that description; and
- must be prepared and transported under conditions of security.

Section 5-31 further sets out the general requirement that, to the extent necessary to ensure that one or more of the objects of the Act are met, inventory controls and tracing systems must be maintained.

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

The first note following section 5-31 uses the example of separate identification and segregation of inedible material, which is required by section 5-33.

The second note following section 5-31 refers the reader to section 5-45 of the Meat Rules, which sets requirements for inventory controls.

The third note following section 5-31 refers the reader to section 16 of the Australian Meat Standard, which deals with tracing systems for recall purposes.

5-32 Establishments where meat or meat products that are not for export etc. are prepared

Section 5-32 provides for segregation, identification and security in establishments where meat or meat products that are not for export are prepared. These conditions are necessary to ensure the wholesomeness and integrity of the prescribed meat or meat products for export as food.

Subsection 5-32(1) prohibits operations to prepare prescribed meat or meat products for export as food at the same establishment as operations to prepare meat or meat products that are not for export, or are for animal food or as pharmaceutical material. This is the general rule.

However, subsection 5-32(2) provides an exception to the general rule, in that the prohibition in subsection 5-32(1) does not apply if the operations to prepare meat or meat products that are not for export, or are for animal food or as pharmaceutical material are carried out in accordance with an approved arrangement, and the wholesomeness and integrity of the prescribed meat or meat products are not jeopardised.

Subsection 5-32(3) requires procedures (including systems of controls) for the segregation, identification and security of prescribed meat or meat products must be sufficient to ensure their wholesomeness and integrity during packing, storing, handling and loading.

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

The note following subsection 5-32(3) refers the reader to clause 5.3 and section 17 of the Australian Meat Standard, which deal with cross-contamination, animal food, and pharmaceutical products.

5-33 Integrity—general

Section 5-33 sets requirements in relation to the integrity and identity of prescribed meat and meat products prepared for export in accordance with an approved arrangement within a registered establishment. These rules are necessary to ensure the wholesomeness and integrity of the prescribed meat and meat products for export as food.

Subsection 5-33(1) provides a general requirement that the integrity of prescribed meat or meat products to be exported as food must be able to be ensured.

Subsection 5-33(2) provides (without limiting subsection 5-33(1)) specific requirements for ensuring the integrity of prescribed meat or meat products for export as food. Specifically, the prescribed meat or meat products must not be compromised by the presence of:

- meat or meat products (including animal intestines for further processing) that were previously not prepared at a registered establishment;
- meat or meat products that are not for export or have left the export system;
- any parts of an animal that are inedible (including any parts of an animal received for the purpose of inedible rendering or disposal by incineration);
- meat or meat products that are brought to an establishment but are not removed or unloaded from the conveyance that transported them there;
- animals or meat or meat products that are retained for further inspection tests or treatment; or
- meat or meat products that are animal food or pharmaceutical material.

The note following subsection 5-33(2) refers the reader to section 12 of the Act for the definition of *conveyance*. *Conveyance* means an aircraft, a vessel, a vehicle, or any other means of transport prescribed by the rules.

Subsection 5-33(3) requires the meat or meat products that were previously not prepared at a registered establishment, that are not for export, or that have left the export system, to be able to be readily distinguished from prescribed meat or meat products for export during

concurrent boning and must be segregated at all times. Concurrent boning refers to when prescribed and non-prescribed meat and meat products are being boned within the same establishment and at the same time.

Subsection 5-33(4) has the effect that the requirement that prescribed meat or meat products for export must be segregated at all times from meat or meat products that were not prepared at a registered establishment, that are not for export, or that have left the export system, does not apply in relation to casings prepared at premises that are not a registered establishment.

Subsection 5-33(5) requires the identity of prescribed meat or meat products to be readily ascertainable and not to be lost or confused with the identity of any other meat or meat products.

5-34 Identification—type of animal

Subsection 5-34(1) requires a kind of prescribed meat or meat products to be derived from the type of animal they purport to be derived from.

The first note following subsection 5-34(1) refers the reader to section 1-5 of the Meat Rules for the definition of *animal*.

The second note following subsection 5-34(1) provides that examples of types of animals are cattle, bison or goats.

Subsection 5-34(2) clarifies, for the avoidance of doubt, that a kind of prescribed meat or meat products are not derived from the type of animal they purport to be derived from if meat or meat derived from another type of animal (within the ordinary meaning of animal) are substituted wholly or partly for the relevant meat or meat product. For example, veal meat cannot be substituted with lamb meat in any circumstance.

5-35 Integrity and identification—Halal meat

Section 5-35 provides that the integrity of Halal meat must be able to be ensured. Halal meat must be identified as such and kept physically separate from products that are not Halal meat. This ensures that the integrity of Halal meat is maintained, and that the meat continues to meet importing country requirements.

The first note following section 5-35 refers the reader to section 5-45 of the Meat Rules which deals with requirements for inventory controls.

The second note following section 5-35 notifies the reader that the importing country may require that prescribed meat or meat products derived from porcine animals not be transported in the same meat transport vehicle or the same container system unit as Halal meat. The note further explains that, under section 5-5 of the Meat Rules, meeting importing country requirements is a condition of the approved arrangement for operations to prepare the Halal meat for export and, under paragraph 5-2(4)(e) of the Meat Rules, the approved arrangement is required to provide for this kind of importing requirement.

5-36 Export market eligibility

Subsection 5-36(1) provides that export market eligibility for prescribed meat or meat products must be maintained.

Subsection 5-36(2) requires prescribed meat or meat products that are not eligible for all export markets to be identified (so that their export market eligibility can be ascertained) and segregated from meat and meat products with different export market eligibility.

5-37 Action if prescribed meat or meat products are unwholesome or integrity etc. cannot be ensured

Section 5-37 details the action required if prescribed meat or meat products are or have become unwholesome or that their integrity, traceability or identity cannot be ensured or an importing country requirement in relation to the meat or meat product can no longer be met.

Section 5-37(1) has the effect that the requirements in section 5-37 applies where the holder of an approved arrangement for operations to prepare prescribed meat or meat products for export at a registered establishment reasonably believes any of the following circumstances exist:

- there is, or there will be, a failure to meet importing country requirements relating to the prescribed meat or meat products prepared for export at the registered establishment;
- prescribed meat or meat products prepared for export at the registered establishment in accordance with the approved arrangement are unwholesome or have deteriorated;
- the identification, traceability or integrity of the prescribed meat or meat products prepared for export at the registered establishment in accordance with the approved arrangement cannot be ensured;
- there is, or there has been, a failure of a procedure or another circumstance occurs or has occurred, at the registered establishment that has affected or could affect the wholesomeness or integrity of the prescribed meat or meat products; or caused or could cause the prescribed meat or meat products at the registered establishment to deteriorate; or
- the information and declarations required by subsection 5-38(1) in relation to a consignment of prescribed meat or meat products that were transferred to the registered establishment were not given to the occupier of the receiving establishment, or did not accompany the consignment, or were inaccurate or incomplete.

The first note following subsection 5-37(1) explains that meat and meat products may have deteriorated but still be wholesome, if for example, refrigeration requirements are not met.

The second note following subsection 5-37(1) refers the reader to clause 6.4 of the Australian Meat Standard.

Subsection 5-37(2) requires the holder of the approved arrangement, as soon as practicable after becoming aware of the existence of a circumstance in subsection 5-37(1), to identify the affected prescribed meat or meat products and notify an authorised officer of the

circumstance. The prescribed meat or meat products must be held separately under conditions of security until an authorised officer applies a disposition to the meat or meat products under section 9-32 of the Meat Rules, or notifies the holder of an approved arrangement what action must be taken in relation to the meat or meat products.

The note following subsection 5-37(2) refers the reader to clause 15.13 of the Australian Meat Standard, which contains similar requirements.

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

Section 5-37 provides flexibility and minimises costs as it allows for products that do not initially meet integrity requirements to be exported if the integrity can be re-established.

‘Prepare’, in relation to goods, is defined by section 12 of the Act which includes;

- admission of animals for slaughter, being animals from which goods are to be derived;
- slaughter or kill animals from which goods are to be derived;
- dress carcasses from which goods are to be derived;
- process, pack and store goods;
- treat goods;
- handle and load goods.

Subdivision G—Transfers

Subdivision G (sections 5-38 and 5-39) imposes conditions on approved arrangements relating to the transfer of prescribed meat or meat products from one registered establishment to another registered establishment.

5-38 Information and declarations relating to transferred prescribed meat or meat products

Section 5-38 details the information and declarations that are required to be given when a consignment of prescribed meat or meat products is transferred from one registered establishment (the *transferring establishment*) to another registered establishment (the *receiving establishment*). The information and declarations are necessary to ensure the integrity of prescribed meat or meat products that are transferred between registered establishments, and to ensure full traceability of prescribed meat or meat products to meet requirements.

Subsection 5-38(1) specifies the information and declarations that must be given to the occupier of the receiving establishment. This is as follows:

- a full description of the meat or meat products in the consignment and its quantity, information about storage conditions (i.e. whether the meat or meat products are chilled, frozen or shelf-stable);
- the name, address and registration number of both the transferring and receiving establishments;

- the date or dates when operations to prepare the meat or meat products (other than storing, handling or transporting) were last carried out before the transfer;
- the number and kind of packages (if the meat or meat products are in packages);
- the identification of the conveyance used to transport the meat or meat products;
- a description of any means of security applied to the meat or meat products;
- and the name of each importing country for which applicable importing country requirements have been met;
- a declaration to the effect that, at the date the declaration was made, the prescribed export conditions and any other relevant conditions of the Act have been complied with, and any relevant importing country requirements have been met; and
- a declaration stating that all of the information given in relation to the consignment is true and complete.

The first note following subsection 5-38(1) refers the reader to the definition of *conveyance* in section 12 of the Act.

The second note following subsection 5-38(1) refers the reader to subsections 5-38(2) and (4) for matters relating to the declarations referred to in paragraphs 5-38(1)(k) and (l).

Subsection 5-38(2) provides that the information and declarations specified in subsection 5-38(1) must be in writing and in a form approved by the Secretary. The information and declarations must be provided to the occupier of the receiving establishment either when the consignment leaves the transferring establishment or accompany the consignment when it arrives at the receiving establishment.

The first note following subsection 5-38(2) refers the reader to the United Nations Rules for Electronic Data Interchange for Administration, Commerce and Transport. These Rules can be accessed from the United Nations Economic Commission for Europe website (<https://www.unece.org>), which deals with electronic message formats.

The second note refers the reader to section 9 of the *Electronic Transactions Act 1999*, regarding the requirements to give information (including a declaration) in writing (see section 10 of that Act for electronic signatures).

Subsection 5-38(3) requires a declaration referred to in subsection 5-38(1) in relation to a consignment of prescribed meat or meat products to be made by either:

- the holder of the approved arrangement for operations to prepare the meat or meat products for export at the transferring establishment; or
- a person who manages or controls those operations at the transferring establishment if the relevant approved arrangement provides for export inspection procedures that

include the making of the declaration in relation to meat or meat products and allows for a designated person to make the declaration.

The note following subsection 5-38(3) notifies the reader that the approved arrangement needs to cover an alternative inspection arrangement if the relevant importing country authority requires an alternative inspection arrangement.

Section 5-38(4) provides that a declaration referred to in subsection 5-38(1) in relation to a consignment of prescribed meat or meat products must not be made if there are no reasonable grounds for making it, must not be false or misleading, and must be signed and dated by the person who made the declaration.

The first note following subsection 5-38(4) refers the reader to sections 171 and 179 of the Act which deals with suspension and revocation of the approved arrangement if the requirements referred to in section 5-38 are not met.

The second note following subsection 5-38(4) alerts the reader that a person may commit an offence or be liable to a civil liability for providing false or misleading information or documents. The reader is directed to sections 137.1 and 137.2 of the *Criminal Code* and sections 368 and 369 of the Act.

5-39 Information and declarations not received or inaccurate or incomplete

Section 5-39 sets out what action must be taken if a consignment is transferred to a receiving establishment, and the information and declarations required under section 5-38 are not given to the occupier of the receiving establishment as required by that section, or are inaccurate or incomplete.

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

Subdivision H—Meat or meat products for export to the European Union as food

Subdivision H (sections 5-40 to 5-42) imposes additional conditions on approved arrangements relating to prescribed meat or meat products that are for export to the European Union as food.

5-40 Admission of bovine animals to registered establishment

Section 5-40(1) prohibits a bovine animal (other than a bobby calf) from being admitted to a registered establishment for slaughter for the purpose of deriving EU export meat, unless at the time of the animal's admission the animal is identified with an identification tag and an EU vendor declaration for the animal accompanies the animal.

The first note following subsection 5-40(1) explains that an *EU vendor declaration* may be in any form that is approved by the Secretary, and refers to the definition of the terms in section 1-5 of the Meat Rules.

The second note following subsection 5-40(1) notifies the reader that under sections 271 and 272 of the Act, the occupier of the registered establishment or the holder of the approved arrangement may be required to produce the declaration for the purposes of an audit.

Section 5-40(2) prohibits a bovine animal (other than a bobby calf) from being presented to a registered establishment for ante-mortem inspection or slaughter for the purpose of deriving EU export meat unless:

- the requirements of subsection 5-40(1) relating to the animal are met at the time of admission to the registered establishment; and
- at the time of presentation for inspection or slaughter (as the case may be), the animal identification tag has not been removed from the animal.

5-41 Animals must be HGP-free

Subsection 5-41(1) provides that bovine animals treated with a hormonal growth promotant (HGP) must not be slaughtered for the purpose of deriving meat or meat products for export to a member state of the European Union as food.

Subsection 5-41(2) provides that meat or meat products for export to a member state of the European Union as food must not be derived from a bovine animal that has been treated with an HGP.

The note following section 5-41 refers the reader to section 3-2 of the Meat Rules which provides for when a bovine animal is taken to have been treated with HGP.

5-42 Animals must be sourced from an accredited property

Section 5-42 requires bovine animals (other than bobby calves) from which prescribed meat or meat products are to be derived for export to a member state of the European Union as food to be sourced only from an accredited property.

This ensures the individual identification of bovine animals slaughtered for the EU market are able to be traced through the supply chain and that bovine animals for export to a member state of the European Union have not been treated with an HGP.

Subdivision I—Meat inspection services

Subdivision I (section 5-43) imposes conditions on approved arrangement relating to meat inspection services for prescribed meat or meat products.

5-43 Authorised officer must be present while certain export operations are carried out

Subsection 5-43(1) has the effect that the requirements in section 5-43 apply in relation to an approved arrangement for operations to prepare prescribed meat or meat products for export at a registered establishment if the approved arrangement either:

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

Subsection 5-43(2) provides that export operations to prepare prescribed meat or meat products for export in accordance with such approved arrangements must not be carried out at the registered establishment unless:

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

Meat inspection services are required as part of ensuring the safety, suitability and integrity of prescribed meat or meat products for export.

Subdivision J—Management practices

Subdivision J (sections 5-44 to 5-47) imposes conditions on an approved arrangement relating to management practices for operations to prepare prescribed meat or meat products for export.

The note at the start of Subdivision J explains that Subdivision C of Division 2 of Part 2 of Chapter 5 of the Meat Rules deals with the management practices for approved arrangement for Halal meat certification operations.

5-44 Management practices, organisational structure, resources and personnel

Subsection 5-44(1) requires the holder of an approved arrangement to ensure that the management practices, organisational structure, resources provided to carry out export operations and personnel who carry out those export operations (and the training those personnel receive) are appropriate to ensure:

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

Subsection 5-44(2) provides that the holder of the approved arrangement must also make a written record of the management practices, organisational structure, resources and personnel (and the training they receive) referred to in subsection 5-44(1).

The first note following subsection 5-44(2) refers the reader to subsection 11-9(2) of the Meat Rules which provides that the required records must be kept for at least 2 years.

The second note following subsection 5-44(2) refers the reader to the *Electronic Transactions Act 1999* in respect of making electronic records.

5-45 Verification of compliance with the Act and other matters

Section 5-45 details the matters that must be verified, the requirement for a record of verification, and the necessary inventory controls to verify compliance.

Subsection 5-45(1) provides that the holder of an approved arrangement must verify that carrying out export operations at a registered establishment in accordance with the approved arrangement will ensure compliance with the applicable requirements of the Act, the conditions in Subdivisions B to H of Division 2 of Part 1 of Chapter 5, and section 5-44 of the Meat Rules. This verification is necessary to demonstrate compliance with the regulatory controls in the Act.

Subsection 5-45(2) provides that a written record must be made of the methods, procedures, tests, monitoring and other evaluations used to verify compliance with the matters referred to in subsection 5-45(1), and the results of the verification.

The note following subsection 5-45(2) explains that the holder of the approved arrangement must retain each record made under subsection 5-45(2) for a period of at least 2 years.

Subsection 5-45(3) provides that the necessary inventory controls must be used in verifying compliance with the matters referred to in paragraphs 5-45(1)(b) and (c), being the conditions in Subdivisions B to H of Division 2 of Part 1 of Chapter 5, and section 5-44 of the Meat Rules.

Subsection 5-45(4) requires the inventory controls to be in writing, comprehensive and able to be audited under Part 1 of Chapter 9 of the Act and as required by section 5-47 of the Meat Rules.

Subsection 5-45(5) sets out details of the minimum of what the inventory controls must include, including records of:

- the number of animals of different types slaughtered at the registered establishment in accordance with the approved arrangement and their origin and lot; and
- the prescribed meat or meat products received at the registered establishment in accordance with the approved arrangement and the prescribed meat or meat products prepared for export at the registered establishment in accordance with the approved arrangement (including, for both, their description and quantity, origin and location, and also, for prescribed meat or meat products prepared for export at the registered establishment, their item and lot); and
- all meat or meat products removed from the registered establishment in accordance with the approved arrangement, preparation details and their destination; and
- all meat or meat products at the registered establishment that are not intended to be removed from the registered establishment (for example, meat or meat products no

longer intended for export and destroyed at the establishment) (including their description and the quantities of each description).

The inventory controls must also include, as a minimum, a reconciliation of the animals and prescribed meat or meat products and records, a record of quantities of nitrite received at the establishment, used to prepare meat or meat products for export at the establishment and removed from or destroyed at the establishment, and a weekly reconciliation of the quantities of nitrite.

The note following subsection 5-45(5) provides examples of types of animals are cattle, bison or goats.

5-46 Action must be taken to address non-compliance

Subsection 5-46(1) provides that corrective action must be taken to address any non-compliance or likely non-compliance with the matters referred to in subsection 5-45(1) in carrying out export operations in relation to prescribed meat or meat products in accordance with an approved arrangement. Corrective action must also be taken to ensure that the non-compliance does not occur again, or that the likely non-compliance is avoided. The effectiveness of the corrective action must be assessed.

Subsection 5-46(2) provides that the holder of the approved arrangement must make a written record of the corrective action taken to address non-compliance and ensure that the non-compliance does not recur or occur, and the assessment of the effectiveness of the corrective action.

The note following subsection 5-46(2) refers the reader to subsection 11-9(2) of the Meat Rules, which has the effect that the holder of the arrangement must keep the required record for a period of at least 2 years.

5-47 Internal audit and management review

Section 5-47 sets out the requirements for internal audits and management practice reviews, the records that must be made, and when internal audits are not required.

Subsection 5-47(1) requires internal audits and management reviews to be conducted at a registered establishment. The purpose of the internal audits and management reviews are to measure the effectiveness of the management practices of the holder of an approved arrangement in ensuring compliance with the matters referred to in subsection 5-45(1).

The note following subsection 5-47(1) explains that an internal audit for the purposes of section 5-47 is not an audit under Part 1 of Chapter 9 of the Act.

Subsection 5-47(2) provides that internal audits are not required to be conducted if fewer than 3 people are employed at the registered establishment in accordance with the approved arrangement and management reviews are conducted in accordance with the approved arrangement. This is because an internal audit cannot be effectively undertaken where there are fewer than 3 people employed at the registered establishment. However, management reviews are still necessary.

Subsection 5-47(3) requires a written record to be made of each internal audit and management review undertaken under subsection 5-47(1). The record must contain the results of the internal audit or management review and each decision (if any) made or action taken as a result of an internal audit or management review.

The note following subsection 5-47(3) refers the reader to subsection 11-9(2) of the Meat Rules, which has the effect that the holder of the arrangement must keep the required record for a period of at least 2 years.

Division 3—Renewal of approved arrangement

Division 3 sets out requirements relating to the renewal of an approved arrangement for operations to prepare prescribed meat or meat products for export at a registered establishment.

5-48 Period within which application to renew approved arrangement must be made

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

Section 5-48 prescribes, for the purposes of paragraph 155(4)(a) of the Act, that an application to renew an approved arrangement for a kind of export operations in relation to prescribed meat or meat products (other than Halal meat certification operations) must be made in the period that is between 180 days and 120 days before it is due to expire.

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

The first note following section 5-48 provides an example if an approved arrangement expires on 8 July in a year (other than a leap year), an application for renewal can be made at any time between 9 January and 10 March in that year.

The second note following section 5-48 explains that under the subsection 155(1) of the Act, applications to renew will only need to be made for approved arrangements that have an expiry date.

Division 4—Variation of approved arrangement

Division 4 (sections 5-49 to 5-51) sets out requirements relating to the variation of an approved arrangement for operations to prepare prescribed meat or meat products for export at a registered establishment.

Subdivision A—Variations by holder

5-49 Requirements that must be met for variation to be approved or conditions varied

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

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

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

Subsection 5-49(1) is made for the purposes of subsection 161(1) of the Act. It applies in relation to an application to approve a variation of an approved arrangement for operations to prepare prescribed meat or meat products for export, or to vary the conditions of such an arrangement, but only if the application has been made because the relevant importing country authority does not require:

- one or more applicable requirements (the *relevant requirements*) in the Australian Meat Standard to be met; or
- compliance with one or more of the conditions (the *relevant conditions*) in Subdivisions C to H of Division 2 of Part 1 of Chapter 5 of the Meat Rules (sections 5-7 to 5-42 of the Meat Rules) to be met;

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

The note following subsection 5-49(1) notifies the reader that a variation of an approved arrangement, or of the conditions of an approved arrangement, may be needed to implement an alternative regulatory arrangement approved under section 379C(1)(a) of the Act or another significant variation (directing the reader to Subdivisions B and C of Division 1 of Part 4 of Chapter 5 of the Act).

Subsection 5-49(2) provides, for the purposes of paragraph 161(3)(c) of the Act, that the Secretary may refuse to approve the variation if not satisfied that:

- compliance with the different importing country requirement will not result in the relevant requirements being met or the relevant conditions being complied with; and
- the approved arrangement provides for a system of controls to be implemented to ensure that the different importing country requirement will be complied with; and
- that system of controls will be implemented in accordance with the approved arrangement.

These measures are necessary so that the relevant importing country requirements are met and that market access to the importing country is enabled and maintained.

5-50 Significant variations

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

Section 5-50 prescribes, for the purposes of paragraph 164(2)(c)(ii) of the Act, the following kinds of variations in relation to an approved arrangement for a kind of export operations in relation to prescribed meat or meat products (other than an approved arrangement for Halal meat certification operations). The prescribed variations are:

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

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

The first note following section 5-50 refers to the reader to section 21 of the Act, for a person who is taken to be a person who manages or controls export operations.

The second note following section 5-50 refers the reader to section 1-9 of the Meat Rules in relation to paragraph 5-50(e).

Subdivision B—Variations required by Secretary

5-51 Other reasons for requiring holder to vary approved arrangement

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

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

Section 5-51 provides, for the purposes of paragraph 165(2)(h) of the Act, that the Secretary may require the holder of an approved arrangement for operations to prepare prescribed meat or meat products to vary an aspect of the arrangement under paragraph 165(1)(a) of the Act in certain circumstances. This is if the Secretary is no longer satisfied that compliance with the system of controls in the approved arrangement will ensure there will be reasonable grounds to issue:

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

Part 2—Approved arrangements for Halal meat certification operations

Division 1 – Requirements for approval

5-52 Purpose of this Division

Subsection 151(1) of the Act provides that, on receiving an application under section 150 of the Act to approve a proposed arrangement, the Secretary must decide to approve the arrangement or refuse to approve the arrangement. Paragraph 151(2)(d) of the Act provides that the Secretary may approve the proposed arrangement if the Secretary is satisfied that (in addition to the requirements set out in paragraphs 151(2)(a) to (c) of the Act and having regard to any matter the Secretary considers relevant) any other requirement prescribed by the rules has been met.

Section 5-52 provides that Division 1 of Part 2 of Chapter 5 (sections 5-52 to 5-53) of the Meat Rules prescribes, for the purposes of paragraph 151(2)(d) of the Act, additional requirements of which the Secretary must be satisfied before approving a proposed arrangement for Halal meat certification operations.

The note following section 5-52 notifies the reader that it is also a requirement for the applicant to be a fit and proper person (see paragraph 151(2)(a) of the Act and section 5-66 of the Meat Rules).

5-53 Other requirements—proposed arrangement for Halal meat certification operations

Subsection 5-53(1) requires the applicant for approval of the proposed arrangement for Halal meat certification operations to be an Islamic organisation.

The note following subsection 5-53(1) directs the reader to section 1-5 of the Meat Rules for the definition of *Islamic organisation*. *Islamic organisation* means a person or body that is recognised by a relevant importing country authority as a person or body that may carry out Halal meat certification operations in relation to prescribed meat or meat products for importation into that country from Australian territory.

Subsection 5-53(2) provides that the proposed arrangement must record that the applicant for approval of the arrangement is committed to:

- meeting the objects in section 3 of the Act that are applicable to the operations and the prescribed meat or meat products to be covered by the arrangement; and
- complying with the requirements of the Act in relation to those operations.

Subsection 5-53(3) requires that the proposed arrangement to cover all aspects of the Halal meat certification operations that are to be carried out.

Subsection 5-53(4) requires the proposed arrangement to:

- identify each importing country requirement relating to the Halal meat certification operations to be carried out; and
- record details of the system of controls to be implemented to ensure that each of those importing country requirements will be met; and
- record details of the system of controls to be implemented by the Islamic organisation that is to carry out the Halal meat certification operations to ensure that:
 - the applicable requirements of the Act in relation to the Halal meat certification operations will be complied with; and
 - there will be reasonable grounds for Halal certificates to be issued.

The note following subsection 5-53(4) explains that, under section 2-13 of the Meat Rules, a Halal certificate is issued jointly by an Islamic organisation and the Secretary.

Subsection 5-53(5) requires each person carrying out the Halal meat certification operations in accordance with the proposed arrangement to have the competency (for example, the knowledge, training, skills or experience) to carry out the operations.

Subsection 5-53(6) requires the Halal meat certification operations carried out in accordance with the proposed arrangement to be objective, fair, accurate and complete.

Subsection 5-53(7) provides that there must not be any reasonable grounds to believe that trade in the export from Australian territory of goods could be adversely affected if the proposed arrangement is approved.

Subsection 5-53(8) specifies a number of persons that must undertake to ensure that the Halal meat certification operations covered by the arrangement are carried out in a way that ensures that the applicable requirements of the Act will be complied with, and there will be reasonable grounds for Halal certificates to be issued. These persons are:

- the applicant;
- a person who is to manage or control the Halal meat certification operations in accordance with the proposed arrangement; and
- a person specified in the proposed arrangements who is to sign Halal certificates in relation to prescribed meat or meat products in accordance with the proposed arrangement.

Division 2—Conditions of approved arrangement

Division 2 of Part 2 of Chapter 5 (section 5-54 to 5-61) of the Meat Rules sets out the additional conditions for approved arrangements for Halal meat certification operations.

Subdivision A—Purpose of this Division

5-54 Purpose of this Division

Paragraph 152(1)(b) of the Act provides that a proposed arrangement approved by the Secretary is subject to the conditions prescribed by the rules (other than any of those conditions that the Secretary decides are not to be conditions of the approved arrangement).

Section 5-54 provides that Division 2 of Part 2 of Chapter 5 (sections 5-54 to 5-61) of the Meat Rules prescribes, for the purposes of paragraph 152(1)(b) of the Act, conditions of an approved arrangement for Halal meat certification operations.

The first note following section 5-54 explains that under paragraph 157(1)(b) of the Act, these conditions also apply in relation to a renewed approved arrangement.

The second note following section 5-54 alerts the reader that 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).

Subdivision B—Requirements

5-55 Importing country requirements must be met

Section 5-55 requires an approved arrangement for Halal meat certification operations to ensure all importing country requirements relating to Halal meat certification operations are met.

Subdivision C—Management practices

The note at the start of Subdivision C explains that management practices for approved arrangements for other kinds of export operations relating to prescribed meat or meat products, is covered in Subdivision J of Division 2 of Part 1 of Chapter 5 of the Meat Rules.

5-56 Operations must be objective, fair etc. and meet importing country requirements

Subsection 5-56(1) requires Halal meat certification operations carried out in accordance with an approved arrangement to be objective, fair, accurate and complete.

Subsection 5-56(2) requires the holder of the approved arrangement to ensure the certification operations carried out in accordance with the approved arrangement meet importing country requirements relating to Halal meat certification.

5-57 Management practices, organisational structure, resources and personnel

Subsection 5-57(1) requires the holder of an approved arrangement to ensure that the management practices, organisational structure, resources provided to carry out the Halal meat certification operations and the personnel who carry out the Halal meat certification operations (and the training they receive) are appropriate to ensure:

- compliance with the requirements of the Act in relation to the Halal meat certification operations covered by the approved arrangement; and
- that importing country requirements in relation to the Halal meat certification are met.

Subsection 5-57(2) requires the holder of an approved arrangement for Halal meat certification operations to make a written record of the management practices, organisational structure, resources provided to carry out the Halal meat certification operations, and personnel who carry out the Halal meat certification operations (and the training those personnel receive).

The first note following subsection 5-57(2) refers the reader to subsection 11-9(2) of the Meat Rules, which provides that the required records must be kept for a period of at least 2 years.

The second note following subsection 5-57(2) refers the reader to subsection 12(1) of the *Electronic Transactions Act 1999* in respect of making electronic records.

5-58 Verification of compliance with the Act and other matters

Section 5-58 details the matters that must be verified and the requirement for a record of verification to verify compliance.

Subsection 5-58(1) provides that the holder of an approved arrangement must verify that carrying out Halal meat certification operations in accordance with the approved arrangements will ensure compliance with

- the applicable requirements of the Act; and
- with sections 5-55 (importing country requirements) and 5-57 (management practices, organisational structure, resources and personnel) of the Meat Rules.

This verification is necessary to demonstrate compliance with the regulatory controls in the Act.

Subsection 5-58(2) provides that a written record must be made of the methods, procedures, tests, monitoring and other evaluations used to verify compliance with the matters set out in subsection 5-58(1), and the results of the verification.

The note following subsection 5-58(2) refers the reader to subsection 11-9(2) of the Meat Rules, which provides that the required records must be kept for at least 2 years.

5-59 Action must be taken to address non-compliance

Section 5-59 provides that corrective action must be taken to address any non-compliance or likely non-compliance with the matters referred to in subsection 5-58(1) in carrying out Halal meat certification operations. Corrective action must also be taken to ensure the non-compliance does not occur again, or that the likely non-compliance is avoided. The effectiveness of the corrective action must be assessed by the holder of the approved arrangement.

Subsection 5-59(2) provides that a written record must be made of the corrective action taken to address non-compliance and ensure that the non-compliance does not recur or occur, and the assessment of the effectiveness of the corrective action.

The note following subsection 5-59(2) refers the reader to subsection 11-9(2) of the Meat Rules, which provides that the required records must be kept for at least 2 years.

5-60 Internal audit and management review

Section 5-60 sets out the requirements for internal audits and management practice reviews, the records that must be made, and when internal audits are not required.

Subsection 5-60(1) requires internal audits and management reviews to be conducted, to measure the effectiveness of the management practices of the holder of an approved arrangement to carry out Halal meat certification operations in ensuring compliance with the matters referred to in subsection 5-58(1).

The note following subsection 5-60(1) explains that an internal audit under section 5-60 is not an audit under Part 1 of Chapter 9 of the Act.

Subsection 5-60(2) provides that internal audits are not required to be conducted if fewer than 3 people are employed by the holder of the approved arrangement to carry out Halal meat certification operations in accordance with the approved arrangement. This is because an internal audit cannot be effectively undertaken where there are fewer than 3 people employed at the registered establishment. However, management reviews are still necessary.

Subsection 5-60(3) provides that the holder of the approved arrangement to carry out Halal meat certification operations in accordance with the approved arrangement must make a written record of each internal audit and management review undertaken under subsection 5-60(1). The record must contain the results of the internal audit or management review; and each decision (if any) made or action taken because of an internal audit or management review.

The note following subsection 5-60(3) refers the reader to subsection 11-9(2) of the Meat Rules, which provides that the required records must be kept for at least 2 years.

5-61 Secretary must be notified of critical non-compliance

Section 5-61 requires the holder of an approved arrangement to notify the Secretary immediately if any of the following persons:

- the holder of the approved arrangement;
- a person who manages or controls the operations;
- a person who carries out the operations in accordance with the approved arrangement;
- a person who conducts internal audits in relation to the operation as required by section 5-60;

becomes aware of a critical non-compliance in relation to Halal meat certification operations carried out in accordance with the approved arrangement.

Subsection 5-61(2) provides, for the purposes of subsection 5-61(1), a ***critical non-compliance*** means a failure (or a combination of failures):

- to comply with a requirement for Halal meat provided by the Meat Rules, the approved arrangement or the conditions of the approved arrangement; or
- to meet applicable importing country requirements for Halal meat; or
- that prevents an accurate assessment being made as to whether the requirements for Halal meat provided by the Meat Rules, approved arrangement (or conditions of the approved arrangement) or the importing country requirements, are being met.

This is necessary to ensure the Secretary is aware of the non-compliance and can take the necessary action to minimise impacts on Australia's trading reputation.

Subsection 5-61(3) provides that if the holder of an approved arrangement gives notification under subsection 5-61(1) orally, they must, as soon as practicable after giving the notification, also give the notification in writing.

Division 3—Renewal of approved arrangement

5-62 Period within which application to renew approved arrangement must be made

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

Section 5-62 prescribes, for the purposes of paragraph 155(4)(a) of the Act, that an application to renew an approved arrangement for Halal meat certification operations must be made in the period that is between 180 days and 120 days before the approved arrangement is due to expire.

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

The first note following section 5-62 provides an example of how section 5-62 works in practice. For example, if an approved arrangement expires on 8 July in a year (other than a leap year), an application for renewal can be made at any time between 9 January and 10 March in that year.

The second note following section 5-62 explains that under the Act, applications to renew approved arrangements will only need to be made for approved arrangements that have an expiry date (see subsection 155(1) of the Act).

Division 4—Variation of approved arrangement

Subdivision A—Variations by holder

5-63 Significant variations

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

Section 5-63 is made for the purposes of subparagraph 164(2)(c)(ii) of the Act and prescribes the following kinds of variations in relation to an approved arrangement for Halal meat certification operations. These prescribed variations are:

- a variation of a person manages or controls the certification operations;
- a variation of a person who may sign Halal certificates in accordance with the approved arrangement;
- a variation that may adversely affect the accuracy and completeness of any Halal certificates issued in accordance with the approved arrangement;
- a variation that may adversely affect the Secretary’s ability to accurately assess whether Halal certificates issued in accordance with the approved arrangement are accurate and complete;
- a variation that changes the holder’s training program for Muslim slaughtermen.

Prescribing these variations is a transparency measure to assist industry to determine which variations are significant and to reassure importing countries of the integrity of approved arrangements for Halal meat certification operations.

The note following section 5-63 directs the reader to section 21 of the Act which provides for a person who is taken to be a person who manages or controls export operations.

Subdivision B—Variations required by Secretary

5-64 Other reasons for requiring holder to vary approved arrangement

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

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

Section 5-64 prescribes, for the purposes of paragraph 165(2)(h) of the Act, that the Secretary may require the holder of an approved arrangement for Halal meat certification operations to vary an aspect of the arrangement under paragraph 165(1)(a) of the Act if the Secretary is no longer satisfied that compliance with the system of controls in the approved arrangement will ensure there are reasonable grounds for Halal certificates to be issued.

Division 5—Obligations of holders of approved arrangements etc.

5-65 Other events of which Secretary must be notified

Section 186 of the Act requires the holder of an approved arrangement to notify the Secretary, in writing, as soon as practicable after any of the events listed in paragraphs 186(1)(a) to (e) of the Act occurs. Paragraph 186(1)(e) of the Act allows additional events to be prescribed by the rules.

Section 5-65 prescribes, for the purposes of paragraph 186(1)(e) of the Act, additional events of which the holder of an approved arrangement for Halal meat certification operations must notify the Secretary. These events are:

- a person who was permitted to sign Halal certificates in accordance with the approved arrangement ceases to do so;
- if the holder of the approved arrangement is a partnership, the partnership has been or is to be dissolved;
- if the holder of the approved arrangement is an unincorporated association, the association has been or is to be dissolved;
- if the holder of the approved arrangement is a trust, the trust has been or is to be terminated;
- the holder of the approved arrangement ceases to be an Islamic organisation.

Division 6—Fit and proper persons

5-66 Kinds of persons who are required to be fit and proper persons

Subsection 373(1) of the Act provides that the rules may prescribe kinds of persons who are required to be fit and proper persons (having regard to the matters referred to in section 372 of the Act) for the purposes of Chapters 5 of the Act (approved arrangements).

Subsection 5-66(1) provides for the purposes of subsection 373(1) of the Act, that section 5-66 prescribes kinds of persons who are required, for the purposes of Chapter 5 of the Act, to be fit and proper persons (having regard to the matters referred to in section 372 of the Act).

Subsection 5-66(2) provides, in relation to proposed arrangements for Halal meat certification operations, the kinds of persons who are required to be fit and proper persons are the applicant for approval of the arrangement, and a person who would manage or control the Halal meat certification operations (including a person who would be signing Halal certificates in accordance with the approved arrangement).

The note following subsection 5-66(2) refers the reader to section 21 of the Act for a person who is taken to be a person who would manage or control export operations.

Subsection 5-66(3) provides, in relation to approved arrangements for Halal meat certification operations, the kinds of persons who are required to be fit and proper persons are, the holder of the approved arrangement, and a person who manages or controls the Halal meat certification operations (including a person who signs Halal certificates in accordance with the approved arrangement).

The note following subsection 5-66(3) refers the reader to section 21 of the Act for a person who is taken to be a person who would manage or control export operations.

Prescribing the people who need to be fit and proper persons ensures Halal meat certification operations comply with the Act, including importing country requirements. In order to

properly uphold Australia's trading reputation these people must be trustworthy and be able to demonstrate they have the character to conduct compliant Halal meat certification operations.

Part 3—Matters relating to applications

5-67 Application of this Part

Section 5-67 sets out the applications under the Act to which the requirements in Part 3 of Chapter 5 (sections 5-67 to 5-70) of the Meat Rules apply. These applications are:

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

The first note following section 5-67 explains that the application must be made in a manner approved by the Secretary and, if the Secretary has approved a form for the application, must include the information required by the form (see paragraphs 377(1)(a) and (b) of the Act).

The second note following section 5-67 explains that the Secretary may accept any information previously given to the Secretary in connection with an application made under the Act as satisfying any requirement to give that information under subsection 377(1) of the Act.

5-68 Documents to accompany application relating to Halal meat certification operations

Section 377 of the Act provides for the requirements for applications. Paragraph 377(1)(d) provides that an application must be accompanied by any documents prescribed by the rules.

Section 5-68 prescribes, for the purposes of paragraph 377(1)(d) of the Act, the documents that are required to accompany an application (other than an application referred to in paragraph 5-67(d) of the Meat Rules) relating to approved arrangements, or proposed arrangements, for Halal meat certification operations. These are a document providing evidence that the applicant is an Islamic organisation, and a copy of the proposed arrangement or approved arrangement (as the case requires).

This information is essential as it enables the Secretary to consider the application for a proposed arrangements or approved arrangement for Halal meat certification operations.

The first note following section 5-68 directs the reader to section 1-5 of the Meat Rules for the definition of *Islamic organisation*.

The second note following section 5-68 explains that the application must be made in a manner approved by the Secretary and, if the Secretary has approved a form for the application, must include the information required by the form (see paragraphs 377(1)(a) and (b) of the Act).

The third note following section 5-68 explains that the Secretary may accept any document previously given to the Secretary in connection with an application made under the Act, or any notice of intention to export a consignment of prescribed meat or meat products given under the Act, as satisfying any requirements to give that document under subsection 377(1) of the Act (see subsection 377(3) of the Act). This gives the Secretary the discretion to consider relevant information provided by applicants in relation to different types of applications.

5-69 Initial consideration period

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

Section 5-69 prescribes, for the purposes of subsection 379(3) of the Act, an initial consideration period of 120 days.

The period of 120 days is appropriate, having regard to the matters the Secretary must consider in granting or refusing an application. The period provides certainty for applicants on the maximum amount of time required for an application to be processed. The initial consideration period may be extended under subsection 379(5) of the Act.

The note following section 5-69 clarifies that the consideration period for an application starts on the day after the day the Secretary receives the application (referring to subsection 379(4) of the Act).

5-70 Period within which request relating to application must be complied with

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

Section 5-70 prescribes, for the purposes of paragraph 379(10)(b) of the Act, a period of 6 months within which a request from the Secretary under subsection 379(9) to an applicant for information or documents relating to the application must be complied with.

The maximum period prescribed by this section is appropriate as it permits sufficient time to comply with matters provided in subsection 379(9) of the Act. The period provides certainty for industry.

CHAPTER 6—MEAT EXPORT LICENCES

Chapter 6 of the Meat Rules sets out specific requirements, conditions and other matters relating to meat export licences. A meat export licence authorises the holder to carry out export operations in relation to prescribed meat and meat products. It is subject to conditions and confers obligations on the holder. The provisions made in this chapter are in addition to those in the Act.

The purpose of meat export licences is to allow people in the meat export system to take responsibility for meeting requirements while enabling the Secretary to have regulatory oversight of their export operations and activities. This will help to safeguard the Australian meat export industry.

Part 1—Requirements for grant of meat export licence

6-1 Other requirements that must be met for meat export licence to be granted

Section 191 of the Act provides that on receiving an application for an export licence under section 190, the Secretary must decide whether to grant the licence or refuse to grant the licence. Subsection 191(2) allows the Secretary to grant the licence if satisfied, having regard to any matter that the Secretary considers relevant, that the requirements in paragraphs 191(2)(a) to (d) are met. Paragraph 191(2)(d) allows the rules to prescribe additional requirements of which the Secretary must be satisfied before granting an export licence.

Section 6-1 prescribes, for the purposes of paragraph 191(2)(d) of the Act, additional requirements of which the Secretary must be satisfied before granting a meat export licence. Section 6-1 requires that the applicant be competent to hold the licence, be of sound financial standing, and have a quality assurance system accredited by the Australian meat standards classification body in place. Section 6-1 also requires that the grant of the licence to the applicant would not, for any reason, be contrary to the interests of the meat and meat products industry.

Australian meat standards classification body is defined in section 1-5 of the Meat Rules as the body responsible for setting trade description and classification standards for meat and meat products for export from Australian territory.

The first note following section 6-1 explains that the requirement to hold a meat export licence to carry out operations to export meat or meat products only applies to operations to export meat or meat products derived from a bovine animal (other than a buffalo), or a caprine animal, or an ovine animal (see item 6 of the table in section 2-4 of the Meat Rules).

The second note following section 6-1 notifies the reader that the applicant must be a fit and proper person for the grant of a meat export licence (see paragraph 191(2)(a) of the Act and section 6-7 of the Meat Rules).

Part 2—Conditions of meat export licence

6-2 Condition of meat export licence

Subsection 192(1) of the Act provides that an export licence is subject to conditions provided by the Act (paragraph 192(1)(a)), conditions prescribed by the rules (other than any of those conditions that the Secretary decides are not to be conditions of the licence) (paragraph 192(1)(b), and any additional conditions which the Secretary considers appropriate and that are specified in the licence (paragraph 192(1)(c)).

Subsection 6-2(1) prescribes, for the purposes of paragraph 192(1)(b) of the Act, the conditions in subsection 6-2(2), as a condition of a meat export licence.

The note following subsection 6-2(1) notifies the reader that the condition in subsection 6-2(2) also applies in relation to a renewed meat export licence, directing the reader to paragraph 197(1)(b) of the Act.

Subsection 219(1) of the Act requires the holder of an export licence to notify the Secretary, in writing, as soon as practicable after any of the events in paragraphs 219(1)(a) to (e) occurs. Paragraph 219(1)(e) allows the rules to prescribe any other events which require the holder of an export licence to notify the Secretary.

Subsection 6-2(2) provides a condition for a meat export licence if an event referred to in subsection 219(1) of the Act (including any of the events referred to in section 6-6 of the Meat Rules) occurs in relation to the holder of a licence or a matter covered by or relating to the licence. In such circumstances, the holder of the licence must notify the Secretary by completing the form approved under paragraph 377(1)(b) of the Act for making an application for a meat export licence, to the extent the form relates to the event. The purpose of section 6-2 is to require the holder of an export licence to notify the Secretary using the approved form.

Part 3—Renewal of meat export licence

6-3 Period within which application to renew meat export licence must be made

Section 195 of the Act deals with applications to renew export licences. Paragraph 195(4)(a) of the Act provides that an application for renewal must be made within a period prescribed by the rules.

Section 6-3 is made for the purposes of paragraph 195(4)(a) of the Act and requires an application to renew a meat export licence to be made within the period of 60 days starting on the day that is 180 days before the date licence expires. In other words, the application must be submitted when the registration is between 180 days and 120 days from expiring. This ensures applications are submitted with sufficient time to allow the Secretary to consider the application.

The first note following section 6-3 provides an example of how section 6-3 works in practice. If a meat 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.

The second note following section 6-3 explains that under the Act, applications to renew meat export licences will only need to be made for meat export licences that have an expiry date (see subsection 195(1) of the Act).

Part 4—Suspension of meat export licence

6-4 Other grounds for suspension

Section 205 of the Act allows the Secretary to suspend an export licence if the Secretary reasonably believes that one or more of the grounds listed in subsection 205(1) exist. Paragraph 205(1)(j) allows the rules to prescribe additional grounds for the suspension of an export licence.

Section 6-4 prescribes, for the purposes of paragraph 205(1)(j) of the Act, additional grounds for the suspension of a meat export licence. These grounds are where the licence holder has failed to:

- provide facilities and assistance reasonably required by an external auditor for the purpose of conducting regular audits of the holder’s quality assurance system; or
- provide information in writing or documents to an external auditor that are reasonably required by the auditor for the purpose of conducting an audit of the holder’s quality assurance system; or
- comply with any reasonable request by an external auditor, or the Australian meat standards classification body, to take corrective action in relation to a deficiency found in the course of an audit of the holder’s quality assurance system.

The purpose of this section is to ensure the Secretary can be satisfied holders of meat export licences meet the relevant requirements. External audits will enable important information regarding compliance to be provided and it is important to be able to suspend the licence where the licence holder fails to fully participate with such audits.

The note following section 6-4 explains to the reader that under Part 1 of Chapter 9 of the Act, audits referred to in section 6-4 are not audits.

Part 5—Revocation of meat export licence

6-5 Other grounds for revocation

Section 212 of the Act allows the Secretary to revoke an export licence if the Secretary reasonably believes that one or more of the grounds listed in subsection 212(1) exist. Paragraph 212(1)(j) allows the rules to prescribe additional grounds for revocation of an export licence.

Section 6-5 prescribes, for the purposes of paragraph 212(1)(j) of the Act, additional grounds in addition for revoking a meat export licence. These grounds are where the licence holder has failed to:

- provide facilities and assistance reasonably required by an external auditor for the purpose of conducting regular audits of the holder's quality assurance system; or
- provide information in writing or documents to an external auditor that are reasonably required by the auditor for the purpose of conducting an audit of the holder's quality assurance system; or
- comply with any reasonable request by an external auditor or the Australian meat standards classification body, to take corrective action in relation to a deficiency found in the course of an audit of the holder's quality assurance system.

The note following section 6-5 explains that the audits referred to in section 6-5 are not audits under Part 1 of Chapter 9 of the Act.

The purpose of section 6-5 is to ensure the Secretary can be satisfied holders of meat export licences meet the relevant requirements. External audits will enable important information regarding compliance to be provided and it is important to be able to revoke the licence where the licence holder fails to participate with such audits.

Part 6—Obligations of holders of meat export licences

6-6 Other events of which Secretary must be notified

Subsection 219(1) of the Act requires the holder of an export licence to notify the Secretary, in writing, as soon as practicable, after any of the events referred to in paragraphs 219(1)(a) to (e) of the Act occurs. Paragraph 219(1)(e) of the Act allows the rules to prescribe additional events.

Section 6-6 prescribes, for the purposes of paragraph 219(1)(e) of the Act, the following events of which the holder of a meat export licence must notify the Secretary:

- the holder of the licence ceases to operate the export business that carries out export covered by the licence;
- the holder of the licence is notified by the relevant importing country authority that the holder is no longer regarded as an approved supplier of prescribed meat or meat products to that country;
- there is a change in the scope of the quality assurance system used by the holder of the licence;
- the holder of the licence ceases to be accredited by the Australian meat standards classification body.

The purpose of this section is to ensure the Secretary can be satisfied holders of meat export licences will inform the Secretary of events which may affect the integrity of the prescribed meat or meat products, the suitability of meat or meat products for export, whether the holders are fit to hold the licence, and Australia's trading reputation.

Part 7—Fit and proper persons

6-7 Kinds of persons who are required to be fit and proper persons

Subsection 373(1) of the Act provides that the rules may prescribe kinds of persons who are required to be fit and proper persons (having regard to the matters referred to in section 372 of the Act) for the purposes of Chapter 6 (export licences).

Section 6-7 prescribes, for the purposes of subsection 373(1) of the Act, that an applicant for a meat export licence, or the holder of a meat export licence are required to be fit and proper persons. The purpose of requiring these persons to be fit and proper persons is to ensure that those seeking to export, or approved to export, prescribed meat or meat products from Australian territory are trustworthy and demonstrate the required integrity necessary to uphold Australia's trading reputation.

Part 8—Matters relating to applications

6-8 Application of this Part

Section 6-8 provides that Part 8 of Chapter 6 of the Meat Rules (sections 6-8 to 6-11) applies to the following applications:

- an application made under section 190 of the Act for a meat export licence;
- an application made under section 195 of the Act to renew a meat export licence;
- an application made under section 199 of the Act to vary a meat export licence, or to vary the conditions of a meat export licence.

6-9 Documents to accompany application

Section 377 of the Act provides for the requirements for applications. Paragraph 377(1)(d) of the Act provides that an application must be accompanied by any documents prescribed by the rules.

Section 6-9 prescribes, for the purposes of paragraph 377(1)(d) of the Act, the documents which must accompany an application for a meat export licence. These documents are:

- a copy of the accreditation certificate issued to the applicant by the *Australian meat standards classification body*; and
- if the applicant is an individual and the applicant operates or intends to operate the export business or proposed export business to which the application relates in partnership with one or more other persons, a copy of the partnership agreement.

Section 1-5 of the Meat Rules defines the *Australian meat standards classification body* as the body responsible for setting trade description and classification standards for meat and meat products for export from Australian territory. At the commencement of the Meat Rules, the body responsible for setting trade description and classification standards for meat and meat products derived from bovine, caprine or ovine animals for export from Australian territory is AUS-MEAT Limited.

The note following section 6-9 explains that, under subsection 377(3) of the Act, the Secretary may accept any document previously provided to the Secretary in connection with an application made under the Act, or a notice of intention to export, as satisfying any requirement to give that document under subsection 377(1) of the Act.

The purpose of this provision is to ensure the Secretary has the information required to make appropriate decisions about meat export licences.

6-10 Initial consideration period

Section 379 of the Act details the requirements dealing with applications made under the Act. Subsection 379(3) allows the rules to prescribe the initial consideration period in which an application must be considered by the Secretary.

Section 6-10 prescribes, for the purposes of subsection 379(3) of the Act, an initial consideration period of 120 days for applications in relation to meat export licences. The initial consideration period may be extended in accordance with subsection 379(5) of the Act.

The initial consideration period is the time within which the Secretary must decide to approve or refuse an application. If the Secretary has not made a decision by the end of the consideration period (and the initial consideration period has not been extended), the application is considered to be refused by the Secretary. The period of 120 days is appropriate, having regard to the matters the Secretary must consider in granting or refusing an application. This period provides certainty for applicants on the maximum amount of time required for an application to be processed.

The note following section 6-10 explains that, under subsection 379(4) of the Act, the consideration period for an application starts on the day after the day the Secretary receives the application.

6-11 Period within which request relating to application must be complied with

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

Section 6-11 prescribes, for the purposes of paragraph 379(10)(b) of the Act, a period of 6 months within which a request from the Secretary in relation to a meat export licence must be complied with. The maximum period prescribed by this section is appropriate as it permits sufficient time to comply with matters provided in subsection 379(9) of the Act. This period provides certainty for industry.

CHAPTER 7—EXPORT PERMITS

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

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

Part 1—Issue of export permit

7-1 Period of effect of export permit

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

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

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

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

Part 2—Variation, suspension and revocation of export permit

7-2 Period of effect of varied export permit

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

Section 7-2 is made for the purposes of paragraph 230(b) of the Act and prescribes that an approved varied export permit for prescribed meat or meat products remains in force (unless it is revoked under section 233 of the Act) for the remainder of the period for which the export permit as originally issued was in force under section 7-1. This period is appropriate as export permits often made in relation to perishable goods. A variation does not affect the original period of effect for a permit.

The note following section 7-2 explains that a varied export permit takes effect when it is issued (see paragraph 230(a) of the Act).

7-3 Circumstances in which export permit may be suspended

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

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

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

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

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

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

- there is a risk that the meat or meat products have deteriorated or are likely to deteriorate, or are unwholesome or are likely to be unwholesome;
- the meat or meat products are no longer intended to be exported using that export permit;

- a person (other than the holder of the permit) has given the Secretary information or a document in relation to the meat or meat products that is false, misleading or incomplete;
- a condition or disease that is likely to affect the acceptability of the meat or meat products to the importing country is present in Australia territory; or
- the export of the meat or meat products could result in trade in the export of other goods from Australian territory being adversely affected.

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

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

Part 3—Other matters

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

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

Section 7-5 prescribes, for the purposes of paragraph 235(1)(b) of the Act, changes that require the holder of an export permit to provide the Secretary with additional or corrected information in relation to prescribed meat or meat products for which an export permit is in force but that have not been exported. These changes are where there are reasonable grounds to suspect that:

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

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

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

7-6 Return of export permit

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

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

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

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

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

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

Section 7-7 is made for the purposes of section 237 of the Act and requires the holder of an export permit for prescribed meat or meat products to notify the Secretary in writing, if it is no longer intended to export the prescribed goods because of a circumstance listed in section 7-4 (other circumstances in which export permit may be revoked) of the Meat Rules. The notification must be given as soon as practicable but not later than 10 business days after the decision not to export the prescribed goods is made.

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

CHAPTER 8—OTHER MATTERS RELATING TO EXPORT

Part 1—Notices of intention to export

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

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

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

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

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

The second note following section 8-2 explains that the Secretary may accept any information or document previously given to the Secretary in connection with an application made under the Act, or a notice of intention to export a consignment of prescribed meat or meat products given under the Act, as satisfying any requirement to give that document under subsection 243(1) of the Act (see subsection 243(2) of the Act).

This gives the Secretary the discretion to consider relevant information provided by applicants in relation to different types of applications.

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

Paragraph 243(1)(e) of the Act requires that a notice of intention to export a consignment of prescribed goods be given by a person prescribed by the rules in relation to the goods.

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

The purpose is to ensure the person intending to export the prescribed meat or meat products does not have another person submit a notice of intention on their behalf.

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

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

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

Giving written notice to the Secretary ensures the necessary information is provided for assessment prior to the export of the prescribed meat or meat products.

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

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

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

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

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

The note following section 8-4 alerts the reader that it is a prescribed export condition for the export of prescribed meat or meat products that a person prescribed by section 8-2 must have given a notice of intention to export a consignment of, or including, prescribed meat or meat products to the Secretary at the time prescribed by section 8-4 (see section 2-4).

Part 2—Trade descriptions

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

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

8-5 Purpose of this Part

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

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

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

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

8-6 General requirements for trade descriptions

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

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

The first note following subsection 8-6(1) refers the reader to the Australian Meat Industry Classification System, which contains guidance on the requirement for a trade description to be accurate.

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

Subsection 8-6(2) provides that information or pictures that are applied to prescribed meat or meat products, in addition to the trade description, must not be inconsistent with the information required to be included in the trade description under Subdivision D of Division 2 of Part 1 of Chapter 5 of the Meat Rules (concerning conditions for approved arrangements for operations to prepare prescribed meat or meat products for export).

Subsection 8-6(3) clarifies particular circumstances where a trade description is taken to be accurate, for the purposes of subsection 8-6(1). The description of:

- ‘beef offal’ is taken to be accurate if it is applied to offal derived from beef, veal or bull carcasses;
- ‘pork offal’ is taken to be accurate if it is applied to offal derived from pork, sow or boar carcasses; and

- ‘mutton offal’ is taken to be accurate if it is applied to offal derived from mutton, lamb or ram carcasses.

The note following subsection 8-6(3) refers the reader to section 1-5 of the Meat Rules for the definition of *offal*.

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

8-7 Trade descriptions in language other than English

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

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

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

- the holder of an approved arrangement for operations to prepare prescribed meat or meat products for export at the registered establishment where the trade description was applied to the prescribed meat or meat products;
- the holder of an approved arrangement for operations to prepared prescribed meat or meat products for export at a registered establishment (other than the registered establishment referred to in paragraph 8-7(3)(a)) if the prescribed meat or meat products are being held at that registered establishment at the time of the request; or
- the exporter of the prescribed meat or meat products; or
- the holder of an approved arrangement in accordance with which Halal meat certification operations (if any) were carried out in relation to the prescribed meat or meat products.

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

Part 3—Official Marks

Official marks are market labels, tags or other seals applied to products exported from Australian territory. Each type of label has specific mark dimensions. There are strict conditions set out to comply with export requirements. Official marks indicate compliance with the Act and help to ensure products are not rejected when exported, which may result in

large costs for business and the economy. Official marks are relied on by governments of importing countries as an assurance of the authenticity of a document or the origin, integrity and compliance of goods with the Act, importing country requirements or other relevant standards.

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

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

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

Division 1—Marks that are official marks

8-8 Purpose of this Division

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

Section 8-8 provides that Division 1 of Part 3 of Chapter 8 of the Meat Rules (sections 8-8 to 8-21) is made for the purposes of subsection 255(1) of the Act and specifies marks that are official marks for meat or meat products that are intended to be exported. An official mark is a mark that is applied to goods to confirm the identity, condition, status of the goods or to secure the goods.

8-9 Tolerances for dimensions of official marks

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

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

8-10 Official mark—Australia Inspected

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

Subsection 8-10(2) provides the acceptable dimensions of the ‘Australia Inspected’ official mark. The specified dimensions are for the width and height of the mark, the height of the letters, and the height of the establishment registration number. The required dimensions are those set out in columns 2, 3 and 4 of the table in subsection 8-10(2) depending on whether the mark is computer-generated or is of a normal or small size.

The ‘Australia Inspected’ mark signifies that prescribed goods have been inspected by an Australian Government official in the registered establishment where they were prepared and passed as fit for human consumption.

8-11 Official mark—Australia Inspected (lamb)

Subsection 8-11(1) provides a representation of the design of an ‘Australia Inspected (lamb)’ official mark which is an official mark for the purposes of the Act for lamb or lamb products that are intended to be exported. The mark must include the registration number of the registered establishment where operations to prepare meat or meat products for export were carried out in the centre of the mark where ‘A’ is in the representation and must meet the required dimensions set out in subsection 8-11(2).

Subsection 8-11(2) provides the required dimensions of the ‘Australia Inspected (lamb)’ official mark. The specified dimensions are for the width and height of the oval mark, the breadth and height of the lamb frame, the height of the letters, and the height of the establishment registration number. The required dimensions are those set out in column 2 of the table in subsection 8-11(2) unless the mark is applied to a small cut of lamb meat, or to a lamb carcass or lamb carcass part that is to be further processed before export. In such circumstances, the required dimensions of the mark are those set out in column 3 of the table in subsection 8-11(2).

The ‘Australia Inspected (lamb)’ mark signifies that lamb or lamb products have been inspected by an Australian Government official in the registered establishment where they were prepared and passed.

8-12 Official mark—Halal meat

Subsection 8-12(1) provides a representation of the design of an ‘Halal meat’ official mark, which is an official mark for the purposes of the Act for Halal meat that is intended to be exported. The mark must include the registration number of the registered establishment where operations to prepare meat or meat products for export were carried out in the centre of the mark where ‘A’ is in the representation and must meet the required dimensions in subsection 8-12(2).

The note following subsection 8-12(1) explains that the translation of the arched Arabic text in the representation to English, is ‘Lawful, permissible according to Islamic law’.

Subsection 8-12(2) provides the acceptable dimensions of the ‘Halal meat’ official mark depending on the size of the mark. The dimensions specified are for the width and height of the mark, the maximum overall height of the arched Arabic text, height of ‘Halal’ in English text, height of ‘Halal’ in Arabic text, height of the establishment registration number, and the height of ‘Australia’ in English text. The required dimensions are those set out in

columns 2, 3, 4 and 5 of the table in subsection 8-12(2) depending on whether the mark is of a large, medium, small or extra small size.

The ‘Halal meat’ mark signifies that the relevant meat or meat products have been inspected by an Islamic organisation in the registered establishment where they were prepared and passed.

8-13 Official mark—foreign country identification

Subsection 8-13(1) provides a representation of the design of a ‘foreign country identification’ official mark, which is an official mark for the purposes of the Act. This kind of official mark must have the relevant foreign country identification mark inserted in where the letter ‘A’ is in the representation, and must meet the required dimensions set out in subsection 8-13(3).

Subsection 8-13(2) provides that, for the purposes of this section, a *foreign country identification mark* is a mark that is required to be applied to meat or meat products that are to be imported into that country, as determined by the relevant importing country authority.

The note following subsection 8-13(2) refers the reader to the Manual of Importing Country Requirements for guidance on foreign country identification marks. In 2021, this manual could be viewed on the Department’s website (<http://www.awe.gov.au>). Access to the document may require a password.

Subsection 8-13(3) provides the acceptable dimensions of a foreign country identification official mark. These dimension requirements relate to the diameter of the circle (50 millimetres), the minimum height of the letters in the word ‘Australia’ (6 millimetres) and the dimensions of the foreign country identification mark (as specified by the relevant importing country authority) to be inserted into the official mark.

This mark enables the export of meat or meat products from Australian territory to the importing country.

The note following subsection 8-13(3) refers the reader to the Manual of Importing Country Requirements for guidance on the requirements for the dimensions of a foreign country identification mark. In 2021, this manual could be viewed on the Department’s website (). Access to the document may require a password.

8-14 Official mark—tamper-indicative metal strap seal

Section 8-14 provides that a tamper indicative metal strap seal is an official mark for the purposes of the Act if it meets the requirements of this section. The requirements are:

- the seal must be a tamper-indicative metal strap seal that can be secured in a loop by inserting one end of the seal into or through a protected locking mechanism on the other end; and
- the seal must comply with ISO 17712:2013 *Freight containers—Mechanical seals*, as that document exists at the commencement of the Meat Rules. This international standard is a single source of information on mechanical seals and is available for a

fee from the International Organization for Standardization (www.iso.org). The standard is an appropriate requirement as certain countries have compliance with the standard as a requirement to maintain market access. The manufacture and supply of tamper-indicative metal straps are tightly controlled by the Department. The control of tamper-indicative metal straps combined with the requirement to meet international standards provides appropriate assurance to trading partners and facilitates trade; and

- the seal must also bear the words ‘Australian Government’ and bear a unique number, or a unique combination of letters and numbers, provided to the manufacturer of the seal by the Department.

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

These strap seals may also be used for securing goods or items that need to be held under Department control (e.g. to retain meat pending outcomes on residue testing) or carcasses that require further inspection prior to making a disposition (e.g. jaundice carcasses). These goods are put into a retain chiller or cage sealed with a strap seal overnight for assessment the next day.

8-15 Official mark—bolt seal

Section 8-15 provides that a bolt seal is an official mark for the purposes of the Act if it meets the requirements of this section. A bolt seal is a tamper-evident locking device that requires a tool to be removed. The requirements are:

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

A bolt seal is required to be applied to a container system unit (other than a container system unit intended for transport by air) under section 5-19 of the Meat Rules, and an official mark is required to be applied to the prescribed meat or meat products under Subdivision E of Part 2 of Chapter 5 of the Meat Rules (approved arrangements).

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

Bolt seals also provide a link between the government certificate and the goods. The seal number is printed on the government certificate to assist an inspector in linking goods inside a container to goods described in the government certificate.

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

8-16 Official mark—Australia Approved

Subsection 8-16(1) provides a representation of the design of an ‘Australia Approved’ official mark, which is an official mark for the purposes of the Act. This mark must include the registration number of the registered establishment where the operations to prepare the prescribed meat or meat products for export were carried out in the centre of the mark where ‘A’ is in the representation and must meet the dimensions set out in subsection 8-16(2).

Subsection 8-16(2) provides the acceptable dimensions of the ‘Australia Approved’ official mark. These dimensions relate to the width and height of the oval mark, the height of the letters and the height of the establishment registration number. The required dimensions are those set out in column 2 of the table in subsection 8-16(2) unless the mark is to be applied to a small cut of meat (in which case, the dimensions may be those set out in column 3 of the table in subsection 8-16(2)).

The ‘Australia Approved’ official mark signifies that prescribed goods intended for export have been inspected and are fit for human consumption.

8-17 Official mark—Australia Approved (lamb)

Section 8-17 provides a representation of the design of an ‘Australia Approved (lamb)’ official mark, which is an official mark for the purposes of the Act for lamb or lamb products that are intended to be exported. The mark must include the registration number of the registered establishment where the operations to prepare the prescribed meat or meat products for export were carried out in the centre of the mark where ‘A’ is in the representation and must meet the required dimensions in subsection 8-17(2).

Subsection 8-17(2) provides the required dimensions of the ‘Australia Approved (lamb)’ official mark. These dimensions relate to the width and height of the oval mark, the height of the letters, the breadth and height of the lamb frame and the height of the establishment registration number.

The required dimensions are those set out in column 2 of the table in subsection 8-17(2) unless the mark is to be applied to a small cut of lamb meat (in which case, the dimensions may be those set out in column 3 of the table in subsection 8-17(2)).

The ‘Australia Approved (lamb)’ official mark signifies that prescribed goods intended for export have been inspected and are fit for human consumption.

8-18 Official mark—European Union

Section 8-18 provides a representation of the design of an ‘European Union’ official mark, which is an official mark for the purposes of the Act. This kind of official mark must be in the design indicated in subsection 8-18(1) and contain the letter ‘E’ and must meet the required dimensions set out in subsection 8-18(2).

Subsection 8-18(2) provides the required dimensions of the ‘European Union’ official mark. These dimensions relate to the width and height of the oval mark, and the height of the letter ‘E’. The required dimensions will vary depending on whether the mark is of a normal or small size or is computer-generated.

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

8-19 Official mark—carton seal

Section 8-19 provides a representation of the design for a seal applied to a carton (a ‘carton seal’) that is an official mark for the purposes of the Act.

The ‘carton seal’ mark must meet the specifications in paragraphs 8-19(1)(a) to (c). This includes being printed in black (except for the Coat of Arms, which must be printed in red) on a white or security background, including the substitutions set out in subsection 8-19(3) and meeting the dimensions specified in subsection 8-19(2).

Subsection 8-19(2) provides the required dimensions of the ‘carton seal’ official mark. These dimensions relate to the width of the mark (not less than 45 millimetres and not more than 75 millimetres) and the height of the mark (not less than 125 millimetres and not more than 160 millimetres).

Subsection 8-19(3) sets out the information that must be substituted at ‘A’, ‘B’ and ‘C’ in the design of the carton seal official mark. This information is the registration number of the establishment where operations to prepare the prescribed meat or meat products for export were carried out must be substituted where ‘A’ is in the representation. A number or a combination of letters and numbers associated with the manufacturer of a mark must be substituted where ‘B’ is in the representation. A number or a combination of letters and numbers that are unique to each official mark must be substituted where ‘C’ is in the representation. This seal is necessary to provide confidence that the meat or meat products inside the carton has not been manipulated between the carton being packed in Australia and it being opened in an overseas country. The carton seals are used on meat cartons when there is an importing country requirement to do so.

8-20 Official mark—meat or meat products opened for assessment and resealed

Section 8-20 provides a representation of the design of a carton seal applied to a carton after it has been opened, inspected and re-sealed, which is an official mark for the purposes of the Act.

The mark must meet the specifications set out in paragraphs 8-20(1)(a) to (c). This includes being printed in green (except for the Coat of Arms which is printed in red), on a white or security background, including the substitutions set out in subsection 8-20(3) and meeting the dimensions specified in subsection 8-20(2).

Subsection 8-20(2) provides the required dimensions of the ‘opened and resealed carton seal’ official mark. These dimensions relate to the width of the mark (not less than 45 millimetres and not more than 75 millimetres) and the height of the mark (not less than 125 millimetres and not more than 160 millimetres).

Subsection 8-20(3) sets out the information that must be substituted at ‘A’ and ‘B’ in the design of the opened and resealed carton seal official mark. A number, or a combination of letters and numbers, associated with the manufacturer of a mark must be substituted where ‘A’ is in the representation. A number, or a combination of letters and numbers, that are unique to each official mark must be substituted where ‘B’ is in the representation. This information is necessary to provide tamper evidence. During export loading at registered establishments, a sample of cartons may be opened to, for example, check the temperature of the meat. If these cartons had carton seals applied at the packing establishment, it is necessary to apply the opened and resealed carton seal official mark to maintain the tamper evidence. Carton seals from the packing establishment are not available at the cold store, thus the use of the opened and resealed carton seal official mark.

8-21 Official mark—Australian Government

Section 8-21 provides a representation of the design of an ‘Australian Government’ official mark, which is an official mark for the purposes of the Act. The mark must contain a number identifying the person that used the mark where ‘XXXX’ is included in the representation.

The note following section 8-21 explains that sections 8-24 to 8-28 and section 8-38, which relate to the manufacture, supply, application and alteration of, or interference with, an official mark, do not apply to an ‘Australian Government’ official mark.

Division 2—General rules relating to official marks

8-22 Purpose and application of this Division

Subsection 255(2) of the Act allows the rules to make provision for and in relation to:

- the persons or classes of persons, who may manufacture, possess, apply, alter or interfere with an official mark;
- the methods of applying official marks;
- the circumstances in which an official mark may, or must not, be applied;
- security of official marks;
- removal or defacement of official marks;
- making records in relation to official marks; and

- any other matter relating to official marks.

Subsection 8-22(1) provides that Division 2 of Part 3 of Chapter 8 of the Meat Rules (sections 8-22 to 8-33) is made for the purposes of subsection 255(2) of the Act and makes provision for and in relation to certain matters relating to the official marks specified in Division 1 of Part 3 of Chapter 8 of the Meat Rules for meat or meat products that are intended to be exported.

This is to ensure that official marks are not misused and only applied to eligible goods.

The note following subsection 8-22(1) alerts the reader that a person may commit an offence or be liable to a civil penalty under the Act if they engage in conduct that contravenes a provision in Division 2 of Part 3 of Chapter 8 of the Meat Rules (see section 258 of the Act) or other provisions in Division 3 of Part 3 of Chapter 8 of the Act.

Subsection 8-22(2) provides that sections 8-24 to 8-28 which relate to the manufacture, supply, application, and alteration of, or interference with, an official mark, do not apply to an 'Australian Government' official mark as provided for in section 8-21 of the Meat Rules.

8-23 Interpretation

Section 8-23 sets out when an official mark is *applied* to meat or meat products. This is fundamental to managing conduct in relation to that official mark.

Subsection 8-23(1) provides that, for the purposes of the Meat Rules, an official mark is *applied* to meat or meat products if it is:

- applied directly to the meat or meat products, their packaging or any covering containing the meat or meat products;
- applied to anything attached to the meat or meat products, their packaging or any covering containing the meat or meat products; or
- inserted into anything in which the meat or meat products are packaged or any covering containing the meat or meat products.

Subsection 8-23(2) specifies that a reference in Division 2 of Part 3 of Chapter 8 of the Meat Rules to a particular official mark is a reference to the official mark with that description provided for in Division 1 of Part 3 of Chapter 8 of the Meat Rules.

8-24 Persons who may manufacture or supply official marks for meat or meat products

Section 8-24 specifies who may manufacture or supply a kind of official mark for meat or meat products. Limiting who may manufacture or supply official marks is necessary to ensure the integrity of the system for manufacturing and supplying official marks.

The persons who can manufacture or supply an official mark for meat or meat products are:

- authorised officers; or
- persons who are able to manufacture or supply the official mark under an approved arrangement; or
- persons acting in accordance with a direction given by an authorised officer; or
- a person who has been given a written approval by the Secretary to manufacture or supply the official mark in relation to specified meat or meat products and who is acting in accordance with that approval.

These restrictions do not apply to the manufacture or supply of the official mark specified in section 8-21 ('Australian Government' official mark).

The note following section 8-24 refers the reader to section 309 of the Act for how a direction may be given by an authorised officer.

8-25 Persons who may possess official marks that have not been applied to meat or meat products

Section 8-25 specifies who may possess official marks that have not been applied to meat or meat products. Limiting who can possess official marks ensures they are accounted for and only applied by nominated personnel.

The persons who can possess a kind of official mark for meat or meat products are:

- persons who are permitted, under section 8-24 of the Meat Rules, to possess, manufacture or supply official marks of that kind; or
- authorised officers; or
- persons who are able to possess the official mark under an approved arrangement; or
- persons acting in accordance with a direction given by an authorised officer; or
- a person who has been given a written approval by the Secretary to possess the official mark at a specified registered establishment and in relation to specified meat or meat products and the possession is in accordance with that approval.

These restrictions do not apply to the possession of the official mark specified in section 8-21 ('Australian Government' official mark).

The note following section 8-25 refers the reader to section 309 of the Act for how a direction may be given by an authorised officer.

8-26 Persons who may apply official marks to meat or meat products etc.

Subsection 8-26(1) provides that section 8-26 applies to a bolt seal that is required to be applied to a container system under section 5-19 and an official mark required to be applied under Subdivision E of Division 2 of Part 1 of Chapter 5 of the Meat Rules (approved arrangements) to carcasses or carcase parts, cartons in which prescribed meat or meat products are packed, or Halal meat.

Subsection 8-26(2) specifies who may apply these official marks to such goods. Limiting those who can apply official marks ensures official marks are applied to products passed as fit for human consumption and are used in accordance with the Act and the Meat Rules.

The persons who can apply an official mark in these circumstances are:

- authorised officers; or
- persons acting in accordance with a direction given by an authorised officer; or
- persons who can apply the official mark under an approved arrangement and in accordance with the approved arrangement; or
- a person who has been given a written approval by the Secretary to apply the official mark at a specified registered establishment and in relation to specified meat or meat products and who is acting in accordance with that approval.

These restrictions do not apply to the application of the official mark specified in section 8-21 ('Australian Government' official mark).

The note following section 8-26 refers the reader to section 309 of the Act, which deals with directions given by authorised officers.

8-27 Circumstances in which official mark must not be applied to meat or meat products

Section 8-27 provides circumstances where an official mark, Halal meat official mark, foreign country identification official mark or European Union official mark, must not be applied to meat or meat products.

Subsection 8-27(1) provides a person must not apply an official mark to meat or meat products if the goods are not wholesome, have deteriorated, or their integrity cannot be ensured.

The note following subsection 8-27(1) refers the reader to section 5-33 of the Meat Rules for requirements to ensure the integrity of prescribed meat or meat products.

Subsection 8-27(2) provides that a Halal meat official mark (section 8-12) must not be applied to meat or meat products if the meat or meat products are not Halal meat that has been derived from animals slaughtered in accordance with an approved arrangement covering the slaughter of animals for Halal meat, or if the integrity of the meat or meat products as Halal meat cannot be ensured.

The note following subsection 8-27(2) refers the reader to section 5-35 of the Meat Rules for requirements to ensure the integrity of Halal meat.

Subsection 8-27(3) provides that a foreign country identification official mark (section 8-13) or a European Union official mark (section 8-18) must not be applied to meat or meat products if the circumstances in which that mark may be applied, as specified by the relevant importing country authority, no longer exist.

The note following subsection 8-27(3) refers the reader to sections 8-13 and 8-18 of the Meat Rules for the requirements for the foreign country identification mark and the European Union official mark.

These restrictions do not apply to the application of the official mark specified in section 8-21 ('Australian Government' official mark).

8-28 Alteration of and interference with official marks

Section 8-28 details who may alter or interfere with an official mark, and in what circumstances, regardless of whether it has been applied to meat or meat products. This is necessary to ensure official marks can be relied upon by the relevant importing country authority as an assurance about the authenticity of a document or the origin, integrity, and compliance of goods with importing country requirements.

An official mark can only be altered or interfered with in the following circumstances:

- where the alteration or interference is required or permitted by the Meat Rules; or
- where the alteration or interference is done by a person who is an authorised officer; or
- where the alteration or interference is done by a person who is acting in accordance with a direction given by an authorised officer; or
- where the alteration or interference is done in accordance with an approved arrangement and by a person who is designated in the arrangement as a person who may alter or interfere with an official mark; or
- where the alteration or interference is by a person who has been given a written approval by the Secretary to alter or interfere with the official mark at a specified registered establishment and in relation to specified meat or meat products, and who is acting in accordance with that approval.

The first note following section 8-28 refers the reader to section 309 of the Act, which deals with directions given by authorised officers.

The second note following section 8-28 explains that altering or interfering with an official mark so as to make the mark false, misleading or deceptive may be an offence or the contravention of a civil penalty under sections 261 or 262 of the Act.

These restrictions do not apply to the alteration or interference with the official mark specified in section 8-21('Australian Government' official mark).

8-29 Official marks must be legible and securely attached

Section 8-29 requires official marks applied to meat or meat products to be legible and securely attached. This is required to ensure the marks do not fall off the product, especially during transport overseas. If meat or meat products was to arrive without the official marks because they fell off, then this would raise concerns that the meat was not produced in accordance with the Australian export requirements and the importing country requirements.

8-30 Security of official marks

Section 8-30 requires a person who is in possession of an official mark that has not been applied to any meat or meat products (where permitted by section 8-25 of the Meat Rules) to ensure the official mark is securely stored. This ensures that all official marks can be accounted for when not in use.

8-31 Removal or defacement of official marks

Section 8-30 sets out requirements relating to the removal or defacement of official marks that have been applied to meat or meat products, including when the marks must be removed or defaced and who can take that action.

Subsection 8-31(1) requires an official mark that has been applied to meat or meat products to be removed or defaced if the meat or meat products to which it has been applied are no longer wholesome or have deteriorated. This ensures that meat or meat products which are no longer wholesome or have deteriorated, do not enter or are removed from the export supply chain.

Subsection 8-31(2) requires that an official mark (other than a Halal meat official mark, an Australia Approved official mark or an Australia Approved (lamb) official mark) that has been applied to a carton in which meat or meat products are packed must be removed or defaced if the meat or meat products are no longer intended to be exported, or are no longer intended to be exported in that carton. The requirement in subsection 8-31(2) applies without limiting subsection 8-31(1).

Subsection 8-31(3) requires a Halal meat official mark that has been applied to meat or meat products to be removed or defaced if the meat or meat products have not been derived from animals slaughtered in accordance with an approved arrangement covering the slaughter of animals for Halal meat or the integrity of the meat or meat products as Halal meat cannot be ensured.

Subsection 8-31(4) requires a foreign country identification official mark or European Union official mark that has been applied to meat or meat products to be removed or defaced if the circumstances in which that mark may be applied to the meat or meat products, as specified by the relevant importing country authority no longer exist. The requirement in subsection 8-31(4) applies without limiting subsection 8-31(1).

Subsection 8-31(5) details who may remove or deface an official mark in accordance with the requirements under subsections 8-31(1) to (4). This is limited to:

- an authorised officer; or a person acting in accordance with a direction from an authorised officer; or
- a person designated in an approved arrangement as a person who may remove or deface the official mark; or
- a person who has been given a written approval by the Secretary to remove or deface the official mark at a specified registered establishment and in relation to specified meat or meat products and who is acting in accordance with that approval.

The first note following subsection 8-31(5) refers the reader to section 309 of the Act for how a direction may be given by an authorised officer.

The second note following subsection 8-31(5) alerts the reader to section 258 of the Act, which has the effect that a person may commit an offence or be liable to a civil penalty if the person contravenes a provision in Division 2 of Part 3 of Chapter 8 of the Meat Rules.

8-32 Records of official marks manufactured or supplied

Section 8-32 requires the holder of an approved arrangement that covers the manufacture or supply of official marks for use at establishments that are registered for operations to prepare prescribed meat or meat products for export to make a daily written record detailing each kind, and the number of each kind, of official marks manufactured on that day.

The holder must also make a written record stating each day a consignment of official marks is supplied to an establishment registered for operations to prepare prescribed meat or meat products for export, each kind of official mark included in the consignment, and how the consignment is transported.

The note following section 8-32 alerts the reader that the holder of an approved arrangement must retain each record made under section 8-32 for at least 3 years (in accordance with subsection 11-10(1) of the Meat Rules).

8-33 Records of official marks received, applied, removed, defaced, destroyed or returned

Section 8-33 requires the holder of an approved arrangement to prepare prescribed meat or meat products for export at a registered establishment to make a written record of consignments of official marks received at the establishment, official marks applied to, or removed from, meat or meat products at the establishment, official marks defaced or destroyed at the establishment and official marks returned from the establishment.

This ensures only goods that meet requirements have official marks applied and tracks official marks within a registered establishment.

The note following section 8-33 explains that, under subsection 11-10(2) of the Meat Rules, the holder of an approved arrangement must retain each record for at least 3 years.

Division 3—Marks resembling official marks

8-34 Purpose of this Division

Section 256 of the Act allows the rules to make provision for and in relation to marks that resemble an official mark or are apparently intended to resemble or pass for an official mark.

Section 8-34 provides that Division 3 of Part 3 of Chapter 8 of the Meat Rules (section 8-34 to 8-36) is made for the purposes of section 256 of the Act. It sets out the circumstances where a mark that resembles, or is apparently intended to resemble or pass for, an official mark specified in Division 1 of Part 3 of Chapter 8 of the Meat Rules (a *resemblance*) may be treated as an official mark, and who may apply a resemblance. A resemblance relates to meat or meat products that are intended for export.

The note following section 8-34 alerts the reader to section 258 of the Act, which provides that a person may commit an offence or be liable to a civil penalty if the person contravenes a provision in Division 3 of Part 3 of Chapter 8 of the Meat Rules.

8-35 Circumstances in which a mark resembles an official mark

Section 8-35 details circumstances in which a mark resembles an official mark. A mark will be considered to resemble an official mark set out in Division 1 of Part 3 of Chapter 8 of the Meat Rules (i.e. be a resemblance) if it is the same design as the official mark in all material respects but its dimensions.

8-36 Persons who may apply a resemblance

Section 8-36 details who may apply a resemblance to meat or meat products, or to goods containing meat or meat products.

This is limited to a person who is designated in an approved arrangement as a person who may apply the resemblance to meat or meat products or goods containing meat or meat products, and where the application of a resemblance is in accordance with the approved arrangement.

Division 4—Official marking devices

An official marking device is defined in section 257 of the Act as a device that is capable of being used to apply an official mark but does not include a device prescribed by the rules.

8-37 Purpose of this Division

Subsection 257(2) of the Act allows the rules to make provision for and in relation to the following:

- the persons, or classes of persons, who may manufacture or possess an official marking device;
- the use of official marking devices;

- security of official marking devices;
- damaged official marking devices;
- destruction of official marking devices;
- making records of official marking devices; and
- any other matter relating to official marking devices.

Section 8-37 provides that Division 4 of Part 3 of Chapter 8 of the Meat Rules (sections 8-37 to 8-42) is made for the purposes of subsection 257(2) of the Act and makes provision for matters relating to official marking devices that are capable of being used to apply official marks as specified in Division 1 of Part 3 of Chapter 8 of the Meat Rules (sections 8-8 to 8-21) to meat or meat products that are intended to be exported. These requirements are necessary to ensure the security of official marking devices and to preserve the integrity of official marks applied to meat or meat products.

The note following section 8-37 alerts the reader to section 258 of the Act, which has the effect that a person may commit an offence or be liable to a civil penalty if the person contravenes a provision in Division 4 of Part 3 of Chapter 8 of the Meat Rules.

8-38 Persons who may manufacture, supply or possess official marking devices

Section 8-38 specifies who can manufacture, supply or possess official marking devices for applying official marks. These are

- an authorised officer or a person acting in accordance with the direction of an authorised officer; or
- a person designated in an approved arrangement as a person who may manufacture, supply or possess an official marking device, and who is acting in accordance with the arrangement; or
- a person who has been given a written approval by the Secretary to manufacture, supply or possess the official marking device, and acts in accordance with the approval.

These restrictions ensure the security of the devices and preserve the integrity of official marks.

The note following subsection 8-38(1) refers the reader to section 309 of the Act, which deals with how directions may be given by authorised officers.

Subsection 8-38(2) has the effect that the requirements in section 8-38 do not apply to an ‘Australian Government’ official mark (as provided by section 8-21 of the Meat Rules).

8-39 Security of official marking devices

Section 8-39 requires a person permitted to possess an official marking device under section 8-38 to store the device securely when it is not being used. This is to avoid unauthorised use of the official marking device.

8-40 Damaged etc. official marking devices

Section 8-40 requires a person (other than an authorised officer) in possession of an official marking device who becomes aware the device is damaged or destroyed, worn or otherwise unfit for applying an official mark to meat or meat products to notify an authorised officer in writing as soon as practicable after becoming aware of that fact.

The person must also retain the official marking device in a secure place until otherwise directed by an authorised officer. This is to ensure the ability to manufacture official marks is not compromised in any way.

8-41 Records of official marking devices manufactured or supplied

Section 8-41 requires a person (other than an authorised officer) permitted under section 8-38 of the Meat Rules to manufacture or supply official marking devices for use at establishments that are registered for operations to prepare meat or meat products for export to make a daily written record stating:

- each kind of official marking device manufactured by the person on that day; and
- the number of each kind of official marking device manufactured by the person that day; and
- the serial number of each official marking device manufactured by that person that day.

A written record must also be made stating each day official marking devices were supplied by the person to establishments that are registered for operations to prepare prescribed meat or meat products for export and how they were transported on each day.

The records provide evidence the manufacturer of official marking devices is satisfying regulatory requirements.

The note following section 8-41 explains that under section 11-11 of the Meat Rules, the person who is required to make a record under section 8-41 must retain each record for at least 3 years.

8-42 Records of official marking devices received, used, damaged, destroyed or returned

Section 8-42 requires the occupier of a registered establishment for operations to prepare prescribed meat or meat products for export to make a written record of the official marking devices that have been:

- received at the establishment;

- used to apply official marks to meat or meat products at the establishment;
- damaged or destroyed at the establishment; or
- returned from the establishment.

The note following section 8-42 explains that under section 11-11 of the Meat Rules, the occupier of the registered establishment must retain each record for at least 3 years.

CHAPTER 9—POWERS AND OFFICIALS

Part 1—Audits

Part 1 of Chapter 9 of the Meat Rules deals with matters relating to audits of export operations relating to meat or meat products.

Audits helps retain wide access to overseas export markets by ensuring compliance with export requirements and importing country requirements. Under sections 266 and 267 of the Act, the Secretary may require an audit to be conducted of export operations carried out in certain circumstances, or in relation to the performance of functions under the Act. An audit under section 266 may be conducted by an authorised officer or an approved auditor, while an audit under section 267 may be conducted by a Commonwealth authorised officer or a person prescribed by the rules made for the purposes of subsection 267(3).

Division 1—General

9-1 References to audit in this Part

Section 9-1 provides that a reference to an audit under Part 1 of Chapter 9 of the Meat Rules is a reference to the following audits under Part 1 of Chapter 9 of the Act:

- an audit of export operations carried out in relation to meat or meat products;
- an audit in relation to the performance by certain persons of their functions or the exercise of powers under the Act in relation to meat or meat products. These persons are third party authorised officers, approved auditors and any other person (other than a Commonwealth authorised officer or a State or Territory authorised officer) who performs functions or exercises powers under the Act;
- an audit in relation to compliance by a third party authorised officer or approved auditor of any conditions they are subject to when performing their functions and exercising their powers in relation to meat or meat products. Such conditions could be contained in their instruments of authorisations to be, for example, an approved auditor.

Division 2—Conduct of audit etc.

9-2 Purpose of this Division

Section 270 of the Act sets out matters relating to the conduct of an audit under the Act. Subsection 270(4) of the Act allows the rules to make provision for and in relation to other matters relating to the conduct of audits, and the processes to be followed after an audit has been completed. Subsection 270(5) provides a non-exhaustive list of matters for which the rules may make provision for under subsection 270(4).

Section 9-2 provides that Division 2 of Part 1 of Chapter 9 of the Meat Rules (sections 9-2 to 9-5) is made for the purposes of subsections 270(4) and (5) of the Act and makes provision for and in relation to the conduct of an audit, processes for dealing with any non-compliance with a requirement to which an audit relates, and audit reports.

Audits verify requirements are being met and export conditions are being complied with on an ongoing basis. This provides assurance to trading partners that import requirements are being met.

9-3 Manner in which audit must be conducted

Section 9-3 requires an audit to be conducted as expeditiously as reasonably practicable and in a way that results in minimal disruption to the export operations, or the performance of functions or the exercise of powers under the Act, to which the audit relates. This minimises the impact on industry, while still ensuring compliance with requirements is being verified.

The note following section 9-3 explains that under subsection 270(1) of the Act, the Secretary is not required to give notice of an audit.

9-4 Notice of non-compliance with requirements

Section 9-4 specifies what an auditor must do when in the auditor's opinion, following an audit of export operations under subsection 266(1) of the Act, there is or has been, a failure (or a combination of failures) that amount to non-compliance with a requirement to which the audit relates.

Subsection 9-4(1) requires that, in such circumstances, the auditor must provide written notification of the auditor's opinion. The notification must be given to the relevant person for the audit immediately after completing the audit. The auditor must also assess whether the failure (or combination of failures) is a critical non-compliance.

Providing notice of failures as soon as the audit is completed ensures transparency in the process and enables remedial action to be undertaken to minimise potential impact on export operations.

The first note following subsection 9-4(1) clarifies that under the Act, an *auditor* is an authorised officer or an approved auditor (as defined in section 12 of the Act).

The second note following subsection 9-4(1) refers the reader to section 269 of the Act for who is the *relevant person* for an audit.

Subsection 9-4(2) requires the auditor to notify the Secretary immediately in writing if, in the auditor's opinion, the failure (or combination of failures) is a critical non-compliance. This is necessary to ensure the Secretary is aware of the critical non-compliance and can take the necessary action to minimise impacts on Australia's trading reputation.

Subsection 9-4(3) specifies the failures which are *critical non-compliance* failures, for the purpose of sections 9-4 and 9-5 (audit reports). These are a failure (or a combination of failures) that:

- results in, or is likely to result in, the export or preparation for export of meat or meat products as food, the integrity of which cannot be ensured; or

- results in, or is likely to result in, the export, or the preparation for export, of meat or meat products as food that are not wholesome, not traceable, cannot be recalled if required, or do not meet an importing country requirement; or
- prevents, or is likely to prevent an accurate assessment of whether the integrity of the meat or meat products exported, or prepared for export, as food can be ensured; or
- prevents, or is likely to prevent, an accurate assessment of whether meat or meat products exported, or prepared for export, as food are wholesome, are traceable and can be recalled if required or meet an importing country requirement.

These failures may have considerable impact on Australia's trading reputation and may result in impacts on other persons or businesses through action by importing country authorities. It is therefore critical that these critical non-compliance failures are reported to the Secretary immediately, so necessary action can be implemented to mitigate consequences.

9-5 Audit reports

Section 9-5 sets out the requirements relating to audit reports, including how audit reports are to be provided, including what they must include.

Audits verify relevant requirements are being met and conditions are being complied with on an ongoing basis. Audits provide assurance to trading partners that their import requirements are being met. The audit report ensures sufficient information is provided to enable an assessment of compliance with requirements.

Subsection 9-5(1) requires an audit report to be made in writing after the audit is completed or ends.

The note following subsection 9-5(1) refers the reader to the definition of *auditor* in section 12 of the Act. An *auditor* is an authorised officer or an approved auditor.

Subsection 9-5(2) specifies that an audit report must include the name of the auditor, the day the audit commenced, the day the audit was completed or ended, the total time spent conducting the audit (in hours), a description of the export operations or persons performing functions or exercising powers under subsection 267(1) of the Act, to which the audit relates, and a description of the nature and scope of the audit.

Subsection 9-5(3) requires the audit report to also contain the auditor's opinions regarding whether the audit was satisfactorily completed or whether the audit was ended before it could be satisfactorily completed, whether the requirements to which the audit relates are being, or have been, complied with, and the reasons for the auditor's opinion on these matters.

Subsection 9-5(4) requires all instances of non-compliance with the requirements to which the audit relates to also be included in the audit report. The report must describe each failure, including whether, in the auditor's opinion, the failure (either by itself or in combination with other failures) amounts to critical non-compliance or has contributed to critical non-compliance. The report must include the reasons for the auditor's opinion on these matters.

Subsection 9-5(5) specifies that the audit report may also identify any risk of potential non-compliance with a requirement to which an audit may relate and may include recommendations that any of the following actions be taken to:

- address any non-compliance with a requirement to which the audit relates;
- ensure that non-compliance does not recur;
- address the risk of potential non-compliance with a requirement to which an audit may relate;
- assess the effectiveness of such actions.

Subsection 9-5(6) requires the audit report to be given to the Secretary and the relevant person for the audit within 14 business days after the audit has ended. The audit report must be in a manner approved by the Secretary.

The note following subsection 9-5(6) refers the reader to section 269 of the Act for who is the *relevant person* for an audit.

Division 3—Approved auditors

An approved auditor is a person trained and approved to carry out audits of export operations, including of registered establishments engaged in the preparation or storage and loading of products for export as food. Approved auditors can be engaged by the occupier of a registered establishment to conduct audits for compliance with legislative and importing country requirements and provide audit reports to the Secretary. The Secretary may, in writing, approve a person, or each person in a specified class of persons, to conduct audits under Part 1 of Chapter 9 of the Act.

9-6 Purpose of this Division

Subsection 273(1) of the Act allows the Secretary to approve a person, or each person in a specified class of persons, to conduct audits under Part 1 of Chapter 9 of the Act (approved auditors).

Subsection 273(6) of the Act allows the rules to make provision for and in relation to matters relating to the approval of persons, under subsection 273(1), as approved auditors. Subsection 273(7) provides a non-exhaustive list of examples of matters that may be the subject of rules made under subsection 273(6).

Section 9-6 provides that Division 3 of Part 1 of Chapter 9 of the Meat Rules (sections 9-6 to 9-16) is made for the purpose of subsections 273(6) and (7) of the Act and makes provision for and in relation to matters regarding the approval of individuals to conduct audits.

9-7 Application for approval

Section 9-7 deals with application requirements for an individual to become an approved auditor.

Subsection 9-7(1) provides that an individual may apply to the Secretary for approval under subsection 273(1) of the Act to conduct audits.

Subsection 9-7(2) requires an application to be made in a manner and form approved by the Secretary (if any). The application must also be accompanied by written evidence of the applicant's qualifications, a document detailing the applicant's audit experience, a document setting out procedures for the conduct of audits by the applicant and, if an application fee is prescribed by the *Export Control (Fees and Payments) Rules 2021*, that fee. This information and documentation are necessary to allow the Secretary to decide the application.

Subsection 9-7(3) provides that an application that does not comply with the requirements of subsection 9-7(2) is taken not to have been made. This means the application will not be considered unless and until all the requirements are met.

The requirements for application for approval ensures the Secretary is provided with all the relevant matters in considering whether applicants are suitably qualified and have the necessary skills to conduct audits into export operations. This also provides the Secretary with flexibility on the matters to be considered when approving an individual to be an auditor.

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

Subsection 9-8(1) has the effect that once a complete application from a person seeking approval to be an auditor is received under section 9-7, the Secretary must decide to either approve or refuse to approve the applicant to conduct audits.

The note following subsection 9-8(1) explains that a decision to refuse to approve the applicant to conduct audits is a reviewable decision under section 11-1 of the Meat Rules and the Secretary must give the applicant written notice of the decision in accordance with section 382 of the Act.

Subsection 9-8(2) sets out the requirements of which the Secretary must be satisfied before approving an applicant to conduct audits. The Secretary must have regard to any matter they consider relevant, and must be satisfied that the applicant:

- is a fit and proper person (having regard to the matters referred to in section 372 of the Act);
- has the necessary competency (for example, the knowledge, training, skills or experience) to conduct audits;
- is able to conduct audits objectively, independently, fairly and accurately;
- will comply with Division 2 of Part 1 of Chapter 9 of the Meat Rules in relation to audits conducted (which deal with non-compliance and audit reports); and
- will comply with procedures for conducting audits that are necessary to ensure that the requirements in paragraphs 9-8(2)(c) and (d) are met and can be accurately assessed.

Subsection 9-8(3) sets out the circumstances in which the Secretary may refuse to approve an applicant to conduct audits. These include where the applicant has a relevant Commonwealth liability that has not been paid, or has provided false, misleading, or incomplete information, statements, or documents in an application, under the Act or under a prescribed agriculture law, with no reasonable grounds for doing so.

Prescribed agriculture law has the same meaning as it does in section 12 of the Act.

The note following section 9-8 explains that, under the Act, the Secretary must not approve a person to conduct audits unless satisfied the person satisfies, or will satisfy, certain training and qualification requirements determined by the Secretary under subsections 273(3) and (4) of the Act.

9-9 Dealing with applications

Section 9-9 provides that the Secretary may request an applicant to provide further specified information or documents relevant to the application for the purpose of the Secretary making a decision on that application under section 9-7. The request must be in writing, specify the timeframe in which to comply and specify the manner in which the request is to be complied with.

This ensures that the Secretary can efficiently decide an application based on all relevant information or documents.

9-10 Conditions of approval

Subsection 9-10(1) specifies that the approval of an applicant under subsection 273(1) of the Act to conduct audits may be subject to any conditions the Secretary considers necessary.

The note following subsection 9-10(1) explains that a decision to approve the application subject to conditions is a reviewable decision under the Act (referring to section 11-1 of the Meat Rules) and the Secretary must give the applicant written notice of the decision in accordance with section 382 of the Act.

Subsection 9-10(2) provides that, without limiting subsection 9-10(1), the conditions of an approval to conduct an audit may relate to the scope of audits the auditor is approved to conduct, including by reference to the kind of export operations, aspects of the export operations (such as whether the operations comply, have complied or will comply with the relevant requirements of the Act, importing country requirements relating to operations of that kind are being, have been, or will be met, or the operations are being, have been, or will be carried out in accordance with an approved arrangement), or a kind of export operations carried out at a kind of place (for example, an accredited property or a registered establishment).

This provides the Secretary with the flexibility to specify the kinds of audits an approved auditor can undertake. It allows the Secretary to limit or broaden the scope of an approved auditor's functions and powers, in line with their experience, qualifications, the kind of audit and requirements for export operations.

9-11 Notice of decision

Section 9-11 requires the Secretary to provide the applicant with a written notice of approval to conduct audits if the Secretary approves the applicant under subsection 273(1) of the Act. The notification must include that the applicant is approved to conduct audits, the date the approval takes effect, the scope of the audits covered, that the approval remains in force for 12 months unless revoked earlier under section 9-14 of the Meat Rules, and any conditions of the approval imposed under section 9-10 of the Meat Rules.

9-12 Period of effect of approval

Section 9-12 specifies that an approval of an individual under subsection 273(1) of the Act to conduct audits takes effect on the date stated in the notice given under section 9-11 of the Meat Rules and remains in force for 12 months unless revoked earlier under section 9-14 of the Meat Rules. This ensures approved auditors maintain the currency of their qualifications to conduct audits.

9-13 Imposing or varying conditions of approval

Subsection 9-13(1) provides that, if an individual is approved, under subsection 273(1) of the Act to conduct audits, the Secretary may, if they consider it necessary to do so, impose conditions on the approval or vary the conditions of the approval (including by imposing new conditions or removing conditions). A variation of conditions may include removing conditions or imposing new conditions.

The note following subsection 9-13(1) explains that a decision to impose conditions or vary the conditions of an approval to conduct audits is a reviewable decision under the Act (see section 11-1 of the Meat Rules) and the Secretary must give the applicant written notice of the decision in accordance with section 382 of the Act.

Subsection 9-13(2) provides that, if the Secretary imposes conditions on, or varies the conditions of an approval, the Secretary must notify the individual in writing of the conditions imposed or the varied conditions (including any new conditions), the reason for imposing or varying the conditions, and the date that the conditions or varied conditions take effect.

This ensures that the process is transparent and accountable, and provides the individual with adequate information about the decision to impose or vary the conditions of an approval.

9-14 Revocation of approval

Section 9-14 sets out the requirements for revoking an approval, granted under section 273 of the Act, of an individual to conduct audits.

Subsection 9-14(1) provides that the Secretary can revoke an approval of an individual to conduct audits where the individual requests the revocation or, where the Secretary is satisfied of any of the grounds listed.

The grounds for the Secretary to revoke an approval on their own initiative is that the Secretary is satisfied of any of the following:

- the individual is no longer a fit and proper person (having regard to the matters referred to in section 372 of the Act);
- the individual does not have the necessary competency (for example, the knowledge, training, skills or experience) to conduct audits of the kind covered by the approval (including the conditions of the approval);
- the individual failed to show competency in conducting audits;
- an audit conducted by the individual, or an audit report given to the Secretary by the individual, was not objective, independent, fair or accurate;
- an audit conducted by the individual was not completed, and the audit report did not give any reasonable explanation as to why the audit was not completed;
- an audit report given to the Secretary by the individual was incomplete;
- the individual failed to comply with a relevant requirement prescribed by Division 2 of Part 1 of Chapter 9 of the Meat Rules;
- the individual contravened a condition of the approval;
- the individual made a false, misleading or incomplete statement, or provided false, misleading or incomplete information or documents, in an application for approval, or in a document under the Act or under a prescribed agriculture law, without reasonable grounds for doing so.

The note following subsection 9-14(1) explains that a decision to revoke the approval is a reviewable decision under the Act (referring to section 11-1 of the Meat Rules) and the Secretary must give the holder of the approval written notice of the decision in accordance with section 382 of the Act.

Subsection 9-14(2) provides that, for the purposes of paragraph 9-14(1)(b) or (c), the Secretary may assess the competency of an approved auditor at any time and in any way the Secretary considers appropriate.

Subsection 9-14(3) provides that, for the purposes of paragraph 9-14(1)(d), the Secretary may consider any interest, pecuniary or otherwise, of the individual that conflict or could conflict with the conduct of an audit by the individual.

The purpose of section 9-14 is to ensure the necessary knowledge, training, skills and experience are maintained and that audits conducted are objective, independent, fair and accurate.

Subsection 9-14(4) requires the Secretary, if they decide to revoke an individual's approval to conduct audits, to give to the individual a written notice stating the approval is to be revoked, the reasons for the revocation and the date the revocation takes effect. This ensures that the process is transparent and accountable, and provides the individual with adequate information about the decision. Subsection 9-14(4) does not apply if the individual requests the revocation.

9-15 Register of approved auditors

Section 9-15 provides that the Secretary must keep a register of individuals who are approved under subsection 273(1) of the Act to conduct audits. The register may be kept by electronic means, at a place and in a form that the Secretary determines, and must be publicly accessible. The register must include the names of the individuals approved to conduct audits and any conditions on their approval to undertake audits.

The purpose of this provision is to ensure transparency and accountability in relation to individuals the Secretary approves to undertake audits. It also ensures that information about all approved auditors is publicly available so that anyone being audited can identify and verify these auditors and the conditions under which they operate. This is necessary as approved auditors perform functions and exercise powers under the Act.

9-16 Fit and proper person test

Subsection 372(1) of the Act sets out which provisions in the Act require the Secretary to comply with the requirements of section 372 of the Act when determining whether a person is a fit and proper person. Paragraph 372(1)(d) allows the rules to provide additional provisions of the Act for which the requirements in section 372 will apply (which includes instruments made under the Act, such as provisions of the Meat Rules).

Subsection 9-16(1) prescribes, for the purposes of paragraph 372(1)(d) of the Act, provisions of the Meat Rules to which the fit and proper person test will apply. These are:

- section 9-8, relating to a decision to approve an individual to conduct audits; and
- section 9-14, relating to a decision to revoke an approval of an individual to conduct audits.

Subsection 9-16(2) prescribes section 9-7 (application by an individual to conduct audits) of the Meat Rules, for the purposes of subparagraph 372(2)(e)(v) of the Act. This has the effect that when determining whether a person is a fit and proper person, the Secretary must consider whether an application under section 9-7 of the Meat Rules made by the person or an associate of the person was refused. It is important the Secretary consider this matter to determine whether an applicant is a fit and proper person.

Paragraph 372(4)(b) of the Act allows the rules to prescribe a person to whom the requirements under subsection 372(2) of the Act, which determine whether a person is a fit and proper person, will apply without reference to an associate of the person.

Subsection 9-16(3) prescribes an approved auditor for the purposes of paragraph 372(4)(b) of the Act. This means the requirements to determine whether an auditor is a fit and proper person under subsection 372(2) of the Act refer only to the auditor and not to an associate of the auditor.

Section 374 of the Act relates to the notification that a person has been convicted of an offence or ordered to pay a pecuniary penalty. Paragraph 374(1)(g) provides that section 374 applies to any other person prescribed by the rules, and who carries out export operations, or performs functions or duties or exercises powers under the Act.

Subsection 9-16(4) prescribes, for the purposes of paragraph 374(1)(g) of the Act, an approved auditor. This means an approved auditor is required to notify the Secretary of any conviction of an offence or order to pay a pecuniary penalty for a contravention involving fraud or dishonesty in accordance with subsection 374(4) of the Act, or in relation to an associate of the person under subsection 374(5) of the Act. Failure to do so is a contravention of a civil penalty provision under subsection 374(6) of the Act.

Prescribing these provisions for the fit and proper person test is necessary to ensure that a prospective auditor is of a suitable character to conduct audits. Audits are necessary to establish whether export operations comply with the Act and the requirements of importing countries. Audits also involve access to business premises where commercially sensitive operations are conducted. It is essential that approved auditors are trustworthy and undertake audits with integrity. For these reasons, the fit and proper test applies when deciding whether to approve an individual to conduct audits and when deciding whether to revoke an approval to conduct audits.

Part 2—Assessments

An assessment of goods may be carried out for the purpose of deciding whether to issue a government certificate (paragraph 68(c) of the Act) or and export permit (paragraph 241(c) of the Act). The purpose of the assessment is to verify that:

- the requirements of the Act have been or will be complied with before the goods are imported into the importing country;
- importing country requirements have been, or will be, met before the goods are imported into the importing country; or
- a matter stated, or to be stated, in a government certificate in relation to the goods is true and correct.

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

Subsection 277(1) of the Act provides that an assessment of goods may be carried out under Part 2 of Chapter 9 of the Act only if the assessment is required or permitted to be carried out under the Act. Subsection 277(2) of the Act allows the rules to prescribe circumstances in which the Secretary may require or permit an assessment of goods to be carried out under Part 2 of Chapter 9 of the Act.

Section 9-17 is made for the purposes of subsection 277(2) of the Act and provides that the Secretary may require or permit an assessment of prescribed meat or meat products to be carried out by an assessor who is an authorised officer at any stage of export operations to prepare prescribed meat or meat products for export if the Secretary considers it necessary to ensure that one or more objects of the Act will be met in relation to the meat or meat products. This provides the Secretary with flexibility to determine when it is necessary for an assessment of prescribed meat or meat products to be carried out. This reflects the possibility that the circumstances requiring an assessment are likely to change from time to time and may need to commence at short notice.

The note following section 9-17 refers the reader to the definition of *assessor* in section 12 of the Act and clarifies that, for an assessment of prescribed meat or meat products, the assessor is an authorised officer whose functions and powers include carrying out assessments of prescribed meat or meat products.

Part 3—Powers of the Secretary

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

Subsection 286(1) of the Act allows the Secretary to arrange for the use, under the Secretary's control, of computer programs for making certain decisions under the Act. Subsection 286(2) allows the rules to prescribe the kinds of decisions that may be made by the operation of a computer program, the persons or bodies that may use such a computer program, and the conditions of that use.

Subsection 9-18(1) prescribes, for the purposes of paragraph 286(2)(a) of the Act, the following decisions that may be made by a computer program (an *authorised computer program*) under an arrangement made under subsection 286(1) of the Act in relation to meat or meat products:

- a decision under paragraph 67(1)(a) of the Act to issue a government certificate; and
- a decision under paragraph 225(1)(a) of the Act to issue an export permit.

Enabling the Secretary to prescribe decisions which may be made by computer programs will provide flexibility in relation to the use of computer programs as there are changes in technology. Allowing computer programs to make certain decisions will also provide administrative efficiency. An advantage of allowing a computer program to issue government certificates and export permits is that decisions are made more efficiently, are not limited to being made during business hours, and are more accurate and consistent.

It is appropriate to enable a computer program to issue a government certificate because the decision under paragraph 67(1)(a) of the Act is based on objective criteria and would not require the computer program to weigh up discretionary factors. Only a decision to issue a certificate is prescribed for the purposes of the Meat Rules, and any decision to refuse to issue, including the consideration of any discretionary factors, would be made by a human decision maker.

It is appropriate to enable a computer program to issue an export permit as the decision under paragraph 225(1)(a) is based on objective criteria and does not require the computer program to weight up discretionary factors. Only a decision to issue an export permit is prescribed for the purposes of the Meat Rules and any decision to refuse to issue a permit, including the consideration of any discretionary factors, would be made by a human decision maker.

Under subsection 286(3) of the Act, the Secretary is required to take all reasonable steps to ensure decisions made by a computer program under the arrangement are correct. If the Secretary is satisfied that the decision made by the operation of the computer program is incorrect, the Secretary may make a decision in substitution for that made by the computer program (subsection 286(5)).

Paragraph 286(2)(b) of the Act allows the rules to prescribe the persons or bodies that may use computer programs under an arrangement in subsection 286(1).

Subsection 9-18(2) is made for the purposes of paragraph 286(2)(b) of the Act and details who may use an authorised computer program if the Secretary has given them a unique identifier to access the computer program. These persons are:

- the occupier of a registered establishment where operations to prepare meat or meat products for export are carried out;
- the holder of an approved arrangement for operations to prepare meat or meat products for export at a registered establishment;
- an exporter of meat or meat products;
- a person who provides services to, and is authorised in writing by, the occupier, holder or exporter to use the computer program to make the decision;
- an authorised officer;
- an APS employee in the Department;
- a person performing services for the Department under a contract.

This ensures access to the computer program is only by those who require access to perform their functions.

Paragraph 286(2)(c) of the Act allows the rules to prescribe the conditions of the use of computer programs under an arrangement in subsection 286(1).

Subsection 9-18(3) is made for the purposes of paragraph 286(2)(c) of the Act and sets the conditions for use of the computer program by the persons listed under subsection 9-18(2). It provides that a person who has access to and uses the authorised computer program must be satisfied on reasonable grounds that the information entered into the computer program is true and correct and is accurately entered. This is to avoid, as far as practicable, incorrect or incomplete information being entered into the computer program which may result in an incorrect decision.

Part 4—Authorised officers

Division 1—Third party authorised officers

An authorised officer is able to perform a range of export functions on behalf of the Department. Authorised officers play an important role in ensuring the risk free, safe and trusted export of a variety of commodities, which helps maintain Australia’s reputation as a trusted exporter of quality goods.

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

Subsection 291(3) of the Act provides that a person who is not an officer or employee of a Commonwealth body or a State or Territory body may apply to the Secretary to be a third party authorised officer. Subsection 291(7) of the Act allows the Secretary to authorise a person who is not an officer or employee of a Commonwealth body or a State or Territory body to be a third party authorised officer if the requirements of that subsection are met. Paragraph 291(7)(c) allows the rules to prescribe additional requirements that must be met for the Secretary to authorise a person to be a third party authorised officer.

Subsection 9-19(1) is made for the purposes of paragraph 291(7)(c) of the Act and sets out an additional requirement that a person be a fit and proper person (having regard to the matters referred to in section 372 of the Act) to be a third party authorised officer whose functions and powers will include carrying out specialised inspection services in relation to meat or meat products (having regard to the matters referred to in section 372 of the Act). Authorised officers perform functions or duties or exercise powers under the Act and the Meat Rules.

Third party authorised officers may have access to business premises where commercially sensitive operations are conducted. It is important that they are trustworthy and undertake their roles with integrity. For these reasons, an individual is required to be a fit and proper person to be authorised to perform functions and exercise powers in relation to prescribed meat or meat products.

Subsection 372(1) of the Act sets out which provisions in the Act require the Secretary to comply with the requirements of section 372 when determining whether a person is a fit and proper person. Paragraph 372(1)(d) allows the rules to provide additional provisions of the Act for which the requirements in section 372 will apply (which includes instruments made under the Act, such as provisions of the Meat Rules).

Subsection 9-19(2) is made for the purposes of paragraph 372(1)(d) of the Act and prescribes subsection 9-19(1) as a provision to which the fit and proper person test applies. This means the fit and proper person requirements in section 372 of the Act apply in relation to a third party authorised officer. This is necessary to ensure that a prospective third party authorised officer is of a suitable character to perform functions or exercise powers under the Act.

Paragraph 372(2)(e) of the Act requires the Secretary to have regard to whether certain applications by a person, or an associate of the person, have been refused, when determining whether the person is a fit and proper person. Subparagraph 372(2)(e)(v) allows the rules to prescribe any other provision of the Act to be considered for this purpose.

Subsection 9-19(3) is made for the purposes of subparagraph 372(2)(e)(v) of the Act and prescribes subsection 291(3) of the Act (application by person to be third party authorised officer whose functions and powers will include carrying out specialised inspection services in relation to prescribed meat or meat products). This means that in determining whether the applicant is a fit and proper person, the Secretary must have regard to whether the person or an associate of the person has made an application to be a third party authorised officer that has been refused. It is expected that the Secretary will consider the reasons for refusing an application to be a third party authorised officer in determining whether an applicant is a fit and proper person.

Paragraph 372(4)(b) of the Act allows the rules to prescribe a person to whom the requirements under subsection 372(2) of the Act, which determine whether a person is a fit and proper person, will apply without reference to an associate of the person.

Subsection 9-19(4) is made for the purposes of paragraph 372(4)(b) of the Act and prescribes a person who is a third party authorised officer whose functions and powers will include carrying out specialised inspection services in relation to meat or meat products. This means the requirements in subsection 372(2) of the Act regarding the mandatory considerations when determining whether a third party authorised officer whose functions and powers include carrying out specialised inspection services in relation to meat or meat products is a fit and proper person refers only to the third party authorised officer and not to an associate.

Section 374 of the Act relates to the notification that a person has been convicted of an offence or ordered to pay a pecuniary penalty. Paragraph 374(1)(g) provides that section 374 applies to any other person prescribed by the rules, and who carries out export operations, or performs functions or duties or exercises powers under the Act.

Subsection 9-19(5) is made for the purposes of paragraph 374(1)(g) of the Act and prescribes a third party authorised officer whose functions and powers include carrying out specialised inspection services in relation to meat or meat products. This means that such a person is required to notify the Secretary of any conviction of an offence or order to pay a pecuniary penalty for a contravention of Australian law involving fraud or dishonesty for that person (under subsection 374(4) of the Act) or an associate (under subsection 374(5) of the Act). Failure to comply with this requirement is a contravention of a civil penalty provision under subsection 374(6) of the Act.

Subsection 9-19(6) provides that, for the purposes of section 9-19, a *specialised inspection service* in relation to meat or meat products is an inspection for the purpose of ensuring that the requirements of the Act have been or will be complied with, or importing country requirements are or will be met in relation to:

- trade descriptions applied, or to be applied, to meat or meat products; or
- export operations carried out at an accredited property or covered by the accreditation of a property, in relation to meat or meat products; or
- meat or meat products that are derived from bovine animals sourced from an accredited property.

Division 2—Functions and powers

9-20 Purpose of this Division

Section 300 of the Act provides that the rules may confer functions or powers on authorised officers, or a class of authorised officers, that are necessary or convenient to be performed or exercised for the purposes of achieving the objects of the Act.

Section 9-20 is made for the purposes of section 300 of the Act and provides that Division 2 of Part 4 of Chapter 9 of the Meat Rules (sections 9-20 to 9-33) confers functions and powers on authorised officers or classes of authorised officers. These powers and functions are necessary or convenient to be performed or exercised for the purposes of achieving the objects of the Act in relation to meat or meat products for export.

The note following section 9-20 explains that under subsection 301(1) of the Act, an authorised officer may only perform the functions or powers that are conferred on the officer by the Act that are specified in that officer's instrument of authorisation.

9-21 Functions specified in Australian Meat Standard

Section 9-21 provides that an authorised officer may perform all of the functions of a meat safety inspector specified in the Australian Meat Standard.

9-22 Applying admission decisions

Subsection 9-22(1) provides an authorised officer may apply decisions in accordance with any of clauses 6.4 to 6.9 of the Australian Meat Standard (admission decisions) to an animal that is intended to be slaughtered at a registered establishment. This power is, however, subject to the limitation in subsection 9-22(3).

Subsection 9-22(2) provides that an authorised officer may inspect animals that are intended to be slaughtered at a registered establishment before applying a decision referred to in subsection 9-22(1).

The first note following subsection 9-22(2) refers the reader to section 6 of the Australian Meat Standard, which deals with the supply and admission of animals for slaughter.

The second note following subsection 9-22(2) refers the reader to section 9-26 of the Meat Rules which has the effect that an authorised officer may apply a decision under the subsection 9-22(2) subject to conditions, and may vary such a decision.

Subsection 9-22(3) applies if an animal has been, or may have been:

- used for trials or experiments to evaluate drugs, chemicals, biological substances or processes of genetic manipulation; or
- treated with or exposed to, a new or unidentified drug, chemical or biological substance.

In these circumstances, an authorised officer must not decide to admit the animal to a registered establishment for slaughter unless the admission is subject to conditions specified

by the authorised officer, and the Secretary has notified the authorised officer, in writing, that the animal may be admitted subject to those conditions. This is necessary to ensure the wholesomeness of the prescribed meat or meat products by allowing the Secretary to consider the risks associated with admitting the animal to a registered establishment for slaughter.

9-23 Inspections of animals for slaughter and applying ante mortem dispositions

Section 9-23 permits an authorised officer to inspect animals intended for slaughter at registered establishments and apply dispositions in accordance with the Australian Meat Standard. After the inspection of the animal, the authorised officer must apply dispositions in accordance with any of clauses 8.8 to 8.19 of the Australian Meat Standard (ante-mortem dispositions) to the animal.

The conferral of these functions is necessary to allow authorised officers to ensure the wholesomeness and integrity of prescribed meat or meat products.

The first note following section 9-23 refers the reader to section 8 of the Australian Meat Standard, which deals with ante-mortem inspections and dispositions.

The second note following section 9-23 refers the reader to section 9-26 of the Meat Rules, which has the effect that an authorised officer may apply a disposition under section 9-23 subject to conditions, and may vary such a disposition. For example, a disposition may be varied if, after a post-mortem inspection, meat or meat products deteriorate or further information is obtained about residue levels.

9-24 Inspections of carcasses and carcass parts and applying post-mortem dispositions

Subsection 9-24(1) provides that an authorised officer may inspect carcasses and carcass parts and, after carrying out an inspection, must apply a disposition to the carcass or carcass parts in accordance with subsections 9-24(3) and (4). These functions assist authorised officers in ensuring the wholesomeness and integrity of carcasses and carcass parts for export.

The first note following subsection 9-24(1) refers the reader to section 10 of the Australian Meat Standard, other than clause 10.12 which is not required to be met (see subsection 4-3(2) of the Meat Rules).

The second note following subsection 9-24(1) refers the reader to section 9-26 of the Meat Rules, which provides that an authorised officer may apply a disposition under section 9-24 subject to conditions, and may vary such a disposition.

Subsection 9-24(2) provides that in complying with clause 10.5 of the Australian Meat Standard, the following inspection procedures are not required to be followed:

- the procedures specified for ‘other tissues and organs’ in Table 2 of Schedule 2 to the Australian Meat Standard; and
- the procedures specified for ‘other tissues’ in Table 3 of Schedule 2 to the Australian Meat Standard.

Subsection 9-24(3) details the dispositions which must be applied to carcasses and subsection 9-24(4) details the dispositions for carcass parts.

Under subsection 9-24(3), one of the following dispositions must be applied to carcasses:

- passed for human consumption;
- passed for human consumption and unsuitable for export;
- passed for human consumption and unsuitable for export to a specified country;
- retained for final disposition;
- unfit for human consumption and may be recovered for animal food;
- unfit for human consumption and may be recovered for pharmaceutical material; or
- condemned.

For carcass parts, it is a requirement to either apply one of the dispositions referred to above for carcasses, or apply a disposition that the carcass parts are derived from an animal the carcass of which is passed for human consumption and the carcass parts require further treatment to be fit for human consumption (subsection 9-24(4)).

Post-mortem inspection covers the inspection of carcasses and carcass parts used for human food. The purpose of the post-mortem inspection is to protect public health by ensuring the carcasses and carcass parts are wholesome, not adulterated, and are properly marked, labelled, and packaged. This means that any carcasses or carcass parts that are unwholesome or adulterated, and thereby unfit for human food, do not enter trade. It is important this is expressly provided for in the Meat Rules given the significance of this kind of inspection.

9-25 Inspections of meat and meat products and applying dispositions

Section 9-25 permits authorised officers to inspect meat or meat products. After the inspection, the authorised officer must apply a disposition to the goods. The dispositions that must be applied are one of the following:

- the dispositions listed under subsection 9-24(3); or
- unsuitable for export as food; or
- unsuitable for export as food to a specified country.

This assists authorised officers in ensuring the wholesomeness and integrity of meat and meat products for export for a specific purpose and to a specific destination.

The first note following section 9-25 refers the reader to section 9-26 of the Meat Rules which has the effect that an authorised officer may apply a disposition under section 9-25 subject to conditions, and may vary such a disposition. For example, a disposition may be

varied if, after inspection, meat or meat products deteriorate or further information is obtained about residue levels.

The second note following section 9-25 refers the reader to section 9-32 of the Meat Rules, which deals with powers of authorised officers where the integrity of meat or meat products may not be able to be ensured.

9-26 Applying decisions or dispositions subject to conditions and variation

Subsection 9-26(1) provides an authorised officer may apply a decision or disposition referred to below subject to any conditions that are necessary to achieve the objects of the Act. The relevant decisions or dispositions are:

- a decision referred to in subsection 9-22(1) (applying admission decisions in accordance with the Australian Meat Standard); or
- a disposition referred to in paragraph 9-23(b), subsections 9-24(3) or (4) or paragraph 9-25(b) (applying dispositions).

Subsection 9-26(2) requires an authorised officer to specify any conditions to which a decision or disposition is subject under subsection 9-26(1) to be applied at the time the decision or disposition is applied.

Subsection 9-26(3) permits an authorised officer to vary decisions or dispositions, or the conditions to which a decision or disposition is subject, if they reasonably believe the circumstances that led to the application of the decision or disposition referred to in subsection 9-26(1) have changed. This flexibility is necessary to allow for changes in circumstances where an alternative decision, disposition or condition would be appropriate.

9-27 Stopping chain of operations temporarily or controlling rate of operations

Section 9-27 permits an authorised officer to temporarily stop the chain of operations or control the rate of operations being carried out in relation to animals, carcasses or carcase parts, or meat or meat products in certain circumstances.

These circumstances are if the authorised officer reasonably believes it is necessary for the purposes of accurately inspecting or applying a disposition or decision to animals (under sections 9-22 or 9-23) carcasses or carcase parts (under section 9-24), meat or meat products (under section 9-25), or for the purposes of performing other functions necessary to achieve the objects of the Act in relation to the animals, carcasses or carcase parts, or meat or meat products.

This is necessary to ensure that meat or meat products are wholesome, and their integrity can be ensured.

9-28 Functions to be performed by veterinary officer, or authorised officer acting under supervision of veterinary officer

The purpose of section 9-28 is to clarify those functions performed at a registered establishment by an authorised officer must be performed by a veterinary officer or an authorised officer acting under the supervision of a veterinary officer.

Subsection 9-28(2) provides that if a veterinary officer is at the registered establishment, the following functions must be performed by a veterinary officer, or an authorised officer acting under the supervision of a veterinary officer:

- assessing information in relation to an animal that is given to an authorised officer;
- inspecting animals and applying decisions or dispositions to animals;
- inspecting restricted slaughter animals, or their carcasses or carcase parts, and applying decisions or dispositions to restricted slaughter animals or their carcasses or carcase parts.

Subsection 9-28(3) provides that if a veterinary officer is at the registered establishment, the function of implementing procedures for notifiable diseases must be performed by a veterinary officer.

The note following subsection 9-28(3) refers the reader to section 1-5 of the Meat Rules for the definition of *veterinary officer*.

9-29 Inspecting establishments and securing areas, facilities, equipment or other things

Subsection 9-29(1) allows an authorised officer to inspect an establishment (or any area of an establishment), any facilities or equipment or other things at the establishment and any services provided at the establishment or an area of the establishment, where operations are being carried out to prepare or transport meat or meat products for export. This provision alone does not give an authorised officer the power of entry. Entry to the establishment will need to be exercised in accordance with the powers provided for in the Act.

The note following subsection 9-29(1) provides that vehicles or other conveyances are examples of other things that may be at an establishment or area of an establishment.

Subsection 9-29(2) allows an authorised officer to secure an area of an establishment or facilities or equipment or any other thing at the establishment that has been, or is to be, inspected under subsection 9-29(1), if the authorised officer considers it necessary to do so in order to enable functions to be performed, or powers to be exercised, under the Act in relation to meat or meat products that are to be, or have been, prepared at the establishment or transported to or from the establishment.

The authorised officer may secure the area, facilities, equipment or other thing by attaching or applying an identification tag or similar means of identification. This power is necessary to ensure all persons at the establishment are aware of areas that are secured so as to allow authorised officers to exercise their powers and functions (including to conduct inspections).

Subsection 9-29(3) requires the identification tag or other means of identification used under subsection 9-29(2), to be in a form approved by the Secretary. This ensures there is

consistency with the means of identifying secured areas, facilities, equipment and other things.

Subsection 9-29(4) specifies that only an authorised officer or a person acting in accordance with a direction by an authorised officer may remove the identification tag or other means of identification that has been attached or applied to the area, facilities, equipment or other thing. This ensures the identification is only removed when the area or thing is no longer required to be secured.

The note following section 9-29(4) refers the reader to section 309 of the Act, which deals with how a direction may be given by an authorised officer.

9-30 Securing and identifying establishment or conveyance etc.

Subsection 9-30(1) specifies the things and areas, including establishments or conveyances, which an authorised officer may secure, or retain and identify, for the purpose of carrying out an assessment or inspection of meat or meat products, or applying a treatment or a disposition to meat or meat products. These are:

- a thing found at an establishment that is used, or is apparently used, for operations to prepare meat or meat products;
- a thing found in or on a conveyance that is used, or apparently used, to transport meat or meat products;
- an area of a registered establishment that is used or apparently used, for operations to prepare meat or meat products, including any facilities or equipment or services provided in that area;
- an establishment (other than a registered establishment) that is used, or apparently used, for operations to prepare meat or meat products;
- a conveyance that is used, or apparently used, to transport meat or meat products.

These functions are necessary to ensure that prescribed meat or meat products for export are wholesome and their integrity can be ensured.

Subsection 9-30(2) requires a thing, area, establishment or conveyance referred to in subsection 9-30(1) to be identified by attaching or applying an identification tag or similar means of identification. This is necessary to ensure that all persons at the establishment are aware of the things and areas that are secured to allow authorised officers to deal with things or the area.

Subsection 9-30(3) provides that the identification tag, or other means of identification used under subsection 9-30(2), must be in a form approved by the Secretary. This ensures there is consistency with the means of identifying secured areas.

Subsection 9-30(4) specifies that only an authorised officer or a person acting in accordance with a direction given by an authorised officer may remove the identification tag or other

means of identification. This ensures the identification is only removed when the thing or area is no longer being dealt with by an authorised officer.

The note following subsection 9-30(4) refers the reader to section 309 of the Act, which deals with how a direction may be given by an authorised officer.

9-31 Interference with identified establishment or conveyance etc.

Section 9-31 provides that only an authorised officer or a person acting in accordance with a direction given by an authorised officer can interfere with or use any area, thing, establishment or conveyance, or move any thing or conveyance identified under section 9-30.

The note following section 9-31 refers the reader to section 309 of the Act for how a direction may be given by an authorised officer.

9-32 Powers where integrity of prescribed meat or meat products may not be able to be ensured

Section 9-32 sets out powers that may be exercised by authorised officers when the integrity of prescribed meat or meat products may not be able to be ensured.

Subsection 9-32(1) permits an authorised officer to apply a disposition of unsuitable for export as food, or unsuitable for export as food to a specific country, to prescribed meat or meat products if they reasonably believe the integrity of the prescribed meat or meat products cannot be ensured.

The first note following subsection 9-32(1) provides an example of a situation where the authorised officer may reasonably believe the integrity of the prescribed meat or meat products cannot be ensured.

The second note following subsection 9-32(1) explains that, under subsection 305(1) of the Act, the authorised officer may also give a direction to the holder of an approved arrangement.

Subsection 9-32(2) provides a non-exhaustive list of grounds on which an authorised officer may reasonably believe the integrity of the prescribed goods cannot be ensured. These grounds include:

- where a trade description that does not comply with section 8-6 of the Meat Rules (dealing with general requirements for trade descriptions) or that has been altered or interfered with in contravention of subsection 250(1) or (2) of the Act, has been applied to the meat or meat products;
- a part of a trade description has been applied to the meat or meat products, in a language other than English and that part is inconsistent with the part that is in English;
- where an official mark, or a mark that is a resemblance (within the meaning of Division 3 of Part 3 of Chapter 9 of the Meat Rules), that has been applied to the

meat or meat products does not meet the applicable requirements in Chapter 8 of the Meat Rules;

- where there is non-compliance with a condition of the approved arrangement as provided for under Subdivisions D to G of Division 2 of Part 1 of Chapter 5 of the Meat Rules in relation to the meat or meat products in circumstances where the condition should have been complied with before the integrity of the meat or meat products was called into question.

The first note following section 9-32 refers the reader to the definition of *applied*, in relation to an official mark, in subsection 8-23(1) of the Meat Rules.

The second note following section 9-32 refers the reader to the definition of *applied*, in relation to a trade description, in section 247 of the Act.

The third note following section 9-32 refers the reader to Subdivisions D to G of Division 2 of Part 1 of Chapter 5 of the Meat Rules, which deals with conditions imposed on approved arrangements for operations to prepare prescribed meat or meat products for export in relation to trade descriptions, official marks, segregation, identification, security, traceability, integrity and transfers.

9-33 Giving certificate of condemnation

Section 9-33 sets out when an authorised officer may give a certificate of condemnation for an animal, or a carcase or carcase part. A certification of condemnation may be given if:

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

A certificate of condemnation certifies that the animal, or a carcase or carcase part, has been condemned. The condemnation certificate may be issued upon request to an authorised officer, for example, if the condemnation is due an insurable event.

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

9-34 Other grounds for giving direction

Subsection 305(1) of the Act specifies the person to whom an authorised officer may give a direction under the Act to deal with non-compliance, and the grounds for which the direction may be given. Item 8 of the table in subsection 305(1) allows the rules to prescribe additional kinds of persons and grounds for giving a direction to those prescribed persons.

Section 9-34 is made for the purposes of item 8 of the table in subsection 305(1) of the Act and prescribes, specifically in relation to prescribed meat or meat products, additional persons who may be given a direction by an authorised officer to deal with non-compliance, and the grounds under which a direction may be given. Persons that may be given directions to deal with non-compliance are listed in column 1 of the table and the grounds for giving the directions are in column 2 of the table.

The additional persons to whom an authorised officer may give a direction are applicants for, and holders of, government certificates and applicants for, and holders of, export permits for prescribed meat or meat products.

The relevant grounds for giving a direction to applicants for, and holders of, government certificates relate to:

- some of all of the meat or meat products not complying, or not likely to comply, with a requirement of the Act that applies in relation to the meat or meat products; or
- some of all of the meat or meat products not meeting, or not likely to meet, a relevant importing country requirement relating to the meat or meat products; or
- where a matter to be stated in the government certificate in relation to the meat or meat products is not true and correct.

The relevant grounds for giving a direction to applicants for, and holders of, export permits relate to:

- some or all of the meat or meat products not being wholesome or having deteriorated; or
- where it is likely that the integrity of some or all of the meat or meat products cannot be ensured.

Issuing directions enables authorised officers to deal with meat or meat products that may affect Australia's trading reputation or may not meet importing country requirements.

Division 4—Miscellaneous

9-35 Circumstances in which identity card need not be carried

Section 306 of the Act deals with identity cards. Subsection 306(5) provides that an authorised officer or approved auditor need not carry the identity card in the circumstances prescribed by the rules.

Section 9-35 is made for the purposes of subsection 306(5) of the Act and provides that an authorised officer or approved auditor is not required to carry an identity card at an establishment, or part of an establishment, where it would be unsafe or unhygienic to do so, or where there would be a risk of the card, or the meat or meat products at the establishment, being contaminated.

CHAPTER 10—COMPLIANCE AND ENFORCEMENT

10-1 Samples taken in exercising monitoring or investigation powers

Section 326 of the Act triggers the standard suite of monitoring powers in Part 2 of the *Regulatory Powers (Standard Provisions) Act 2014* (Regulatory Powers Act) for the purposes of the Act. Section 327 provides for additional monitoring powers on top of the standard monitoring powers. Those additional monitoring powers are taken to be monitoring powers under Part 2 of the Regulatory Powers Act.

Section 329 of the Act triggers the baseline investigation powers in Part 3 of the Regulatory Powers Act for the purposes of the Act. Section 330 provides for additional investigation powers on top of the standard investigation powers. Those additional investigation powers are taken to be investigation powers under Part 3 of the Regulatory Powers Act.

One of the additional monitoring and investigation powers provided by paragraph 327(2)(a) and subsection 330(2) of the Act is the power to take, test and analyse samples of any thing on premises entered under Part 2 or 3 of the Regulatory Powers Act.

Section 10-1 provides requirements for a sample taken under paragraph 327(2)(a) and subsection 330(2) of the Act. The sample must be identified with a mark or tag and kept in the custody or control of an authorised officer until whichever of the following listed events occurs first. The listed events are where the sample is:

- destroyed during testing or analysis in accordance with section 412 of the Act; or
- given to an analyst appointed under section 413 of the Act; or
- otherwise disposed of.

10-2 Dealing with things seized in exercising investigation powers

Section 10-2 sets out the requirements if a thing is seized at premises that have been entered by an authorised officer under an investigation warrant or under subsection 347(1) of the Act (where the authorised officer has reasonable grounds for suspecting there may be a thing on the premises that relates to an offence or contravention of a civil penalty provision).

The seized thing must be identified with a mark or tag and kept in the custody or control of an authorised officer until whichever of the following listed events occurs first. The listed events are where the thing is:

- given to an analyst appointed under section 413 of the Act; or
- destroyed during testing or analysis in accordance with section 412 of the Act; or
- forfeited in accordance with subsection 416(1) of the Act; or
- destroyed or otherwise disposed of in accordance with section 418 of the Act; or

- returned or disposed of in accordance with, respectively, subsection 66(4) or section 68 of the Regulatory Powers Act.

The note following section 10-2 refers the reader to subsection 347(1) of the Act, which deals with entry to premises that are, or that form part of, an accredited property or a registered establishment.

CHAPTER 11—MISCELLANEOUS

Part 1—Review of decisions

11-1 Reviewable decisions

Section 381 of the Act sets out the decisions under the Act that are *reviewable decisions* and who can seek a review of such decisions (the *relevant person*). A reviewable decision can be reviewed on its merits internally and, in certain circumstances, externally by the Administrative Appeals Tribunal.

Subsection 381(2) of the Act allows the rules to prescribe additional decisions to be reviewable decisions under the Act, and the relevant person for such decisions.

Section 11-1 is made for the purposes of subsection 381(2) of the Act and details the decisions made under the Meat Rules which are reviewable decisions. These decisions relate to determining allocations of meat inspection services to an establishment, and the approval of a person to conduct audits.

The specified relevant person may apply in writing for review of these decisions. Section 383 of the Act sets out the process for internal review of reviewable decisions, other than decisions made by the Secretary personally. The review will be conducted by the Secretary or a delegate of the Secretary who has not been previously involved and who is senior to the original decision-maker. The Secretary or their delegate may affirm the decision, vary the decision, or set the decision aside and substitute a new decision. Review by the Administrative Appeals Tribunal is set out in section 385 of the Act.

Reviewable decisions are in column 1 of the table in section 11-1, the provisions of the Meat Rules under which the reviewable decision is made is in column 2 of the table and the relevant person for the decision is in column 3 of the table.

Prescribing the decisions and relevant persons is necessary to allow for review consistent with the Government's policy that an administrative decision that is likely to affect the rights or interests of an individual should be reviewable on its merits, unless to do so would be inappropriate or there are factors justifying the exclusion of merits review.

Part 2—Records

Retention of records is necessary for monitoring compliance with importing country requirements and government and industry standards. Records may also be relevant in relation to the traceability of goods if there is a need to recall those goods. Retaining records is essential for accountability and enables oversight of the export supply chain.

11-2 Purpose of this Part

Section 408 of the Act deals with requirements to retain records. Subsection 408(1) allows the rules to make provision for and in relation to requiring records to be retained by any of the following (relevantly):

- a person who carries out, or has carried out, export operations in relation to prescribed goods;
- a person who manages or controls, or who has managed or controlled, export operations at a registered establishment;
- a person who manages or controls, or has managed or controlled, export operations in accordance with an approved arrangement;
- a person who carries out, or has carried out, export operations in relation to non-prescribed goods in relation to which an application for a government certificate has been made or a government certificate has been issued.

Subsection 408(2) sets out a non-exhaustive list of matters that may be the subject of rules made under section 408.

Section 11-2 provides that Part 2 of Chapter 11 of the Meat Rules (sections 11-2 to 11-12) is made for the purposes of subsections 408(1) and (2) of the Act and makes provision for and in relation to the retention of records in relation to meat or meat products.

The note following section 11-2 alerts the reader that a person may commit an offence of strict liability if the person is required to make a record in accordance with a provision of Part 2 of Chapter 11 of the Meat Rules and does not comply (subsection 408(3) of the Act).

11-3 General requirements for records

Section 11-3 sets out the general requirements for records required to be retained under Part 2 of Chapter 11 of the Meat Rules in relation to meat or meat products.

Subsection 11-3(1) requires such records to be in English, and to be dated, accurate, legible and able to be audited. In addition, if the record was required to be in another language to meet importing requirements, it must also be kept in that other language (in addition to English).

Subsection 11-3(2) specifies that a person is considered to have complied with a requirement to retain a record under Part 2 of Chapter 11 of the Meat Rules if they have retained a copy of a document where the original version was given to another person, as required, under a Commonwealth, State or Territory law, or in accordance with ordinary commercial practice.

11-4 Government certificates

Subsection 11-4(1) requires a person to whom a government certificate in relation to meat or meat products is issued under the Act to retain the certificate in a secure place when it is not being used.

Subsection 11-4(2) provides that the requirement in subsection 11-4(1) does not apply in relation to a government certificate issued by electronic means.

This ensures, for example, that a government certificate is not misused or lost.

11-5 Export permits

Subsection 11-5(1) requires the person to whom an export permit for prescribed meat or meat products is issued under the Act, to retain the permit in a secure place when it is not being used.

Subsection 11-5(2) provides that the requirement in subsection 11-5(1) does not apply in relation to an export permit issued by electronic means.

This ensures, for example, that an export permit is not misused or lost.

11-6 Records to be retained by exporter

Subsection 11-6(1) and (2) require an exporter of prescribed meat or meat products to retain the following records for at least 2 years starting on the day the record is made or when it comes into their possession:

- each declaration given to the exporter under subsection 5-16(2) of the Meat Rules;
- each application by the exporter for an export permit for prescribed meat or meat products; and
- any other document that is made by the exporter or that comes into the exporter's possession that is relevant to showing whether they have complied, or are complying, with the applicable requirements of the Act.

11-7 Records to be retained by manager of accredited property

Subsection 11-7(1) requires the manager of an accredited property to retain each document:

- that is made by the manager or that comes into their possession; and
- that is relevant to showing for the purpose of an audit under Part 1 of Chapter 9 of the Act:
 - whether the requirements prescribed by Division 1 of Part 2 of Chapter 3 of the Meat Rules for the property are continuing to be met; or
 - whether the conditions of the accreditation of the property have been, and are being, complied with.

Subsection 11-7(2) provides that the manager of the accredited property must retain each record for at least 2 years, starting on the day the record is made by the manager or when it comes into the manager's possession (as the case may be).

11-8 Records to be retained by occupier of registered establishment

Subsection 11-8(1) requires the occupier of a registered establishment that is registered for a kind of export operations in relation to prescribed meat or meat products to retain each document:

- that is made by the occupier or that comes into their possession; and
- that is relevant to showing whether they have complied, or are complying, with the applicable requirements of the Act (including the conditions of the establishment's registration).

Subsection 11-8(2) provides that the occupier of the registered establishment must retain each record for at least 2 years, starting on the day the record is made by the occupier or when it comes into the occupier's possession (as the case may be).

11-9 Records to be retained by holder of approved arrangement

Subsection 11-9(1) requires the holder of an approved arrangement for a kind of export operations in relation to prescribed meat or meat products to retain each document they make or that comes into their possession that is relevant to showing compliance with the applicable requirements of the Act, the approved arrangement, and the conditions of the approved arrangement.

The note following subsection 11-9(1) provides an example for an Islamic organisation that holds an approved arrangement for Halal meat certification operations, and the records under subsections 5-58(2) (verification of compliance), 5-59(2) (action to address non-compliance) and 5-60(3) (internal audits and management reviews) of the Meat Rules.

Subsection 11-9(2) provides that the holder of the approved arrangement must retain each record for at least 2 years, starting on the day the record is made by the holder or when it comes into the holder's possession (as the case may be).

11-10 Records relating to official marks

Section 11-10 requires the holder of an approved arrangement that covers the manufacture or supply of official marks for use at establishments that are registered for operations to prepare meat or meat products for export to retain each record made under sections 8-32 (official marks manufactured or supplied) and 8-33 (official marks received, applied, removed, defaced, destroyed or returned) of the Meat Rules for at least 3 years after making the record.

11-11 Records relating to official marking devices

Section 11-11 sets out that a person who is required to make a record under section 8-41 (official marking devices manufactured or supplied) or 8-42 (official marking devices received, used, damaged, destroyed or returned) of the Meat Rules must retain each record for at least 3 years after making the record.

11-12 Records must not be altered or defaced during retention period

Subsection 11-12(1) provides that records that are required to be retained under Part 2 of Chapter 11 of the Meat Rules must not be altered or defaced during the period they are required to be kept (the *retention period*).

Subsection 11-12(2) provides that records can be marked up or have notations added to them in accordance with ordinary practice.

Subsection 11-12(3) provides that where a record (the *original record*) is altered or defaced during the retention period, the person responsible for keeping the record must also retain additional documents. These are any documents that come into the person's possession or are created by the person, which shows how the original record was altered or defaced.

Part 3—Samples

11-13 Storage of samples

Section 411 of the Act allows the rules to make provision for and in relation to the storage of samples that may be tested or analysed under the Act.

Subsection 11-13(1) is made for the purposes of section 411 of the Act and requires samples that may be tested or analysed under the Act, to be held under conditions that are unlikely to affect the result of any testing or analysis of the samples. This is necessary to preserve the integrity of samples that may be used for regulatory purposes.

Subsection 11-13(2) provides that the requirement in subsection 11-13(1) does not apply in the context of samples that may be tested under Chapter 10 of the Act (compliance and enforcement) or the Regulatory Powers Act. This exception is necessary to allow for samples to be tested and analysed under those provisions in a manner that may destroy the sample.

Part 4—Damaged or destroyed meat or meat products

11-14 Division of compensation between owners

Section 419 of the Act allows the Secretary to approve the payment of a reasonable amount of compensation in respect of goods that are damaged or destroyed in the course of exercising powers or functions under the Act if the Secretary considers it appropriate. Section 420 provides for matters relating to claims for compensation under section 419.

Subsection 420(2) of the Act sets out who can be paid compensation approved under section 419. Relevantly, paragraph 420(2)(b) provides that if there are 2 or more owners of the compensable goods, the compensation is to be divided among those owners as prescribed by the rules.

Section 11-14 is made for the purposes of paragraph 420(2)(b) of the Act and sets out how compensation is to be divided among 2 or more owners of damaged or destroyed meat or meat products. The total compensation payable must be divided among those owners according to their proportion of interest in the meat or meat products at the time of destruction or damage.

The Secretary must be satisfied the proportion represents the owner's interest at the time the goods were damaged or destroyed. This ensures each owner is paid an amount of compensation equal to their share of ownership that the Secretary considers is equitable in the circumstances and no owner is disadvantaged because of the destruction of, or damage to, the goods.

11-15 Amount of compensation

Subsection 420(5) of the Act provides that the amount of compensation payable under subsection 419(1) is a reasonable amount prescribed by, or determined in accordance with, the rules.

Section 11-15 is made for the purposes of subsection 420(5) of the Act and specifies the amount of compensation payable under subsection 419(1) of the Act to the owners of damaged or destroyed meat or meat products, where the damage or destruction occurred in the course of performing functions or duties, or exercising powers, under the Act.

Subsection 11-15(1) provides the amount of compensation payable for meat or meat products damaged by a person who is performing functions or duties or exercising powers under the Act. This is the lesser of either the amount the Secretary determines was the market value of the meat or meat products immediately before they were damaged, or the cost of repairing the damage.

The note following subsection 11-15(1) refers the reader to subsection 419(2) of the Act, which deals with when compensation is not payable in respect of goods that are damaged as a result of samples of the goods being taken during an audit, during an assessment or as permitted by subsection 327(2) or 330(2) of the Act.

Subsection 11-15(2) provides that the amount of compensation payable for destroyed meat or meat products is the amount the Secretary determines was the market value of the meat or meat products immediately before their destruction.

Part 5—Relevant Commonwealth liabilities

11-16 Circumstances in which relevant Commonwealth liability of a person is taken to have been paid

Section 431 of the Act provides that a relevant Commonwealth liability of a person is taken to have been paid for the purposes of a specified provision of the Act in the circumstances prescribed by the rules.

Subsection 11-16(1) provides that section 11-16 is made for the purposes of section 431 of the Act and prescribes circumstances in which a relevant Commonwealth liability of a person is taken to have been paid for the purposes of certain provisions of the Act (a ***relevant provision***). The specified provisions of the Act are:

- paragraph 79(2)(a) (accreditation of property);
- paragraph 84(2)(b) (renewal of accreditation of property);

- paragraph 112(2)(b) (registration of establishment)
- paragraph 117(2)(b) (renewal of registration of establishment);
- paragraph 151(2)(b) (approval of proposed arrangement);
- paragraph 156(2)(b) (renewal of approved arrangement);
- paragraph 161(3)(a) (variation of approved arrangement);
- paragraph 191(2)(b) (grant of export licence);
- paragraph 196(2)(b) (renewal of export licence);
- paragraph 199(3)(a) (variation of export licence).

The note following subsection 11-16(1) refers the reader to section 12 of the Act for the definition of *relevant Commonwealth liability*.

Subsection 11-16(2) prescribes the circumstances that a relevant Commonwealth liability is taken to have been paid for the purposes of the provisions specified in subsection 11-16(1). These circumstances are where:

- the person, or another person, has given a written undertaking (a *payment undertaking*) to the Secretary to pay the amount; and
- the payment undertaking includes a term that the relevant Commonwealth liability is to be reduced by the amount paid in accordance with the undertaking, and
- the Secretary accepts the undertaking.

When accepting an undertaking, the Secretary must consider the financial position of the person who gave the payment undertaking, the nature and likely cost of the export operations, whether the person will be able to comply with the undertaking and, if applicable, meet the cost of the export operations, and any other relevant considerations (paragraph 11-15(2)(c)).

This ensures that the Secretary is able to approve, among other things, the registration of an establishment or a proposed arrangement even where the relevant Commonwealth liability of the applicant has not been paid, provided the requirements of this section are met.

Subsection 11-16(3) provides that the payment undertaking may be given by a person in relation to their relevant Commonwealth liability, or the relevant Commonwealth liability of another person.

Subsections 11-16(4) and (5) allow for a single undertaking to relate to 2 or more Commonwealth liabilities. Should a single undertaking relate to 2 or more Commonwealth liabilities, or a person has provided 2 or more undertakings in relation to different Commonwealth liabilities, then the Secretary may decide in which order payments are to be applied to reduce the outstanding Commonwealth liabilities.

Subsection 11-16(6) allows for a payment undertaking to be varied at any time by agreement between the Secretary and the person who gave the undertaking.

Subsection 11-16(7) allows the Secretary to agree to a variation to a payment undertaking if, having considered the matters at paragraph 11-16(2)(c), the Secretary considers the variation appropriate, and the variation does not reduce the amount of the remaining liability.

The matters the Secretary is required to consider at paragraph 11-16(2)(c) are the same matters that the Secretary must consider when deciding whether to accept the undertaking in the first place, namely the financial position of the person who gave the undertaking, the nature and likely cost of the relevant export operations, whether the person will be able to comply with the undertaking and, if applicable, meet the cost of the export operations and any other relevant considerations.

CHAPTER 12 – TRANSITIONAL PROVISIONS

The transitional provisions in Chapter 12 will ensure that:

- persons who have submitted applications under the old *Export Control (Meat and Meat Products) Orders 2005* (old Export Control (Meat) Orders) do not have to resubmit those applications for a decision or determination to be made;
- decisions or determinations made under the old Export Control (Meat) Orders remain effective;
- requests made by an authorised officer in relation to trade descriptions remain effective; and
- approvals for a person to make or possess an official mark or an official marking device remain effective.

These transitional provisions in Chapter 12 are in addition to transitional provisions provided for in the *Export Control (Consequential Amendments and Transitional Provisions) Act 2020* which provides transitional arrangements for matters that were under the old Export Control (Meat) Orders and are now dealt with in the Act. This includes, for example, the transition of registered establishments, approved arrangements, and government certificates.

Part 1—Preliminary

12-1 Definitions

Section 12-1 defines terms which are used in Chapter 12 of the Meat Rules.

The term ***commencement time*** is defined as the time when section 3 of the Act commences.

The term ***old Export Control (General) Order*** is defined as the *Export Control (Prescribed Goods—General) Order 2005*, as in force immediately before the commencement time.

The term ***old Export Control (Meat) Orders*** is defined as the *Export Control (Meat and Meat Products) Orders 2005* as in force immediately before the commencement time. The Orders will be repealed at the commencement of the Meat Rules.

Part 2—Registered establishments: meat inspection services

12-2 Allocations of inspection services in effect immediately before commencement time

Subsection 12-2(1) provides that section 12-2 applies if an allocation of inspection services for a registered established under Part 1 of Schedule 10 to the old Export Control (Meat) Orders was in effect immediately before the commencement time.

Subsection 12-2(2) has the effect that, after the commencement time, such allocation of inspection services continues will have effect after the commencement time as if it were an allocation of meat inspection services to the registered establishment under Division 1 of Part 6 of Chapter 4 of the Meat Rules.

12-3 Application for inspection services not decided, or notice of decision not given, before commencement time

Subsection 12-3(1) provides that section 12-3 applies to an application for inspection services for a registered establishment that had been made under paragraph 1.1(b) of Schedule 10 to the old Export Control (Meat) Orders if no decision on the application had been made before the commencement time or a decision had been made before the commencement time, but written notice had not been given to the applicant before that time.

In relation to applications where no decision had been made before the commencement time, subsection 12-3(2) provides that the application is taken after the commencement time to be an application under section 4-22 of the Meat Rules for a preliminary allocation of meat inspection services to the registered establishment, and subsections 4-22(2) and (3) of the Meat Rules do not apply to the application.

Subsections 4-22(2) and (3) of the Meat Rules prescribe requirements for applications for allocations of meat inspection services, such as that the application must be made in the manner and form approved by the Secretary, where applicable, be made at least 90 days before operations to prepare prescribed meat or meat products for export at the establishment are to commence, and set out details of intended operations.

In relation to applications where a decision had been made before the commencement time, but written notice of the decision had not been given to the applicant before that time, paragraph 12-3(3)(a) provides that the decision is taken after the commencement time to be a determination of the preliminary allocation of meat inspection services to the establishment under subsection 4-23(1) of the Meat Rules. Paragraph 12-3(3)(b) further provides that the Secretary must as soon as practicable after the commencement time give the applicant written notice in accordance with section 4-24 of the Meat Rules.

The note following subsection 12-3(3) directs the reader to section 4-25 of the Meat Rules, which deals with the procedure following notice of the preliminary allocation.

12-4 Notice of preliminary determination of allocation given before commencement time

Subsection 12-4(1) provides that section 12-4 applies if the Secretary had given written notice of a preliminary determination of the allocation of inspection services to the occupier of a registered establishment under subclause 3.1 of Schedule 10 to the old Export Control (Meat) Orders, and both of the following apply before the commencement time:

- a memorandum of agreed intent under subclause 4.1 of Schedule 10 had not been completed by the Secretary and the occupier; and
- there had not been an application by the occupier to the Secretary under subclause 5.1 of Schedule 10 for the establishment of a committee to review the preliminary determination.

Subsection 12-4(2) provides that the notice of preliminary determination continues to have effect after the commencement time as if it were a written notice stating the preliminary allocation of meat inspection services to the registered establishment given to the occupier under subsection 4-24(1) of the Meat Rules.

The note following subsection 12-4(2) refers the reader to section 4-25 of the Meat Rules, which deals with the procedure following notice of the preliminary allocation.

12-5 Preliminary determination of allocation agreed before commencement time

Subsection 12-5 relates to memoranda of agreed intent, and determinations of the Secretary that have been deemed to be memoranda of agreed intent.

Subsection 12-5(1) provides that if the Secretary and the occupier of a registered establishment had completed a memorandum of agreed intent under subclause 4.1 of Schedule 10 to the old Export Control (Meat) Orders, that memorandum of agreed intent continues to have effect after the commencement time as if it had been completed under subsection 4-25(1) of the Meat Rules.

Subsection 12-5(2) provides that a determination of the Secretary that had been deemed to be a memorandum of agreed intent under subclause 5.2 of Schedule 10 to the old Export Control (Meat) Orders continues to have effect after the commencement time as if it had been taken to be a memorandum of agreed intent between the Secretary and the occupier of the registered establishment under subsection 4-25(2) of the Meat Rules.

12-6 Revised determination made, but notice not given, before commencement time

Subsection 12-6(1) provides that section 12-6 applies if the Secretary had made a revised determination of the allocation of inspection services for a registered establishment under subclause 6.1 of Schedule 10 to the old Export Control (Meat) Orders but written notice of the revised determination had not been given to the occupier of the establishment before the commencement time.

Subsection 12-6(2) provides that such a revised determination made under the old Export Control (Meat) Orders is taken to be a determination of a revised allocation of meat inspection services to the registered establishment under paragraph 4-26(2)(a) of the Meat Rules.

Subsection 12-6(3) provides that the Secretary must, as soon as practicable after the commencement time, give the occupier of the registered establishment written notice of the determination, and subsection 12-6(4) provides that such a notice has effect as if it had been given under paragraph 4-26(2)(b) of the Meat Rules.

The note following subsection 12-6(4) directs the reader to section 4-27 of the Meat Rules, which deals with the procedure following notice of a revised allocation.

12-7 Notice of revised determination of inspection services given before commencement time

Subsection 12-7(1) provides that section 12-7 applies if the Secretary had given the occupier of a registered establishment written notice of a revised determination under subclause 6.1 of Schedule 10 to the old Export Control (Meat) Orders, and both of the following apply before the commencement time:

- the Secretary and the occupier had not completed a memorandum of written intent under subclause 7.1 of Schedule 10; and
- the occupier had not applied to the Secretary under subclause 8.1 of Schedule 10 for the establishment of a committee to review the revised determination.

Subsection 12-7(2) provides that the notice of the revised determination continues to have effect after the commencement time as if it were a written notice stating the revised allocation of meat inspection services to the establishment given to the occupier under subsection 4-26(2) of the Meat Rules.

The note following subsection 12-7(2) refers the reader to section 4-27 of the Meat Rules, which deals with the procedure following notice of a revised allocation.

12-8 Revised determination of allocation agreed before commencement time

Section 12-8 provides that if the Secretary and the occupier of a registered establishment had completed a memorandum of agreed intent under subclause 7.1 of Schedule 10 to the old Export Control (Meat) Orders, the memorandum of agreed intent continues to have effect after the commencement time as if it had been completed under subsection 4-27(2) of the Meat Rules.

12-9 Application for review committee made but committee not established before commencement time

Subsection 12-9(1) provides that:

- where an application had been made under the old Export Control (Meat) Orders (subclause 5.1 of Schedule 10) to establish a committee to review a preliminary determination of the allocation of inspection services to a registered establishment prior to the commencement time; and
- the Secretary had not established the committee prior to the commencement time;

that application is taken, after the commencement time, to have been made under subsection 4-25(3) of the Meat Rules to establish a committee to review the determination.

Subsection 12-9(2) provides that:

- where an application had been made under the old Export Control (Meat) Orders (subclause 8.1 of Schedule 10) to establish a committee to review a revised

determination of the allocation of inspection services to a registered establishment prior to the commencement time; and

- the Secretary had not established the committee prior to the commencement time;

that application is taken, after the commencement time, to have been made under subsection 4-27(4) of the Meat Rules to establish a committee to review the determination.

12-10 Committee review in progress before commencement time

Subsection 12-10(1) provides that section 12-10 applies where a committee has been established under the old Export Control (Meat) Orders (subclause 9.1 of Schedule 10) to review a determination (or a revised determination) of the Secretary of the allocation of inspection services for a registered establishment, and where the committee has either not completed its review, or not made any recommendations to the Secretary prior to the commencement time.

Subsection 12-10(2) has the effect that where the committee has not completed its review prior to the commencement time, the committee must complete its review and provide a written recommendation to the Secretary after the commencement time as if the old Export Control (Meat) Orders (Part 1 of Schedule 10) were still in force.

Subsection 12-10(3) has the effect that where the committee has completed its review, but has not provided any recommendations to the Secretary prior to the commencement time, the committee must provide a written recommendation to the Secretary as soon as practicable concerning the appropriate allocation of meat inspection services to the registered establishment.

Subsection 12-10(4) provides that a recommendation given under section 12-10 is taken to be given under subsection 4-28(4) of the Meat Rules.

12-11 Determination reconsidered, but notice not given, before commencement time

Subsection 12-11(1) provides that section 12-11 applies if the Secretary has determined the allocation of inspection services for the registered establishment under subclause 11.1 of Schedule 10 to the old Export Control (Meat) Orders, but has not given written notice of that decision prior to the commencement time (under subclause 12.1 of Schedule 10).

Subsection 12-11(2) has the effect that, in these circumstances, the determination made under the old Export Control (Meat) Orders is taken, after the commencement time, to have been made under subsection 4-29(1) of the Meat Rules.

The note following subsection 12-11(2) explains that a determination made under subsection 4-29(1) of the Meat Rules replaces any earlier determination of an allocation of meat inspection services to the establishment and is taken to be a memorandum of agreed intent between the Secretary and the occupier of the registered establishment.

Subsection 12-11(3) requires the Secretary to give written notice of the decision to the occupier as soon as practicable after the commencement time in accordance with subsections 4-29(4) and (5) of the Meat Rules.

The note following subsection 12-11(3) explains that a decision under subsection 4-29(1) of the Meat Rules is a reviewable decision, referring to section 11-1 of the Meat Rules and Part 2 of Chapter 11 of the Act.

12-12 Application to alter inspection services not decided before commencement time

Subsection 12-12(1) provides that section 12-12 applies where an application to alter an allocation of inspection services has been made under the old Export Control (Meat) Orders (subclause 19.1 of Schedule 10), but no decision on that application had been made prior to the commencement time. Subsection 12-12(2) has the effect that, in such circumstances, the application is taken, after the commencement time, to have been made under subsection 4-30(1) of the Meat Rules to vary an allocation of meat inspection services.

Subsection 12-12(3) provides that subsections 4-30(2) to (4) of the Meat Rules (concerning application requirements) do not apply to such applications.

12-13 Application for additional inspection services not decided before commencement time

Subsection 12-13(1) provides that section 12-13 applies where an application for additional inspection services was made under the old Export Control (Meat) Orders (subclause 20.1 of Schedule 10), but no decision on that application had been made prior to the commencement time. Subsection 12-13(2) has the effect that, in such circumstances, the application is taken, after the commencement time, to have been made under section 4-31 of the Meat Rules for additional meat inspection services.

Subsection 12-13(3) sets out on what basis the application for additional meat inspection services to be allocated is taken to be. Specifically:

- if the applicant's allocation of inspection services immediately before the commencement time had been on an annual basis, the application is taken to be for additional meat inspection services to be allocated on a monthly or weekly basis;
- if the applicant's allocation of inspection services immediately before the commencement time had been on a monthly basis, the application is taken to be for additional meat inspection services to be allocated on a weekly basis;
- if the applicant's allocation of inspection services immediately before the commencement time had been on a weekly basis, the application is taken to be for additional meat inspection services to be allocated on a weekly or daily basis;
- if the applicant's allocation of inspection services immediately before the commencement time had been on a daily basis, the application is taken to be for additional meat inspection services to be allocated on a daily basis;
- if the applicant's allocation of inspection services immediately before the commencement time had been on an hourly basis, the application is taken to be for additional meat inspection services to be allocated on an hourly basis.

Subsection 12-13(4) provides that subsections 4-31(2) to (7) of the Meat Rules (concerning application requirements) do not apply to such applications.

12-14 Notice of termination of additional inspection services given before commencement time

Subsection 12-14(1) provides that section 12-14 applies where the occupier of a registered establishment had given written notice under the old Export Control (Meat) Orders (subclause 21.1 of Schedule 10) to terminate additional inspection services (or any part thereof) allocated to the establishment, but the notice period had not ended prior to the commencement time.

Subsection 12-14(2) provides that, after the commencement time, the notice continues to have effect as if it had been given under section 4-34 of the Meat Rules. The notice period remains unchanged and the Secretary must terminate the additional inspection services (or part thereof) at the end of the period specified in the notice.

12-15 Notice of shutdown given before commencement time

Subsection 12-15(1) provides that section 12-15 applies where the occupier of a registered establishment had given written notice under the old Export Control (Meat) Orders (subclause 22.1 of Schedule 10) that inspection services were not required for a shutdown period specified in the notice, but the notice period had not ended prior to the commencement time.

Subsection 12-15(2) provides that, after the commencement time, the notice continues to have effect as if it had been given under section 4-32 of the Meat Rules.

12-16 Variation of allocation for change of circumstances not advised before commencement time

Subsection 12-16(1) provides that section 12-16 applies if the Secretary had, prior to the commencement time, varied the allocation of inspection services allocated to a registered establishment under the old Export Control (Meat) Orders (subclause 23.1 of Schedule 10), but had not advised the occupier of the establishment of the variation prior to the commencement time.

Subsections 12-16(2) and (3) have the combined effect that, in these circumstances, the variation is, after the commencement time, taken to be a variation of the allocation of meat inspection services to the establishment made under subsection 4-33(2) of the Meat Rules and the Secretary is required, as soon as practicable after the commencement time, to give written notice to the occupier of the variation in accordance with the requirements of subsection 4-33(3) of the Meat Rules.

12-17 Disputed allocation not decided before commencement time

Subsection 12-17(1) provides that section 12-17 applies in relation to an application made under the old Export Control (Meat) Orders (subclause 24.1 of Schedule 10) for reconsideration of a variation of the allocation of inspection services to a registered establishment for which no decision has been made prior to the commencement time.

Subsection 12-17(2) has the effect that, in such circumstances, the application is taken, after the commencement time, to have been made under subsection 4-33(4) of the Meat Rules for reconsideration of the varied allocation and will be processed as such.

12-18 Notice of reconsideration of disputed allocation not given before commencement time

Subsection 12-18(1) provides that section 12-18 applies where the Secretary had determined, under the old Export Control (Meat) Orders (subclause 24.3 of Schedule 10), a new allocation of inspection services for a registered establishment following a reconsideration of a varied allocation, but written notice of the new allocation had not been given to the occupier prior to the commencement time (subclause 26.1 of Schedule 10).

Subsections 12-18(2) and (3) have the combined effect that, after the commencement time, the determination is taken to have been made under paragraph 4-33(6)(b) of the Meat Rules and the Secretary is required to give the occupier of the registered establishment written notice of the determination in accordance with paragraph 4-33(7)(b) of the Meat Rules.

The note following section 12-18 explains that a decision under paragraph 4-33(6)(b) of the Meat Rules is a reviewable decision, referring to section 11-1 of the Meat Rules and Part 2 of Chapter 11 of the Act.

Part 3—Approved arrangements

12-19 Information and declarations given before commencement time

Subsection 12-19(1) provides that section 12-19 applies if information and declarations had been given, under the old Export Control (Meat) Order (subclause 8.1 of Schedule 7), to a consignee that is the occupier of a registered establishment in relation to meat or meat products that were at the establishment immediately prior to the commencement time.

Subsection 12-19(2) has the effect that, at the commencement time, such information and declarations are taken to be information and declarations that are required to be given to the occupier under section 5-38 of the Meat Rules, and are taken to have been given to the occupier in accordance with paragraph 5-38(2)(b) of the Meat Rules.

Part 4—Other matters relating to export

Division 1—Trade descriptions

12-20 Request for translation not complied with before commencement time

Section 12-20 has the effect that if an authorised officer had, by written notice to a person under the old Export Control (Meat) Orders (suborder 91.1), requested a translation of part of a trade description or other information but the request had not been complied with prior to the commencement time, the notice continues to have effect after the commencement time as if it had been given to the person under subsection 8-7(3) of the Meat Rules.

Division 2—Official marks

12-21 Person approved before commencement time to manufacture an official mark

Subsection 12-21(1) provides that section 12-21 applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under the old Export Control (General) Order (subsection 13.18(2)) as a person who may manufacture an official mark in relation to prescribed meat or meat products.

Subsection 12-21(2) has the effect that, at the commencement time, the person is taken to have been given a written approval by the Secretary under paragraph 8-24(c) of the Meat Rules to manufacture or supply the official mark in relation to prescribed meat or meat products.

12-22 Person approved before commencement time to possess an official mark

Subsection 12-22(1) provides that section 12-22 applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under the old Export Control (General) Order (paragraph 13.18(3)(e)) as a person who may possess an official mark in a specified registered establishment in relation to prescribed meat or meat products (other than an official mark that has been applied to the goods).

Subsection 12-22(2) has the effect that, at the commencement time, the person is taken to have been given a written approval by the Secretary under paragraph 8-25(d) of the Meat Rules to possess the official mark at the registered establishment in relation to prescribed meat or meat products.

12-23 Person approved before commencement time to apply an official mark

Subsection 12-23(1) provides that section 12-23 applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under the old Export Control (General) Order (paragraph 13.18(3)(e)) as a person who may apply an official mark in a specified registered establishment in relation to prescribed meat or meat products.

Subsection 12-23(2) has the effect that, at the commencement time, the person is taken to have been given a written approval by the Secretary under paragraph 8-26(2)(d) of the Meat Rules to apply the official mark at the registered establishment in relation to prescribed meat or meat products.

Division 3—Official marking devices

12-24 Person approved before commencement time to manufacture an official marking device

Subsection 12-24(1) provides that section 12-24 applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under the old Export Control (General) Order (subsection 13.18(2)) to manufacture an official marking device that is capable of being used to apply an official mark to prescribed meat or meat products.

Subsection 12-24(2) has the effect that, at the commencement time, the person is taken to have been given a written approval by the Secretary under paragraph 8-38(1)(c) of the Meat Rules to manufacture or supply the official marking device.

12-25 Person approved before commencement time to possess an official marking device

Subsection 12-25(1) provides that section 12-25 applies in relation to a person who, immediately before the commencement time, was approved by the Secretary under the old Export Control (General) Order (subsection 13.18(2)) to possess an official marking device that is capable of being used to apply an official mark to prescribed meat or meat products.

Subsection 12-25(2) has the effect that, at the commencement time, the person is taken to have been given a written approval by the Secretary under paragraph 8-38(1)(c) of the Meat Rules to possess the official marking device.

Part 5—Powers and officials

Division 1—Approved auditors

12-26 Application for approval as auditor not decided, or notice of decision not given, before commencement time

Subsection 12-26(1) provides that section 12-26 applies to an application by a person for approval as an approved auditor that had been made under the old Export Control (Meat) Orders (subclause 2.1 of Schedule 9) prior to the commencement time, and for which:

- no decision on the application was made; or
- a decision was made but written notice of that decision had not been given;

prior to the commencement time.

Subsection 12-26(2) deals with applications for which a decision was not made prior to the commencement time. Such applications are taken to have been made to the Secretary under subsection 9-7(1) of the Meat Rules to approve the individual under subsection 273(1) of the Act, and will be decided in accordance with the Meat Rules. However, the requirements in subsections 9-7(2) and (3) (concerning application requirements) of the Meat Rules do not apply to such applications.

Subsections 12-26(3) to (5) deal with applications for which a decision was made prior to the commencement time but written notice of that decision had not been given by the Secretary to the applicant prior to the commencement time.

For such applications:

- if the decision that was made prior to the commencement time was to approve the person as an approved auditor, the decision is taken to have been a decision under paragraph 9-8(1)(a) of the Meat Rules. The Secretary must give the applicant written

notice of the decision in accordance with section 9-11 of the Meat Rules as soon as practicable after the commencement time; or

- if the decision that was made prior to the commencement time was to refuse to approve the applicant as an approved auditor, the decision is taken to be a decision under paragraph 9-8(1)(b) of the Meat Rules. The Secretary must, as soon as practicable after the commencement time, give the applicant written notice of the decision.

The note following section 12-26 explains that a decision to refuse to approve the applicant as an approved auditor is a reviewable decision (referring to section 11-1 of the Meat Rules) and the Secretary must give the applicant written notice of the decision in accordance with section 382 of the Act.

12-27 Request for further information not complied with before commencement time

Subsection 12-27(1) has the effect that if the Secretary had, under the old Export Control (Meat) Orders (subclause 3.1 of Schedule 9), requested a person who applied for approval as an approved auditor to provide further specified information or documents, but the request had not been complied with prior to the commencement time, the request must be complied with after the commencement time as if it had been given by the Secretary under subsection 9-9(1) of the Meat Rules.

Subsection 12-27(2) provides that if the request did not specify the period within which the request must be complied with, it must be complied with as soon as practicable.

12-28 Decision to revoke approval as auditor decided, but notice not given before commencement time

Subsection 12-28(1) provides that where the Secretary had, prior to the commencement time, made a decision under the old Export Control (Meat) Orders (subclause 11.1 of Schedule 9) to revoke the approval of a person as an approved auditor, but notice of the decision had not been given to the person prior to the commencement time, the Secretary is required to give the person written notice of the decision as soon as practicable after the commencement time.

Subsection 12-28(2) has the effect that after the commencement time the decision is taken to have been given under subsection 9-14(1) of the Meat Rules.

The note following section 12-28 explains that a decision to revoke a person's approval to conduct audits is a reviewable decision (referring to section 11-1 of the Meat Rules) and the Secretary must give the person written notice of the decision in accordance with section 382 of the Act.

Division 2—Decisions and dispositions

12-29 Written advice about admission of animal for slaughter given, but animal not admitted before commencement time

Subsection 12-29(1) provides that section 12-29 applies if the Secretary had given an authorised officer written advice under the old Export Control (Meat) Orders (suborder 69.2)

that an animal may be admitted to a registered establishment for slaughter under specified conditions, and the animal had not been admitted to a registered establishment before the commencement time.

Subsection 12-29(2) has the effect that the Secretary is taken to have given the authorised officer written notification under paragraph 9-22(3)(d) of the Meat Rules that the animal may be admitted to a registered establishment for slaughter, subject to the specified conditions.

12-30 Decision or disposition applied but not complied with before commencement time

Subsection 12-30(1) provides that section 12-30 applies if an authorised officer applied a decision or disposition to an animal, carcase, carcase part, meat or meat product under the old Export Control (Meat) Orders (suborder 70.1), but the decision or disposition had not been complied with prior to the commencement time.

Subsections 12-30(2) and (3) deal with decisions or dispositions that had been applied to animals. A decision or disposition that had been applied to an animal, and any conditions or requirements attached to the decision or disposition (including any variations) must, after the commencement time, be complied with as if the decision or disposition had been applied under, respectively, subsection 9-22(1) or paragraph 9-23(b) of the Meat Rules.

Subsection 12-30(4) deals with dispositions that had been applied to carcasses or carcase parts. A disposition that had been applied to carcasses or carcase parts, and any conditions or requirements attached to the disposition (including any variations) must, after the commencement time, be complied with as if the disposition had been applied under paragraph 9-24(1)(b) of the Meat Rules.

Subsection 12-30(5) deals with dispositions that had been applied to meat or meat products. A disposition that had been applied to meat or meat products, and any conditions or requirements attached to the disposition (including any variations) must, after the commencement time, be complied with as if the disposition had been applied under paragraph 9-25(b) of the Meat Rules.

12-31 Certificate of condemnation requested but not given before commencement time

Subsection 12-31(1) provides that section 12-31 applies where the occupier of an establishment had, under the old Export Control (Meat) Orders (paragraph 73(a)), given an authorised officer a written request for a certificate of condemnation for an animal, carcase or carcase part that was condemned at the establishment, and the certificate had not been given to the occupier before the commencement time. Where an approved arrangement is in force for export operations carried out at the establishment after the commencement time, subsection 12-31(2) has the effect that the request is taken to have been made by the holder of the approved arrangement in accordance with paragraph 9-33(b) of the Meat Rules.

Statement of Compatibility with Human Rights

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

Export Control (Meat and Meat Products) Rules 2021

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The *Export Control (Meat and Meat Products) Rules 2021* (the **Meat Rules**) has the following purposes:

- In conjunction with the *Export Control Act 2020* (the Act), it implements an improved regulatory framework for the export of prescribed goods, reducing complexity and strengthening compliance;
- It reduces duplication in the regulatory framework and provides streamlined and consolidated export-related requirements;
- It imposes regulatory controls on meat and meat products that are to be exported from Australia so that these products meet trade requirements and maintain overseas market access; and
- It provides a scheme of transitional and savings provisions that will preserve accrued rights and liabilities under the *Export Control (Meat and Meat Products) Orders 2005*. The provisions allow for decisions and approvals under the former Orders to continue, where applicable, under the Meat Rules.

List of human rights engaged

The Meat Rules engage the following rights:

International Covenant on Civil and Political Rights (ICCPR)

- Article 17 of the ICCPR – Right to protection from arbitrary interference with privacy;
- Article 22 of the ICCPR – Right to freedom of association.
- Article 26 of the ICCPR – Right to equality and non-discrimination

Assessment of Compatibility with Human Rights

Right to protection from arbitrary interference with privacy (Article 17 of the ICCPR)

Article 17 of the ICCPR prohibits arbitrary or unlawful interference with an individual's privacy, family, home or correspondence, and protects a person's honour and reputation from unlawful attacks. The right to privacy can be limited to achieve a legitimate objective where the limitations are lawful and not arbitrary. For an interference with the right to privacy to be permissible, the interference must be authorised by law, be for a reason consistent with the ICCPR and be reasonable in the circumstances. The United Nations Human Rights Committee has interpreted the requirement of 'reasonableness' as implying that any interference with privacy must be proportionate to a legitimate end and be necessary in the circumstances. While the United Nations Human Rights Committee has not defined 'privacy', the term is generally understood to comprise freedom from unwarranted and unreasonable intrusions into activities that society recognises as falling within the sphere of individual autonomy.

Chapters 4, 5, 6, 7, 8, 9 and 11 of the Meat Rules require a person to provide information or documents. Requiring persons to provide information or documents may incidentally require the provision of personal information. The collection, use, storage, and disclosure of personal information may engage the right to freedom from arbitrary or unlawful interference with privacy.

The collection of this information is necessary for the legitimate objective of assessing the suitability of a person to participate in export operations and to ensure those persons continue to comply with the legislative requirements in the Meat Rules.

A person who provides information in an application 'opts in' to the regulatory system. A person who has opted in should expect that a certain amount of personal information about the way their business operates will need to be provided to the Secretary to gain the benefits of that system.

Fit and proper person test

Participation in Australia's agricultural export markets is not a right; it is a privilege granted by the Australian Government to suitable persons. A person seeking the benefits of participating in those markets does so in the knowledge that the existence of certain prior conduct or associations may result in the rejection of an application, or suspension, variation or revocation of a registration or other approval.

The Meat Rules requires that approved auditors and third party authorised officers must be fit and proper persons. A person that makes an application for approval of a proposed arrangement for Halal meat certification operations, a person who is to manage or control Halal meat certification operations, the holder of an approved arrangement for Halal meat certification operations, and a person who manages or controls Halal meat certification operations, must also be a fit and proper person. Additionally, an applicant for a meat export licence and the holder of a meat export licence must also be fit and proper persons.

The Secretary can apply the fit and proper person test. Persons are required to notify the Secretary if they have been convicted of certain specific offences or ordered to pay a pecuniary penalty in relation to certain specified contraventions. When determining whether a person is a fit and proper person, the Secretary may consider the nature of the offences, the interest of the industry or industries relating to the person's export business, and any other relevant matter. While these factors are considered by the Secretary when applying the fit and proper persons test, they may not automatically give rise to a negative finding. Rather, it will be up to the Secretary to consider whether a person is fit and proper after having regard to these matters.

A fit and proper person test can be used to consider a person's history of compliance with legislation and then deny approval to register an establishment, or to suspend, revoke or alter the conditions on an existing approved arrangement. This ensures that persons or companies are suitable entities to be responsible for the appropriate management of relevant risks.

Enabling the Secretary to take into account a broad range of matters is important when considering whether a person is a fit and proper person because such a person might be involved in the export of a wide range of goods, with varying degrees of risk. This ensures that the integrity of the regulatory framework is not compromised by limiting conduct that can be considered in this context. As the agricultural export sector is regularly changing and evolving, this is reasonable and proportionate and ensures that the current level of market access can be maintained and possibly even increased in future.

Australia's access to markets and the ability to export agricultural goods depends on its trading reputation and the confidence of its trading partners. To the extent these requirements engage Article 17 of the ICCPR, any interference with privacy is not arbitrary as the requirement to provide information, including for the fit and proper person test, is necessary, reasonable and proportionate for the legitimate objective of ensuring that persons who are involved in exporting goods from Australian territory are trustworthy and demonstrate the required integrity necessary to uphold Australian law and protect our trading reputation. In addition, any information collected under the Meat Rules and the Act is protected from unauthorised disclosure by confidentiality provisions in sections 388 to 397 of the Act.

Right to freedom of association (Article 22 of the ICCPR)

Article 22(1) of the ICCPR protects the right to freedom of association with others. Article 22(2) permits limitations which are prescribed by law and which are necessary in the interests of national security, public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. This right may be engaged by the requirement to be a fit and proper person which incorporates an assessment of a person's associates.

Fit and proper person test

Business associates and others may have influence over the primary person such that they may be able to compel them to undertake illegal activities on their behalf, through inducement or other means. Putting a 'fit and proper person' test in place will notify the Secretary of any associates of the primary person who may pose a risk and allow them to take action to ensure Australia's agricultural exports are not compromised.

The associates' test is designed to ensure that an applicant for a regulatory control under the Act (e.g. a registered establishment) is a suitable person to be responsible for managing relevant risks, considering potential consequences of non-compliance. It is appropriate for associates to be included in the consideration to ensure that the conduct of all types of entities may be considered where the Secretary considers it appropriate to do so.

While the fit and proper person test could be seen to restrict the associations a relevant person may have, it does not prevent or prohibit a person from holding any particular associations. Rather, holding certain association may mean that a person's circumstances are not compatible with participation in Australia's agricultural export markets. Australia's agricultural export industries are underpinned by trust. Importing country requirements relating to agricultural goods will often relate to the preservation of public health, with non-compliance representing a risk to Australia's participation in those markets. Consideration of a person's associations is necessary because associates may leverage their personal relationship with the primary person to engage in non-compliant export activities. This may pose a risk to public health and safety. Therefore to the extent that the fit and proper person test limits the right to freedom of association, it is permissible under Article 22(2) as it is for the purpose of protecting public health.

Right to equality and non-discrimination (Article 26 of the ICCPR)

Article 26 of the ICCPR protects the right to equality and non-discrimination, and provides that the law shall protect against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property or other status. This right may be engaged with respect to religion, by the additional requirements for the certification and export of Halal meat.

Where there has been established, a difference in treatment or outcome, there must be a justification for it. The United Nations Human Rights Committee, in its General Comment on non-discrimination, has stressed that for the purposes of the ICCPR, not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the Covenant. To be justified, the difference in treatment must pursue a legitimate aim and be proportionate.

Chapter 5 of the Meat Rules covers approved arrangements for export operations in relation to prescribed meat and meat products. Part 2 of Chapter 5 specifically relates to approved arrangements for Halal meat certification operations, including a fit and proper person test. In relation to approved arrangements other than Halal meat certification operations, no fit and proper person test is required. There is also an additional requirement for applications relating to Halal meat certification operations that certain documents accompany the application.

Australia's access to markets and the ability to export agricultural goods depends on its trading reputation and the confidence of its trading partners. Halal certification must meet the requirements of importing countries and the integrity of this process is necessary to provide assurance that it complies with religious dietary requirements of consumers. To the extent these requirements engage Article 26 of the ICCPR, the difference in treatment for preparing and exporting Halal meat, including the fit and proper person test is proportionate for the legitimate aim of ensuring that persons who are involved in exporting Halal meat from Australian territory are trustworthy and demonstrate the required integrity necessary to

uphold Australian law and protect our trading reputation. The fit and proper person test and the requirement of documents proving that the applicant for a proposed arrangement to carry out Halal meat certification operations is an Islamic organisation, ensures that importing country authorities maintain confidence that Australia's Halal meat exports are meeting Halal requirements. The differential treatment of Halal meat is for the legitimate purpose of upholding the integrity of the Halal certification and in turn the religious dietary requirements of the Islamic faith and is therefore compatible with Article 26 of the ICCPR.

Summary

The Meat Rules are compatible with the right to protection from arbitrary interference with privacy under Article 17 and the right to freedom of association under Article 22 of the ICCPR. To the extent that the 'fit and proper person' test required by the Meat Rules limits these rights, this limitation is necessary, proportionate and reasonable to achieve the legitimate objectives of the Act.

Conclusion

The Meat Rules are compatible with human rights because, to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

Andrew Edgar Francis Metcalfe AO

Secretary of the Department of Agriculture, Water and the Environment