

EXPLANATORY STATEMENT

Issued by the authority of the Secretary for the Department of Agriculture, Fisheries and Forestry

Export Control Act 2020

Export Control Legislation Amendment (Australian Meat Standard) Rules 2023

Legislative Authority

The *Export Control Legislation Amendment (Australian Meat Standard) Rules 2023* (the Amendment Rules) are made by the Secretary of the Department of Agriculture, Fisheries and Forestry (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 sunset. At the time of commencement, a Ministerial direction has not been made under section 289 of the Act for the purposes of rules relating to the export of goods.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

Purpose

The Amendment Rules amend the following instruments:

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

The Amendment Rules amend the Meat Rules, Rabbit and Ratite Rules and Wild Game Rules to reflect changes made to the *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption* (the Australian Meat Standard), which is incorporated and referred to in the Meat Rules, Rabbit and Ratite Rules and Wild Game Rules.

Background

The Australian Meat Standard outlines health and hygiene standards for the production and transportation within Australia of meat and meat products to ensure that meat and meat products for human consumption comply with food safety requirements and are wholesome. The 2007 version of the Australian Meat Standard (Australian Standard AS 4696:2007) is incorporated by reference in each of the Meat Rules, Rabbit and Ratite Rules and Wild Game Rules. Each of these rules defines the “Australian Meat Standard” to mean the Australian Standard AS 4696:2007, *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption* (the 2007 Standard) as that standard exists at the commencement of each of those respective rules.

The 2023 version of the Australian Meat Standard (Australian Standard AS 4696:2023) (the 2023 Standard) was published on 31 March 2023 and replaces the 2007 Standard. Copies of the 2023 Standard are available for purchase from the Standards Australia (<https://store.standards.org.au>) and SAI Global (<https://www.saiglobal.com/online>) webstores. Alternatively, the 2023 Standard may be viewed at public libraries and at departmental offices and on-plant veterinary offices by arrangement with the Department.

Impact and Effect

The Amendment Rules have the effect that any references to the Australian Meat Standard in the Meat Rules, Rabbit and Ratite Rules, and Wild Game Rules will be to the 2023 Standard. This ensures that any relevant requirements under each of these rules, for the purposes of preparing meat and meat products for export, will reflect the health and hygiene standards outlined in the 2023 Standard.

The Amendment Rules also include a minor technical amendment to the Rabbit and Ratite Rules to ensure consistency in references to the Australian Meat Standard.

The Office of Impact Analysis (formerly the Office of Best Practice Regulation) determined that a regulation impact statement is not required, as the proposal would result in a minor regulatory impact (OBPR22-02503).

Consultation

Standards Australia undertook public consultation on the Australian Meat Standard. This includes a formal consultation period between 1 September 2022 and 3 November 2022.

Details/ Operation

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

The Amendment Rules commence on 1 July 2023.

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

Other

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

Details of the *Export Control Legislation Amendment (Australian Meat Standard) Rules 2023*

Section 1 – Name

This section provides that the name of the instrument is the *Export Control Legislation Amendment (Australian Meat Standard) Rules 2023* (the Amendment Rules).

Section 2 – Commencement

Subsection 2(1) provides for the commencement of each provision in the Amendment Rules.

Item 1 in the table in subsection 2(1) provides that the whole of the instrument commences on 1 July 2023.

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 (Meat and 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 Schedule 1 below).

Schedule 1 – Amendments

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 provisions in relation to certain meat and meat products for the purposes of the Act.

Item [1] – Section 1-5 (definition of Australian Meat Standard)

Section 1-5 of the Meat Rules currently provides that ***Australian Meat Standard*** means the Australian Standard AS 4696:2007, *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption*, as that Standard exists at the commencement of the instrument. The Meat Rules subsequently refer to the ‘Australian Meat Standard’ in relation to requirements under the Meat Rules.

This item repeals the existing definition of Australian Meat Standard and substitutes a new definition which means Australian Standard AS 4696:2023, *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption*, as existing on 1 July 2023.

The purpose of this amendment is to ensure the references to the Australian Meat Standard in the Meat Rules are updated to reflect the Australian Standard AS4696:2023 as it exists on 1 July 2023, which replaces the 2007 version of the Australian Meat Standard (AS 4696:2007).

Australian Standard AS 4696:2023 is incorporated by reference in the form in which it exists on 1 July 2023 and not in the form in which it may exist from time to time. This approach is consistent with paragraph 14(1)(b) of the *Legislation Act 2003* (Legislation Act).

Copies of the 2023 Standard are available for purchase from the Standards Australia (<https://store.standards.org.au>) and SAI Global (<https://www.saiglobal.com/online>) webstores. Alternatively, the 2023 Standard may be viewed at public libraries and at departmental offices and on-plant veterinary offices by arrangement with the Department.

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 meat, ratite meat, ratite meat products and ratite meat products for the purposes of the Act.

Item [2] – Section 1-5 (definition of Australian Meat Standard)

Section 1-5 of the Rabbit and Ratite Rules currently provides that *Australian Meat Standard* means the Australian Standard AS 4696:2007, *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption*, as that Standard exists at the commencement of the instrument. The Rabbit and Ratite Rules subsequently refer to the ‘Australian Meat Standard’ in relation to requirements under the Rabbit and Ratite Rules.

This item repeals the existing definition of Australian Meat Standard and substitutes a new definition which means Australian Standard AS 4696:2023, *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption*, as existing on 1 July 2023.

The purpose of this amendment is to ensure the references to the Australian Meat Standard in the Rabbit and Ratite Rules are updated to reflect the Australian Standard AS 4696:2023 as it exists on 1 July 2023, which replaces the 2007 version of the Australian Meat Standard (Australian Standard AS 4696:2007).

Australian Standard AS 4696:2023 is incorporated by reference in the form in which it exists on 1 July 2023 and not in the form in which it may exist from time to time. This approach is consistent with paragraph 14(1)(b) of the Legislation Act.

Copies of the 2023 Standard are available for purchase from the Standards Australia (<https://store.standards.org.au>) and SAI Global (<https://www.saiglobal.com/online>) webstores. Alternatively, the 2023 Standard may be viewed at public libraries and at departmental offices and on-plant veterinary offices by arrangement with the Department.

Item [3] – Subsection 1-8(7)

This item omits the word “Australia” and substitutes “Australian” in subsection 1-8(7) of the Rabbit and Ratite Rules. This is a minor technical amendment to ensure consistency in references to the Australian Meat Standard in the Rabbit and Ratite Rules.

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 for the purposes of the Act.

Item [4] – Section 1-5 (definition of Australian Meat Standard)

Section 1-5 of the Wild Game Rules currently provides that ***Australian Meat Standard*** means the Australian Standard AS 4696:2007, *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption*, as that Standard exists at the commencement of the instrument. The Wild Game Rules subsequently refer to the ‘Australian Meat Standard’ in relation to requirements under the Wild Game Rules.

This item repeals the existing definition of Australian Meat Standard and substitutes a new definition which means Australian Standard AS 4696:2023, *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption*, as existing on 1 July 2023.

The purpose of this amendment is to ensure the references to the Australian Meat Standard in the Wild Game Rules are updated to reflect the Australian Standard AS 4696:2023 as it exists on 1 July 2023, which replaces the 2007 version of the Australian Meat Standard (Australian Standard AS 4696:2007).

Australian Standard AS 4696:2023 is incorporated by reference in the form in which it exists on 1 July 2023 and not in the form in which it may exist from time to time. This approach is consistent with paragraph 14(1)(b) of the Legislation Act.

Copies of the 2023 Standard are available for purchase from the Standards Australia (<https://store.standards.org.au>) and SAI Global (<https://www.saiglobal.com/online>) webstores. Alternatively, the 2023 Standard may be viewed at public libraries and at departmental offices and on-plant veterinary offices by arrangement with the Department.

Statement of Compatibility with Human Rights

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

Export Control Legislation Amendment (Australian Meat Standard) Rules 2023

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 (Australian Meat Standard) Rules 2023* (the Legislative Instrument) is made under the *Export Control Act 2020* (the Act) and amends the *Export Control (Meat and Meat Products) Rules 2021* (the Meat 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 updates references to the Australian Meat Standard. The amendments ensure that the Meat Rules, Rabbit and Ratite Rules and Wild Game Rules refer to the Australian Standard AS 4696:2023, *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption*, as existing on 1 July 2023.

Assessment of Compatibility with Human rights

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

Conclusion

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

Andrew Edgar Francis Metcalfe AO
Secretary of the Department of Agriculture, Fisheries and Forestry