

## EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture, Drought and Emergency Management

*Australian Meat and Live-stock Industry Act 1997*  
*Australian Meat and Live-stock Industry Act (Repeals and Consequential*  
*Provisions) 1997*  
*Commonwealth Electoral Act 1918*  
*Customs Act 1901*  
*Primary Industries (Excise) Levies Act 1999*  
*Primary Industries Levies and Charges Collection Act 1991*  
*Referendum (Machinery Provisions) Act 1984*  
*Renewable Energy (Electricity) Act 2000*  
*Wine Australia Act 2013*

*Export Control Legislation (Repeals and Consequential Amendments) Regulations 2021*

### **Legislative Authority**

The Governor-General has the authority to make regulations under the following:

- Section 74 of the *Australian Meat and Live-stock Industry Act 1997*
- Section 395 of the *Commonwealth Electoral Act 1918*
- Section 112 of the *Customs Act 1901*
- Section 8 of the *Primary Industries (Excise) Levies Act 1999*
- Section 30 of the *Primary Industries Levies and Charges Collection Act 1991*
- Section 144 of the *Referendum (Machinery Provisions) Act 1984*
- Section 161 of the *Renewable Energy (Electricity) Act 2000* and
- Section 46 of the *Wine Australia Act 2013* (together, **the authorising Acts**).

### **Purpose**

The *Export Control Legislation (Repeals and Consequential Amendments) Regulations 2021* (**the regulations**) makes consequential amendments to regulations made by the Governor-General under the above legislation.

Schedule 1 to the regulations repeals the *Australian Meat and Live-stock Industry (Export Licensing) Regulations 1998*, which become redundant upon the commencement of the *Export Control Act 2020* and rules made under that Act.

Schedule 2 to the regulations makes consequential amendments to Commonwealth regulations to reflect the repeal of the *Export Control Act 1982* and the commencement of the *Export Control Act 2020*.

Agricultural export legislation is being streamlined. The *Export Control Act 2020* replaces the *Export Control Act 1982* and Parts 2 and 2A of the *Australian Meat and Live-stock Industry*

*Act 1997* to regulate goods exported from Australian territory. The Export Control Rules 2021 (**the rules**) will replace various orders and regulations.

The rules will be made by the Secretary of the Department of Agriculture, Water and the Environment and contribute to a smooth transition from the *Export Control Act 1982* to the *Export Control Act 2020*. The rules will commence at the same time the substantive provisions of the *Export Control Act 2020* commence.

## **Consultation**

The Department of Agriculture, Water and the Environment has consulted the Department of Home Affairs, the Department of Finance and the Department of Industry, Science, Energy and Resources. Consultation was conducted to ensure that the proposed amendments to regulations administered by the Minister for Home Affairs, the Minister for Finance and the Minister for Industry, Science, Energy and Resources are suitable. The proposed amendments have been approved by, or on behalf of, the relevant Ministers.

Additional consultation was not undertaken for the regulations as persons likely to be affected were consulted through the broader rules and Export Control Bills 2019.

The Department of Agriculture, Water and the Environment consulted on the rules and Export Control Bills with stakeholder groups including industry representatives and state and territory regulatory agencies responsible for the administration and regulation of goods exported from Australia.

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.

## **Impact and effect**

The regulations make consequential amendments to certain legislative instruments to support the commencement of the *Export Control Act 2020* and subordinate instruments.

## **Details/Operation**

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

The regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The regulations commence at the same time as section 3 of the *Export Control Act 2020* commences.

## **Other**

The regulations are 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 Legislation (Repeal and Consequential Amendments) Regulations 2021*****Section 1 - Name**

This section provides that the name of the regulations is the *Export Control Legislation (Repeals and Consequential Amendments) Regulations 2021*.

**Section 2 - Commencement**

This section provides for the regulations to commence at the same time as section 3 of the *Export Control Act 2020* commences.

**Section 3 - Authority**

This section provides that the regulations are made under the following:

- The *Australian Meat and Live-stock Industry Act 1997*
- The *Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997*
- The *Commonwealth Electoral Act 1918*
- The *Customs Act 1901*
- The *Primary Industries (Excise) Levies Act 1999*
- The *Primary Industries Levies and Charges Collection Act 1991*
- The *Referendum (Machinery Provisions) Act 1984*
- The *Renewable Energy (Electricity) Act 2000* and
- The *Wine Australia Act 2013*.

**Section 4 - Schedules**

This section provides that each instrument specified in a schedule to the regulations is amended or repealed as set out in those schedules.

**Schedule 1 – Repeals*****Australian Meat and Live-stock Industry (Export Licensing) Regulations 1998*****Item 1 - The whole of the instrument**

Item 1 of Schedule 1 repeals the *Australian Meat and Live-stock Industry (Export Licensing) Regulations 1998*, which becomes redundant upon the commencement of the *Export Control Act 2020*. The *Export Control Act 2020*, *Export Control (Animals) Rules 2021* and *Export Control (Meat and Meat Products) Rules 2021* will provide for export licencing.

## Schedule 2 – Consequential amendments

### *Australian Meat and Live-stock Industry Regulations 1998*

#### Item 1 - After regulation 3

Item 1 of Schedule 2 inserts section 3A in the *Australian Meat and Live-stock Industry Regulations 1998* (the Australian Meat and Live-stock Industry Regulations). New section 3A of the Australian Meat and Live-stock Industry Regulations provides that buffalo, camelids and deer are prescribed for the purposes of the definition of **live-stock** in section 3 of the *Australian Meat and Live-stock Industry Act 1997* (the Australian Meat and Live-stock Industry Act).

Section 3 of the Australian Meat and Live-stock Industry Act defines **live-stock** to mean cattle, calves, sheep, lambs, goats or other animals prescribed for the purposes of this definition. Section 3A of the *Australian Meat and Live-stock Industry (Export Licensing) Regulations 1988* currently provides that, for the definition of **live-stock** in section 3 of the Act, buffalo, camelids and deer are prescribed.

The *Australian Meat and Live-stock Industry (Export Licensing) Regulations 1988* are repealed by Schedule 1 of this instrument.

New section 3A of the Australian Meat and Live-stock Industry Regulations will ensure that buffalo, camelids and deer continue to be defined as **live-stock** for the purposes of the Australian Meat and Live-stock Industry Act when the Export Licensing Regulations are repealed.

### *Customs (Prohibited Exports) Regulations 1958*

#### Item 2 - Subregulation 5(3)

Item 2 of Schedule 2 amends subregulation 5(3) of the *Customs (Prohibited Exports) Regulations 1958* so that it refers to export permits in force under “the *Export Control Act 2020*” rather than export permits in force under “orders in force under the *Export Control (Orders) Regulations 1982*”.

#### Item 3 - Subregulation 5(4) (definition of Minister)

Item 3 of Schedule 2 amends the definition of **Minister** in subregulation 5(4) of the *Customs (Prohibited Exports) Regulations 1958* from “the Minister administering the *Export Control Act 1982*” to “the Minister administering the *Export Control Act 2020*”.

### *Customs Regulation 2015*

#### Item 4 - Paragraph 81(d)

Item 4 of Schedule 2 amends paragraph 81(d) of the *Customs Regulation 2015* to replace “the *Export Control Act 1982*” with “the *Export Control Act 2020*”.

***Electoral and Referendum Regulation 2016***

Item 5 - Clause 1 of Schedule 1 (table item 13, column headed “Purpose”, paragraph (b))

Item 5 of Schedule 2 amends paragraph (b) of table item 13 (in the column headed “Purpose”) of Clause 1 of Schedule 1 of the *Electoral and Referendum Regulation 2016* to replace “the *Export Control Act 1982*” with “the *Export Control Act 2020*”.

Item 6 - Clause 1 of Schedule 1 (table item 13, column headed “Purpose”, paragraph (c))

Item 6 of Schedule 2 repeals paragraph (c) of table item 13 (in the column headed “Purpose”) of Clause 1 of Schedule 1 of the *Electoral and Referendum Regulation 2016*. This paragraph refers to the *Australian Meat and Live-stock Industry Act 1997*, relevant parts of which are repealed upon the commencement of the *Export Control Act 2020*.

***Primary Industries (Excise) Levies Regulations 1999***

Item 7 - Subclause 2(1) of Schedule 3 (definition of *export licence holder*); and

Item 8 - Clause 1 of Schedule 18 (definition of *export licence holder*)

Items 7 and 8 of Schedule 2 repeal and substitute the definitions of ***export licence holder*** in subclause 2(1) of Schedule 3 and clause 1 of Schedule 18 of the *Primary Industries (Excise) Levies Regulations 1999* so that they refer to the holder of an export licence granted under section 191 of the *Export Control Act 2020* instead of section 10 of the *Australian Meat and Live-stock Industry Act 1997*. The latter section is repealed upon the commencement of the *Export Control Act 2020*.

***Primary Industries Levies and Charges Collection Regulations 1991***

Item 9 - Subclause 19A(1) of Schedule 7 (definition of *export licence holder*); and

Item 10 - Subclause 18A(1) of Schedule 27 (definition of *export licence holder*)

Items 9 and 10 of Schedule 2 repeal and substitute the definitions of ***export licence holder*** in subclause 19A(1) of Schedule 7 and subclause 18A(1) of Schedule 27 of the *Primary Industries Levies and Charges Collection Regulations 1991* so that they refer to the holder of an export licence granted under section 191 of the *Export Control Act 2020* instead of under section 10 of the *Australian Meat and Live-stock Industry Act 1997*. The latter section is repealed upon the commencement of the *Export Control Act 2020*.

## ***Renewable Energy (Electricity) Regulations 2001***

### Item 11 - Subregulation 3(1) (definition of *regional forest agreement*)

Item 11 of Schedule 2 repeals and substitutes the definition of ***regional forest agreement*** in subregulation 3(1) of the *Renewable Energy (Electricity) Regulations 2001* so as to mean a regional forest agreement within the meaning of the *Regional Forest Agreements Act 2002* rather than the *Export Control (Hardwood Wood Chips) Regulations 1996*.

The latter regulations will be replaced by the Export Control (Wood and Woodchips) Rules 2021 made by the Secretary of the Department of Agriculture, Water and the Environment under the *Export Control Act 2020*.

### Item 12 - Subparagraph 9(1)(b)(i)

Item 12 of Schedule 2 amends subparagraph 9(1)(b)(i) of the *Renewable Energy (Electricity) Regulations 2001* so that it refers to codes of practice approved under the *Export Control (Wood and Woodchips) Rules 2021* instead of codes of practice approved under (regulation 4B of) the *Export Control (Unprocessed Wood) Regulations*.

The latter regulation is replaced by the Export Control (Wood and Woodchips Rules) 2021 to be made by the Secretary of the Department of Agriculture, Water and the Environment under the *Export Control Act 2020*.

## ***Wine Australia Regulations 2018***

### Item 13 - Subsection 19(1) (example)

Item 13 of Schedule 2 repeals and substitutes the example at subsection 19(1) of the *Wine Australia Regulations 2018* to refer to products that are “prescribed organic goods under the *Export Control (Organic Goods) Rules 2021*” rather than products “to which the *Export Control (Organic Produce Certification) Orders* applies”.

The *Export Control (Organic Produce Certification) Orders* is replaced by the Export Control (Organic Goods) Rules 2021 to be made by the Secretary of the Department of Agriculture, Water and the Environment under the *Export Control Act 2020*.

### Item 14 - Subsection 19(1) (example)

Item 14 of Schedule 2 amends the example at subsection 19(1) of the *Wine Australia Regulations 2018* as it refers to an organic produce certificate. This item will substitute “organic produce certificate has been issued for the product” with “organic goods certificate (within the meaning of those rules) has been issued for the product”.

This is a consequential amendment to the repeal of the Export Control (Organic Produce Certification) Orders and their replacement with the Export Control (Organic Goods Rules) 2021.

**ATTACHMENT B****STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

***Export Control Legislation (Repeals and Consequential Amendments) Regulations 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**

On 28 March 2020, the *Export Control Act 2020 (the Act)* will replace the *Export Control Act 1982*. Agricultural export legislation is being streamlined to facilitate overseas market access while ensuring the integrity of goods exported from Australia.

The purpose of the *Export Control Legislation (Repeals and Consequential Amendments) Regulations 2021 (the regulations)* is to make consequential amendments to support the commencement of the Act and subordinate instruments.

The regulations make technical amendments to 8 regulations to ensure that references to relevant legislative instruments are correct on commencement of the Act.

The regulations also repeal the *Australian Meat and Live-stock Industry (Export Licensing) Regulations 1998* t, as relevant matters covered by these regulations will be covered in the Export Control (Meat and Meat Products Rules 2021 and the Export Control (Animals) Rules 2021 made by the Secretary of the Department of Agriculture, Water and the Environment under the Act.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon David Littleproud MP**

**Minister for Agriculture, Drought and Emergency Management**