

EXPLANATORY STATEMENT

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

Export Control Act 2020

Export Control Legislation Amendment (2021 Measures No. 1) Rules 2021

Legislative Authority

The *Export Control Legislation Amendment (2021 Measures No. 1) Rules 2021* (the Amendment Rules) are made by the Secretary of the Department of Agriculture, Water and the Environment (the department) under section 432 of the *Export Control Act 2020* (the Act).

Section 432 of the Act relevantly provides that the Secretary of the department (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 sunseting. 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 the export of goods.

Purpose

The Amendment Rules amend the following instruments:

- the *Export Control (Animals) Rules 2021* (the Animals Rules);
- the *Export Control (Meat and Meat Products) Rules 2021* (the Meat Rules);
- the *Export Control (Miscellaneous) Rules 2021* (the Miscellaneous Rules);
- the *Export Control (Organic Goods) Rules 2021* (the Organic Goods Rules);
- the *Export Control (Plants and Plant Products) Rules 2021* (the Plant Rules);

- the *Export Control (Poultry Meat and Poultry Meat Products) Rules 2021* (the Poultry Rules);
- the *Export Control (Rabbit and Ratite Meat and Rabbit and Ratite Meat Products) Rules 2021* (the Rabbit and Ratite Rules); and
- the *Export Control (Wild Game Meat and Wild Game Meat Products) Rules 2021* (the Wild Game Rules).

These instruments are collectively referred to as the Rules, for the purposes of this Explanatory Statement.

The Amendment Rules amend the Meat Rules, Poultry Rules, Rabbit and Ratite Rules and Wild Game Rules for the purposes of:

- facilitating new requirements relating to meat inspection reforms, export permit applications, record keeping, and information to be included in meat transfer certificates; and
- removing certain requirements, including the requirement for the person supervising loading of prescribed meat or meat products to provide a declaration to the exporter and the requirement that the supervisor be in management or control of the export operations at the establishment.

The Amendment Rules amend the Animals Rules for the purposes of:

- clarifying certain exemptions;
- enabling transparency in departmental reporting about performance; and
- clarifying certain requirements relating to the Australian Standards for the Export of Livestock (ASEL).

The Amendment Rules amend the Miscellaneous Rules to ensure that the Secretary may publish or otherwise disclose certain information if any personal information about an individual is de-identified.

The Amendment Rules amend the Organic Goods Rules for the purposes of:

- updating an exception to the definition of *prescribed goods* under the Act.

The Amendment Rules amend the Plant Rules for the purposes of:

- clarifying the definitions of *container* and *prescribed grain* under the Plant Rules;
- clarifying an exception to the definition of *prescribed goods* under the Act;
- clarifying certain requirements within existing regulatory practices;
- strengthening compliance and enforcement; supporting the recording of bulk vessel inspections; and
- creating an accredited grain surveyor scheme.

Background

The amendments address issues with the Rules that have been raised by stakeholders or identified by the department, and enable the Rules to be fit for purpose.

A post-commencement review was undertaken by the department between 1 June 2021 and 8 July 2021 to gather stakeholder views on the implementation of the Rules, which were made under the Act and commenced on 28 March 2021. Throughout the post-commencement review, key industry stakeholders were engaged, and their feedback informed the changes included in the Amendment Rules.

Impact and Effect

The amendments made by the Amendment Rules are relatively minor.

The amendments to the Animals Rules make minor changes to clarify that occupiers of registered establishments are required to comply with the Australian Standards for the Export of Livestock (ASEL) and allow for the publication of information contained in daily reports from accredited veterinarians or accredited stockpersons, and mortality reports from occupiers of registered establishments, under ASEL.

The amendments to the Meat Rules, Poultry Rules, Rabbit and Ratite Rules and Wild Game Rules make minor amendments to:

- verification of compliance declarations;
- meat transfer certificates;
- the circumstances where departmental officers are allocated to registered establishments;
- inventory controls; and
- official marks.

The amendments to the Organic Goods Rules make minor changes to update an exception to the definition of *prescribed goods* under the Act.

The amendments to the Plant Rules make minor changes to transition from management systems into conditions of regulated premises including registered establishments and accredited properties. The amendments to the Plant Rules also improve the regulation of bulk vessels used to export consumable plant products (such as grain), particularly inspection and surveying practices.

The amendments:

- require all third party authorised officers performing bulk vessel inspections for plant and plant product exports to record the bulk vessel inspections using helmet-mounted video recording devices;

- require all qualified marine surveyors to be accredited under the Accredited Grain Surveyor Assurance (AGSA) scheme by the Australasian Institute of Marine Surveyors Limited (AIMS) to survey and certify bulk vessels for consumable plant product exports; and
- incorporate the power for the department to direct that loading of a bulk vessel cease where there is a reasonable belief the vessel is not compliant.

The amendments to the Miscellaneous Rules ensure that the Secretary may publish or otherwise disclose certain information if any personal information is de-identified. This applies in relation to all commodities.

The Office of Best Practice Regulation (OBPR) determined that a regulation impact statement was not required for changes to the Plant Rules that improve assurance and compliance of empty bulk vessels for plant product exports (OBPR Ref: 44335). OBPR further determined that a regulation impact statement was not required for changes to the Miscellaneous Rules to allow certain information to be published or otherwise disclosed if any personal information is de-identified (OBPR Ref: 21-01233). OBPR has otherwise determined that a regulation impact statement was not required for the remaining amendments to the commodity Rules (OBPR Ref: 44550).

Consultation

Consultation was open to the public through the department's *Have Your Say* platform for 30 days and included information sheets to explain the amendments to the commodity Rules in a clear and general format. The department received a range of enquiries and submissions through this process. Clarification was provided and minor amendments made in response, where appropriate. Additionally, the department undertook early, informal consultation with key industry stakeholders in the meat, plant and grain sectors. This early and informal consultation assisted with the development of the proposed amendments to the commodity Rules.

The department has been co-designing the AGSA scheme with AIMS, and in consultation with representatives from the shipping industry and grain industries. Feedback from consultation has informed the approach taken in relation to requirements for marine surveyors to be accredited by AIMS under the AGSA scheme, and timing for the commencement of the AGSA scheme on 1 July 2022 to facilitate industry compliance with it and to mitigate impact to grain industry and shipping schedules during peak grain season.

The bulk vessel inspection authorised officers (BVI AOs) were also consulted directly through the department's Regional Assurance Manager network, who are regionally-based industry engagement officers for plant export industry participants. The department delivered an information session to BVI AOs to inform the group of the relevant proposed changes during the 30-day consultation period.

The meat inspection reforms were consulted on through the Meat Modernisation Working Group established in July 2020, comprising senior representatives of the Australian export meat industry and the department. The changes to the Meat Rules that relate to the allocation of Commonwealth authorised officers to registered export meat establishments realises the commitment from industry to the full implementation of the 2011 Australian Authorised Officer (AAO) Australian Export Meat Inspection System (AEMIS) reforms.

Consultation was not considered to be necessary for the amendments to the Miscellaneous Rules as they are administrative in nature and consistent with the department's objectives of promoting the transparency and traceability of exports of goods.

Details and Operation

Details of the Amendment Rules are set out in Attachment A.

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

Sections 1 to 4 and Schedule 3 of the Amendment Rules commence on the day after registration. Schedules 1, 2 and 4, Part 1 of Schedule 5 and Schedules 6 to 8 commence on 1 January 2022. Part 2 of Schedule 5 of the Amendment Rules commences on 1 July 2022.

Other

The Amendment Rules are compatible with 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 Amendment (2021 Measures No. 1) Rules 2021*

Section 1 – Name

This section provides that the name of the instrument is the *Export Control Legislation Amendment (2021 Measures No. 1) Rules 2021* (the Amendment Rules).

Section 2 – Commencement

This section provides that sections 1 to 4 and Schedule 3 commence on the day after the instrument is registered on the Federal Register of Legislation. Schedules 1, 2 and 4, Part 1 of Schedule 5 and Schedules 6 to 8 commence on 1 January 2022. Part 2 of Schedule 5 commences on 1 July 2022. The note below the table provides that the table relates only to the provisions of the Amendment Rules as originally made. It will not be amended to deal with later amendments of the Amendment Rules. The purpose of this note is to clarify that the commencement of any subsequent amendments would not be reflected in this table.

Subsection 2(2) provides that any information in column 3 of the table is not part of the Amendment Rules. This clarifies that information may be inserted in column 3 of the table, or information in it may be edited, in any published version of the Amendment Rules.

Section 3 – Authority

This section provides that the Amendment Rules are made under the *Export Control Act 2020* (the Act).

Section 4 – Schedules

This section provides for the amendment or repeal of instruments as set out in a Schedule to the Amendment Rules. This enables the amendment of the *Export Control (Animals) Rules 2021*, *Export Control (Meat and Meat Products) Rules 2021*, *Export Control (Miscellaneous) Rules 2021*, *Export Control (Organic Goods) Rules 2021*, *Export Control (Plants and Plant Products) Rules 2021*, *Export Control (Poultry Meat and Poultry Meat Products) Rules 2021*, *Export Control (Rabbit and Ratite Meat and Rabbit and Ratite Meat Products) Rules 2021* and *Export Control (Wild Game Meat and Wild Game Meat Products) Rules 2021* (see Schedules 1 to 8 below).

Schedule 1 – Amendment of the *Export Control (Animals) Rules 2021*

Export Control (Animals) Rules 2021

The *Export Control (Animals) Rules 2021* (the Animals Rules) prescribes matters and makes other provision in relation to certain livestock (prescribed livestock), other live animals (prescribed live animals), and animal reproductive material (prescribed animal reproductive material) for the purposes of the Act.

Item [1] – Section 2-24 (note)

Section 62 of the Act provides that rules may make provision for and in relation to government certificates.

Section 2-24 of the Animals Rules requires the issuing body, for the purposes of deciding whether to issue a government certificate in relation to prescribed live animals, to consider the conditions (if any) of the approval of the notice of intention to export a consignment including the live animals.

The note following section 2-24 explains that an approval of the notice of intention to export a consignment of prescribed live animals may be given subject to conditions and currently refers the reader to “section 8-11(5) of the Animals Rules”.

This item omits “section” from the note and substitutes “subsection”. This is a technical amendment.

Item [2] – After section 4-5

Relevantly, section 113(1)(b) of the Act provides that the registration of an establishment is subject to conditions prescribed by the rules (other than any of those conditions that the Secretary decides are not to be conditions of the registration). Part 3 of Chapter 4 (sections 4-5 to 4-9) of the Animals Rules prescribes, for the purposes of paragraph 113(1)(b) of the Act, conditions of registration of an establishment to carry out operations to prepare prescribed livestock for export.

This item inserts new section 4-5A after section 4-5 of the Animals Rules.

New subsection 4-5A(1) requires export operations to prepare prescribed livestock for export (by sea or air) at a registered establishment, to be carried out in accordance with the Australian Standards for the Export of Livestock (the ASEL).

Without limiting new subsection 4-5A(1), new subsection 4-5A(2) requires the occupier of the registered establishment to give the Department of Agriculture, Water and the Environment (the department) written reports as required by the ASEL.

The note following new subsection 4-5A(2) explains that the Secretary may publish information given in the reports given under new subsection 4-5A(2) and refers the reader to section 4-18 of the Animals Rules.

Subsection 4-3(2) requires registered establishment occupiers to hold an operations manual, which clearly states the export operations to be carried out at the establishment, and the management system to be implemented at the establishment in relation to the export operations, including the supervision arrangements, the arrangements for keeping records, and the maintenance to be carried out at the establishment. Subsection 4-3(2) also requires the operations manual to include sufficient detail to enable the export operations to be effectively monitored and audited. In practice, the operations manual is approved only if it incorporates the ASEL. New section 4-5A clarifies that export operations to prepare prescribed livestock for export (by sea or air) at a registered establishment must be carried out in accordance with the ASEL.

Item [3] – At the end of Chapter 4

Chapter 4 of the Animals Rules sets out matters relating to registered establishments where operations to prepare prescribed livestock for export (by sea or air) are carried out, including requirements for registration, conditions of registration, renewal of registration, variation of registration, suspension of registration, and revocation of registration. Item 3 of Schedule 1 to the Amendment Rules inserts new Part 9 at the end of Chapter 4 of the Animals Rules. New Part 9 of Chapter 4 deals with miscellaneous matters relating to registered establishments where operations to prepare prescribed livestock for export (by sea or air) are carried out.

This item inserts new section 4-18 as part of new Part 9 of Chapter 4 of the Animals Rules. New section 4-18 provides that the Secretary may publish information included in reports relating to prescribed livestock given to the department by the occupier of a registered establishment as required by the ASEL.

Publication of information in reports given by occupiers of registered establishments enables transparency in departmental reporting about performance.

Item [4] – Subsection 6-6(2)

Subsection 6-6(1) of the Animals Rules requires export operations covered by a livestock export licence to be carried out in accordance with the ASEL.

Subsection 6-6(2) currently requires, without limiting subsection 6-6(1), the end of voyage or end of flight report for prescribed livestock exported by sea or air to be given to the department as required by the ASEL.

This item omits “end of voyage or end of flight report for prescribed livestock exported by sea or air” and substitutes “daily reports or end of voyage report for prescribed livestock exported by sea or end of journey report for prescribed livestock exported by air”.

This amendment enables transparency in departmental reporting about performance.

Item [5] – Section 6-44 (heading)

This item amends the heading of section 6-44 of the Animals Rules. Item 5 omits “end of voyage or end of flight report” and substitutes “daily, end of voyage or end of journey reports” in the heading of section 6-44 of the Animals Rules. This amendment is consequential to the amendment to subsection 6-6(2) made by item 4 of Schedule 1 to the Amendment Rules.

Item [6] – Section 6-44

Section 6-44 of the Animals Rules currently provides that the Secretary may publish information included in the end of voyage or end of flight report for prescribed livestock exported by sea or air given to the department as required by the ASEL.

This item omits “end of voyage or end of flight report for prescribed livestock exported by sea or air” and substitutes “daily reports or end of voyage report for prescribed livestock exported by sea, or end of journey report for prescribed livestock exported by air”. This amendment is consequential to the amendment to subsection 6-6(2) made by item 4 of Schedule 1 to the Amendment Rules.

Publication of information in daily reports, end of voyage reports or end of journey reports given to the department, enables transparency in departmental reporting about performance.

Item [7] – Paragraph 8-6(3)(a)

This item omits “this Act” and substitutes “the Act” in paragraph 8-6(3)(a) of the Animals Rules. This is a technical amendment.

Item [8] – Paragraph 8-11(3)(a)

This item omits “this Act” and substitutes “the Act” in paragraph 8-11(3)(a). This is a technical amendment.

Item [9] – Section 8-26 (note)

Section 8-26 of the Animals Rules provides for the circumstances in which a person may alter or interfere with an official mark. The note following section 8-26 currently alerts the reader that under sections 261 and 262 of the Act, a person may commit an offence or be

liable to a civil penalty if the person engages in conduct and the conduct has the result that an official mark applied to certain plants or plant products or documents is altered so as to be false, misleading or deceptive.

This item amends the note following section 8-26 of the Animals Rules. Item 9 omits “certain plants or plant products” and substitutes “prescribed livestock, prescribed live animals or prescribed animal reproductive material”. This is an editorial amendment.

Item [10] – Subparagraph 9-4(2)(a)(ii)

This item omits “this Act” and substitutes “the Act” in subparagraph 9-4(2)(a)(ii). This is a technical amendment.

Item [11] – Subsection 9-27(2)

Subsection 9-27(1) of the Animals Rules provides that an accredited veterinarian who is engaged to accompany prescribed livestock during their journey from Australia to their overseas destination in connection with an approved export program must give the Secretary written reports in accordance with the reporting requirements provided by the ASEL.

Subsection 9-27(2) currently provides that the Secretary may publish information included in an end of voyage report given to the Secretary by an accredited veterinarian as required by subsection 9-27(1).

This item inserts “a daily report or” after “included in” in subsection 9-27(2) of the Animals Rules. This amended subsection 9-27(2) provides that the Secretary may publish information included in a daily report as well as information included in an end of voyage report given to the Secretary by an accredited veterinarian as required by subsection 9-27(1).

Item [12] – Section 9-48 (heading)

This item amends the heading of section 9-48 of the Animals Rules. Item 12 inserts “information in” after “publish” in the heading of section 9-48 of the Animals Rules. This amendment is consequential to the amendment to section 9-48 made by item 13 of Schedule 1 to the Amendment Rules.

Item [13] – Section 9-48

Section 9-48 currently provides that the Secretary may publish records and reports made by accredited veterinarians or authorised officers in relation to approved export programs.

This item inserts “information included in” after “publish” in section 9-48 of the Animals Rules. This amendment clarifies that the Secretary may publish information included in

records and reports made by accredited veterinarians or authorised officers in relation to approved export programs.

Publication of information in reports given by accredited veterinarians enables transparency in departmental reporting about performance.

Schedule 2 – Amendment of the *Export Control (Meat and Meat Products) Rules 2021*

Export Control (Meat and Meat Products) Rules 2021

The *Export Control (Meat and Meat Products) Rules 2021* (the Meat Rules) prescribes matters and makes other provision in relation to certain meat and meat products (prescribed meat and meat products) for the purposes of the Act.

Item [1] – Section 1-5 (definition of *HGP*)

Section 1-5 of the Meat Rules contains definitions of key terms which are used in the Meat Rules, including the definition of *HGP* (short for hormonal growth promotant).

Section 1-5 of the Meat Rules currently defines *HGP* as meaning 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 Agvet Code set out in the Schedule to the *Agricultural and Veterinary Chemicals Code Act 1994*.

This item repeals the current definition of *HGP* and substitutes a new definition. The new definition of *HGP* extends the current definition to include that *HGP* also means a veterinary chemical product that contains oestradiol-17 β or an ester-like derivative of oestradiol-17 β .

The amendment made by item 1 of Schedule 2 to the Amendment Rules ensures that the definition of *HGP* in section 1-5 of the Meat Rules includes oestradiol and its ester-like derivatives in any circumstance, regardless of whether it is registered for use for that purpose in Australia. This is to accurately reflect European Union (EU) requirements for animals on accredited properties.

Item [2] – After section 3-1

Section 3-1 of the Meat Rules provides for the application of Chapter 3 of the Meat Rules. Section 3-1 provides that Chapter 3 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.

This item inserts a note following section 3-1, which clarifies that Chapter 3 of the Meat Rules contains requirements for certain prescribed meat and meat products and the bovine animals from which they are derived to be free of HGP treatment if the meat or meat products are for export to a member state of the EU for food. The note also refers the reader to Subdivision H of Division 2 of Part 1 of Chapter 5 of the Meat Rules which deals with meat or meat products for export to the EU as food.

Item [3] – After paragraph 3-2(c)

Section 3-2 of the Meat Rules provides for when an animal is taken to have been treated with an HGP, for the purposes of the Meat Rules.

After paragraph 3-2(c) of the Meat Rules, this item adds paragraph 3-2(d) so that there is an additional circumstance in which an animal is taken to have been treated with HGP, specifically, if “treatment records relating to the animal indicate that it has been treated with an HGP.”

The amendment to section 3-2 made by item 3 improves enforceability in relation to oestradiol given the EU prohibits all uses of oestradiol, including for growth promotion purposes and oestrus synchronisation. The new definition for HGP only applies for cattle produced for the EU market.

Item [4] – Paragraphs 4-15(1)(a) and (b)

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

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

This item omits “an authorised” where it appears in paragraphs 4-15(1)(a) and (b) of the Meat Rules and substitutes “a Commonwealth authorised”. Under amended paragraphs 4-15(1)(a) and (b), 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, a Commonwealth authorised officer to be present at the establishment while operations of that kind are being carried out.

This amendment is a part of amendments to the Meat Rules which provide that Commonwealth authorised officers will only be provided to registered establishments where there is a requirement to do so to meet importing country requirements.

Item [5] – At the end of subsection 4-23(2)

Section 4-23 of the Meat Rules 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.

Subsection 4-23(1) of the Meat Rules 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 an establishment, determine the preliminary allocation of meat inspection services to the establishment, which may be zero.

Subsection 4-23(2) lists the matters that the Secretary must have regard to in determining the preliminary allocation of meat inspection services to the registered establishment.

At the end of subsection 4-23(2), this item adds paragraph 4-23(2)(i) so that there is an additional matter that the Secretary must have regard to, specifically “any importing country requirement for Commonwealth authorised officers to be present at the establishment while operations of that kind are carried out.”

This amendment is a part of amendments to the Meat Rules which provide that Commonwealth authorised officers will only be provided to registered establishments where there is a requirement to do so to meet importing country requirements.

Item [6] – Subsection 4-30(4)

Section 4-30 of the Meat Rules 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.

Subsection 4-30(4) provides timeframes for applying to vary the allocation of meat inspection services other than by reducing or increasing the allocation, for example by applying for a change to the proportion of third party authorised officers and Commonwealth authorised officers carrying out meat inspection services.

This item repeals subsection 4-30(4) of the Meat Rules.

This amendment is a part of amendments to the Meat Rules which provide that Commonwealth authorised officers will only be provided to registered establishments where there is a requirement to do so to meet importing country requirements.

Item [7] – Subparagraphs 4-33(1)(a)(v) to (viii)

Section 4-33 of the Meat Rules provides for the variation by the Secretary of the allocation of meat inspection services to a registered establishment where operations to prepare prescribed meat or meat products for export are to be carried out.

Subsection 4-33(2) of the Meat Rules provides that the Secretary may vary the allocation of meat inspection services at a registered establishment in the circumstances specified in paragraphs 4-33(1)(a) or (b).

The circumstances specified in subparagraphs 4-33(1)(a)(i) to (viii) of the Meat Rules generally reflect where there has been a change (a *relevant 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 under subsection 4-23(2).

This item repeals subparagraphs 4-33(1)(a)(v) to (viii) of the Meat Rules and substitutes new subparagraphs 4-33(1)(a)(v) to (ix). The matters set out in new subparagraphs 4-33(1)(a)(v) to (ix) are:

- the management practices in relation to meat inspection services of a particular registered establishment (new subparagraph 4-33(1)(a)(v));
- the need to protect the health and safety of authorised officers while they are performing functions or exercising powers under the Act in or at a registered establishment (new subparagraph 4-33(1)(a)(vi));
- the construction of a particular registered establishment where meat inspection services are carried out (new subparagraph 4-33(1)(a)(vii));
- the operations of a particular registered establishment where meat inspection services are carried out (new subparagraph 4-33(1)(a)(viii)); and
- an importing country requirement for a Commonwealth authorised officer to be present at an establishment where meat inspection services are carried out (new subparagraph 4-33(1)(a)(ix)).

New subparagraphs 4-33(1)(a)(v) to (ix) reflect the changes in the allocation of meat inspection services in which Commonwealth authorised officers will only be provided to registered establishments where there is a requirement to do so to meet importing country requirements.

Item [8] – After paragraph 4-33(1)(a)

Section 4-33 of the Meat Rules provides for the variation by the Secretary of the allocation of meat inspection services to a registered establishment where operations to prepare prescribed meat or meat products for export are to be carried out.

Subsection 4-33(2) of the Meat Rules provides that the Secretary may vary the allocation of meat inspection services at a registered establishment in the circumstances specified in paragraphs 4-33(1)(a) or (b).

This item inserts paragraph 4-33(1)(aa) after paragraph 4-33(1)(a) of the Meat Rules. The effect of new paragraph 4-33(1)(aa) is that the Secretary may vary the allocation of meat inspection services at a registered establishment if there is no importing country requirement for a Commonwealth authorised officer to be present at a particular registered establishment where meat inspection services are carried out.

New paragraph 4-33(1)(aa) reflects the changes in the allocation of meat inspection services in which Commonwealth authorised officers will only be provided to registered establishments where there is a requirement to do so to meet importing country requirements.

Item 9 – Subsection 4-33(2)

Section 4-33 of the Meat Rules provides for the variation by the Secretary of the allocation of meat inspection services to a registered establishment where operations to prepare prescribed meat or meat products for export are to be carried out.

Subsection 4-33(2) of the Meat Rules provides that the Secretary may vary the allocation of meat inspection services at a registered establishment in the circumstances specified in paragraphs 4-33(1)(a) or (b).

Currently, subsection 4-33(2) provides that the Secretary may vary the allocation of meat inspection services to registered establishments affected by a *relevant change* (listed in paragraph 4-33(1)(a)) or to a registered establishment referred to in paragraph 4-33(1)(b).

This item omits “paragraph(1)(b)” and substitutes “paragraph (1)(ab) or (b)” in subsection 4-33(2) of the Meat Rules. This amendment is consequential to the amendment made by item 8 of Schedule 2 to the Meat Rules.

Item [10] – After subsection 5-2(5)

Section 5-2 of the Meat Rules sets out general requirements in relation to a proposed arrangement for operations to prepare prescribed meat or meat products for export at a registered establishment.

This item inserts new subsection 5-2(5A) after subsection 5-2(5) of the Meat Rules.

Without limiting subsection 5-2(4), new subsection 5-2(5A) requires the proposed arrangement to record certain details if operations to prepare prescribed meat or meat products to be covered by the arrangement include those that are to be the last operations to prepare the meat or meat products before export carried out at a registered establishment. New paragraphs 5-2(5A)(a) and (b) set out the details that are required to be recorded.

New paragraph 5-2(5A)(a) requires the proposed arrangement to record details of the information, methods, procedures, tests, monitoring and other evaluations to be used to verify that:

- the requirements of the Act in relation to the export of the prescribed meat or meat products have been, or will be, complied with; and
- any importing country requirements relating to the prescribed meat or meat products have been, or will be, met.

New paragraph 5-2(5A)(b) requires the proposed arrangement to record details of a person who manages or controls those operations who is to be designated in the arrangement as a person who may verify the matters referred to in new subparagraphs 5-2(5A)(a)(i) and (ii) and make the declaration required under section 7-8 of the Meat Rules in relation to the prescribed meat or meat products.

The note following new subsection 5-2(5A) alerts the reader that section 7-8 of the Meat Rules requires a declaration to be included in an application for an export permit.

Item [11] – Section 5-16

Section 5-16 of the Meat Rules currently deals with the supervision requirements for the loading of prescribed meat or meat products.

This item repeals section 5-16 of the Meat Rules and substitutes new section 5-16.

New section 5-16 provides that the loading of prescribed meat or meat products for export must be carried out under the supervision of an authorised officer, or a person designated in an approved arrangement as a person who may supervise the loading, if the approved arrangement covers the last operations to prepare the meat or meat products at a registered establishment before export and the supervision is in accordance with the arrangement.

This amendment removes the requirement for the person supervising loading of prescribed meat or meat products to provide a declaration to the exporter and removes the requirement that the supervisor be in management or control of the export operations at the registered establishment.

Item [12] – Paragraph 5-28(1)(b)

Section 5-28 of the Meat Rules provides for how and in what circumstances an official mark must be applied to a carton containing prescribed meat products that contain imported meat or meat products.

Subsection 5-28(1) currently requires an Australian 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 (paragraph 5-28(1)(a)); and
- the meat products are packed on or after 1 October 2021 (paragraph 5-28(1)(b)); and
- the meat products are intended to be exported (paragraph 5-28(1)(c)); and

- the relevant importing country authority for the meat products specifies that the Australian Approved official mark may be applied to the meat products (paragraph 5-28(1)(d)).

This item repeals paragraph 5-28(1)(b) of the Meat Rules. Paragraph 5-28(1)(b) was inserted to ensure a smooth transition to the new official mark requirements of the Meat Rules. The provision is no longer required.

Item [13] – After paragraph 5-38(1)(a)

Section 5-38 of the Meat Rules 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*).

Subsection 5-38(1) specifies the information and declarations that must be given to the occupier of the receiving establishment (paragraphs 5-38(1)(a) to (l)).

This item inserts new paragraphs 5-38(1)(aa), (ab) and (ac) after paragraph 5-38(1)(a) of the Meat Rules. The information required by new paragraphs 5-38(1)(aa), (ab) and (ac) to be given when a consignment of prescribed meat or meat products is transferred from the transferring establishment to the receiving establishment, is:

- the date or dates of slaughter of the animals from which the meat or meat products were derived (new paragraph 5-38(1)(aa));
- the registered establishment (with the registration number) where the animals from which the meat or meat products were derived were slaughtered (new paragraph 5-38(1)(ab));
- for Halal meat—the Islamic organisation that carried out Halal meat certification operations in relation to the meat or meat products (new paragraph 5-38(1)(ac)).

New paragraphs 5-38(1)(aa), (ab) and (ac) further ensure that importing country requirements will be met.

Item [14] – Paragraph 5-38(1)(k)

Section 5-38 of the Meat Rules 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*).

Subsection 5-38(1) specifies the information and declarations that must be given to the occupier of the receiving establishment (paragraphs 5-38(1)(a) to (l)).

This item repeals paragraph 5-38(1)(k) of the Meat Rules and substitutes new paragraph 5-38(1)(k). The declaration required by new paragraph 5-38(1)(k), is a declaration stating:

- that, at the date the declaration is made, the prescribed export conditions, and any other conditions that apply in relation to the meat or meat products under the Act, have been complied with and any importing country requirements relating to the meat or meat products are met (new subparagraph 5-38(1)(k)(i)); and
- any export market eligibility requirements for the relevant export market for the meat or meat products that are yet to be complied with (new subparagraph 5-38(1)(k)(ii)).

New paragraph 5-38(1)(k) further ensures that importing country requirements will be met.

Item [15] – Subsection 5-38(1) (note 2)

Section 5-38 of the Meat Rules 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*).

Note 2 currently refers the reader to subsections 5-38(2) to (4) of the Meat Rules for matters relating to the declarations referred to in paragraphs 5-38(1)(k) and (l).

This item repeals note 2 and substitutes new note 2 and note 3. New note 2 refers the reader to the definitions of *Halal meat* and *Islamic organisation* in section 5-1 of the Meat Rules. Note 3 refers the reader to subsections 5-38(2) to (4) for matters relating to the declarations referred to in paragraphs 5-38(1)(k) and (l).

This amendment is consequential to the amendment to subsection 5-38(1) made by item 13 of Schedule 2 to the Amendment Rules.

Item [16] – Section 5-43 (heading)

Section 5-43 of the Meat Rules currently deals with the requirement that authorised officers are present at registered establishments while certain export operations are carried out.

This item amends the heading of section 5-43 of the Meat Rules by omitting “Authorised” and substituting “Commonwealth authorised”.

This amendment aligns with the change in meat inspection allocations, being that Commonwealth authorised officers will be provided to registered establishments only where it is an importing country requirement.

Item [17] – Paragraphs 5-43(1)(a), (1)(b) and (2)(c)

Section 5-43 of the Meat Rules currently deals with the requirement that authorised officers are present at registered establishments while certain export operations are carried out.

Subsection 5-43(1) currently provides 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 (paragraph 5-43(1)(a)); 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 (5-43(1)(b)).

Subsection 5-43(2) currently provides that operations to prepare prescribed meat or meat products for export in accordance with the approved arrangement 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 (paragraph 5-43(2)(a));
- a memorandum of agreed intent between the Secretary and the occupier of the establishment in relation to the allocation is in place under Part 6 of Chapter 4 of the Meat Rules (paragraph 5-43(2)(b)); and
- an authorised officer is present at the establishment (paragraph 5-43(2)(c)).

This item omits “an authorised” where it appears in paragraphs 5-43(1)(a), (1)(b) and (2)(c) of the Meat Rules and substitutes “a Commonwealth authorised”.

This amendment aligns with the change in meat inspection allocations, being that Commonwealth authorised officers will be provided to registered establishments only where it is an importing country requirement.

Item [18] – Subparagraph 5-45(5)(a)(ii)

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(5) outlines the information that must be included in the inventory controls. Subparagraph 5-45(5)(a)(ii) currently requires the inventory controls to include a record of prescribed meat or meat products received at the registered establishment in accordance with the approved arrangement (including their description and the quantities received of each description), their origin, and their location at the establishment.

This item omits “prescribed” in subparagraph 5-45(5)(a)(ii) of the Meat Rules.

The effect of the amendment to subparagraph 5-45(5)(a)(ii) made by item 18 of Schedule 2 to the Amendment Rules is that an establishment is required to keep a record of all meat or meat products received at the registered establishment in accordance with the approved arrangement, rather than only prescribed meat or meat products. This requirement better supports current business practices in the export meat industry.

Item [19] – At the end of Part 3 of Chapter 7

Subsection 239(1) of the Act sets out the requirements for an application under section 224 of the Act for an export permit, or an application under paragraph 229(3)(b) of the Act to vary an export permit or conditions of an export permit.

Under paragraph 239(1)(c) of the Act, an application must include the information (if any) prescribed by the rules.

This item inserts new section 7-8 at the end of Part 3 of Chapter 7 of the Meat Rules.

New subsection 7-8(1) is made for the purposes of paragraph 239(1)(c) of the Act and requires an application for an export permit for prescribed meat or meat products to include a declaration stating that:

- the requirements of the Act in relation to the export of the prescribed meat or meat products have been complied with, or will be complied with before the meat or meat products are imported into the importing country; and
- at the date the declaration is made, the importing country requirements (if any) relating to the prescribed meat or meat products are met.

The first note following new subsection 7-8(1) explains that the Secretary may approve a single form for an application for an export permit for prescribed meat or meat products and a notice of intention to export the prescribed meat or meat products and advises the reader to see paragraph 243(4)(b) of the Act.

The second note following new subsection 7-8(1) advises the reader that for requirements to give information (including a declaration) in writing that can be met by an electronic communication, see section 9 of the *Electronic Transactions Act 1999* (ET Act) and see section 10 of the ET Act for electronic signatures.

The third note following new subsection 7-8(1) notifies the reader 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 goods given under the Act, as satisfying any requirement to give that information or document under subsection 239(1) of the Act and refers the reader to subsection 239(2) of the Act. This gives the Secretary discretion to consider relevant information or documents provided by the applicants in relation to different types of applications.

New subsection 7-8(2) provides that a declaration referred to in new subsection 7-8(1) must be made by:

- a person who:
 - manages or controls operations that are the last operations to prepare the prescribed meat or meat products carried out at a registered establishment before export; and
 - is designated in the approved arrangement as a person who may make the declaration; or
- a Commonwealth authorised officer.

New subsection 7-8(3) provides that a declaration:

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

The note following new subsection 7-8(3) alerts the reader that a person may commit an offence or be liable to a civil penalty if the person makes a false or misleading statement in an application or provides false or misleading information or documents (see sections 136.1, 137.1 and 137.2 of the *Criminal Code* and sections 367, 368 and 369 of the Act).

The declaration required by new section 7-8 is used to verify compliance and the requirement that an export permit application is accompanied by that declaration further ensures compliance by exporters.

Item [20] – Paragraph 11-6(1)(a)

Section 11-6 of the Meat Rules requires exporters to retain certain records. Paragraph 11-6(1)(a) requires exporters of prescribed meat or meat products to retain records of each declaration given to the exporter under subsection 5-16(2) of the Meat Rules.

This item repeals paragraph 11-6(1)(a) of the Meat Rules. This is consequential to the repeal of section 5-16 and substituting a new section 5-16 by item 11 of Schedule 2 to the Amendment Rules, which relevantly removes the requirement for the person supervising loading of prescribed meat or meat products to provide a declaration to the exporter.

Schedule 3 – Amendment of the *Export Control (Miscellaneous) Rules 2021*

Export Control (Miscellaneous) Rules 2021

The *Export Control (Miscellaneous) Rules 2021* (the Miscellaneous Rules) prescribe matters in relation to all commodities for the purposes of the Act.

Item [1] – At the end of the instrument

This item inserts new Part 3 in the Miscellaneous Rules in relation to the publication of information for all commodities. The item inserts new section 3-1 in new Part 3 to provide that the Secretary may publish certain protected information.

New subsection 3-1(1) provides that the Secretary may publish, or otherwise disclose, protected information if:

- it does not include personal information about any individual; or
- all personal information about an individual included in the protected information is de-identified.

New subsection 3-1(2) provides that personal information is ***de-identified*** if the information is no longer about an identifiable individual or an individual who is reasonably identifiable. An individual may be reasonably identifiable if, for example, they have a rare characteristic, or a combination of unique characteristics, that enable them to be identified.

Protected information is defined in section 12 of the Act to mean information obtained under, or in accordance with, the Act, legislative instruments made under the Act (including rules) and the Regulatory Powers Act as it applies in relation to the Act and rules.

Personal information is defined in section 12 of the Act to have the same meaning as in the *Privacy Act 1988* (the Privacy Act), that is, information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether true or not, and whether recorded in a material form or not (see section 6 of the Privacy Act).

This provision provides a power to publish or otherwise disclose certain de-identified information consistent with section 388 of the Act. Section 388 of the Act provides, in effect, that a person who obtains protected information may use or disclose the information in performing functions or duties or exercising powers under the Act or rules. The ability to publish de-identified export information supports transparency, assists with maintaining overseas market access and ensures that exported goods meet relevant importing country requirements, by encouraging compliance with Australian and importing country requirements. Sharing de-identified export data collected by the department with Australian export industries also presents a valuable opportunity for increased profitability across the sector by allowing exporters to make better informed and ‘real-time’ commercial decisions.

The Secretary's power to publish or otherwise disclose information in section 3-1 is able to be delegated to an SES employee, or an acting SES employee, under subsection 288(1) of the Act. If this function or power is delegated to an SES employee or an acting SES employee under subsection 288(1), the employee may subdelegate the function or power to an authorised officer or an APS employee in the department under subsection 288(2) of the Act. It is appropriate for the power to be delegated or subdelegated to employees or officers with the appropriate expertise to ensure that de-identified data can be routinely published as required.

This provision relies on the necessary or convenient power in paragraph 432(1)(b) of the Act.

Schedule 4 – Amendment of the *Export Control (Organic Goods) Rules 2021*

Export Control (Organic Goods) Rules 2021

The *Export Control (Organic Goods) Rules 2021* (the Organic Goods Rules) prescribes matters and makes other provision in relation to certain organic goods (prescribed organic goods) for the purposes of the Act.

Item [1] – After paragraph 2-2(f)

For the purposes of subsection 28(4) of the Act, section 2-2 of the Organic Goods Rules sets out the circumstances when organic goods prescribed under subsection 2-1(1) are taken not to be prescribed goods for the purposes of the Act.

This item inserts new paragraph 2-2(g) after paragraph 2-2(f) of the Organic Goods Rules. Under new paragraph 2-2(g), organic goods that are exported in a consignment of not more than 10 litres (if the organic goods are in liquid form), or 10 kilograms (in any other case), are taken not to be prescribed goods for the purposes of the Act.

New paragraph 2-2(g) reflects the exception which was previously provided for in the *Export Control (Prescribed Goods – General) Order 2005*.

Part 1—Amendments commencing 1 January 2022

Export Control (Plants and Plant Products) Rules 2021

The *Export Control (Plants and Plant Products) Rules 2021* (the Plant Rules) prescribes matters and makes other provision in relation to certain plants and plant products (prescribed plants and plant products) for the purposes of the Act.

Item [1] – Section 1-6 (definition of *container*)

Section 1-6 of the Plant Rules contains definitions of key terms which are used in the Plant Rules, including the definition of *container*.

Section 1-6 currently provides that *container* means a container (including a shipping container) that is:

- designed for use as a unit of cargo handling equipment in the transport of plants or plant products by a conveyance; and
- intended to be used for plants or plant products that require protection because they are not in small quantities in protective packaging.

This item omits “a shipping container” in the definition of *container* in section 1-6 of the Plant Rules and substitutes “a shipping container other than an airfreight container”.

The amended definition of *container* clarifies that an airfreight container is not considered a container for the purposes of the Plant Rules.

Item [2] – Paragraph 1-7(1)(h)

Section 1-7 of the Plant Rules provides the definition for *prescribed grain*. Subsection 1-7(1) provides a list of grains that meet the definition of *prescribed grain*, including mung beans (being whole seeds of the species *Vigna radiata* or *Vigna mungo*, including varieties and synonyms) (see paragraph 1-7(1)(h)).

This item omits “including varieties and synonyms” from paragraph 1-7(1)(h) of the Plant Rules.

This amendment is consequential to the amendment to subsection 1-7(2) made by item 3 of Schedule 5 to the Amendment Rules.

Item [3] – Subsection 1-7(2)

Section 1-7 of the Plant Rules provides the definition for *prescribed grain*. Subsection 1-7(2) currently provides that a reference to a species of plant under subsection 1-7(1) includes every cultivated subspecies, variety and cultivar of the species and every cross of which a plant of the species is a parent, unless the relevant paragraph under subsection 1-7(1) limits the reference to a particular subspecies, cultivar or cross.

This item repeals subsection 1-7(2) and substitutes a new subsection 1-7(2), which provides that a reference to a species of plant in a paragraph under subsection 1-7(1) includes a reference to:

- a synonym for the species; and
- each cultivated subspecies, variety and cultivar of the species; and
- each cross of which a plant of the species is a parent.

This amendment ensures that the definition of *prescribed grain* also includes synonyms, cultivated subspecies, varieties and cultivar of the species of plant listed as well as each cross of which a plant of the species is parent.

Item [4] – Subsection 1-8(9) (definition of *kiwifruit*)

Subsection 1-8(9) of the Plant Rules provides definitions of terms used in the table in subsection 1-8(8), including *kiwifruit*.

This item omits “mans” in the definition for *kiwifruit* in subsection 1-8(9) and substitutes “means”. This is an editorial amendment.

Item [5] – Subsection 2-1(1)

Section 2-1 of the Plant Rules sets out plants and plant products that are prescribed goods for the purposes of the Act.

Subsection 2-1(1) currently provides that for the purposes of subsection 28(1) of the Act, the following goods (other than narcotic goods within the meaning of the *Customs Act 1901* (the Customs Act)) are prescribed for the purposes of the Act:

- prescribed grain;
- hay and straw;
- fresh fruit;
- fresh vegetables.

This item inserts “or plant-based oils” after “*Customs Act 1901*” in subsection 2-1(1) of the Plant Rules.

Amended subsection 2-1(1) clarifies that plant-based oils are not prescribed goods for the purposes of the Plant Rules.

Item [6] – Subsection 2-1(1) (note 2)

Section 2-1 of the Plant Rules sets out plants and plant products that are prescribed goods for the purposes of the Act.

Note 2 following subsection 2-1(1) currently refers the reader to section 1-7 of the Plant Rules for the definition of *prescribed grain*.

This item repeals the note 2 following subsection 2-1(1) of the Plant Rules and substitutes new notes 2 and 3. New note 2 provides examples of plant-based oils. New note 3 refers the reader to section 1-7 of the Plant Rules for the definition of *prescribed grain*.

This amendment is consequential to the amendment to subsection 2-1(1) made by item 5 of Schedule 5 to the Amendment Rules.

Item [7] – Paragraph 2-1(2)(a)

Section 2-1 of the Plant Rules sets out plants and plant products that are prescribed goods for the purposes of the Act.

Subsection 2-1(2) currently provides that plants or plant products not listed in subsection 2-1(1), or plants or plant products that are narcotic goods within the meaning of the Customs Act, are for the purposes of subsection 28(1) of the Act, prescribed for the purposes of the Act where:

- the goods are intended to be exported to a particular country (the *importing country*); and
- a phytosanitary certificate or a phytosanitary certificate for re-export, in relation to the plants or plant products, is required to meet an importing country requirement.

This item inserts “or plant-based oils” after “*Customs Act 1901*” in paragraph 2-1(2)(a) of the Plant Rules.

This item ensures that plant-based oils are not prescribed goods for the purpose of the Plant Rules even in circumstances where an importing country requires a phytosanitary certificate or a phytosanitary certificate for re-export. Applicants can still apply for phytosanitary certificates for non-prescribed plant-based oils.

This amendment is consequential to the amendment to subsection 2-1(1) made by item 5 of Schedule 5 to the Amendment Rules.

Item [8] – Subsection 2-1(2) (note)

Section 2-1 of the Plant Rules sets out plants and plant products that are prescribed goods for the purposes of the Act.

The note following subsection 2-1(2) of the Plant Rules advises the reader that plants or plant products that are narcotic goods within the meaning of the Customs Act are non-prescribed plants or plant products for the purposes of the Plant Rules and refers the reader to the definition of *non-prescribed plants or plant products* in section 1-6 of the Plant Rules. The note also advises the reader that the goods may be prescribed for the purposes of subsection 28(1) of the Act by other rules made under section 432 of the Act (for example, rules relating to organic goods or wood).

This item inserts “, or plant-based oils” after “*Customs Act 1901*” in the note following subsection 2-1(2) of the Plant Rules.

This amendment is consequential to the amendment to subsection 2-1(1) made by item 5 of Schedule 5 to the Amendment Rules.

Item [9] – Subsection 2-4(1) (table item 1, column headed “Prescribed export conditions”, paragraphs (d) and (e))

Section 2-4 provides that the export from Australian territory of prescribed plants or plant products is prohibited unless there is compliance with prescribed conditions.

Subsection 2-4(1) lists the prescribed export conditions in a table. Table item 1 covers the export conditions relating to an accredited property. Currently, if:

- the plants or plant products are covered by the Accredited Properties (Prescribed Plants and Plant Products) List in relation to an importing country and a kind of export operations; and
- the plants or plant products are intended to be exported to that importing country; and
- the plants or plant products are not imported plants or plant products;

then:

- export operations of that kind in relation to the plants or plant products must be carried out at a property that is accredited for export operations of that kind in relation to the plants or plant products and that importing country (table item 1, paragraph (d) in subsection 2-4(1)); and
- at the time the export operations of that kind are carried out, the accreditation of the property must not be suspended in relation to those operations (table item 1, paragraph (e) in subsection 2-4(1)).

This item repeals paragraphs (d) and (e) of table item 1 in subsection 2-4(1) of the Plant Rules and substitutes new paragraphs (d) and (e) as follows:

- export operations of that kind in relation to the plants or plant products (other than treatment of the plants or plant products) must be carried out at a property that is accredited for export operations of that kind in relation to the plants or plant products and that importing country (table item 1, new paragraph (d) in subsection 2-4(1)); and
- at the time the export operations are carried out, the accreditation of the property must not be suspended in relation to those operations (table item 1, new paragraph (e) in subsection 2-4(1)).

The amendment clarifies that the export conditions relating to accredited properties do not include treatment of the plants or plant products. Treatments of plants or plant products is covered by table item 2 in subsection 2-4(1) of the Plant Rules relating to operations to prepare at a registered establishment.

Item [10] – Paragraphs 2-12(1)(b), 2(b) and 3(c)

Section 2-12 of the Plant Rules provides for when a phytosanitary certificate, or a phytosanitary certificate for re-export, in relation to prescribed plants or plant products may be issued.

Subsection 2-12(4) provides that the circumstances in:

- paragraph 2-12(1)(b) in relation to the issuance of a phytosanitary certificate for plants or plant products that are to be exported;
- paragraph 2-12(2)(b) in relation to the issuance of a phytosanitary certificate for plants or plant products that have been exported; and
- paragraph 2-12(3)(c) in relation to the issuance of a phytosanitary certificate for re-export for imported plants or plant products;

do not apply in relation to plant-based oils.

This item omits “subject to subsection (4),” from paragraphs 2-12(1)(b), 2(b) and 3(c). This amendment is consequential to the amendment made by item 11 of Schedule 5 to the Amendment Rules.

Item [11] – Subsection 2-12(4)

Section 2-12 of the Plant Rules provides for when a phytosanitary certificate, or a phytosanitary certificate for re-export, in relation to prescribed plants or plant products may be issued.

Subsection 2-12(4) provides that the circumstances in:

- paragraph 2-12(1)(b) in relation to the issuance of a phytosanitary certificate for plants or plant products that are to be exported;
- paragraph 2-12(2)(b) in relation to the issuance of a phytosanitary certificate for plants or plant products that have been exported; and

- paragraph 2-12(3)(c) in relation to the issuance of a phytosanitary certificate for re-export for imported plants or plant products;
do not apply in relation to plant-based oils.

This item repeals subsection 2-12(4). This is consequential to the amendment to subsection 2-1(1) made by item 5 of Schedule 5 to the Amendment Rules.

Item [12] – Subsection 3-1(2)

Section 3-1 of the Plant Rules prescribes other requirements that must be met for a property to be accredited for a kind of export operations in relation to a kind of prescribed plants or plant products.

Subsection 3-1(2) currently requires the property to have a management system in place in relation to the export operations and the plants or plant products and for the management system to ensure that the matters listed in paragraphs 3-1(2)(a) to (e) are met. Currently it is a condition that this management system must be implemented by the manager of the accredited property under section 3-3 of the Plant Rules.

This item repeals subsection 3-1(2) of the Plant Rules and substitutes new subsections 3-1(2) and (3).

New subsection 3-1(2) provides that all importing country requirements relating to export operations to be carried out at the property in relation to prescribed plants or plant products and the plants or plant products must be able to be met. Importing country requirements may include that an accredited property carrying out these export operations (such as farms and orchards) undertake crop monitoring or control for certain pests of quarantine concern to the importing country.

New subsection 3-1(3) provides that for a property to be accredited for operations to prepare prescribed plants or plant products for export, there must be a system of controls in place at the property in relation to those operations, and the plants or plant products for which the property is to be accredited, to ensure that the conditions prescribed by sections 3-3A (property must be kept in appropriate condition) and 3-3B (plants and plant products must be traced) of the Plant Rules will be complied with in relation to those operations and the plants or plant products. Accredited properties that carry out these export operations include packhouses.

This amendment simplifies the requirements for accredited properties, enhances compliance requirements and supports enforcement. New subsection 3-1(3) restricts the requirements for systems of control to properties carrying out export operations. The amendment facilitates managers seeking accreditation of properties to tailor the systems of control at their property. This will ensure the relevant conditions can meet relevant standards. This amendment

provides a responsive regulatory framework that can accommodate evolving industry practices.

Item [13] – Section 3-3

Section 3-3 of the Plant Rules currently requires that the management system required by section 3-1 must be implemented and provides for the circumstances when a variation of the management system may be implemented.

This item repeals section 3-3 of the Plant Rules and substitutes new sections 3-3, 3-3A and 3-3B

New section 3-3 requires all importing country requirements relating to the export operations carried out at an accredited property in relation to prescribed plants or plant products and the plants or plant products to be met. Examples of importing country requirements relating to export operations at an accredited property may include:

- requirements to undertake crop monitoring; or
- control for certain pests of quarantine concern; or
- specific packaging or labelling requirements.

New section 3-3A requires an accredited property to be kept in appropriate condition. New subsection 3-3A(1) provides that an accredited property must be kept in a condition:

- appropriate for the export operations carried out at the property and the plants or plant products at the property; and
- that ensures that prescribed plants and plant products at the property are not, or not likely to be, infested by pests or contaminated.

The example following new subsection 3-3A(1) alerts the reader that materials at the property must be monitored, controlled and maintained so that they do not contaminate plants or products, and are not likely to harbour pests that could infest plants or plant products, at the property.

New subsection 3-3A(2) provides that without limiting new subsection 3-3A(1):

- the property must be kept in a clean and hygienic condition appropriate for the export operations and the kind of plants or plant products at the property; and
- pests and contaminants at the property must be controlled in a manner that is appropriate for the export operations and the kind of prescribed plants or plant products; and
- if operations to prepare prescribed plants or plant products for export are carried out at the property—waste at the property must be appropriately treated and disposed of.

New subsection 4-7A inserted by item 25 of Schedule 5 to the Amendment Rules provides that legislative obligations of accredited properties extend as far as is proportionate or

appropriate to the kind of prescribed goods or export operations being carried out at the property. For example, what is appropriate for an accredited property producing goods for export, such as a farm or orchard, will differ from what is appropriate for an accredited property that prepares goods for export, such as a packhouse, that cleans, processes and packages.

New section 3-3B requires prescribed plants and plant products prepared at an accredited property (the *relevant property*) to be traced:

- from the property (if any) from which they were transferred to the relevant property; and
- while they are at the relevant property; and
- to the accredited property or registered establishment to which they are transferred from the relevant property.

The condition for plants and plant products to be traced is to achieve ‘one step forward’ and ‘one step back’ traceability of the plants or plant products while they are at the property. It is a requirement to know where the goods have come from (where the property is not the first point in the supply chain), where the goods are located in the property and where the goods have been transferred to.

New sections 3-3, 3-3A and 3-3B simplify the requirements for accredited properties, enhances compliance requirements and supports enforcement.

Item [14] – Paragraph 3-10(e)

Section 3-10 of the Plant Rules prescribes reasons for the Secretary to make a variation in relation to, or setting an earlier expiry date for, the accreditation of a property. The reason currently listed under paragraph 3-10(e), is that the management system required by section 3-1 of the Plant Rules is no longer appropriate in relation to the kind of export operations or the kind of prescribed plants or plant products covered by the accreditation.

This item repeals paragraph 3-10(e) of the Plant Rules. This repeal is consequential to the amendment to subsection 3-1(2) made by item 12 of Schedule 5 to the Amendment Rules.

Item [15] – After subparagraph 3-15(c)(i)

Section 3-15 of the Plant Rules prescribes events (listed in paragraphs 3-15(a) to (e)) of which the Secretary must be notified in relation to an accredited property. The event currently prescribed by paragraph 3-15(c), is where the manager is a corporation, the corporation:

- enters into administration (within the meaning of section 435C of the *Corporations Act 2001*) (subparagraph 3-15(c)(i)); or
- is to be wound up (whether by a court or voluntarily) (subparagraph 3-15(c)(ii)).

This item inserts new subparagraph 3-15(c)(ia) after subparagraph 3-15(c)(i) of the Plant Rules. New subparagraph 3-15(c)(ia) prescribes an additional event of, if the manager is a corporation, the corporation begins restructuring (within the meaning of section 435A of the *Corporations Act 2001*). This change has been made to ensure that the export control legislative framework is compliant with the *Corporations Act 2001* by providing that the Secretary must be notified when a corporation begins restructuring as defined under section 435A of the *Corporations Act 2001*.

Item [16] – Division 1 of Part 1 of Chapter 4 (heading)

This item repeals the heading of Division 1 of Part 1 of Chapter 4 of the Plant Rules.

Item [17] – Section 4-1 (heading)

This item omits “Division” in the heading of section 4-1 of the Plant Rules and substitutes “Part”. This amendment is consequential to the amendments made by items 16 and 23 of Schedule 5 to the Amendment Rules.

Item [18] – Section 4-1

Section 4-1 currently provides the purpose of Division 1 of Part 1 of Chapter 4 of the Plant Rules.

This item omits “Division” in section 4-1 of the Plant Rules and inserts “Part”. Amended section 4-1 provides for the purposes of Part 1 of Chapter 4 of the Plant Rules. This amendment is consequential to the amendments made by items 16 and 23 of Schedule 5 to the Amendment Rules.

Item [19] – Section 4-1

Section 4-1, as amended by items 17 and 18 of Schedule 5 above, provides the purpose of Division 1 of Part 1 of Chapter 4 of the Plant Rules.

This item omits “relating to construction, equipment and facilities” in section 4-1 of the Plant Rules. This amendment is consequential to the amendments made by items 16 and 23 of Schedule 5 to the Amendment Rules.

Item [20] – Section 4-1 (notes)

Section 4-1, as amended by items 17 to 19 of Schedule 5 above, provides for the purpose of Part 1 of Chapter 4 of the Plant Rules.

The first note following section 4-1 currently alerts the reader that the requirements in Division 1 of Part 1 of Chapter 4 of the Plant Rules also apply in relation to an application to

renew the registration of the establishment and refers the reader to section 4-15 of the Plant Rules. The second note following section 4-1 currently alerts the reader that other requirements that must be met are provided by paragraphs 112(2)(a), (b), (c) and (e) of the Act and Division 2 of Part 1 of Chapter 4 of the Plant Rules.

This item repeals the notes following section 4-1 and substitutes a new note. The new note following section 4-1 alerts the reader that the requirements in Part 1 of Chapter 4 of the Plant Rules also apply in relation to an application to renew the registration of the establishment and refers the reader to section 4-15 of the Plant Rules. This amendment is consequential to the amendments made by items 16 and 23 of Schedule 5 to the Amendment Rules.

Item [21] – Section 4-2 (heading)

The heading for section 4-2 of the Plant Rules currently refers to General requirements.

This item repeals the heading to section 4-2 of the Plant Rules and substitutes “**4-2 Construction, equipment and facilities**”. This amendment is consequential to the amendments made by items 16 and 23 of Schedule 5 to the Amendment Rules.

Item [22] – After section 4-2

This item inserts new section 4-3 after section 4-2 of the Plant Rules, which deals with other requirements in relation to the registration of an establishment.

New subsection 4-3(1) provides that the requirements prescribed by section 4-3 of the Plant Rules applies in relation to all establishments.

New subsection 4-3(2) provides that all importing country requirements relating to the export operations to be carried out at the establishment in relation to prescribed plants or plant products and the plants or plant products must be able to be met. Examples of importing country requirements that may relate to an establishment’s export operations include:

- specific packaging; or
- labelling requirements; or
- specific requirements for establishments applying to undertake treatment.

New subsection 4-3(3) provides that there must be a system of controls in place at the establishment in relation to the export operations and the plants or plant products for which the establishment is to be registered to ensure that the conditions prescribed by sections 4-7A (establishment must be kept in appropriate condition) and 4-7B (plants and plant products must be traced) and, if applicable, section 4-8A (conditions relating to treatment of prescribed plants or plant products) will be complied with in relation to those operations and the plants or plant products.

New section 4-3 simplifies the requirements for registered establishments, and enhances compliance requirements and supports enforcement.

. It facilitates an occupier seeking registration of an establishment to tailor the systems of control at their establishment to ensure the relevant conditions will be complied with to the relevant standard. This amendment provides a responsive regulatory framework that can accommodate evolving industry practices.

Item [23] – Division 2 of Part 1 of Chapter 4

Division 2 of Part 1 of Chapter 4 of the Plant Rules currently provides for other requirements in relation to the registration of an establishment.

This item repeals Division 2 of Part 1 of Chapter 4 of the Plant Rules.

Item [24] – Section 4-6

Section 4-6 of the Plant Rules currently provides that requirements for the registration of an establishment for operations to prepare prescribed plants or plant products for export prescribed by Division 1 of Part 1 of Chapter 4 of the Plant Rules must continue to be met after the establishment is registered.

This item omits “Division 1 of Part 1 of this Chapter” in section 4-6 of the Plant Rules and substitutes “section 4-2”. This is consequential to the amendments made by items 16 and 23 of Schedule 5 to the Amendment Rules.

Item [25] – Section 4-7

Section 4-7 of the Plant Rules currently requires that the management system required by section 4-4 to be implemented.

This item repeals section 4-7 of the Plant Rules and substitutes new sections 4-7, 4-7A and 4-7B.

New section 4-7 requires all importing country requirements relating to the export operations carried out at a registered establishment in relation to prescribed plants or plant products and the plant or plant products to be met. Examples of importing country requirements that may relate to an establishment’s export operations include:

- specific packaging; or
- labelling requirements.

New section 4-7A requires a registered establishment to be kept in appropriate condition. New subsection 4-7A(1) provides that an accredited property must be kept in a condition:

- appropriate for the export operations carried out at the establishment and the plants or plant products at the property; and
- that ensures prescribed plants and plant products at the establishment are not, or not likely to be, infested by pests or contaminated.

The example following new subsection 4-7A(1) alerts the reader that materials at the establishment must be monitored, controlled and maintained so that they do not contaminate plants or products, and are not likely to harbour pests that could infest plants or plant products, at the establishment.

New subsection 4-7A(2) provides that without limiting new subsection 4-7A(1):

- the establishment must be kept in a clean and hygienic condition appropriate for the export operations carried out at the establishment and the kind of plants or plant products; and
- pests and contaminants at the establishment must be controlled in a manner that is appropriate for the export operations and the kind of prescribed plants or plant products; and
- toxic substances (including fumigants, rodenticides and insecticides) at the establishment must be managed and stored appropriately in accordance with applicable State or Territory law (if any); and
- waste at the establishment must be appropriately treated and disposed of.

New section 4-7A provides that legislative obligations of registered establishments extend as far as is proportionate or appropriate to the kind of prescribed goods or export operations being carried out at an establishment. For example, a log yard preparing goods for export has different requirements to a registered establishment preparing fresh fruit and fresh vegetables for export.

New section 4-7B requires prescribed plants and plant products prepared at a registered establishment to be traced:

- from the property (if any) from which they were transferred to the registered establishment; and
- while they are at the registered establishment; and
- to the premises to which they are transferred from the registered establishment.

The condition for plants and plant products to be traced is to achieve ‘one step forward’ and ‘one step back’ traceability while these goods are located at an establishment. It is a requirement to know where the goods have come from, where the goods are located in the establishment and where the goods have been transferred to.

New sections 4-7, 4-7A and 4-7B, simplify the requirements for registered establishments, enhances compliance requirements and supports enforcement.

Item [26] – After section 4-8

This item inserts new section 4-8A after section 4-8 of the Plant Rules, which provides conditions relating to treatment of plants or plant products.

New section 4-8A provides that if export operations carried out at a registered establishment are, or include, operations to treat prescribed plants or plant products:

- the operations must be safe and effective; and
- the treatment must meet importing country requirements relating to the export operations and the plants or plant products; and
- if the treatment involves the application of a chemical such as an insecticide or a fumigant—the use of the chemical must be lawful.

This amendment simplifies how these obligations are reflected in the Plant Rules for registered establishments.

These amendments are necessary to simplify and enhance compliance requirements and support enforcement.

Item [27] – Section 4-15

Section 4-15 of the Plant Rules prescribes requirements for the renewal of registration of an establishment.

Subsection 4-15(1) currently provides that for the purposes of paragraph 117(2)(g) of the Act, the requirements prescribed by Division 1 of Part 1 of Chapter 4 of the Plant Rules are prescribed in relation to an establishment that is registered to prepare prescribed plants or plant products for export. Subsection 4-15(2) provides that for the purposes of paragraph 117(2)(g) of the Act, the requirements prescribed by section 4-4 of the Plant Rules are prescribed in relation to an establishment that is registered to prepare prescribed plants or plant products for export.

This item repeals section 4-15 of the Plant Rules and substitutes a new section 4-15, which provides that “For the purposes of paragraph 117(2)(g) of the Act, the requirements prescribed by Part 1 of this Chapter are prescribed in relation to an establishment that is registered to prepare prescribed plants or plant products for export.”

This amendment is consequential to the amendments made by items 16 and 23 of Schedule 5 to the Amendment Rules.

Item [28] – Section 4-16

Section 4-16 of the Plant Rules currently provides that an alteration of a registered establishment is prescribed if it does not affect:

- the implementation of the management system at the establishment; or
- compliance with the other conditions of registration of the establishment.

This item repeals section 4-16 of the Plant Rules and substitutes a new section 4-16. The new section 4-16 provides that for the purposes of subsection 122(2) of the Act, an alteration of a registered establishment is prescribed if it does not affect compliance with the conditions of registration of the establishment.

For example, alterations that may not affect compliance with the conditions of registration could include:

- where general maintenance is undertaken at the establishment, such as repainting or rewiring of buildings;
- new labelling equipment is purchased and installed to improve the efficiency and accuracy of the establishment's business operations; or
- movement and storage of machinery and equipment at an establishment to facilitate normal operations and cleaning.

It is not intended that alterations of this nature should require approval by the Secretary before being implemented by the occupier of the registered establishment.

This amendment is consequential to the amendment to section 4-7 of the Plant Rules made by item 25 of Schedule 5 to the Amendment Rules.

Item [29] – Subparagraph 4-17(a)(i)

Section 4-17 of the Plant Rules prescribes other reasons for the Secretary to vary the registration of an establishment, or set an earlier expiry date for the registration.

A reason currently listed under subparagraph 4-17(a)(i) is that the management system required by section 4-4 of the Plant Rules is no longer appropriate in relation to the kind of export operations or the kind of prescribed plants or plant products covered by the registration. This item repeals subparagraph 4-17(a)(i) of the Plant Rules. This amendment is consequential to the amendment to section 4-7 of the Plant Rules made by item 25 of Schedule 5 of the Amendment Rules.

Item [30] – Section 9-8

Section 9-8 of the Plant Rules currently provides that an assessment of prescribed plants or plant products must be carried out at an establishment that is registered to carry out export operations in relation to the plants or plant products.

The note following section 9-8 explains that an assessment of non-prescribed plants or plant products may be carried out at any establishment.

This item repeals section 9-8 of the Plant Rules and substitutes new section 9-8.

New subsection 9-8(1) mirrors the current section 9-8 and provides that an assessment of prescribed plants or plant products must be carried out at an establishment that is registered to carry out export operations in relation to the plants or plant products.

The note following new subsection 9-8(1) explains that an assessment of non-prescribed plants or plant products may be carried out at any establishment.

New subsection 9-8(2) provides that new subsection 9-8(1) does not prevent a reassessment of timber logs that are intended to be transported in or on a bulk vessel being carried out at a wharf that is not a registered establishment.

The note following new subsection 9-8(2) alerts the reader that if plants or plant products are intended to be transported in or on a bulk vessel, a bulk vessel approval, covering the cargo spaces of the vessel into or onto which it is intended to load the plants or plant products, must be in force for the bulk vessel, and not suspended, when the plants or plant products are loaded into or onto the vessel. The note also refers the reader to item 3 of the table in subsection 2-4(1) of the Plant Rules.

This amendment clarifies that a reassessment of timber logs may occur at a wharf that is not a registered establishment if the logs are intended to be transported in or on a bulk vessel.

Item [31] – Paragraph 9-10(2)(d)

Paragraph 9-10(2)(d) currently provides that an assessor must not decide that plants or plant products pass an assessment unless, for an assessment of prescribed plants or plant products that are packed into packages for export, or that are intended to be packed into packages for export, the packages for export meet the requirements in subsections 4-13(2) to (5) of the Plant Rules.

This item omits “subsections 4-13(2) to (5)” in paragraph 9-10(2)(d) of the Plant Rules and substitutes “subsections 4-11(2) to (5)”. This is an editorial amendment.

Item [32] – Section 9-16 (heading)

This item omits “**higher**” in the heading to section 9-16 of the Plant Rules. This is consequential to the amendments made by items 33 and 34 of Schedule 5 to the Amendment Rules and achieves consistency with subsection 9-16(3) in relation to which there is no default tolerance that is approved for contaminants that are not animal carcasses or animal waste.

Item [33] – Paragraph 9-16(1)(c)

Section 9-16 of the Plant Rules provides for the approval of tolerance levels for pests and contaminants.

Subsection 9-16(1) provides the circumstances in which the Secretary may approve, in writing, a tolerance level higher than nil for a kind of pest in relation to a kind of plant or plant product for export to an importing country.

Currently, the circumstance set out in paragraph 9-16(1)(c) is that the pest is a quarantine pest for the importing country and the higher tolerance level is consistent with importing country requirements.

This item omits “higher tolerance” in paragraph 9-16(1)(c) of the Plant Rules and substitutes “approved tolerance”. This amendment achieves consistency with paragraph 9-15(1)(b) and subsection 9-16(3) of the Plant Rules.

Item [34] – Subsection 9-16(2)

Section 9-16 of the Plant Rules provides for the approval of tolerance levels for pests and contaminants.

Subsection 9-16(2) currently provides that the Secretary may approve, in writing, a tolerance level higher than nil for animal carcasses or animal waste (or both) in relation to a kind of plant or plant product for export to an importing country if the higher tolerance level is consistent with the importing country requirements.

This item omits “higher tolerance” in subsection 9-16(2) of the Plant Rules and substitutes “approved tolerance”. This amendment achieves consistency with paragraph 9-15(2)(b) and subsection 9-16(3) of the Plant Rules.

Item [35] – After section 9-19

Section 9-19 of the Plant Rules outlines requirements that must be met for a person to be a third party authorised officer.

This item inserts new section 9-19A after section 9-19 of the Plant Rules, which provides that for the purposes of paragraph 292(1)(a) of the Act, it is a condition of the authorisation of a third party authorised officer who may carry out inspections of bulk vessels that the third party authorised officer must make a video recording of each inspection carried out by the third party authorised officer.

This amendment mandates video recordings by third party authorised officers undertaking bulk vessel inspections.

Item [36] – Section 9-21 (at the end of the table)

Section 9-21 of the Plant Rules specifies additional persons in relation to plants or plant products who may be given a direction by an authorised officer to deal with non-compliance. Persons that may be given directions to deal with non-compliance are listed in column 1 of the table and the grounds for giving directions are in column 2 of the table.

This item adds new item 3 in the table in section 9-21. Column 1 of table item 3 provides that either:

- a person responsible for a bulk vessel (new table item 3(a) in column 1); or
- if a bulk vessel is at a registered establishment and the occupier of the establishment, or another person who manages or controls export operations at the establishment, is not a person responsible for the bulk vessel—the occupier of the establishment or another person who manages or controls export operations at the establishment (new table item 3(b) in column 1);

are persons that may be given directions to deal with non-compliance.

Column 2 of table item 3 provides the following grounds for giving directions:

- a marine surveyor's certificate for the vessel was not issued by a qualified marine surveyor, or was obtained fraudulently (table item 3(a) in column 2);
- that the requirements in paragraph 9-23(1)(a) or (b) are not continuing to be met in relation to the vessel (table item 3(b) in column 2);
- a species of the genus *Trogoderma* is detected in or on the vessel (table item 3(c) in column 2).

New item 3 in the table in section 9-21 allows an authorised officer to issue directions to the occupier or persons in management or control, or the person responsible for the vessel in the circumstances listed in column 2. This amendment aligns with provisions in the Plant Rules that provide the Secretary with discretion to suspend (section 9-27) or revoke (section 9-29) a bulk vessel approval in certain circumstances. This amendment supports the enforceability of existing requirements under the Act and Plant Rules.

Item [37] – After subsection 9-22(2)

Section 9-22 of the Plant Rules sets out the process for authorised officers to inspect and decide whether to approve a bulk vessel. Subsection 9-22(1) provides that an authorised officer may approve a bulk vessel. Subsection 9-22(2) provides what an authorised officer must inspect for the purpose of deciding whether to approve a bulk vessel.

This item inserts new subsection 9-22(2A) after subsection 9-22(2) of the Plant Rules. New subsection 9-22(2A) provides that an authorised officer may make a video recording of an inspection of a bulk vessel carried out by the authorised officer under subsection 9-22(2).

The note following new subsection 9-22(2A) explains that a third party authorised officer who carries out an inspection of a bulk vessel under subsection 9-22(2), must make a video recording of the inspection and refers the reader to section 9-19A of the Plant Rules.

This amendment facilitates video recordings by authorised officers undertaking bulk vessel inspections.

Item [38] – Paragraph 9-22(3)(a)

Section 9-22 of the Plant Rules sets out the process for authorised officers to inspect and decide whether to approve a bulk vessel. Paragraph 9-22(3)(a) of the Plant Rules currently provides that an inspection may be carried out at any wharf.

This item omits “wharf” in paragraph 9-22(3)(a) of the Plant Rules and substitutes “berth”. This is an editorial amendment.

Item [39] – After paragraph 9-27(2)(a)

Section 9-27 of the Plant Rules provides grounds for suspension of a bulk vessel approval, the requirements for a notice of suspension, the period of effect of suspension and the requirement to give written notice of the suspension to the Secretary. Subsection 9-27(1) provides the circumstances in which the Secretary may suspend a bulk vessel approval. Subsection 9-27(2) provides what the Secretary may do for the purposes of deciding whether to suspend a bulk vessel approval.

This item inserts new paragraph 9-27(2)(aa) after paragraph 9-27(2)(a) of the Plant Rules. New paragraph 9-27(2)(aa) provides that the Secretary may make a video recording of an inspection carried out under paragraph 9-27(2)(a). This amendment is consequential to the amendment to section 9-22 made by item 37 of Schedule 5 to the Amendment Rules.

Item [40] – At the end of subsection 9-27(2)

Section 9-27 of the Plant Rules provides grounds for suspension of a bulk vessel approval, the requirements for a notice of suspension, the period of effect of suspension and the requirement to give written notice of the suspension to the Secretary. Subsection 9-27(1) provides the circumstances in which the Secretary may suspend a bulk vessel approval. Subsection 9-27(2) provides what the Secretary may do for the purpose of deciding whether to suspend a bulk vessel approval.

This item inserts a new note following subsection 9-27(2) of the Plant Rules. The note following subsection 9-27(2) explains that a third party authorised officer who carries out an inspection of a bulk vessel under paragraph 9-27(2)(a) of the Plant Rules, as a delegate of the Secretary, must make a video recording of the inspection and refers the reader to section 9-19A of the Plant Rules. This amendment is consequential to the amendment made by item 35 of Schedule 5 to the Amendment Rules.

Item [41] – After paragraph 9-28(2)(a)

Section 9-28 of the Plant Rules provides for the revocation of a suspension of a bulk vessel approval. Subsection 9-28(1) provides the circumstances in which the Secretary may revoke a suspension of a bulk vessel approval. Subsection 9-28(2) provides what the Secretary may do for the purpose of deciding whether to revoke a suspension of a bulk vessel approval.

This item inserts new paragraph 9-28(2)(aa) after paragraph 9-28(2)(a) of the Plant Rules. New paragraph 9-28(2)(aa) provides that the Secretary may make a video recording of an inspection carried out under paragraph 9-28(2)(a). This amendment is consequential to the amendment to section 9-22 made by item 37 of Schedule 5 to the Amendment Rules.

Item [42] – At the end of subsection 9-28(2)

Section 9-28 of the Plant Rules provides for the revocation of a suspension of a bulk vessel approval. Subsection 9-28(1) provides the circumstances in which the Secretary may revoke a suspension of a bulk vessel approval. Subsection 9-28(2) provides for what the Secretary may do for the purpose of deciding whether to revoke a suspension of a bulk vessel approval.

This item inserts a new note following subsection 9-28(2) of the Plant Rules. The note following subsection 9-28(2) explains that a third party authorised officer who carries out an inspection of a bulk vessel under paragraph 9-28(2)(a) of the Plant Rules, as a delegate of the Secretary, must make a video recording of the inspection and refers the reader to section 9-19A of the Plant Rules. This amendment is consequential to the amendment made by item 35 of Schedule 5 to the Amendment Rules.

Item [43] – After paragraph 9-29(2)(a)

Section 9-29 of the Plant Rules provides for the revocation of a bulk vessel approval. Subsection 9-29(1) provides the circumstances in which the Secretary may revoke a bulk vessel approval. Subsection 9-29(2) provides what the Secretary may do for the purpose of deciding whether to revoke a bulk vessel approval.

This item inserts new paragraph 9-29(2)(aa) after paragraph 9-29(2)(a) of the Plant Rules. New paragraph 9-29(2)(aa) provides that the Secretary may make a video recording of an inspection carried out under paragraph 9-29(2)(a) of the Plant Rules. This amendment is

consequential to the amendment to section 9-22 made by item 37 of Schedule 5 to the Amendment Rules.

Item [44] – After subsection 9-29(2)

Section 9-29 of the Plant Rules provides for the revocation of a bulk vessel approval. Subsection 9-29(1) provides the circumstances in which the Secretary may revoke a bulk vessel approval. Subsection 9-29(2) provides what the Secretary may do for the purpose of deciding whether to revoke a bulk vessel approval.

This item inserts a new note following subsection 9-29(2) of the Plant Rules. The note following subsection 9-29(2) explains that a third party authorised officer who carries out an inspection of a bulk vessel under paragraph 9-29(2)(a) of the Plant Rules, as a delegate of the Secretary, must make a video recording of the inspection and refers the reader to section 9-19A of the Plant Rules. This amendment is consequential to the amendment made by item 35 of Schedule 5 to the Amendment Rules.

Item [45] – After paragraph 11-10(1)(b)

Section 11-10 of the Plant Rules provides for the retention of records by authorised officers. Subsection 11-10(1) lists the records which an authorised officer who is, or was, authorised to perform functions or exercise powers under the Act in relation to plants or plant products, is required to retain.

This item inserts new paragraph 11-10(1)(ba) after paragraph 11-10(1)(b) of the Plant Rules. New paragraph 11-10(1)(ba) requires an authorised officer who is, or was, authorised to perform functions or exercise powers under the Act in relation to plants or plant products, to retain records of each video recording made by the authorised officer of a bulk vessel inspection carried out by the authorised officer. This amendment is consequential to the amendment to section 9-22 made by item 37 of Schedule 5 to the Amendment Rules.

Item [46] – Subsection 11-10(3)

Section 11-10 of the Plant Rules provides for the retention of records by authorised officers. Subsection 11-10(3) currently requires an authorised officer to retain each record referred to in subsection 11-10(1) or (2) for at least 2 years starting on the day the record is made by the authorised officer or comes into the authorised officer's possession (as the case may be).

This item omits “An authorised” and substitutes “Subject to subsection (3A), an authorised” in subsection 11-10(3) of the Plant Rules. This amendment is consequential to the insertion of new subsection 11-10(3A) made by item 47 of Schedule 5 to the Amendment Rules.

Item [47] – After subsection 11-10(3)

Section 11-10 of the Plant Rules provides for the retention of records by authorised officers. Subsection 11-10(3) currently requires an authorised officer to retain each record referred to in subsection 11-10(1) or (2) for at least 2 years starting on the day the record is made by the authorised officer or comes into the authorised officer’s possession (as the case may be).

This item inserts new subsection 11-10(3A) after subsection 11-10(3) of the Plant Rules. New subsection 11-10(3A) requires a third party authorised officer to retain each record referred to in paragraph 11-10(1)(ba) for at least 1 year starting on the day the record is made by the third party authorised officer. This amendment is consequential to the insertion of new paragraph 11-10(1)(ba) made by item 45 of Schedule 5 to the Amendment Rules.

Item [48] – Amendments of listed provisions—*Trogoderma* spp.

This item omits “*Trogoderma* spp.” and substitutes “a species of the genus *Trogoderma*” in paragraphs 9-22(4)(b), 9-27(1)(c), 9-29(1)(d) and 9-36(1)(b), and subsections 9-23(3) and (4) and subsections 9-31(4) and (5) of the Plant Rules. These are editorial amendments.

Part 2—Amendments commencing 1 July 2022

Export Control (Plants and Plant Products) Rules 2021

The Plant Rules prescribes matters and makes other provision in relation to certain plants and plant products (prescribed plants and plant products) for the purposes of the Act.

Item [49] – Section 1-6

Section 1-6 of Plant Rules contains definitions of key terms which are used in the Plant Rules.

This item inserts the definitions of *accredited marine surveyor* and *Australasian Institute of Marine Surveyors*.

Accredited Marine Surveyor means a person who is accredited, under subsection 11-16(1) of the Plant Rules, to carry out a bulk vessel survey for the purpose of deciding whether the vessel is suitable to transport prescribed plants or plant products to which subsection 9-23(2) of the Plant Rules applies.

Australasian Institute of Marine Surveyors means the Australasian Institute of Marine Surveyors Limited (ACN 615 920 397).

Item [50] – Section 1-6 (definition of *marine surveyor’s certificate*)

Section 1-6 of the Plant Rules contains definitions of key terms which are used in the Plant Rules.

Section 1-6 currently provides that *marine surveyor’s certificate* for a bulk vessel means a certificate for the vessel issued by a qualified marine surveyor that states the matters referred to in subparagraphs 11- 16(2)(b)(i) and (ii) of the Plant Rules.

This item omits “a qualified: in the definition of *marine surveyor’s certificate* in section 1-6 of the Plant Rules and substitutes “an accredited”.

Item [51] – Section 1-6 (definition of *qualified marine surveyor*)

Section 1-6 of the Plant Rules contains definitions of key terms which are used in the Plant Rules.

Section 1-6 currently provides that *qualified marine surveyor* means a person who is qualified, under subsection 11-16(1) of the Plant Rules, to carry out a bulk vessel survey at a time for the purpose of deciding whether the vessel is suitable to transport prescribed plants or plant products to which subsection 9-23(2) of the Plant Rules applies.

This item repeals the definition of *qualified marine surveyor* in section 1-6 of the Plant Rules.

Item [52] – Section 9-21 (table item 3, column 2, paragraph (a))

Section 9-21 specifies additional persons in relation to plants or plant products who may be given a direction by an authorised officer to deal with non-compliance. Persons that may be given directions to deal with non-compliance are listed in column 1 of the table and the grounds for giving directions are in column 2 of the table.

Table item 3 (as inserted by item 36 of Schedule 5 to the Amendment Rules) in section 9-21 allows an authorised officer to issue directions to the occupier or persons in management or control, or the person responsible for the vessel in the circumstances listed in column 2. This supports the enforceability of existing requirements under the Act and Plant Rules.

Column 1 of table item 3 provides that in relation to a bulk vessel:

- the person responsible for the vessel; or
- if the vessel is at a registered establishment and the occupier of the establishment or another person who manages or controls export operations at the establishment, is not a person responsible for the bulk vessel—the occupier of the establishment or another person who manages or controls export operations at the establishment;

are persons that may be given directions to deal with non-compliance.

Column 2 of table item 3 provides the following grounds for giving directions:

- a marine surveyor’s certificate for the vessel was not issued by a qualified marine surveyor, or was obtained fraudulently;
- that the requirements in paragraph 9-23(1)(a) or (b) are not continuing to be met in relation to the vessel;
- any *Trogaderma* spp. is detected in or on the vessel.

This item omits “a qualified” in paragraph (a) of column 2 of table item 3 in section 9-21 of the Plant Rules and substitutes “an accredited”. This is consequential to the amendments in items 49 and 51 of Schedule 5 to the Amendment Rules.

Item [53] – Subparagraph 9-27(1)(a)(i)

Section 9-27 of the Plant Rules provides grounds for suspension of a bulk vessel approval, the requirements for a notice of suspension, the period of effect of suspension and the requirement to give written notice of the suspension to the Secretary. Subsection 9-27(1) provides the circumstances in which the Secretary may suspend a bulk vessel approval.

The circumstance currently provided by subparagraph 9-27(1)(a)(i) of the Plant Rules is if the Secretary reasonably believes that a marine surveyor's certificate for the vessel was not issued by a qualified marine surveyor.

This item omits "a qualified" in subparagraph 9-27(1)(a)(i) and substitutes "an accredited". This is consequential to the amendments in items 49 and 51 of Schedule 5 to the Amendment Rules.

Item [54] – Subparagraph 9-29(1)(b)(i)

Section 9-29 of the Plant Rules provides for the revocation of a bulk vessel approval. Subsection 9-29(1) provides the circumstances in which the Secretary may revoke a bulk vessel approval.

The circumstance currently provided by subparagraph 9-29(1)(b)(i) of the Plant Rules is if the Secretary reasonably believes that a marine surveyor's certificate for the vessel was not issued by a qualified marine surveyor.

This item omits "a qualified" in subparagraph 9-29(1)(b)(i) and substitutes "an accredited". This is consequential to the amendments in items 49 and 51 of Schedule 5 to the Amendment Rules.

Item [55] – Section 11-16 (heading)

Section 11-16 of the Plant Rules currently provides for qualified marine surveyors and marine surveyors' certificates. The heading of section 11-16 is currently "**Qualified marine surveyors and marine surveyor's certificates**".

This item omits "**Qualified**" in the heading of section 11-16 of the Plant Rules and substitutes "**Accredited**". This is consequential to the amendments in items 49 and 51 of Schedule 5 to the Amendment Rules.

Item [56] – Subsection 11-16(1)

Subsection 11-16(1) currently provides, for the purposes of the Plant Rules, the circumstances in which a person is qualified to carry out a survey of a bulk vessel (a **bulk vessel survey**) at a time (the **relevant time**) for the purpose of deciding whether the vessel is suitable to transport prescribed plants or plant products to which subsection 9-23(2) of the Plant Rules applies.

This item repeals subsection 11-16(1) of the Plant Rules and substitutes new subsection 11-16(1). New subsection 11-16(1) provides that for the purposes of the Plant Rules, a person is accredited to carry out a survey of a bulk vessel (a **bulk vessel survey**) at a time (the **relevant time**) for the purpose of deciding whether the vessel is suitable to transport prescribed plants

or plant products to which subsection 9-23(2) applies if, at the relevant time, the person is accredited by the Australasian Institute of Marine Surveyors Limited for that purpose. This is consequential to the amendments in items 49 and 51 of Schedule 5 to the Amendment Rules.

Item [57] – Subsection 11-16(2)

Section 11-16 provides for accredited marine surveyors and marine surveyors' certificates. Subsection 11-16(2) currently provides, for the purposes of the Plant Rules, the circumstances in which a qualified marine surveyor may issue a certificate for a bulk vessel that is to be issued to transport prescribed plants or plant products to which subsection 9-23(2) of the Plant Rules applies.

This item omits “a qualified” in subsection 11-16(2) of the Plant Rules and substitutes “an accredited”. This is consequential to the amendments in items 49 and 51 of Schedule 5 to the Amendment Rules.

Item [58] – Paragraphs 11-16(2)(a) and (b)

Section 11-16 provides for accredited marine surveyors and marine surveyors' certificates. Subsection 11-16(2) currently provides, for the purposes of the Plant Rules, the circumstances in which a qualified marine surveyor may issue a certificate for a bulk vessel that is to be issued to transport prescribed plants or plant products to which subsection 9-23(2) of the Plant Rules applies. The circumstances currently provided for by paragraphs 11-16(2)(a) and (b) are, if the qualified marine surveyor has carried out a survey of the vessel, including of the cargo spaces into or onto which prescribed plants or plant products of that kind are intended to be loaded, and if the qualified marine surveyor is satisfied of the matters set out in subparagraphs 11-16(2)(b)(i) and (ii) of the Plant Rules.

This item omits “the qualified” where it appears in paragraphs 11-16(2)(a) and (b) and substitutes “the accredited”. This is consequential to the amendments in items 49 and 51 of Schedule 5 to the Amendment Rules.

Item [59] – At the end of section 11-16

Section 11-16 provides for accredited marine surveyors and marine surveyors' certificates.

This item adds new subsections 11-16(3) and (4) at the end of section 11-16 of the Plant Rules, which are transitional provisions.

New subsection 11-16(3) provides that for the purposes of the Plant Rules, a marine surveyor's certificate for a bulk vessel that was in force immediately before 1 July 2022 continues in force on and after that date as if it had been issued by an accredited marine surveyor.

New subsection 11-16(4) provides that subsections 11-16(3) and (4) are repealed at the end of 30 June 2023.

Schedule 6 – Amendment of the *Export Control (Poultry Meat and Poultry Meat Products) Rules 2021*

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

The *Export Control (Poultry Meat and Poultry Meat Products) Rules 2021* (the Poultry Rules) prescribes matters and makes other provision in relation to certain poultry meat and poultry meat products (prescribed poultry meat and poultry meat products) for the purposes of the Act.

Item [1] – After subsection 5-2(5)

Section 5-2 of the Poultry Rules sets out 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.

This item inserts new subsection 5-2(5A) after subsection 5-2(5) of the Poultry Rules.

Without limiting subsection 5-2(4), new subsection 5-2(5A) requires the proposed arrangement to record certain details if operations to prepare prescribed poultry meat or poultry meat products to be covered by the arrangement include those that are to be the last operations to prepare the poultry meat or poultry meat products carried out at a registered establishment before export. New paragraphs 5-2(5A)(a) and (b) sets out what details are required to be recorded.

New paragraph 5-2(5A)(a) requires the proposed arrangement to record details of the information, methods, procedures, tests, monitoring and other evaluations to be used to verify that:

- the requirements of the Act in relation to the export of the prescribed poultry meat or poultry meat products have been, or will be complied with; and
- any importing country requirements relating to the prescribed poultry meat or poultry meat products have been, or will be met.

New paragraph 5-2(5A)(b) requires the proposed arrangement to record details of a person who manages or controls those operations who is to be designated in the arrangement as a person who may verify the matters referred to in new subparagraphs 5-2(5A)(a)(i) and (ii) and make the declaration required under section 7-8 of the Poultry Rules in relation to the prescribed poultry meat or poultry meat products.

The note following new subsection 5-2(5A) alerts the reader that section 7-8 of the Poultry Rules requires a declaration to be included in an application for an export permit.

Item [2] – Section 5-13

Section 5-13 of the Poultry Rules deals with the supervision requirements for the loading of prescribed meat or meat products.

This item repeals section 5-13 of the Poultry Rules and substitutes new section 5-13.

New section 5-13 provides that the loading of prescribed poultry meat or poultry meat products for export must be carried out under the supervision of an authorised officer, or a person designated in an approved arrangement as a person who may supervise the loading, if the approved arrangement covers the last operations to prepare the poultry meat or poultry meat products at a registered establishment before export, and the supervision is in accordance with the arrangement.

This amendment removes the requirement for the person supervising loading of prescribed poultry meat or poultry meat products to provide a declaration to the exporter and removes the requirement that the supervisor be in management or control of the export operations at the registered establishment.

Item [3] – After paragraph 5-31(1)(a)

Section 5-31 of the Poultry Rules details the information and declarations that are required to be given when a consignment of prescribed poultry meat or poultry meat products is transferred from a registered establishment (the *transferring establishment*) to another registered establishment (the *receiving establishment*).

Subsection 5-31(1) specifies the information and declarations that must be given to the occupier of the receiving establishment (paragraphs 5-31(1)(a) to (l)).

This item inserts new paragraphs 5-31(1)(aa) and (ab) after paragraph 5-31(1)(a) of the Poultry Rules. The information required by new paragraphs 5-31(1)(aa) and (ab) to be given when a consignment of prescribed poultry meat or poultry meat products is transferred from a transferring establishment to a receiving establishment, is:

- the date or dates of slaughter of the animals from which the poultry meat or poultry meat products were derived (new paragraph 5-31(1)(aa)); and
- the registered establishment (with the registration number) where the poultry from which the poultry meat or poultry meat products were derived were slaughtered (new paragraph 5-31(1)(ab)).

New paragraphs 5-31(1)(aa) and (ab) further ensure that importing country requirements will be met.

Item [4] – Paragraph 5-31(1)(k)

Section 5-31 of the Poultry Rules details the information and declarations that are required to be given when a consignment of prescribed poultry meat or poultry meat products is

transferred from one registered establishment (the *transferring establishment*) to another registered establishment (the *receiving establishment*).

Subsection 5-31(1) specifies the information and declarations that must be given to the occupier of the receiving establishment (paragraphs 5-31(1)(a) to (l)).

This item repeals paragraph 5-31(1)(k) of the Poultry Rules and substitutes new paragraph 5-31(1)(k). The declaration required by new paragraph 5-31(1)(k), is a declaration stating:

- that, at the date the declaration is made, the prescribed export conditions, and any other conditions that apply in relation to the poultry meat or poultry meat products under the Act, have been complied with and any importing country requirements relating to the poultry meat or poultry meat products are met (new subparagraph 5-31(1)(k)(i)); and
- any export market eligibility requirements for the relevant export market for the poultry meat or poultry meat products that are yet to be complied with (new subparagraph 5-31(1)(k)(ii)).

New paragraph 5-31(1)(k) further ensures that importing country requirements will be met.

Item [5] – Subparagraph 5-35(5)(a)(ii)

Section 5-35 of the Poultry Rules details the matters that must be verified, the requirement for a record of verification, and the necessary inventory controls to verify compliance.

Subsection 5-35(5) outlines the information that must be included in the inventory controls. Subparagraph 5-35(5)(a)(ii) currently requires the inventory controls to include a record of prescribed poultry meat or poultry meat products received at the registered establishment in accordance with the approved arrangement (including their description and the quantities received of each description), their origin and their location at the establishment.

This item omits “prescribed” in subparagraph 5-35(5)(a)(ii) of the Poultry Rules.

The effect of this amendment to subparagraph 5-35(5)(a)(ii) is that an establishment is required to keep a record of all poultry meat or poultry meat products received at the registered establishment in accordance with the approved arrangement, rather than only prescribed poultry meat or poultry meat products. This requirement aligns with current business practices in the export meat industry.

Item [6] – At the end of Part 3 of Chapter 7

Subsection 239(1) of the Act sets out the requirements for an application under section 224 of the Act for an export permit, or an application under paragraph 229(3)(b) of the Act to vary an export permit or conditions of an export permit.

Under paragraph 239(1)(c) of the Act, an application must include the information (if any) prescribed by the rules.

This item inserts new section 7-8 after at the end of Part 3 of Chapter 7 of the Poultry Rules.

New subsection 7-8(1) is made for the purposes of paragraph 239(1)(c) of the Act and requires an application for an export permit for prescribed poultry meat or poultry meat products to include a declaration stating that:

- the requirements of the Act in relation to the export of the prescribed poultry meat or poultry meat products have been complied with, or will be complied with before the poultry meat or poultry meat products are imported into the importing country; and
- at the date the declaration is made, the importing country requirements (if any) relating to the prescribed poultry meat or poultry meat products are met.

The first note following new subsection 7-8(1) explains that the Secretary may approve a single form for an application for an export permit for prescribed poultry meat or poultry meat products and a notice of intention to export the prescribed poultry meat or poultry meat products and advises the reader to see paragraph 243(4)(b) of the Act.

The second note following new subsection 7-8(1) advises the reader that for requirements to give information (including a declaration) in writing that can be met by an electronic communication, see section 9 of the ET Act and see section 10 of the ET Act for electronic signatures.

The third note following new subsection 7-8(1) notifies the reader 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 goods given under the Act, as satisfying any requirement to give that information or document under subsection 239(1) of the Act and refers the reader to subsection 239(2) of the Act. This gives the Secretary discretion to consider relevant information or documents provided by the applicants in relation to different types of applications.

New subsection 7-8(2) provides that a declaration referred to in new subsection 7-8(1) must be made by:

- a person who:
 - manages or controls operations that are the last operations to prepare the poultry meat or poultry meat products carried out at a registered establishment before export; and
 - is designated in the approved arrangement as a person who may make the declaration; or
- a Commonwealth authorised officer.

New subsection 7-8(3) provides that a declaration:

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

The note following new subsection 7-8(3) alerts the reader that a person may commit an offence or be liable to a civil penalty if the person makes a false or misleading statement in an application or provides false or misleading information or documents (see sections 136.1, 137.1 and 137.2 of the *Criminal Code* and sections 367, 368 and 369 of the Act).

The declaration required by new section 7-8 is used to verify compliance and the requirement that an export permit application is accompanied by that declaration further ensures compliance by exporters.

Item [7] – Paragraph 11-6(1)(a)

Section 11-6 of the Poultry Rules requires exporters to retain certain records. Paragraph 11-6(1)(a) require an exporter of prescribed poultry meat or poultry meat products to retain records of each declaration given to the exporter under subsection 5-13(2) of the Poultry Rules.

This item repeals paragraph 11-6(1)(a) of the Poultry Rules. This is consequential to the repeal of section 5-13 and substituting a new section 5-13 by item 2 of Schedule 6 to the Amendment Rules, which relevantly removes the requirement for the person supervising loading of prescribed poultry meat or poultry meat products to provide a declaration to the exporter.

Schedule 7 – Amendment of the *Export Control (Rabbit and Ratite Meat and Rabbit and Ratite Meat Products) Rules 2021*

Export Control (Rabbit and Ratite Meat and Rabbit and Ratite Meat Products) Rules 2021

The *Export Control (Rabbit and Ratite Meat and Rabbit and Ratite Meat Products) Rules 2021* (the Rabbit and Ratite Rules) prescribes matters and makes other provision in relation to certain rabbit and ratite meat and rabbit and ratite meat products (prescribed rabbit meat, ratite meat, rabbit meat products and ratite meat products) for the purposes of the Act.

Item [1] – After subsection 5-2(5)

Section 5-2 of the Rabbit and Ratite Rules sets out 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.

This item inserts new subsection 5-2(5A) after subsection 5-2(5) of the Rabbit and Ratite Rules.

Without limiting subsection 5-2(4), new subsection 5-2(5A) requires the proposed arrangement to record certain details if operations to prepare prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products to be covered by the arrangement include those that are to be the last operations to prepare the rabbit meat, ratite meat, rabbit meat products or ratite meat products carried out at a registered establishment before export. New paragraphs 5-2(5A)(a) and (b) sets out the details that are required to be recorded.

New paragraph 5-2(5A)(a) requires the proposed arrangement to record details of the information, methods, procedures, tests, monitoring and other evaluations to be used to verify that:

- the requirements of the Act in relation to the export of the prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products have been, or will be complied with; and
- any importing country requirements relating to the prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products have been, or will be met.

New paragraph 5-2(5A)(b) requires the proposed arrangement to record details of a person who manages or controls those operations who is to be designated in the arrangement as a person who may verify the matters referred to in new subparagraphs 5-2(5A)(a)(i) and (ii) and make the declaration required under section 7-8 of the Rabbit and Ratite Rules in relation to the prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products.

The note following new subsection 5-2(5A) alerts the reader that section 7-8 of the Rabbit and Ratite Rules requires a declaration to be included in an application for an export permit.

Item [2] – Section 5-17

Section 5-17 of the Rabbit and Ratite Rules outlines the supervision requirements for the loading of prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products.

This item repeals section 5-17 of the Rabbit and Ratite Rules and substitutes new section 5-17.

New section 5-17 provides that the loading of prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products for export must be carried out under the supervision of an authorised officer, or a person designated in an approved arrangement as a person who may supervise the loading, if the approved arrangement covers the last operations to prepare the rabbit meat, ratite meat, rabbit meat products or ratite meat products at a registered establishment before export and the supervision is in accordance with the arrangement.

This amendment removes the requirement for the person supervising loading of prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products to provide a declaration to the exporter and removes the requirement that the supervisor be in management or control of the export operations at the registered establishment.

Item [3] – After paragraph 5-38(1)(a)

Section 5-38 of the Rabbit and Ratite Rules details the information and declarations that are required to be given when a consignment of prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products is transferred from a registered establishment (the *transferring establishment*) to another registered establishment (the *receiving establishment*).

Subsection 5-38(1) specifies the information and declarations that must be given to the occupier of the receiving establishment (paragraphs 5-38(1)(a) to (l)).

This item inserts new paragraphs 5-38(1)(aa) and (ab) after paragraph 5-38(1)(a) of the Rabbit and Ratite Rules. The information required by new paragraphs 5-38(1)(aa) and (ab) to be given to the occupier of the receiving establishment when a consignment of prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products is transferred from the transferring establishment to the receiving establishment, is:

- the date or dates of slaughter of the animals from which the rabbit meat, ratite meat, rabbit meat products or ratite meat products were derived (new paragraph 5-38(1)(aa)); and
- the registered establishment (with the registration number) where the animals from which the rabbit meat, ratite meat, rabbit meat products or ratite meat products were derived were slaughtered (new paragraph 5-38(1)(ab)).

New paragraphs 5-38(1)(aa) and (ab) further ensure that importing country requirements will be met.

Item [4] – Paragraph 5-38(1)(k)

Section 5-38 of the Rabbit and Ratite Rules details the information and declarations that are required to be given when a consignment of prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products is transferred from a registered establishment (the *transferring establishment*) to another registered establishment (the *receiving establishment*).

Subsection 5-38(1) specifies the information and declarations that must be given to the occupier of the receiving establishment (paragraphs 5-38(1)(a) to (l)).

This item repeals paragraph 5-38(1)(k) of the Rabbit and Ratite Rules and substitutes new paragraph 5-38(1)(k). The declaration required by new paragraph 5-38(1)(k), is a declaration stating:

- that, at the date the declaration is made, the prescribed export conditions, and any other conditions that apply in relation to the rabbit meat, ratite meat, rabbit meat products or ratite meat products under the Act, have been complied with and any importing country requirements relating to the rabbit meat, ratite meat, rabbit meat products or ratite meat products are met (new subparagraph 5-38(1)(k)(i)); and
- any export market eligibility requirements for the relevant export market for the rabbit meat, ratite meat, rabbit meat products or ratite meat products that are yet to be complied with (new subparagraph 5-38(1)(k)(ii)).

New paragraph 5-38(1)(k) further ensures that importing country requirements will be met.

Item [5] – Subparagraph 5-42(5)(a)(ii)

Section 5-42 of the Rabbit and Ratite Rules details the matters that must be verified, the requirement for a record of verification, and the necessary inventory controls to verify compliance.

Subsection 5-42(5) outlines the information that must be included in the inventory controls. Subparagraph 5-42(5)(a)(ii) currently requires the inventory controls to include a record of prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products received at the registered establishment in accordance with the approved arrangement (including their description and the quantities received of each description), their origin and location at the establishment.

This item omits “prescribed” in subparagraph 5-35(5)(a)(ii) of the Rabbit and Ratite Rules.

The effect of this amendment to subparagraph 5-42(5)(a)(ii) is that an establishment is required to keep a record of all rabbit meat, ratite meat, rabbit meat products or ratite meat products received at the registered establishment in accordance with the approved arrangement, rather than only prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products. This requirement aligns with current business practices in the export meat industry.

Item [6] – At the end of Part 3 of Chapter 7

Subsection 239(1) of the Act sets out the requirements for an application under section 224 of the Act for an export permit, or an application under paragraph 229(3)(b) of the Act to vary an export permit or conditions of an export permit.

Under paragraph 239(1)(c) of the Act, an application must include the information (if any) prescribed by the rules.

This item inserts new section 7-8 at the end of Part 3 of Chapter 7 of the Rabbit and Ratite Rules.

New section 7-8(1) is made for the purposes of paragraph 239(1)(c) of the Act and requires an application for an export permit for prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products to include a declaration stating that:

- the requirements of the Act in relation to the export of the rabbit meat, ratite meat, rabbit meat products or ratite meat products have been complied with, or will be complied with before the rabbit meat, ratite meat, rabbit meat products or ratite meat products are imported into the importing country; and
- at the date the declaration is made, the importing country requirements (if any) relating to the prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products are met.

The first note following new subsection 7-8(1) explains that the Secretary may approve a single form for an application for an export permit for prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products and a notice of intention to export the prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products and advises the reader to see paragraph 243(4)(b) of the Act.

The second note following new subsection 7-8(1) advises the reader that for requirements to give information (including a declaration) in writing that can be met by an electronic communication, see section 9 of the ET Act and see section 10 of the ET Act for electronic signatures.

The third note following new subsection 7-8(1) notifies the reader 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

goods given under the Act, as satisfying any requirement to give that information or document under subsection 239(1) of the Act and refers the reader to subsection 239(2) of the Act. This gives the Secretary discretion to consider relevant information or documents provided by the applicants in relation to different types of applications.

New subsection 7-8(2) provides that a declaration referred to in subsection 7-8(1) must be made by:

- a person who:
 - manages or controls operations that are the last operations to prepare the poultry meat or poultry meat products carried out at a registered establishment before export; and
 - is designated in the approved arrangement as a person who may make the declaration; or
- a Commonwealth authorised officer.

New subsection 7-8(3) provides that a declaration:

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

The note following new subsection 7-8(3) alerts the reader that a person may commit an offence or be liable to a civil penalty if the person makes a false or misleading statement in an application or provides false or misleading information or documents (see sections 136.1, 137.1 and 137.2 of the *Criminal Code* and sections 367, 368 and 369 of the Act).

The declaration required by new section 7-8 is used to verify compliance and the requirement that an export permit application is accompanied by that declaration further ensures compliance by exporters.

Item [7] – Paragraph 11-6(1)(a)

Section 11-6 of the Rabbit and Ratite Rules requires exporters to retain certain records. Paragraph 11-6(1)(a) requires an exporter of prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products to retain records of each declaration given to the exporter under subsection 5-17(2) of the Rabbit and Ratite Rules.

This item repeals paragraph 11-6(1)(a) of the Rabbit and Ratite Rules. This is consequential to the repeal of section 5-17 and substituting a new section 5-17 by item 2 of Schedule 7 to the Amendment Rules, which relevantly removes the requirement for the person supervising loading of prescribed rabbit meat, ratite meat, rabbit meat products or ratite meat products to provide a declaration to the exporter.

Schedule 8 – Amendment of the *Export Control (Wild Game Meat and Wild Game Meat Products) Rules 2021*

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

The *Export Control (Wild Game Meat and Wild Game Meat Products) Rules 2021* (the Wild Game Rules) prescribes matters and makes other provision in relation to certain wild game meat and wild game meat products (prescribed wild game meat and wild game meat products) for the purposes of the Act.

Item [1] – After subsection 5-2(5)

Section 5-2 of the Wild Game Rules sets out requirements which must be met for the approval of an arrangement in relation to operations to prepare prescribed wild game meat or wild game meat products for export at a registered establishment.

This item inserts new subsection 5-2(5A) after subsection 5-2(5) of the Wild Game Rules.

Without limiting subsection 5-2(4), new subsection 5-2(5A) requires the proposed arrangement to record certain details if operations to prepare prescribed wild game meat or wild game meat products to be covered by the arrangement include those that are to be the last operations to prepare the wild game meat or wild game meat products carried out at a registered establishment before export. New paragraphs 5-2(5A)(a) and (b) sets out the details that are required to be recorded.

New paragraph 5-2(5A)(a) requires the proposed arrangement to record details of the information, methods, procedures, tests, monitoring and other evaluations to be used to verify that:

- the requirements of the Act in relation to the export of the prescribed wild game meat or wild game meat products have been, or will be complied with; and
- any importing country requirements relating to the prescribed wild game meat or wild game meat products have been, or will be met.

New paragraph 5-2(5A)(b) requires the proposed arrangement to record details of a person who manages or controls those operations who is to be designated in the arrangement as a person who may verify the matters referred to in new subparagraphs 5-2(5A)(a)(i) and (ii) and make the declaration required under section 7-8 of the Wild Game Rules in relation to the prescribed wild game meat or wild game meat products.

The note following new subsection 5-2(5A) alerts the reader that section 7-8 of the Wild Game Rules requires a declaration to be included in an application for an export permit.

New subsection 5-2(5A) aligns with current business practices.

Item [2] – Section 5-11

Section 5-11 of the Wild Game Rules outlines the supervision requirements for the loading of prescribed wild game meat or wild game meat products.

This item repeals section 5-11 of the Wild Game Rules and substitutes new section 5-11.

New section 5-11 provides that the loading of prescribed wild game meat or wild game meat products for export must be carried out under the supervision of an authorised officer, or a person designated in an approved arrangement as a person who may supervise the loading, if the approved arrangement covers the last operations to prepare the wild game meat or wild game meat products at a registered establishment before export and the supervision is in accordance with the arrangement.

This amendment removes the requirement for the person supervising loading of prescribed wild game meat or wild game meat products to provide a declaration to the exporter and removes the requirement that the supervisor be in management or control of the export operations at the registered establishment.

Item [3] – Subsection 5-19(2) (note 3)

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

Subsection 5-19(2) provides for circumstances when an Approved for Export official mark must be applied to prescribed wild game meat or wild game meat products that are carcasses or carcase parts. The third note following subsection 5-19(2) currently explains that there is no requirement to apply an Approved for Export official mark to a carcase or carcase part until 1 October 2021 but until then an Australia Approved official mark may be required to be applied. The third note also refers the reader to subsection 5-19(6) of the Wild Game Rules.

This item repeals the third note following subsection 5-19(2) of the Wild Game Rules. This note was inserted to ensure a smooth transition to the new official mark requirements in the Wild Game Rules. The note is no longer required.

Item [4] – Subsection 5-19(6)

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

Subsection 5-19(6) currently provides that before 1 October 2021, subsection 5-19(2) applies in relation to prescribed wild game meat or wild game meat products that are carcasses or carcase parts as if a reference in that subsection (other than in note 3) to an Approved for Export official mark were a reference to an Australia Approved official mark.

This item repeals subsection 5-19(6), including the heading. Subsection 5-19(6) was inserted to ensure a smooth transition to the new official mark requirements in the Wild Game Rules. The provision is no longer required.

Item [5] – Subsection 5-20(2) (note 3)

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

Subsection 5-20(2) provides for the circumstances when an Approved for Export official mark must be applied to each carton in which prescribed wild game meat or wild game meat products are packed. The third note following subsection 5-20(2) currently explains that there is no requirement to apply an Approved for Export official mark to a carton until 1 October 2021 but until then, an Australia Approved official mark may be required to be applied to the carton. This note also refers the reader to subsection 5-20(5) of the Wild Game Rules.

This item repeals the third note following subsection 5-20(2) of the Wild Game Rules. This note was inserted to ensure a smooth transition to the new official mark requirements in the Wild Game Rules. The note is no longer required.

Item [6] – Subsection 5-20(5)

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

Subsection 5-20(5) currently provides that before 1 October 2021, subsection 5-20(2) applies in relation to a carton in which prescribed wild game meat or wild game meat products are packed as if the reference in that subsection (other than in note 3) to an Approved for Export official mark were a reference to an Australia Approved official mark.

This item repeals subsection 5-20(5) of the Wild Game Rules. Subsection 5-20(5) was inserted to ensure a smooth transition to the new official mark requirements in the Wild Game Rules. The provision is no longer required.

Item [7] – Paragraph 5-28(1)(k)

Section 5-28 of the Wild Game Rules details the information and declarations that are required to be given when a consignment of prescribed wild game meat or wild game meat

products is transferred from a registered establishment (the *transferring establishment*) to another registered establishment (the *receiving establishment*).

Subsection 5-28(1) specifies the information and declarations that must be given to the occupier of the receiving establishment (paragraphs 5-28(1)(a) to (l)).

This item repeals paragraph 5-28(1)(k) of the Wild Game Rules and substitutes new paragraph 5-28(1)(k). The declaration required by new paragraph 5-28(1)(k), is a declaration stating:

- that, at the date the declaration is made, the prescribed export conditions, and any other conditions that apply in relation to the wild game meat or wild game meat products under the Act, have been complied with and any importing country requirements relating to the poultry meat or wild game meat products are met (new subparagraph 5-28(1)(k)(i)); and
- any export market eligibility requirements for the relevant export market for the wild game meat or wild game meat products that are yet to be complied with (new subparagraph 5-28(1)(k)(ii)).

New paragraph 5-28(1)(k) further ensures that importing country requirements will be met.

Item [8] – Subparagraph 5-32(5)(a)(ii)

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

Subsection 5-32(5) outlines the information that must be included in the inventory controls. Subparagraph 5-32(5)(a)(ii) currently requires the inventory controls to include a record of prescribed wild game meat or wild game meat products received at the registered establishment in accordance with the approved arrangement (including their description and the quantities received of each description), their origin and their location at the establishment.

This item omits “prescribed” in subparagraph 5-32(5)(a)(ii) of the Wild Game Rules.

The effect of this amendment to subparagraph 5-32(5)(a)(ii) is that an establishment is required to keep a record of all wild game meat or wild game meat products received at the registered establishment in accordance with the approved arrangement, rather than only prescribed wild game meat or wild game meat products. This requirement aligns with current business practices in the export meat industry.

Item [9] – At the end of Part 3 of Chapter 7

Subsection 239(1) of the Act sets out the requirements for an application under section 224 of the Act for an export permit, or an application under paragraph 229(3)(b) of the Act to vary an export permit or conditions of an export permit.

Under paragraph 239(1)(c) of the Act, an application must include the information (if any) prescribed by the rules.

This item inserts new section 7-8 at the end of Part 3 of Chapter 7 of the Wild Game Rules.

New subsection 7-8(1) is made for the purposes of paragraph 239(1)(c) of the Act and requires an application for an export permit for prescribed wild game meat or wild game meat products to include a declaration stating that:

- the requirements of the Act in relation to the export of the prescribed wild game meat or wild game meat products have been complied with, or will be complied with before the wild game meat or wild game meat products are imported into the importing country; and
- at the date the declaration is made, the importing country requirements (if any) relating to the prescribed wild game meat or wild game meat products are met.

The first note following new subsection 7-8(1) explains that the Secretary may approve a single form for an application for an export permit for prescribed wild game meat or wild game meat products and a notice of intention to export the prescribed wild game meat or wild game meat products and advises the reader to see paragraph 243(4)(b) of the Act.

The second note following new subsection 7-8(1) advises the reader that for requirements to give information (including a declaration) in writing that can be met by an electronic communication, see section 9 of the ET Act and see section 10 of the ET Act for electronic signatures.

The third note following new subsection 7-8(1) notifies the reader 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 goods given under the Act, as satisfying any requirement to give that information or document under subsection 239(1) of the Act and refers the reader to subsection 239(2) of the Act. This gives the Secretary discretion to consider relevant information or documents provided by the applicants in relation to different types of applications.

New subsection 7-8(2) provides that a declaration referred to in subsection 7-8(1) must be made by:

- a person who:
 - manages or controls operations that are the last operations to prepare the wild game meat or wild game meat products carried out at a registered establishment before export; and

- is designated in the approved arrangement as a person who may make the declaration; or
- a Commonwealth authorised officer.

New subsection 7-8(3) provides that a declaration:

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

The note following new subsection 7-8(3) alerts the reader that a person may commit an offence or be liable to a civil penalty if the person makes a false or misleading statement in an application or provides false or misleading information or documents (see sections 136.1, 137.1 and 137.2 of the *Criminal Code* and sections 367, 368 and 369 of the Act).

The declaration required by section 7-8 is used to verify compliance and the requirement that an export permit application is accompanied by that declaration further ensures compliance by exporters.

Item [10] – Paragraph 11-6(1)(a)

Section 11-6 of the Wild Game Rules requires exporters to retain certain records. Paragraph 11-6(1)(a) requires an exporter of prescribed wild game meat or wild game meat products to retain records of each declaration given to the exporter under subsection 5-11(2) of the Wild Game Rules.

This item repeals paragraph 11-6(1)(a) of the Wild Game Rules. This is consequential to the repeal of section 5-11 and substituting a new section 5-11 by item 2 of Schedule 8 to the Amendment Rules, which relevantly removes the requirement for the person supervising loading of prescribed wild game meat or wild game meat products to provide a declaration to the exporter.

Statement of Compatibility with Human Rights

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

Export Control Legislation Amendment (2021 Measures No. 1) 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 Legislation Amendment Rules 2021* (the Legislative Instrument) is made under the *Export Control Act 2020* (the Act) and amends the *Export Control (Animals) Rules 2021* (the Animals Rules), *Export Control (Meat and Meat Products) Rules 2021* (Meat Rules), *Export Control (Miscellaneous) Rules 2021* (the Miscellaneous Rules), *Export Control (Organic Goods) Rules 2021* (the Organic Goods Rules), *Export Control (Plants and Plant Products) Rules 2021* (the Plant Rules), *Export Control (Poultry Meat and Poultry Meat Products) Rules 2021* (the Poultry Rules), *Export Control (Rabbit and Ratite Meat and Rabbit and Ratite Meat Products) Rules 2021* (the Rabbit and Ratite Rules) and the *Export Control (Wild Game Meat and Wild Game Meat Products) Rules 2021* (the Wild Game Rules), collectively referred to as the Rules.

The amendments made by the Legislative Instrument to the Rules includes editorial amendments, minor technical amendments, clarification on requirements and changes in regulatory requirements.

Amendments to the Meat Rules, Poultry Rules, Rabbit and Ratite Rules and Wild Game Rules

The Legislative Instrument amends the Meat Rules, Poultry Rules, Rabbit and Ratite Rules and Wild Game Rules to facilitate new requirements. New requirements inserted by the Legislative Instrument relate to export permit applications, record keeping and information to be included in meat transfer certificates.

The Legislative Instrument also removes certain requirements in the Meat Rules, Poultry Rules, Rabbit and Ratite Rules and Wild Game Rules. This includes the removal of the requirement for the person supervising loading of prescribed meat or meat products to provide a declaration to the exporter and the requirement that the supervisor be in management or control of the export operations at the establishment.

The amendments to the requirements in the Meat Rules, Poultry Rules, Rabbit and Ratite Rules and Wild Game Rules made by the Legislative Instrument resulted from consultation with the meat export industry and aim to ensure that importing country requirements are met.

The Legislative Instrument amends the Meat Rules to facilitate the meat modernisation reforms to the Australian Export Meat Inspection System (AEMIS). The reforms will result in Commonwealth authorised officers being provided to registered establishments for meat inspection services only where there is a requirement to do so to meet importing country requirements. The amendments made by the Legislative Instrument include that an allocation of meat inspection services is only required when an approved arrangement provides that a Commonwealth authorised officer must be present at the establishment, and an existing allocation of meat inspection services may be removed if there is no importing country requirement for a Commonwealth authorised officer to be present at the establishment.

Amendments to the Animals Rules

The Legislative Instrument amends the Animal Rules which includes editorial amendments and the clarification of certain requirements under the Animals Rules.

Amendments to the Miscellaneous Rules

The Legislative Instrument amends the Miscellaneous Rules to provide a power to publish or otherwise disclose certain information obtained under, or in accordance with, the Export Control Act and related legislation (“protected information”). Protected information cannot be disclosed under this provision if it includes personal information about an individual, unless all personal information included in the protected information has been de-identified.

Amendment to the Organic Goods Rules

The Legislative Instrument amends the Organic Goods Rules to provide that any consignment of organic goods of up to 10 litres (if in liquid form) or 10 kilograms (in any other case), is taken not to be prescribed goods for the purposes of the Act. This amendment reflects the previous exception of prescribed goods in the old Export Control (*Prescribed Goods – General*) Order 2005.

Amendments to the Plant Rules

The Legislative Instrument amends the Plant Rules by clarifying provisions and changing regulatory requirements. The regulatory requirements relate to accredited property conditions, registered establishment conditions, directions given by authorised officers to deal with non-compliance and bulk vessel inspections carried out by accredited marine surveyors. The amendments also include the creation of an accredited grain surveyor scheme. These amendments are necessary to simplify and enhance compliance requirements and support enforcement.

Assessment of Compatibility with Human rights

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.

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 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.

The amendment to the Miscellaneous Rules does not permit the publication or disclosure of personal information without first being de-identified, so it does not engage the applicable rights or freedoms.

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

Conclusion

This Legislative Instrument is 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