

## EXPLANATORY STATEMENT

Issued by Authority of the Parliamentary Secretary for Agriculture, Fisheries and Forestry.

*Export Control Act 1982*

*Export Control (Prescribed Goods – General) Amendment Order 2013 (No. )*

### **Legislative Authority**

Subsection 25(1) of the *Export Control Act 1982* (Act) permits the Governor-General to make regulations prescribing matters required or permitted to be prescribed by the Act; or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 3 of the Act defines ‘official mark’ to mean any stamp, seal, label or mark that is declared by the regulations to be an official mark.

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 under the Act.

Section 13.05 of the *Export Control (Prescribed Goods – General) Order 2005* (Order) declares that for the purposes of the definition of official mark in section 3 of the Act, the design of the marks for Halal meat must conform to the standards specified in the section.

### **Purpose**

The purposes of the *Export Control (Prescribed Goods – General) Amendment Order 2013* (No. ) are to:

- introduce an extra small size option for the official Halal mark to minimise problems faced by some businesses using the existing size options, including the mark interfering with barcode readability and the placement of information required by importing countries
- extend the transition period for six months until 23 August 2013 to provide industry with time to update their systems, achieve compliance with the new mark arrangements, including the extra small size option, and use up existing stocks of the old mark
- remove the provisions for an official pentagonal mark that is provided for under section 13.16 of the Order, as this mark is no longer required.

### **Background**

Red meat and red meat products are prepared for the Australian Halal export market under the Australian Government Authorised Halal Program (AGAHP). The official mark that is applied to these products is the official mark for Halal meat as provided under section 13.05 of the Order.

The Department of Agriculture, Fisheries and Forestry (DAFF) Halal Consultative Committee (HCC) comprises representatives from DAFF, Meat and Livestock Australia (MLA), the

Australian Meat Industry Council (AMIC), Islamic Organisations and Aus-Meat. On 14 February 2008, the HCC agreed to replace the former official Halal mark with an amended design and confirmed that the amended design will only be applicable to red meat and red meat products.

Section 13.05 of the Order was amended on 23 December 2011 to introduce the new mark, including three size options. An initial transition period of six months (until 23 June 2012) was provided to phase out the old mark and use up existing stocks. This transition period was subsequently extended until 23 February 2013 following advice from industry that additional time was required to make the necessary changes.

Since the implementation of the new mark, industry has raised concerns with DAFF regarding the sizing of the mark and its interference with barcode readability and the placement of information required by importing countries. An option for a smaller mark to address these concerns was discussed at the HCC meeting held on 6 December 2012. Since then, DAFF has consulted with AMIC and agreed upon an extra small size option.

### **Impact and Effect**

The introduction of the extra small size for the mark does not change the existing requirement to apply the mark to eligible meat or meat products for export. Under the current *Export Control (Meat and Meat Products) Orders 2005* where meat and meat products are prepared as Halal for export, the meat must be identified by the application of an official Halal mark as provided for in subsection 13.05(3) of the Order.

The extension to the transition period until 23 August 2013 will allow industry with time to update their systems, achieve compliance with the new mark arrangements, including the extra small size option, and use up existing stocks of the old mark.

The removal of the provisions for an official pentagonal mark provided for in subsection 13.16 of the Order has no impact as this mark is no longer required.

### **Consultation**

The Office of Best Practice Regulation (OBPR) was consulted in relation to the proposed amendments. On 16 January 2013, the OBPR agreed that the amendments will have minor impacts and that a Regulation Impact Statement will not be required (OBPR Reference Number 14603).

DAFF has consulted with AMIC and HCC on the extra small size option for the mark and they support the introduction of the smaller size option.

The Order is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. The Order is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in the Attachment.

## **Details/Operations**

### Section 1 – Name of Order

This section provides that the name of the amending Order is the *Export Control (Prescribed Goods – General) Amendment Order 2013 (No. )*.

### Section 2 - Commencement

This Section provides for Sections 1 to 4 and item 3 of Schedule 1 to commence on either 22 February 2013 or the day after the amending Order is registered, whichever is earlier. This is to ensure that, in the event that the amending Order is not registered by 22 February 2013, the transition period (which currently ceases on 23 February 2013) is extended until 23 August 2013. To address subsection 12(2) of the *Legislative Instruments Act 2003*, commencing Sections 1 to 4 and item 3 of Schedule 1 before the date the amending Order is registered will not result in any disadvantage to a person or liabilities being imposed on a person.

This Section also provides for items 1 and 2 of Schedule 1 to commence the day after the amending Order is registered. This will provide industry with the opportunity to use the extra small mark from the day after registration of the amending Order.

### Section 3 – Authority

This Section provides for the amending Order to be made under the *Export Control (Orders) Regulations 1982*.

### Section 4 – Schedule(s)

This Section provides for each instrument specified in a Schedule(s) to the amending Order to be amended or repealed as specified in the Schedule(s) concerned.

### Schedule 1 – Amendments of *Export Control (Prescribed Goods – General) Order 2005*

**Item 1** amends subsections 13.05(4) by inserting an extra small size for the official Halal mark with the following dimensions:

<b>Item</b>	<b>Section of mark</b>	<b>Size of mark (mm)</b>
1	Width of mark	20
2	Height of mark	20
3	Maximum overall height of Arabic text (arched)	2
4	‘Halal’ in English text	6.5
5	‘Halal’ in Arabic text	2.5
6	‘A’ = Establishment Registration Number	3
7	‘Australia’ in English text	2.5

The purpose of the amendment is to provide industry with an option to use an extra small size official Halal mark to minimise problems faced by some businesses using the existing size options, including the mark interfering with barcode readability and the placement of information required by importing countries.

**Item 2** removes section 13.16 of the Order which contains provisions relating to “Declaration of official marks – pentagonal mark”.

The purpose of the amendment is to remove the provisions for an official pentagonal mark as this mark is no longer required.

**Item 3** omits the words “23 February 2013” from subsection 18.03(2) of the Order which is contained in the transitional provision relating to the official Halal mark, and inserts “23 August 2013”.

The purpose of the amendment is to extend the transition period until 23 August 2013. This will allow industry time to update their systems, achieve compliance with the new mark arrangements, including the extra small size option, and use up existing stocks of the old mark.

## **Statement of Compatibility with Human Rights**

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

Export Control (Prescribed Goods – General) Amendment Order 2013 (No. )

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 (Prescribed Goods – General) Amendment Order 2013 (No. ) amends the *Export Control (Prescribed Goods – General) Order 2005* by:

- introducing an extra small size option for the official Halal mark,
- extending the transition period for six months until 23 August 2013, and
- removing the provisions for an official pentagonal mark in the Order which is obsolete and no longer required.

### **Human rights implications**

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

### **Conclusion**

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

**The Hon. Peter Douglas Sidebottom MP,  
Parliamentary Secretary for Agriculture, Fisheries and Forestry**