EXPLANATORY STATEMENT

Issued by the authority of the Minister for Agriculture, Fisheries and Forestry

Export Control (Orders) Regulations 1982

Export Control (Plants and Plant Products) Amendment Orders 2006 (No. 2)

Section 3 of the Export Control Act 1982 (the Act) defines ‘prescribed goods’ to mean goods, or goods included in a class of goods, that are declared by the regulations to be prescribed goods for the purposes of the Act. Section 7 of the Act provides that the regulations may prohibit the export of prescribed goods from Australia absolutely or to a specified place or unless specified conditions or restrictions are complied with or to a specified place unless conditions or restrictions are complied with.

Subsection 25(1) of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed; or necessary or convenient to be prescribed for carrying out or for giving effect to the Act. The matters that the regulations may make provision for include empowering the Minister to make orders, not inconsistent with the regulations, with respect to any matter for or in relation to which provision may be made by the regulations.

Regulation 3 of the Export Control (Orders) Regulations 1982 provides that the Minister may, by instrument in writing, make orders, not inconsistent with regulations made under the Act, with respect to any matter for or in relation to which provision may be made by regulations made under the Act.

The Export Control (Plants and Plant Products) Orders 2005 (the Principal Orders) regulate the export of plant and plant products.

The purpose of the Export Control (Plants and Plant Products) Amendment Orders 2006 (No. 2) is to amend the Principal Orders in response to concerns from the Standing Committee on Regulations and Ordinances (the SCRO). In particular, the amendments to the Principal Orders:

- clarify the meaning of the words ‘adequate’ and ‘accurate’ referred to in suborder 10.1 in the context of a trade description; and
- remove the word ‘substantially’ from the phrase ‘complies substantially with relevant State, Territory and Commonwealth occupational health and safety requirements’ in Schedule 2, subparagraph 8.1(c)(i).

No consultation has occurred as the amendments are of a minor or machinery nature and do not substantially alter existing arrangements.

The Export Control (Plants and Plant Products) Amendment Orders 2006 (No. 2) are a legislative instrument for the purposes of the Legislative Instruments Act 2003.
Details of the Amendment Orders are set out below:

**Order 1**

1. This order provides that the name of these amending Orders is the *Export Control (Plants and Plant Products) Amendment Orders 2006 (No. 2).*

**Order 2**

2. This order provides that these Orders commence on the day after they are registered on the Federal Register of Legislative Instruments.

**Order 3**

3. This order provides that Schedule 1 amends the *Export Control (Plants and Plant Products) Orders 2005.*

**Schedule 1 Amendments**

**Item 1** inserts new suborders 10.1A and 10.1B to clarify the meaning of the words ‘adequate’ and ‘accurate’ referred to in suborder 10.1. Suborder 10.1 prohibits the export of prescribed goods to which a trade description is applied unless the trade description is adequate and accurate. The SCRO has expressed a concern that “adequate and accurate” appears to be a vague criterion. The new suborders have been inserted in response to this concern.

New suborder 10.1A expands on the meaning of the word ‘adequate’ by specifying that a trade description is ‘adequate’ if it contains sufficient information to enable the goods to be readily identified, is not ambiguous or unclear and satisfies any particular requirements under the Principal Orders. An example of a particular requirement relating to a trade description under the Principal Orders is found in suborder 10.2. Suborder 10.2 sets out particular requirements for the trade description for certain horticulture produce. New suborder 10.1B expands on the meaning of the word ‘accurate’ by stating that a trade description is accurate if it correctly describes the goods.

**Item 2** omits the word ‘substantially’ from Schedule 2, subparagraph 8.1( c)(i) which requires that a sampling room complies ‘substantially’ with the relevant State, Territory and Commonwealth occupational health and safety requirements. The SCRO has queried why only ‘substantial’ compliance is required and suggested that disputes may arise as to whether compliance is ‘substantial’. In response to the SCRO concerns this word has been deleted.