



Statutory Rules 1995 No. 1

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Meat and Live-stock Industry (Conditions of Export) Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 4 of the *Acts Interpretation Act 1901*, make the following Regulations under the *Meat and Live-stock Industry Act 1995*.

Dated L 1995.

30 June
L BILL HAYDEN
Governor-General

By His Excellency's Command,

L BOB COLLINS
Minister for Primary Industries and Energy

Citation

1. These Regulations may be cited as the Meat and Live-stock Industry (Conditions of Export) Regulations.

Commencement

2. These Regulations commence on 1 July 1995.

Interpretation

3. In these Regulations, unless the contrary intention appears:

“**Act**” means the *Meat and Live-stock Industry Act 1995*;

“**director**” has the same meaning as in the Corporations Law;

“**executive officer**” has the same meaning as in the Corporations Law;

“**licence holder**” means the holder of a meat export licence or a live-stock export licence granted under section 61 of the Act or renewed under section 73 of the Act;

“**meat or livestock export business**” or “**proposed meat or livestock export business**” includes an operation that comes within the description of operations in subsection 60 (2) of the Act;

“**participating person**”, in relation to a meat or livestock export business or proposed meat or livestock export business, means a person of the kind described in subsection 60 (1) of the Act; .

“**principal executive officer**” has the same meaning as in the Corporations Law;

“**relevant interest**” has the same meaning as in the Corporations Law;

“**relevant offence**” means an offence, other than an offence resulting in a conviction to which Part VIIC of the *Crimes Act 1914* applies, that is:

- (a) an offence against the Act; or
- (b) an offence against any other law of the Commonwealth or a law of a State or Territory, that is punishable by imprisonment for a period of 12 months or more.

Meat unfit for human consumption

4. For the purposes of Part 3 of the Act, the following kinds of meat are declared to be meat unfit for human consumption:

- (a) meat that is, or has been, in a container labelled or marked as containing:
 - (i) pet food; or

- (ii) inedible meat; or
- (iii) pharmaceutical material; and
- (b) meat that is stained in a way that identifies it as pet food or inedible meat.

Application for export licence

5. (1) An application for an export licence must be in writing, and state:

- (a) the name and address of the applicant; and
- (b) the name and address of each person whom AMLC is required to consider for the purposes of paragraph 63 (1) (c) of the Act; and
- (c) whether the application is for a licence to export meat or live-stock or both meat and live-stock; and
- (d) whether the application relates to an existing meat export business or live-stock export business or a proposed meat export business or live-stock export business; and
- (e) the kind of business to which the licence will relate, including:
 - (i) the kind of meat or live-stock that is being, or is proposed to be, exported; and
 - (ii) the type of export transactions involved, or proposed to be, involved; and
- (f) the countries to which the meat or live-stock is being, or is proposed to be, exported; and
- (g) for a meat export business—the place of slaughter and preparation of the meat; and
- (h) previous involvement by the applicant in the industry (if any) and the kind of involvement; and
- (j) each participating person's knowledge of, and experience in, the industry; and
- (k) if the applicant is an individual:
 - (i) whether the applicant operates, or intends to operate, the business in partnership with another individual or a body corporate; and
 - (ii) if the applicant operates or intends to operate the business in partnership:
 - (A) the name and address of each partner or proposed partner; and

- (B) the extent to which, and capacity in which, the applicant participates, or intends to participate, in the conduct or management of the business; and
- (l) if the applicant is a body corporate (except a Commonwealth authority, a university or a charitable organisation):
 - (i) whether the applicant is a subsidiary of, or is under the direction or financial control of, a foreign corporation, authority or organisation that has direct or indirect control of the importation of meat or live-stock into the country in which the foreign corporation, authority or organisation was incorporated or established and, if that is so, the name of the foreign corporation, authority or organisation; and
 - (ii) if the applicant has a share capital:
 - (A) the number and value of shares issued;
 - (B) the name and address of each director and executive officer, the number of shares held by each director or principal officer and the amount paid up in respect of each share; and
 - (C) the name and address of each other person who has a substantial shareholding in the corporation, the number and class of shares held by the person and the amount paid up in respect of each share; and
 - (iii) whether the applicant is a subsidiary of, or is related to, another corporation, and the name and address, place of incorporation and address of the registered office of each corporation of which the applicant is a subsidiary or to which it is related; and
 - (iv) whether a person or another body corporate has a relevant interest in a share of the applicant and, if so, the name and address of each person or body corporate having an interest of that kind; and
 - (v) if the applicant is a statutory authority—the name and address, and the title and position within that authority, of each participating person in the meat

or live-stock export business or proposed meat or live-stock export business, and the name of the Act under which the authority was incorporated; and

- (vi) if the applicant is a local government body—the name and address, and the title and position within that body, of each participating person in the meat or live-stock export business or proposed meat or live-stock export business; and
- (m) whether the applicant or any participating person in the meat or live-stock export business or proposed meat or live-stock export business, has been convicted of a relevant offence; and
- (n) particulars of the arrangements made, or to be made by the applicant, to ensure adequate quality control in respect of the meat or live-stock to be exported.

(2) An application must be accompanied by the document or documents prescribed by regulation 6.

Documents to accompany application for export licence

6. For the purposes of regulation 5, the following documents must accompany an application for an export licence:

- (a) if the applicant is a body corporate that is a company—a copy of the most recent annual return and any documents required by law to be attached to the annual return; and
- (b) if the applicant is a body corporate that is a co-operative society, a statutory authority or a local government body—a copy of the most recent audited financial statement showing the financial transactions and state of affairs of the body corporate; and
- (c) if the applicant is an individual who operates a meat or live-stock export business, or intends to operate a proposed meat or live-stock export business, in partnership—a copy of
 - (i) the partnership agreement; and
 - (ii) the most recent audited balance sheet and profit and loss account of the partnership business.

- (d) if the applicant is an individual who does not operate, or intend to operate, a meat or live-stock export business in partnership—a copy of an audited statement of the assets and liabilities of the applicant, being a statement prepared in respect of a period of 12 months ending during the period of 3 months immediately preceding the date of the application.

Application for renewal of export licence

7. An application for renewal of an export licence must:

- (a) be in writing, and state:
 - (i) the name and address of the applicant; and
 - (ii) if an event or circumstance of a kind referred to in Regulation 9 has occurred, and particulars of the event have not been given to AMLC under section 67 of the Act—particulars of the event or circumstance; and
- (b) be accompanied by the document or documents prescribed by regulation 8.

Documents to accompany application for renewal of export licence

8. For the purposes of regulation 7, the following documents must accompany an application for renewal of an export licence:

- (a) if the applicant is a body corporate that is a company—a copy of the most recent annual return and any documents required by law to be attached to an annual return; and
- (b) if the applicant is a body corporate that is a co-operative society, a statutory authority or a local government body—a copy of the most recently audited financial statement showing the financial transactions and state of affairs of the applicant; and
- (c) if the applicant is a body corporate that is a company or a co-operative society—a report by the directors or auditors of the applicant:
 - (i) made not earlier than 30 days before the date of the application; and

- (ii) stating, in respect of the period between the date to which the balance sheet has been made up and the date of the report, whether, after having made reasonable inquiry, the directors or auditors are aware of:
 - (A) any circumstance that, in their opinion, has varied, or may vary, materially, the applicant's liabilities, or has affected, or may affect, the value of the applicant's assets; and
 - (B) any contingent liabilities of the applicant that do not appear in the accounts referred to in paragraph (a) or (b); and
- (d) if the applicant is an individual:
 - (i) an audited statement of the assets and liabilities of the applicant; and
 - (ii) a report by the auditor, made not earlier than 30 days before the date of the application, stating whether the auditor, after having made reasonable inquiry, is aware, in respect of the period between the date to which the audited statement was made up and the date of the report, of:
 - (A) any circumstance that, in the opinion of the auditor, has varied, or may vary, materially, the applicant's liabilities, or has affected, or may affect, the value of the applicant's assets; and
 - (B) any contingent liabilities of the applicant that do not appear in the statement referred to in subparagraph (d) (i).

Licence subject to condition that holder inform AMLC of certain events

9. (1) For the purposes of section 67 of the Act, the prescribed time is 30 days.

(2) For the purposes of section 67 of the Act, the following events or circumstances are prescribed:

- (a) a licence holder ceases to carry on the meat or live-stock export business to which the licence relates;

- (b) a licence holder, or a participating person in the meat or live-stock export business to which the licence relates, is convicted of a relevant offence;
- (c) a person who has been described to AMLC, in the application for the licence, as a participating person in the meat or livestock export business to which the licence relates, ceases to participate;
- (d) a person who has not been described to AMLC, in an application for a licence, as a participating person in the meat or livestock export business to which the licence relates, begins to be a participating person;
- (e) if a licence holder is a body corporate:
 - (i) a claim is made in respect of the export of meat or live-stock by the licence holder, or a loss or liability is incurred by the licence holder, that, in the opinion of the directors or executive officers of the licence holder, is likely substantially to affect the ability of the licence holder to carry on the meat or live-stock export business;
 - (ii) the name of a licence holder is changed;
 - (iii) the name of a body corporate that is a subsidiary of, or related to, the licence holder, is changed;
 - (iv) the licence holder executes a deed of company arrangement under Part 5.3A of the Corporations Law;
 - (v) an administrator of the licence holder is appointed under section 436A, 436B or 436C of the Corporations Law;
 - (vi) a resolution that the company be wound up voluntarily is passed;
- (f) if a licence holder is an individual:
 - (i) the licence holder becomes bankrupt;
 - (ii) the licence holder executes a deed of arrangement or a deed of assignment under Part X of the *Bankruptcy Act 1966*;
 - (iii) a composition is accepted in relation to the licence holder under Part X of the *Bankruptcy Act 1966*;
 - (iv) a claim is made in respect of the export of meat or live-stock by the licence holder, or a loss or

liability is incurred by the licence holder, that is likely to result in the licence holder being unable to meet a contract entered into relating to the export of meat or live-stock;

- (g) if a licence holder is an individual who operates a meat or live-stock export business, to which the licence relates, in partnership:
 - (i) the membership of the partnership is changed;
 - (ii) the partnership is dissolved;
- (h) a licence holder receives notice that the licence holder is no longer regarded as an approved supplier of meat or live-stock by the importing authority, instrumentality or organisation of a foreign government.

Matters to which AMLC must have regard in granting a licence

10. (1) For the purposes of subsection 63 (2) of the Act, AMLC must have regard to the following matters when satisfying itself as to the integrity of an applicant:

- (a) any conviction of the applicant, or of any participating person in relation to the meat or livestock export business or proposed meat or livestock export business to which the application relates, of a relevant offence;
- (b) if information in the application or in a document accompanying the application is false or misleading in any material particular—whether the applicant, or any participating person, knew, or should have known, that the information was false or misleading;
- (c) any failure by the applicant to comply with subsection 62 (3) of the Act;
- (d) the reputation of the applicant, or of any participating person, in the industry for reliability in business dealings;
- (e) any other matter that is, in the opinion of AMLC, relevant.

(2) For the purposes of subsection 63 (2) of the Act, AMLC must have regard to the following matters when satisfying itself as to the competency of an applicant to hold a licence:

- (a) the extent of the applicant's previous involvement in the industry;

- (b) the relevant knowledge, experience and skill of the applicant and each participating person in the meat or livestock export business, or proposed meat or livestock export business, to which the application relates;
 - (c) the kind of meat or live-stock export business that the applicant would be permitted to carry on under the conditions to which the licence, if granted, would be subject;
 - (d) any other matter that is, in the opinion of AMLC, relevant.
- (4) For the purposes of subsection 63 (2) of the Act, AMLC must have regard to the following matters when satisfying itself as to the financial standing of an applicant:
- (a) the assets and liabilities of the applicant;
 - (b) the business operations carried out, and proposed to be carried out, by the applicant;
 - (c) the kind of meat or live-stock export business that the applicant would be permitted to carry on under the conditions to which the licence, if granted, would be subject;
 - (d) any other matter that is, in the opinion of AMLC, relevant.

Matters to which AMLC must have regard in renewing a licence

11. (1) For the purposes of subsection 74 (2) of the Act, AMLC must have regard to the following matters in determining whether a licence holder or a participating person in relation to the meat or livestock export business of the licence holder, has ceased to be a person of integrity:

- (a) any conviction of the licence holder, or participating person, of a relevant offence after the granting of the licence;
- (b) if, after the granting of the licence, a declaration is made, or information or a document is given to AMLC by the licence holder, or participating person, that is false or misleading in any material particular—whether the licence holder or person, knew, or should have known, that the declaration, information or document was false or misleading;

- (c) the reputation of the licence holder, or participating person, in the industry for reliability in business dealings;
- (d) any notice that has been given to the licence holder under subsection 74 (1);
- (e) if a notice has been given to the licence holder under subsection 74 (1)—the belief under which AMLC acted in giving notice and the grounds on which AMLC formed the belief;
- (f) any other matter that is, in the opinion of AMLC, relevant.

(2) For the purposes of subsection 74 (2) of the Act, AMLC must have regard to the following matters in determining whether a person described in paragraph 74 (1) (c) of the Act is not a person of integrity:

- (a) any conviction of the person of a relevant offence; and
- (b) if, after the person began to be a participating person, a declaration is made, or information or a document is given to AMLC by the licence holder, or person, that is false or misleading in any material particular—whether the person, knew, or should have known, that the declaration, information or document was false or misleading; and
- (c) the reputation of the person in the industry for reliability in business dealings; and
- (d) any notice that has been given to the licence holder under subsection 74 (1); and
- (e) if a notice has been given to the licence holder under subsection 74 (1)—the belief under which AMLC acted in giving notice and the grounds on which AMLC formed the belief; and
- (f) any other matter that is, in the opinion of AMLC, relevant.

(3) For the purposes of subsection 74 (2) of the Act, AMLC must have regard to the following matters in determining whether a licence holder has ceased to be competent to hold a licence:

- (a) the relevant knowledge, experience and skill of the licence holder and each participating person in the meat or livestock export business to which the licence relates;

- (b) the kind of meat or live-stock export business that the licence holder is permitted to carry on under the conditions to which the licence is subject;
- (c) any notice that has given to the licence holder under subsection 74 (1); and
- (d) if a notice has been given to the licence holder under subsection 74 (1)—the belief under which AMLC acted in giving notice and the grounds on which AMLC formed the belief; and
- (e) any other matter that is, in the opinion of AMLC, relevant.

(4) For the purposes of subsection 74 (2) of the Act, AMLC must have regard to the following matters in determining whether a licence holder has ceased to be of sound financial standing:

- (a) the assets and liabilities of the applicant; and
- (b) the business operations carried out by the licence holder; and
- (c) the kind of meat or live-stock export business that the licence holder is permitted to carry on under the conditions to which the licence is subject;
- (d) any notice that has been given to the licence holder under subsection 74 (1); and
- (e) if a notice has been given to the licence holder under subsection 74 (1)—the belief under which AMLC acted in giving notice and the grounds on which AMLC formed the belief; and
- (f) any other matter that is, in the opinion of AMLC, relevant.

Manner in which samples are to be dealt with

12. A sample of any thing taken under paragraph 135 (2) (c) of the Act:

- (a) must be labelled, tagged or marked in such a way as to make it identifiable; and
- (b) must be held under conditions that are unlikely to affect the result of any analysis of the sample; and
- (c) must be kept in the custody or control of an officer authorised by AMLC until it is despatched to an analyst

- appointed under subsection 154 (1) of the Act, or until it is destroyed or otherwise disposed of; and
- (d) may be analysed by an analyst appointed under subsection 154 (1) of the Act.

Information for the purposes of subsection 153 (3) of the Act

13. For the purposes of subsection 153 (3) of the Act, a notice under subsection 153 (2) of the Act must contain the name and address of the nominee.

Prescribed person for the purposes of subsection 158 (3) of the Act

14. For the purposes of subsection 158 (3) of the Act, the Managing Director of AMLC is a prescribed person.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

1995. 30 June