

## EXPLANATORY STATEMENT

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

### *Export Control Act 1982*

#### Export Control (Meat and Meat Products) Orders 2005

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:

- under paragraph 25(2)(f) of the Act, the prescribing of penalties not exceeding 50 penalty units for offences against the regulations; and
- under paragraph 25(2)(g) of the Act, subject to subsection 25(3) of the Act, 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.

Subsection 25(3) of the Act states that an order shall not be made prescribing any penalty for an offence.

Regulation 3 of the *Export Control (Orders) Regulations 1982* (“the Regulations”) 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.

Regulation 4 of the Regulations provides that if an order provides that the order, or a provision of the order, is a penal provision, a person who fails to comply with the order or provision is guilty of an offence against the Regulations punishable by a fine of 10 penalty units; or if the order or provision specifies that it is a penal provision of a particular level, a fine of the number of penalty units specified for a penal provision of that level set out in the table in regulation 4. Under section 4AA of the *Crimes Act 1914* a penalty unit means \$110.

The table in regulation 4 specifies five levels of penal provision from 1 to 5. A “level 1” penalty provision attracts a penalty of 10 penalty units and the penalty increases by 10 penalty units for each succeeding level. The highest penalty is 50 penalty units for a “level 5” penalty. Regulation 4 also provides that an offence created in an order is an offence of strict liability.

The *Export Meat Orders 1985* (“the old Orders”) together with the *Prescribed Goods (General) Orders 1985* (“the PGGOs”) provide the legislative basis for the conditions and restrictions on the export of meat and meat products. The PGGOs focus primarily on administrative functions that apply to all prescribed goods, whereas the old Orders focus on commodity-specific conditions and restrictions.

The purpose of the *Export Control (Meat and Meat Products) Orders 2005* (“the new Orders”) is to revoke the old Orders and replace them with a new set of orders that:

- give effect to the Government’s response to the recommendations made by the National Competition Policy (“NCP”) Review of the *Export Control Act 1982* as far as current developments allow (see Appendix 1);
- reflect changes to domestic and international legislation, such as the *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption* and World Trade Organisation’s regime for international trade, including Codex standards;
- take into account overseas government authorities’ requirements, including recommendations from overseas reviews by the European Commission and United States Food Safety Inspection Service;
- reflect current scientific knowledge;
- remove unnecessary requirements, resulting in legislation that is less prescriptive and more outcomes based and enabling greater flexibility and innovation; and
- take into account AQIS experience in implementing the Orders.

One of the major recommendations of the NCP Review accepted by the Government is the adoption of a three tier model for the regulation of exports: tier one being the national standards applying to the production of meat and meat products, tier two being any additional requirements set by overseas governments for access to their markets and tier 3 being any special requirements deemed by Government and industry to be in the interests of gaining or maintaining market access.

The new Orders address this recommendation by incorporating, by way of reference, the *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption* (“the Australian Meat Standard”) as the tier 1 standard for meat and meat products. This Standard was developed to harmonise export and domestic requirements and reflect international standards.

The Australian Quarantine and Inspection Service undertook extensive consultation with industry and State and Territory authorities on the making of the new Orders. The regulation impact statements included in this explanatory statement provide a detailed account of the nature of the consultation.

Details of *Export Control (Meat and Meat Products) Orders 2005* are set out below:

## **PART 1 – Preliminary**

### **Order 1**

1. This order provides that the name of the new Orders is the *Export Control (Meat and Meat Products) Orders 2005*.

### **Order 2**

2. This order provides that the new Orders commence on the first day of July 2005.

### **Order 3**

3. This order provides that the objectives of the new Orders relate to food safety, trade description, importing country requirements, integrity and traceability. In addition, this order requires that an assessment of these objectives can be made, that the requirements of the Act and the new Orders can be met and that the accuracy of any statement made in their regard can be ascertained. This is consistent with recommendation 2 of the NCP Review.

4. A further objective is to make provision for a range of matters that may be necessary to ensure the requirements of the Act are met including inspections, dispositions, audit, approval of arrangements, issue of certificates, approval of auditors and official marks.

### **Order 4**

5. This order provides the outline and establishes the scope of the new Orders.

### **Order 5**

6. This order provides that specific provisions of the *Prescribed Goods (General) Orders 1985* apply to meat and meat products for export for food. The purpose of this provision is to limit the application of the *Prescribed Goods (General) Orders* to those matters that are specifically incorporated.

### **Order 6**

7. This order provides that, unless the contrary intention appears, the *Australian Meat Standard* applies to the meat and meat products regulated by the new Orders. The *Australian Meat Standard* is defined in suborder 8.1 to mean *AS 4696 Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption*. This Standard provides for operational controls related to the hygienic production and transportation of meat and meat products.

### **Order 7**

8. This order provides that where the words “penal provision” appear in relation to a provision in the new orders, the provision is taken to provide a penal provision for the purposes of subregulation 4(1) of the *Export Control (Orders) Regulations 1982*. Subregulation 4(1) of the *Export Control (Orders) Regulations 1982* provides that a person who fails to comply with a provision is guilty of an offence against the Regulations. Subregulation 4(2) of those Regulations provides that the offence under subregulation 4(1) is an offence of strict liability.

### **Order 8**

9. This order provides a number of definitions for purposes of the new Orders.

### **Order 9**

10. This order provides for the meaning of meat safety inspector as defined in the *Australian Meat Standard*. A meat safety inspector is an authorised officer under the Act. Order 9 also provides that a reference to authorised officer or meat safety inspector in certain circumstances is a reference a veterinary officer (or an authorised officer acting under the supervision of a veterinary officer) if that veterinary officer is located at a registered establishment.

## **Order 10**

11. This order provides that meat and meat products that are for export for food are declared to be prescribed goods for the purposes of the Act and the new Orders. Suborder 8.1 of the new Orders defines “meat” as any part of a slaughtered animal including offal and a “meat product” as a product containing meat. Section 3 of the Act defines “food” and “prescribed goods”.

## **Order 11**

12. This order provides that reference to “these Orders” in the new Orders is a reference to the *Export Control (Meat and Meat Products) Orders 2005* and its Schedules.

## **Order 12**

13. This order provides that notes in the new Orders are intended as guidance only.

## **PART 2 – Application of these Orders**

### **Division I – Orders apply to meat and meat products**

## **Order 13**

14. This order provides that the new Orders only apply to meat and meat products derived from certain animal species, which are specified in this order. The new Orders do not apply to animals killed in the wild state. This order also defines the meat products to which the new Orders do not apply.

## **Order 14**

15. This order provides that, subject to the expanded operation of the new Orders (which provides the mechanism for bringing within the operation of the new Orders meat and meat products that fall outside the scope of the Orders – Division II of Part 2), the new Orders do not apply to small consignments (no more than 10 kilograms) of meat and meat products. This recognises that people travelling overseas may opt to take a small quantity of processed foods with them and that certification should not be necessary for this purpose.

## **Order 15**

16. This order provides that, subject to the expanded operation of the new Orders (Division II of Part 2), the new Orders do not apply to meat and meat products exported to New Zealand.

### **Division II – Expanded operation of these Orders**

## **Order 16**

17. This order provides an explanation of Division II of Part 2. Division II provides the mechanism for bringing within the operation of the new Orders meat and meat products that fall outside the application of the new Orders and thereby facilitating the issue of government certificates by the Secretary for those goods.

## **Order 17**

18. This order describes the meat and meat products to which Division II applies and includes meat and meat products from animal species not listed in suborder 13.1, meat and meat products listed in paragraphs 13.2(a) and (e), consignments of less than 10 kilograms and meat and meat products for export to New Zealand.

## **Order 18**

19. This order provides that if an exporter requires government certification to be issued under Division II, the exporter must apply in writing to the Secretary for a notice declaring that the new Orders apply to the meat and meat products to be exported. The application must set out the meat and meat products, the name of the exporter and the processing establishments, the importing country to which the meat and meat products are to be exported and the signatures of the exporter and the occupier of each processing establishments.

## **Order 19**

20. This order provides that when an application is made under order 18 and the application satisfies suborder 18.2, the Secretary must give a notice that specifies the orders that apply to the meat and meat products. Reasons for which a notice need not be given include information given in the application is inaccurate or incomplete, there is no sound basis for the information, the application refers to animal species not regulated under the new Orders or Act or the issue of a certificate could adversely affect export trade. If a written notice is issued, the orders specified as applying must relate to the preparation of the meat and meat products by the establishment and the export of the meat and meat products by the named exporter. Suborder 19.5 provides that the notice takes effect when it is given to the persons concerned or on a later day specified in the notice.

## **Order 20**

21. This order provides that, if the Secretary decides not to give a notice specifying that the new Orders apply, a further notice must be provided giving the reasons and advising the applicant and the occupier of each establishment identified in the application of the right to seek reconsideration of the decision.

## **Order 21**

22. This order provides for the amendment or revocation of the notice by the Secretary. Amendment or revocation has effect when the written notice is given or, otherwise, on the date specified in the notice. If revocation applies, the notice must state the reasons and advise the applicant or the occupier of each establishment identified in the application of the right to seek reconsideration of the decision. Suborder 21.4 describes when the amendment or revocation is to take effect.

## **Order 22**

23. This order provides for the date of cessation of the notice given under suborder 19.1.

### **Division III – Ships stores, imported meat held under bond, etc**

#### **Order 23**

24. This order provides that the new Orders do not apply to certain exports. These exemptions relate to circumstances where the meat and meat products are exported from Australia but are not intended to be regarded as export for certification purposes. Some examples include:

- Ship's stores – ships may carry supplies for crew. These supplies may include processed foods but the intention is that these foods will be consumed by the crew and not offered for sale in another market;
- Meat and meat products that are imported and re-exported unchanged – some ships may choose to first land in Australia rather than their country of origin. The goods are then dispatched to the intended overseas market without any changes to the product, and they remain in their original packaging. Under the *Prescribed Goods (General) Orders 1985*, goods first landed in Australia may be regarded as product of Australia. However for certification purposes, it is not possible to ascertain if the objectives in order 3 have been met for these foreign vessels and therefore it is not desirable to issue certification for these goods.

### **Division IV – Exemptions**

#### **Order 24**

25. This order sets out the requirements for applying for an exemption from provisions in the new Orders. This order recognises that exporters may apply to send small samples to potential overseas clients to develop new market access opportunities and certification is not required by the importing country for this purpose. The order also provides for an exemption for experimental circumstances (for example, allowing the trial of alternate processing technologies whilst developing the case for an alternative arrangement within an approved arrangement), to enable the export of commercial samples and in special commercial circumstances. Suborder 24.3 provides that the instrument of exemption issued by the Secretary must specify the orders that do not apply.

#### **Order 25**

26. This order enables the Secretary to impose conditions on the exemption and vary or revoke those conditions by written notice. The purpose of the conditions is to ensure that one or more of the objectives specified in suborders 3.1 and 3.2 are complied with.

#### **Order 26**

27. This order provides that the orders specified in the exemption as not applying do not apply to the meat and meat products of the kind specified in the exemption. Order 26 also describes when the instrument of exemption is to take effect.

#### **Order 27**

28. This order describes when the exemption ceases to have effect.

## **Order 28**

29. This order provides that if the exemption ceases to have effect then, at that time, the orders that were specified in the exemption as not applying will apply.

## **PART 3 – Preparation of meat and meat products for export for food**

### **Division I – Registration and management practices**

#### **Order 29**

30. This order provides that meat and meat products for export for human consumption must be prepared at an establishment registered for that purpose and, if not prepared at a registered establishment, the occupier is guilty of an offence.

31. This order is a penal provision with a level 5 penalty. This means that a person who is guilty of this offence is punishable by a fine of 50 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*. This is the highest penalty that can be applied under the orders. The purpose of this offence is to ensure that the preparation of meat and meat products can be properly inspected, monitored and audited by authorised officers. This level of penalty is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary to ensure the integrity of the regulatory system relating to persons who prepare meat and meat products for export for human consumption. Failure to prepare meat and meat products for export for food at a registered establishment is a serious offence.

#### **Order 30**

32. This order provides that the occupier must have an approved arrangement for the preparation of meat and meat products undertaken. This order is a penal provision with a level 5 penalty. This means that a person who is guilty of this offence is punishable by a fine of 50 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

33. The purpose of this offence is to ensure that the preparation of meat and meat products is undertaken in accordance with an arrangement approved by the Secretary. An approved arrangement is defined in suborder 8.1 to mean an arrangement approved under clause 5 of Schedule 1 or under subclause 22.1 of Schedule 7 and includes variation of such an arrangement in the circumstances specified in clause 17 of Schedule 1 or clause 27 of Schedule 7.

34. The level of penalty applying to this offence is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary to ensure the integrity of the regulatory system relating to persons who prepare meat and meat products for export for human consumption. Failure to have an approved arrangement for the preparation of meat and meat products for export for human consumption is a serious offence.

#### **Order 31**

35. This order provides that the occupier must comply with requirements for management practices as specified in Schedule 2 (*Management of the preparation of meat*). Schedule 2 contains penalties for failing to comply with requirements specified in that Schedule.

## **Division II – Export standards for meat and meat products**

### **Order 32**

36. This order provides that the occupier of an establishment engaged in the preparation of meat or meat products for export for food must comply with the certain requirements of the *Australian Meat Standard*. The order also provides that the occupier of an establishment engaged in the preparation of meat or meat products for export for food must comply with clauses 23 and 24 of the *Australian Meat Standard* if the occupier transports meat and meat products to another establishment where he or she is also the occupier.

### **Order 33**

37. This order provides that the occupier engaged in the preparation of meat and meat products for export must comply with the requirements of Schedule 3 (*Structural requirements*) (other than Part 2), Schedule 4 (*Operational hygiene requirements*), Schedule 5 (*The preparation and transport of meat*) (other than clause 19), Schedule 6 (*Trade descriptions and official marks*) and Parts 1 and 2 and Division II of Part 4 of Schedule 7 (*Integrity, transfer, Halal certification and EU exports*). Where the occupier is also the occupier of an establishment to which the meat and meat products are transported, the requirements in Part 2 of Schedule 3 are to be complied with.

38. This order is a penal provision with a level 5 penalty. This means that a person who is guilty of this offence is punishable by a fine of 50 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

39. The purpose of this offence is to ensure that certain requirements of these Orders are complied with. The level of penalty applying to this offence is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary to ensure the integrity of the regulatory system relating to persons who prepare meat and meat products for export for human consumption. The offence promotes the objectives of the new Orders to penalise those persons who fail to prepare meat and meat products for export for food that are wholesome, accurately described, traceable, and meet the importing country requirements. Failure to comply with the requirements specified is a serious offence.

### **Order 34**

40. This order provides that the occupier must comply with the importing country requirements of the country to which the meat and meat products are to be exported. This order is not a penal provision. Enforcement of the requirement will be achieved administratively.

## **PART 4 – Conditions and restrictions on the export of meat and meat products**

### **Division I – General requirements**

#### **Order 35**

41. This order provides that the export of meat and meat products for food is prohibited unless the requirements of Part 4 are complied with.

## **Order 36**

42. This order confirms that requirements of Part 4 are specified conditions and restrictions applicable to the export of meat and meat products for the purposes of subsection 8(3) of the Act. Subsection 8(3) of the Act provides that a person who exports or intends to export prescribed goods in contravention of conditions or restrictions is guilty of an offence. Failure to comply with the conditions and restrictions in Part 4 of the new Orders precludes the giving of an export permit and can lead to the revocation of an export permit – see Division III of Part 1 of Schedule 8. Failure to comply with these conditions and restrictions also precludes the issue of a government certificate – see Part 2 of Schedule 8.

## **Division II – Registration and approved arrangements**

### **Order 37**

43. This order provides that meat and meat products for export for food must be prepared in an establishment registered for the purpose. Registration is required to ensure that meat and meat products for export are prepared in an establishment that is suitable for the intended use.

### **Order 38**

44. This order provides that registered establishments that prepare meat and meat products for export for food must have an approved arrangement in place for the preparation of meat and meat products undertaken. Paragraph 7(3A)(a) of the Act enables regulations to be made for and in relation to approved arrangements.

45. In the context of the new Orders, the purpose of approved arrangements is to require registered establishments to identify how the establishment will achieve the objectives listed in suborders 3.1 and 3.2 and the requirements of the Act and the new Orders. Most trading partners require that all registered establishments, regardless of what types of food preparation the establishment is engaged in, have an approved arrangement in place to address food safety hazards.

## **Division III – Premises, equipment and operational hygiene**

### **Order 39**

46. This order provides that premises, equipment, facilities, meat transport vehicles and essential services used or provided in the preparation of meat and meat products for export comply with the applicable requirements of the *Australian Meat Standard* and the requirements of Schedule 3 (*Structural requirements*).

### **Order 40**

47. This order lists those premises where meat and meat products for export for food are not to be prepared in (for example, pharmaceutical manufacturing premises) unless the approved arrangement provides for that preparation and, in doing so, the wholesomeness and integrity of meat and meat products for food for human consumption can be assured.

### **Order 41**

48. This order provides that operational hygiene procedures must be in place for all establishments that process meat and meat products for export for food in accordance with the

operational hygiene requirements of the *Australian Meat Standard* and Schedule 4 of the new Orders. Also, the transport of meat and meat products for export between preparation establishments must be in accordance with the operational hygiene requirements of the *Australian Meat Standard*.

## **Division IV – Preparation and transport**

### **Order 42**

49. This order provides that preparation procedures must be in place for all establishments that prepare meat and meat products for export in accordance with the requirements of the *Australian Meat Standard* (other than the requirements of that Standard specified in Schedule 5 as not applying) and Schedule 5. Schedule 5 deals with the preparation and transport of meat.

### **Order 43**

50. This order provides that the transport between registered establishments of meat and meat products for export must comply with the requirements of the *Australian Meat* (other than the requirements of that Standard specified in Schedule 5 as not applying) and Schedule 5. Schedule 5 deals with the preparation and transport of meat.

## **Division VI – Identification, tracing systems, integrity and transfer**

### **Order 44**

51. This order provides that trade descriptions must be applied to meat and meat products for export in accordance with the applicable requirements of the *Australian Meat Standard* (other than the requirements of that Standard specified in Schedule 6 as not applying) and Part 1 of Schedule 6. Schedule 6 deals with trade descriptions and official marks. This order is consistent with the objective specified in paragraph 3.1(b) of the new Orders – to ensure that meat and meat products intended for export for food have an accurate trade description. Provision for this order to be made is given under section 15 of the Act.

### **Order 45**

52. This order provides that meat and meat products for export for food must comply with the requirements of Part 2 of Schedule 6. Schedule 6 deals with trade descriptions and official marks.

### **Order 46**

53. This order provides that the procedures for segregation, identification, security, tracing, integrity, recall and transfer as specified in the *Australian Meat Standard* and certain provisions in Schedule 7 must be in place at establishments where meat and meat products are prepared for export for human consumption. This provision is consistent with objectives of the new Orders specified in paragraphs 3.1(a) and 3.1(d).

## **Division V – Export of meat and meat products**

### **Order 47**

54. This order provides that, prior to the export of meat and meat products, the exporter must have a permit to export the meat and meat products. At the time of export, the permit must be valid.

## **PART 5 – Exporter’s obligations**

### **Division I – The exporter**

#### **Order 48**

55. This order provides that, for the purposes of Part 5, the exporter is the person identified in the permit application as the exporter.

### **Division II – Information and documentary requirements**

#### **Order 49**

56. This order provides that the exporter must hold export permits and government certificates under secure conditions when not in use.

57. Order 49 is a penal provision with a level 5 penalty. This means that a person who is guilty of this offence is punishable by a fine of 50 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

58. The level 5 penalty is necessary to protect the integrity of the regulatory system relating to export permits and government certificates. Export permits and government certificates are only issued for prescribed goods that have been prepared in accordance with the conditions and restrictions specified in the legislation. Export permits and government certificates are official documents that must be held under conditions of security to ensure that they cannot be lost, defaced or stolen.

59. The level of penalty applying to this offence is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary for the offence because of the serious implications for trade in cases of non-compliance.

#### **Order 50**

60. This order provides that the exporter must, within 3 working days, return any export permit and government certificate to the Secretary if the export permit is revoked, the government certificate is cancelled or the intention to export is abandoned.

61. This order is a penal provision with a level 2 penalty. This means that a person who is guilty of the offence is punishable by a fine of 20 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*. This offence is less serious than the preceding offences. However, it is necessary to ensure that persons do not use export permits and government certificates that have been revoked or cancelled.

62. The level of penalty applying to this offence is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary for the offence because of the serious implications for trade in cases of non-compliance.

#### **Order 51**

63. This order imposes an obligation on the exporter to notify an authorised officer without delay if the exporter suspects that the wholesomeness or integrity of meat or meat products is

jeopardised or a requirement of Part 4 of these Orders (*Conditions and restrictions on the export of meat and meat products*) or an importing country has not been met in relation to those goods.

## **Order 52**

64. This order provides that an exporter must have effective measures in place to ensure that information given to the Secretary in a notice of intention to export, an application for an export permit or a government certificate is accurate and complete and there is a sound basis for the information given.

65. Criminal penalties under the *Criminal Code Act 1995* apply to persons who make false or misleading statement to the Secretary or authorised officers.

## **Order 53**

66. This order provides that the exporter must document the measures that the exporter is to undertake to ensure compliance with the requirements of Part 4.

## **Order 54**

67. This order provides that the exporter must keep all records and documents, including a copy of each application for a permit, that are relevant to a demonstration of compliance with the Act and the new Orders for a minimum period of 2 years from the day the document is made by the exporter or comes into the exporter's possession.

68. Order 54 is a penal provision with a level 5 penalty. This means that a person who is guilty of this offence is punishable by a fine of 50 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

69. The level 5 penalty is necessary to protect the integrity of the regulatory system. Exporters must retain appropriate documentation for the purposes of audits. Audits are conducted to ensure that the objectives of the new Orders are met. Failure to keep records is a serious offence because it prevents authorised officers or approved auditors from being satisfied that the exporter has prepared meat and meat products in accordance with the conditions and restrictions specified in the legislation, relevant requirements in the *Australian Meat Standard* and the approved arrangement.

70. The level of penalty applying to this offence is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary for the offence because of the serious implications for trade in cases of non-compliance.

## **PART 6 – Audit**

### **Division I – Performance of the audit**

## **Order 55**

71. This order provides that the Secretary may require the operations for the preparation of meat and meat products for export, the operations for the export of meat and meat products and the operations for the certification of meat and meat products (eg Halal certification) to be audited. The audit may be an audit of compliance with all requirements of the Act and the new Orders relevant to the operations, an audit of part of the operations or an audit of the meat and meat products.

## **Order 56**

72. This order provides that an audit may be conducted by either an authorised officer or an auditor approved by the Secretary in accordance with subclause 5.1 of Schedule 9 (*Approval of auditors*).

## **Order 57**

73. This order provides that the purpose of an audit of operations is to determine whether the requirements of the Act and the new Orders are complied with and there is compliance with the approved arrangement and any conditions of an arrangement.

## **Order 58**

74. This order provides that the Secretary may specify, by giving notice in writing to an occupier of an establishment, an exporter or holder of an approved arrangement for certification operations, the frequency and scope of audits of their operations. However, this does not preclude the Secretary from specifying the frequency and intensity of audits required in the conditions of any applicable approved arrangement.

75. The order also provides that audits may be unannounced and any written notice may be varied by a further written notice to that person.

76. The purpose of this provision is to give clarity regarding AQIS' expectations on the number of audits conducted annually, and the scope of operations covered in each audit. Each audit may not address every element of the approved arrangement. However over a period of time, all elements would be addressed. Therefore the scope of audits may also vary. This approach provides industry and AQIS with greater flexibility.

## **Order 59**

77. This order provides that the occupier of an establishment, exporter and holder of an approved arrangement for certification operations has responsibilities in terms of providing assistance to an auditor, including providing information, allowing employees to be interviewed, observing procedures, etc.

## **Division II – Failures to comply and audit reports**

### **Order 60**

78. This order provides that administrative procedures are required when an auditor is of the opinion that there is a failure to comply. These procedures include notifying the occupier, exporter or holder of certification operations and assessing whether the failure is a critical non-compliance (as defined in suborder 60.3). If, in the auditor's opinion the failure amounts to a critical non-compliance, the auditor must notify the Secretary immediately. This is an administrative provision to ensure that AQIS has sufficient information to meet the objectives of the new Orders.

### **Order 61**

79. This order provides that the auditor must prepare an audit report and stipulates minimum reporting criteria, including whether the requirements of the Act, the new Orders and the approved arrangement have been complied with. Importantly, this order provides that the audit report must

describe each failure to comply, and state if the failure is a critical non-compliance. The audit report may contain recommendations by the auditor for appropriate action to address deficiencies.

## **Order 62**

80. This order provides that the audit report must be given to the Secretary and a copy of the report must be provided to the occupier, exporter or holder of an approved arrangement for certification operations being audited.

## **PART 7 – Official marks and marking devices**

### **Order 63**

81. This order provides that official marks used under the new Orders are declared under the *Prescribed Goods (General) Orders 1985* (paragraphs 87(a), (c), (g), (i), (o), (p), (q), and (s)). An official marking device used to apply an official mark under these Orders is declared under the *Prescribed Goods (General) Orders 1985*. “Official mark” and “official marking device” are defined in section 3 of the Act.

### **Order 64**

82. This order provides that, for the purposes of section 14 of the Act, a person shall not manufacture or have in their possession an official mark or official marking device unless the person has approval under order 89 of the *Prescribed Goods (General) Orders 1985* or the person is an authorised officer or acting under a direction of an authorised officer.

83. Section 14 of the Act creates an offence if this order is not complied with.

84. In addition, the order provides that, for the purposes of section 14 of the Act, a person must not have in his or her possession an official marking device or an official mark or manufacture an official marking device unless the person has approval under order 89 of the *Prescribed Goods (General) Orders 1985* or the person is an authorised officer or acting under a direction of an authorised officer or the official mark is applied in the specific situation outlined in paragraph 64.2(e).

85. The Order also provides that a person shall not apply an official mark or alter or interfere with an official mark applied to meat and meat products unless the person is an authorised officer or acting under the direction of an authorised person or the specific situation outlined in paragraph 64.3(d) exists.

### **Order 65**

86. This order lists those circumstances when an official mark must not be applied to meat and meat products for export for food and includes the situation where the meat or meat products are no longer wholesome or have deteriorated. Section 14 of the Act creates an offence if this order is not complied with.

### **Order 66**

87. This order provides that, for the purposes of section 14 of the Act, a person must not apply a mark that resembles or apparently intends to resemble or pass for an official mark unless the person is authorised to do so in accordance with the approved arrangement and the application of the mark

is done in accordance with the approved arrangement. The order also defines the term “a resemblance of an official mark”. Section 14 of the Act creates an offence if this order is not complied with.

#### **Order 67**

88. This order provides that an official marking device that is damaged, worn or otherwise not fit for applying an official mark and in the possession of the occupier must be given to an authorised officer as soon as practicable.

#### **Order 68**

89. This order creates an obligation on the occupier of an establishment engaged in the preparation of meat and meat products for export for food to keep official marks and marking devices in a secure place when not in use. The order also imposes an obligation on the occupier to make records of the occupier's: receipt, use and return of official marking devices; receipt or manufacture of official marks; and use and defacement of official marks.

### **PART 8 – Functions and directions powers of authorised officers**

#### **Division I – Functions of authorised officers**

#### **Order 69**

90. This order provides that an authorised officer who is a meat safety inspector may perform all of the functions of a meat safety inspector specified in the *Australian Meat Standard* and, in addition to those functions, and following written approval of the Secretary, may admit and pass for slaughter experimental animals or animals treated or exposed to drugs, chemicals or biological substances.

#### **Order 70**

91. This order provides that an authorised officer may carry out additional functions to those specified in the Act and the new Orders to ensure that the objectives of the Orders are met. Order 70 specifically includes the conduct of inspections of animals, meat and meat products, the temporary stopping of operations at an establishment and controlling the rate of operations at an establishment to enable effective and efficient inspection and disposition functions.

#### **Order 71**

92. This order lists those specific functions that must be carried out by a veterinary officer (where a veterinary officer is located at an establishment) or, in relation to inspections, decisions and dispositions of animals, restricted slaughter animals, their carcasses and carcase parts, an authorised officer acting under the direction of a veterinary officer.

#### **Order 72**

93. This order specifies those things located at premises and areas that an authorised officer may inspect and retain for the purposes of additional inspection, disposition or the performance of any other function under the Act and the new Orders. The order requires those things or areas to be identified with an approved means of identification. The purpose of this order to ensure that the objectives of the Act and the new Orders are met.

### **Order 73**

94. This order provides for the issue of a certificate of condemnation for an animal, carcase or carcase part by an authorised officer where the request in writing for the certificate by the occupier occurs within one month of the date on which the animal, carcase or carcase part was condemned and the authorised officer is satisfied that the occupier's system of records is able to verify the ownership of the animal, carcase or carcase part.

### **Order 74**

95. This order requires the occupier of an establishment engaged in the preparation of meat and meat products for export for food if requested by an authorised officer to provide reasonable assistance for the purpose of enabling the officer to exercise a function under the Act or the new Orders.

### **Order 75**

96. This order provides that, where an authorised officer is required to be located at an establishment to provide services in relation to the production of meat and meat products for export for food, the occupier must apply for the provision of such services in accordance with Schedule 10 (*Provision of services of authorised officers*). The order also provides the production of meat and meat products at the establishment must not commence until an authorised officer is present.

## **Division II – Directions powers of authorised officers**

### **Order 76**

97. This order provides that an authorised officer may direct an exporter to take action if that officer has reasonable grounds for believing that the meat or meat products are not wholesome or have deteriorated, the meat or meat products are not eligible for export or not eligible for export to the country to which they are intended; or the integrity of meat or meat products is otherwise compromised.

### **Order 77**

98. This order provides that the direction given under suborder 76.3 must ensure the objectives of the new Orders are met. The direction may require certain action in relation to movement, identification, retention, examination, condemnation and disposal of meat and meat products.

### **Order 78**

99. This order provides that a direction given by written notice under this Division must be complied with by the exporter within the period specified in the notice. The notice must specify the action that must be taken and state that failure to take action is an offence. The notice may be amended or revoked by the issuing of a further notice by an authorised officer.

100. Suborder 78.1 is a penal provision with a level 5 penalty. This means that a person who is guilty of this offence is punishable by a fine of 50 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

101. The seriousness of this offence is necessary to protect the integrity of the regulatory system. Exporters must comply with directions given by authorised officers under this section, as failure to do so compromises the regulatory system.

102. The level of penalty applying to this offence is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary for the offence, as a failure to comply with a direction of an authorised officer could have serious implications for trade.

## **PART 9 – Regulatory arrangements**

### **Division I – Approved arrangement provides for alternative procedure**

#### **Order 79**

103. This order allows the Secretary to approve alternative procedures in approved arrangements provided that compliance with the procedures would meet the requirements of the new Orders. Notice of the approval must be given to the occupier in writing and compliance with the procedures is taken to be compliance with the clause or requirement specified in the notice. The Secretary may amend the notice by giving the occupier further written notice.

### **Division II – Importing country does not require compliance**

#### **Order 80**

104. This order provides that, if an importing country does require a requirement of the new Orders to be met, the occupier may apply in writing to the Secretary requesting the Secretary to give a notice that the requirement does not apply. Where the relevant importing country requirements differ from the new Orders and compliance with importing country requirements would not result in compliance with the new Orders and the approved arrangement contains controls that will achieve the importing country requirement, the Secretary may give an occupier written notice specifying that a requirement of the new Orders does not apply. The Secretary may amend or revoke this notice by giving a further notice in writing. The order also specifies when the notice takes effect.

## **PART 10 – Miscellaneous**

### **Division I – Reconsideration and review of decisions made by the Secretary**

#### **Order 81**

105. This order gives the meaning for “decision” and “initial decision”. The definition of initial decision does not include decisions made under Division IV of Part 2, Part 9, order 83, Division III of Schedule 8 and Part 2 of Schedule 8.

106. Division IV of Part 2 provides for exemptions. This Division enables the Secretary to approve a written application for exemption of certain requirements under the new Orders. The decision is not an “initial decision”, as the exporter, occupier of an establishment or holder of an approved arrangement is otherwise required to comply with the requirements of the new Orders.

107. Part 9 provides for alternative regulatory arrangements. This Part deals with situations where the Secretary may approve a written application for an alternative procedure, standard or other requirement that achieves the purpose of a requirement of the new Orders specified in the

application. This decision is not an “initial decision”, as the holder of the approved arrangement is otherwise required to comply with the specified requirement of the new Orders.

108. Order 83 provides for reconsideration of decisions. This provision deals with the Secretary’s power to reconsider decisions. This decision is not an “initial decision”, as the decision of the Secretary under this order can only be reviewed by the Administrative Appeals Tribunal.

109. Division III of Schedule 8 provides for export permits and Part 2 of Schedule 8 provides for government certificates. These decisions are not reviewable by the Secretary under the old Orders and, for the purposes of efficient regulation, should not be made reviewable by the Secretary under the new Orders.

## **Order 82**

110. This order enables a person whose interests are affected by an initial decision made under the new Orders to make a written application to the Secretary to reconsider the decision. The application must set out the reasons for the application and be given to the Secretary within 28 days on which the initial decision was notified to the applicant or within such further period as the Secretary allows.

## **Order 83**

111. This order provides that the Secretary must reconsider an initial decision following receipt of an application made under order 82 and make a determination following reconsideration.

## **Order 84**

112. This order provides that, if the Secretary makes a decision under order 83, the initial decision made by the Secretary ceases to have effect.

## **Order 85**

113. This order provides that the Secretary must advise the applicant, by notice in writing within 45 days of receipt of the application, of the decision being made under order 83 and the reasons for the decision.

## **Division II – Administrative Appeals Tribunal Review**

## **Order 86**

114. This order provides that an application may be made to the Administrative Appeals Tribunal for a review of the decision made by the Secretary under order 83 subject to the *Administrative Appeals Tribunal Act 1975*.

## **Order 87**

115. This order provides that the Secretary must advise the applicant in the notice issued in accordance with order 85 that application may be made to the Administrative Appeals Tribunal for a review of the Secretary’s decision. Failure to include such a statement in the notice does not affect the validity of the decision.

## **Division III – Documentary requirements**

### **Order 88**

116. This order provides that records required to be made under the new Orders must be accurate, legible, dated, written in English and signed by the maker of the record. Electronic records must comply with sections 9 and 10 of the *Electronic Transactions Act 1999*.

### **Order 89**

117. This order provides for those circumstances under which a copy of a document will suffice and includes circumstances where the original of the document is required by a law to be given to another person.

### **Order 90**

118. This order provides that, other than where a notation or marking is made in accordance with ordinary practice, a document must not be altered or defaced. However, if a document is altered or defaced, documentary evidence must be kept for the period that the original document is required to be kept showing how the original document is altered or defaced.

### **Order 91**

119. This order provides that, where information, including a trade description, applied to meat or meat products appears in a language other than English, an authorised officer may give written notice requesting an occupier of an establishment, an exporter or a holder of an approved arrangement for certification operations to provide a translation, and that translation must be prepared by a qualified person independent of the person to whom the notice was given. The translation must be provided within the time period specified in the notice. Failure to comply with the written notice is an offence.

120. Suborder 91.4 is a penal provision with a level 1 penalty. This means that a person who is guilty of this offence is punishable by a fine of 10 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

121. This offence is less serious than other offences in the new Orders. However, it is necessary to ensure that translations are provided within specified periods to authorised officers for the purpose of being able to adequately assess the trade description or other information applied to the meat or meat products for export for food. Failure to do so compromises the integrity of the regulatory system.

122. The level of penalty applying to this offence is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences.

## **Division IV – Giving notices**

### **Order 92**

123. This order provides that, to satisfy the requirements of the new Orders, a notice can be given to an occupier, an exporter, a holder of an approved arrangement for certification operations or a person who is, or who appears to be, in charge at the occupier's premises, the exporter's business premises or the holder's business premises.

## **Division IV – Repeal and transitional**

### **Order 93**

124. This order provides for the repeal of certain *Export Meat Orders* made under the *Export Control (Orders) Regulations 1982*. The purpose of this provision is to replace the old Orders (including both original and amending instruments) with the new Orders.

### **Order 94**

125. This order provides that a registration of an establishment made under order 24 of the *Prescribed Goods (General) Orders 1985* that had effect immediately prior to the commencement of the new Orders continues to have effect under the new Orders.

126. This order also provides transitional arrangements for a suspension of a registration and an undertaking accepted by the Secretary that had effect immediately prior to the commencement of the new Orders.

### **Order 95**

127. This order provides that approvals for carbon dioxide gas stunning, ritual slaughter procedures, approved programs, quality assurance arrangements and suspensions of approved programs made under the *Export Meat Orders 1985*, which had effect immediately prior to the commencement of the new Orders, continue to have effect under the new Orders.

### **Order 96**

128. This order provides that an accreditation of a property made under the *Export Meat Orders 1985*, which had effect immediately before the commencement of the new Orders, continues to have effect under the new Orders.

### **Order 97**

129. This order provides that an export permit made under the *Prescribed Goods (General) Orders 1985*, which had effect immediately before the commencement of the new Orders, continues to have effect under the new Orders.

### **Order 98**

130. This provides that determinations made in accordance with orders 450B, 450F, 450J, 450K, 450V and 450W of the *Export Meat Orders 1985*, which had effect immediately before the commencement of the new Orders, continue to have effect under the new Orders.

## **SCHEDULE 1 – REGISTRATION AND APPROVED ARRANGEMENTS**

### **PART 1 – Registration and approval of an arrangement**

#### **Division I – Application and assessment of application**

##### **Clause 1**

131. This clause provides that the person who is to be the occupier of an establishment used to prepare meat or meat products for export may apply to the Secretary for registration of the establishment and approval of an arrangement in respect of the operations at the establishment. The application must be made by completing the approved form and contain the information specified in subclause 2.1 and any other information required in the form.

##### **Clause 2**

132. This clause specifies the information to be provided in the application and includes the name and Australian address of the occupier or partners, persons in management and control and particulars of any convictions for serious offences under the *Crimes Act 1914*. An arrangement for the preparation of meat and meat products must accompany the application or be made available for evaluation by the Secretary.

##### **Clause 3**

133. This clause provides that, in enabling the Secretary to assess the application, the Secretary must undertake a desk audit of the arrangement and take into account guidelines used to develop the arrangement. The Secretary may request further information, conduct inspections and evaluations and observe a demonstration of operations and procedures at the establishment. The Secretary may also request the applicant's consent, and at the applicant's cost, to use a qualified person nominated by the Secretary to inspect, evaluate or observe a demonstration. This purpose of this provision is to provide independence to the process of assessing an application.

##### **Clause 4**

134. This clause provides that if the Secretary does not decide the application within 60 days of the receipt of the application, the Secretary is taken to have refused the application. However, this period does not include any period between giving a notice under clause 3 and the applicant meeting the request.

##### **Clause 5**

135. This clause provides that the Secretary may register the establishment in the name of the applicant and approve an arrangement if the Secretary is satisfied that the requirements of the Act and the new Orders are met in relation to meat and meat products prepared for export at the establishment. Clause 5 also provides that the applicant, the persons who are in management and control at the establishment and any partners in the registered establishment must be fit and proper persons in accordance with the *Prescribed Goods (General) Orders 1985*. Any outstanding amounts payable to the Department in respect of the establishment are required to be paid prior to registration. The proposed arrangement must comply with the minimum requirements for an approved arrangement and hazard analysis and critical control point ("HACCP") plan (clauses 11 and 12 of Schedule 2). Upon registration a certificate of registration will be issued. Approval of an arrangement requires a written notice to be given by the Secretary.

## **Clause 6**

136. This clause provides that, if the Secretary decides not to register the establishment and approve an arrangement, the Secretary must give the applicant a notice in writing setting out the reasons for the decision and advising the applicant that they may apply for reconsideration of the decision in accordance with Part 10 of the new Orders.

## **Division II – Registration and approval of arrangement**

### **Clause 7**

137. This clause provides that, when registration is approved, the Secretary must give the occupier a registration number for the establishment.

### **Clause 8**

138. This clause provides that the occupier must prominently display a copy of the current certificate of registration at the establishment. This is to provide ready recognition to persons with interest in the registration status of the establishment.

139. This clause is a penal provision with a level 1 penalty. This means that a person who is guilty of this offence is punishable by a fine of 10 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

140. This offence is less serious than other offences in the new Orders. However, it is necessary to ensure that the requirement is complied with. The level of penalty applying to this offence is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences.

### **Clause 9**

141. This clause provides that the Secretary may register an establishment subject to conditions and, by written notice to the occupier, impose new conditions or vary or revoke existing conditions. The clause also provides that the conditions must be for the purpose of ensuring that one or more of the objectives specified in suborders 3.1 and 3.2 are met.

### **Clause 10**

142. This clause provides that compliance by the occupier with a written undertaking in accordance with clause 33 of this Schedule is a condition of registration.

### **Clause 11**

143. This clause provides that the Secretary may approve an arrangement subject to conditions specified in the notice of approval and, by written notice to the holder of the approved arrangement, impose new conditions or vary or revoke existing conditions. The clause also provides that the conditions must be for the purpose of ensuring that one or more of the objectives specified in suborders 3.1 and 3.2 are met.

## **Clause 12**

144. This clause provides for the notification of certain matters in relation to key persons.

## **PART 2 – Variation of registration and approved arrangement**

### **Division I – Variation of registration**

## **Clause 13**

145. This clause provides that the occupier of an establishment may apply to the Secretary for approval for a variation to the registration in respect of operations at the establishment or the meat or meat products prepared at the establishment. If the variation is approved, the Secretary must issue the occupier with a new certificate of registration.

### **Division II – Variation of approved arrangement**

## **Clause 14**

146. This clause provides that the occupier must keep a record of each variation of an approved arrangement.

147. This clause is a penal provision with a level 2 penalty. This means that a person who is guilty of this offence is punishable by a fine of 20 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

148. This offence is less serious than other offences in the new Orders. However, it is necessary to ensure that the requirement is complied with because failure to keep records of variations to arrangements may jeopardise compliance with that arrangement and prohibits proper auditing. The level of penalty applying to this offence is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences.

## **Clause 15**

149. Subclause 15.1 provides that the occupier must not implement a proposed variation that has the potential to adversely affect compliance with the Act and the new Orders or the wholesomeness or integrity of meat and meat products at the establishment or an accurate assessment of these matters unless the occupier has applied to the Secretary in writing to vary the arrangement and the Secretary has given the occupier written notice approving the variation.

150. Subclause 15.2 provides that the occupier must not implement a proposed variation that identifies persons in management or control or their functions or relates to an alternative procedure or standard or importing country control unless the occupier has applied to the Secretary in writing and the Secretary has given the occupier written notice approving the variation.

151. Both subclauses are penal provisions with level 5 penalties. This means that a person who is guilty of either offence under this clause is punishable by a fine of 10 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

152. These offences are serious offences because occupiers must not prepare meat and meat products for export except in accordance with an approved arrangement, and any proposed variation to the matters specified in the clause requires the Secretary's approval.

153. The level of penalty applying to these offences is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary for these offences as failure to obtain the Secretary's approval under this clause could have serious implications for trade.

#### **Clause 16**

154. This clause provides that the Secretary can give a notice requiring the holder to submit a variation to an approved arrangement if there have been changes to preparation of meat and meat products or importing country requirements or if the Secretary is not satisfied that the arrangement will meet requirements of the Act and the new Orders, importing country requirements or requirements for issuing export permits or government certificates. The notice must specify the variation required and the time period for submitting the variation. The Secretary may approve the variation by notice in writing. The holder is obliged to comply with the notice.

#### **Clause 17**

155. This clause provides that an approved arrangement includes variations of a kind referred to in clause 15 and subclause 16.2 only if the Secretary gives the occupier a notice approving the variation.

### **PART 3 – Suspension and revocation of registration and approved arrangement**

#### **Division I – Grounds of suspension and revocation of registration**

#### **Clause 18**

156. This clause provides that, by written notice, the Secretary may, in whole or in part, suspend or revoke a registration where the occupier has failed to comply with a condition of the registration (other than for non-payment of debts), or an authorised officer has been prevented from exercising his or her powers, or a person is not deemed to be a fit and proper person, or a person provides false or misleading information or an occupier fails to make available documentation that is required to be kept. Suspension or revocation may also occur if the occupier or person in management or control is convicted of a serious offence. The notice must also state that the approval of an arrangement is suspended or revoked in whole or in relation to the part concerned. The clause also provides for when the notice takes effect.

#### **Clause 19**

157. This clause provides that the Secretary may suspend registration where the amount payable in a notice issued under order 32 has not been paid at the end of 7 days of the issue of the notice and the occupier has not entered into an arrangement with the Secretary to pay it. The clause also provides that, where the amount has not been paid within 90 days of the suspension taking effect, the Secretary may revoke the registration. The notice must specify that the approval of the arrangement is also suspended or revoked. The clause also specifies when the revocation or notice takes effect.

158. While a suspension is in place, the Secretary may revoke registration for the same or similar grounds as suspension.

## **Division II – Grounds of suspension and revocation of approved arrangement**

### **Clause 20**

159. This clause provides that the Secretary may suspend or revoke the approval of an arrangement. The suspension or revocation may be for the whole of the arrangement or part of the arrangement. The grounds for suspension or revocation include cessation of operations for a period of 12 months and non-compliance with Act and the new Orders or the approved arrangement. Grounds also include acts of the occupier, for example, making false or misleading statements, failing to assist an auditor, using force or intimidation to prevent an authorised officer from exercising his or her powers and failure to provide an authorised officer with documents. The clause specifies when the revocation or notice takes effect. While a suspension is in place, the Secretary may revoke registration for the same or similar grounds as suspension.

## **Division III – General rules applying to suspension and revocation**

### **Clause 21**

160. This clause provides that the Secretary may suspend or revoke registration or the approval of an arrangement. The suspension or revocation may be in full or in part in respect of one or more of the meat or meat products prepared at the establishment or any stages of preparation of the meat or meat products.

### **Clause 22**

161. This clause provides that the Secretary must give written notification of the reason for suspending or revoking a registration or an arrangement and advise the occupier or the holder of the right to have the decision to suspend or revoke reconsidered in accordance with Part 10 (*Reconsideration and review*) of the new Orders. If suspension applies, the period must also be notified to the occupier or the holder.

162. Clause 22 also provides that the period of suspension of an approved arrangement may not be longer than 12 months and can be extended provided the total period of suspension does not exceed 12 months.

### **Clause 23**

163. This clause provides that the Secretary may revoke a suspension of a registration or approved arrangement if the grounds for the suspension no longer exist.

### **Clause 24**

164. This clause provides that a registration or an approved arrangement can be revoked during any period of suspension.

### **Clause 25**

165. This clause provides that the occupier of an establishment may terminate the registration in full or in part by giving the Secretary notice in writing of the termination. If the registration is so terminated, the approved arrangement is also terminated. Clause 25 also provides that the occupier of an establishment may terminate the approved arrangement in full or in part by giving the

Secretary 7 notice in writing of the termination. The termination takes effect 7 days after the notice is given to the Secretary or on a later day specified in the notice.

#### **Clause 26**

166. This clause provides that the registration and approval of arrangement lapses if the person in whose name the establishment is registered ceases to be the person in charge of operations for the preparation of meat and meat products. Clause 26 specifies the day on which registration lapses.

#### **Clause 27**

167. This clause provides that a registration ceases to be in force if it is revoked, lapses or is terminated or 12 months after the approval of an arrangement ceases to have effect (whichever occurs first). Registration may cease to have effect in part. If registration is suspended in full or in part, it is not in effect for the period that the suspension applies.

#### **Clause 28**

168. This clause provides that approval of an arrangement ceases to have effect if it is revoked, lapses or is terminated. Approval may cease to have effect in part. If an approval is suspended in full or in part, it ceases to have effect for the period that the suspension applies. Where an establishment registration is suspended, an approved arrangement ceases to have effect during the period of suspension.

#### **Clause 29**

169. This clause provides that where a registration is revoked (by the Secretary) in part or terminated (by the occupier) in part or ceases to have effect in part or the Secretary reinstates a registration in full or in part, a new certificate of registration must be issued.

#### **Clause 30**

170. This clause provides that the Secretary may reinstate registration or approval of an arrangement if the grounds for full or part revocation no longer exist.

#### **Clause 31**

171. This clause provides that if registration or approval of an arrangement ceases to have effect the Secretary may require action within a specified period in respect of slaughter animals, carcasses, carcase parts, meat and meat products, things used in the preparation of meat and meat products, the recall of carcasses, carcase parts, meat and meat products, any official marks and any export permits or government certificates. The occupier must take the action within the specified period of time.

172. This clause is a penal provision with a level 5 penalty. This means that a person who is guilty of this offence is punishable by a fine of 50 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

173. This is the highest penalty that can be applied under the orders. The purpose of this offence is to ensure that occupiers comply with notices given by the Secretary under this provision. The action specified in the notice must be action that is necessary to ensure that the objectives specified in the new Orders are met. This level of penalty is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary to ensure

the integrity of the regulatory system relating to persons who prepare meat and meat products for export for human consumption. Failure to comply with actions required by the Secretary is a serious offence.

## **PART 4 – Payment of debts**

### **Clause 32**

174. This clause provides that a notice for payment of debts may be given by the Secretary to the occupier of an establishment where the amount payable has not been paid within 30 days of the due date.

### **Clause 33**

175. This clause provides that, following receipt of an application for registration of an establishment, the Secretary may enter into an undertaking with a person who is to be the occupier of the establishment for the payment by the person of debts in respect of the establishment whether or not the amount was incurred by the person. Acceptance of the written undertaking to pay the amount outstanding by the Secretary means that the amount outstanding is taken to have been paid.

### **Clause 34**

176. This clause provides that the undertaking must include a requirement for the amount outstanding payable by the proposed occupier to be reduced by any payment made (in respect of the original debt) by, or on behalf of, the original debtor.

### **Clause 35**

177. This clause provides for those matters relating to the proposed occupier that the Secretary must take into account when considering to accept an undertaking. These include financial position, nature and likely cost of proposed operations and the ability of the occupier to meet the undertaking and cost of operations.

### **Clause 36**

178. This clause provides that the Secretary may agree with the occupier to a variation of the undertaking where it is appropriate to do so and provided there is no diminution of the proposed occupier's liability under the undertaking.

### **Clause 37**

179. This clause provides that an amount payable under an undertaking, and being a debt due to the Commonwealth, may be recovered in a court of summary jurisdiction.

### **Clause 38**

180. This clause provides that a payment by the proposed occupier under the undertaking must be applied by the Department to reduce the amount outstanding in respect of the establishment. The Secretary may decide the order in which the payments are to be applied if there are 2 or more amounts of a kind mentioned in subclause 33.2 of this Schedule.

## **Clause 39**

181. This clause provides that if the sum of payments exceeds the amount outstanding under the undertaking, the excess amount must be paid to the proposed occupier.

## **Clause 40**

182. This clause provides that the original debtor maintains responsibilities and the liability of the original debtor to pay the full amount of the amount outstanding is not affected by an undertaking under this order or by any payments made under the undertaking.

# **SCHEDULE 2 – MANAGEMENT OF THE PREPARATION OF MEAT**

## **PART 1 – Management**

### **Division I – General requirement**

#### **Clause 1**

183. This clause provides that the occupier of an establishment must document his or her commitment to the objectives of the new Orders and compliance with the requirements of the Act and the new Orders. This will assist the occupier to focus on his or her responsibilities in meeting the requirements of the legislation.

#### **Clause 2**

184. This clause provides that the occupier of an establishment must document the management practices, organisational structure, provision of resources and provision of personnel and their training and ensure that they enable the applicable requirements of the Act and the new Orders to be met.

### **Division II – Verification, corrective action, review and record keeping**

#### **Clause 3**

185. This clause provides that the occupier of an establishment must have a verification system in place to demonstrate that the applicable requirements of the Act, order 31 and Division II of Part 3 of the new Orders are complied with. As part of the verification system, records must be made of methods, procedures, tests, monitoring and the results of verification.

#### **Clause 4**

186. This clause provides that if compliance is not occurring, the occupier must ensure that corrective and preventative action is taken and the effectiveness of these actions is assessed. Written records must be kept of the actions and effectiveness.

#### **Clause 5**

187. This clause requires internal audits and management reviews to be conducted at the establishment to demonstrate compliance with the Act, order 31 and Division II of Part 3 of the new Orders and for written records to be made of the internal audits and management reviews, their outcomes and action taken to address deficiencies. Where an establishment employs less than 3

people, a management review only is necessary as an internal audit cannot be effectively undertaken.

#### **Clause 6**

188. This clause provides for establishments engaged in the preparation of meat and meat products to maintain comprehensive, auditable and documented inventory controls to verify that the requirements of order 31 and Division II of Part 3 of the new Orders are met. The clause also provides that the inventory controls must include a record of numbers and species of animals slaughtered and meat and meat products received, prepared and removed. There must be a recorded reconciliation of the inventory controls. Also, the clause provides that the controls must include records of the quantities of nitrite received, used, despatched and destroyed at the establishment.

#### **Clause 7**

189. This clause provides that any documents made by the occupier relevant to demonstrating compliance with the Act, the new Orders and the approved arrangement must be retained for a period of not less than 2 years.

190. This clause is a penal provision with a level 5 penalty. This means that a person who is guilty of this offence is punishable by a fine of 50 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

191. This is the highest penalty that can be applied under the orders. The purpose of this offence is to ensure that authorised officers can verify the information provided by occupiers by inspecting documents retained by those occupiers. This level of penalty is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary to ensure the integrity of the regulatory system relating to persons who prepare meat and meat products for export for human consumption. Failure to keep documents is a serious offence.

### **Division III – Surveillance, sampling and monitoring programs and notifiable diseases**

#### **Clause 8**

192. This clause provides that establishments engaged in the preparation of meat and meat products must comply with the requirements for surveillance, sampling and monitoring specified in the *Australian Meat Standard*.

#### **Clause 9**

193. This clause provides that establishments engaged in the preparation of meat and meat products must comply with the requirements for notifiable diseases specified in the *Australian Meat Standard*. If the occupier fails to comply with advising of a notifiable disease, the occupier will be guilty of an offence.

194. This penal provision has a level 5 penalty. This means that a person who is guilty of this offence is punishable by a fine of 50 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

195. This is the highest penalty that can be applied under the orders. The purpose of this offence is to ensure that occupiers notify the State or Territory authority in which the establishment is located that is charged by the government of that State or Territory with the responsibility for

animal health – so that the authority can undertake any necessary action to address the disease. This level of penalty is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary to ensure the notifiable diseases are reported without delay. Failure to report a notifiable disease may have devastating consequences on animal, plant and human health. It is a serious offence.

## **Division IV – Notification**

### **Clause 10**

196. This clause provides for those circumstances where an occupier of an establishment must notify an authorised officer. These circumstances relate to adversely affected meat and meat products (in terms of food safety or integrity), a suspicion of disease in slaughter animals, a failure of procedures that could affect (or has affected) meat and meat products or the necessary information required to accompany meat and meat products has not been received or is inaccurate or incomplete.

## **PART 2 – Approved arrangements**

### **Division I – Requirements for approved arrangements**

#### **Clause 11**

197. This clause describes what an approved arrangement must contain to satisfy order 30 of the new Orders. The arrangement must cover each stage of the production of meat and meat products. It must: document the system of controls for ensuring export standards (Division II of Part 3 of the new Orders) are complied with; identify importing country requirements; and document the system of controls for ensuring compliance with those requirements. The arrangement must also document any other controls necessary to ensure that there is a sound basis for issuing export permits or government certificates. The arrangement needs only document importing country requirements that are additional to, or more restrictive than, those already required by the Act and the new Orders.

#### **Clause 12**

198. This clause states that an approved arrangement must provide for the implementation of a hazard analysis and critical control point (“HACCP”) plan for each stage of the production of meat and meat products and the HACCP plan must be in accordance with the requirements of the *Australian Meat Standard*. HACCP is a world-recognised system for identifying, evaluating and controlling hazards, which are significant for food safety.

## **SCHEDULE 3 – STRUCTURAL REQUIREMENTS**

199. The intent of Schedule 3 is to ensure that the design and construction of establishments and meat transport vehicles will facilitate the production of wholesome meat and meat products. The provisions of the Schedule are consistent with the objectives of the new Orders.

## **Part 1 – Premises, equipment, facilities and essential services**

### **Division I – General requirement**

#### **Clause 1**

200. This clause provides that establishments must have the premises, equipment, facilities and essential services that are necessary to ensure that the preparation of the meat and meat products complies with the requirements of the new Orders.

#### **Clause 2**

201. This clause provides that establishments must have measuring devices to demonstrate compliance with the new Orders and the clause specifies the requirement for accuracy of the devices.

### **Division II – Facilities for authorised officers**

#### **Clause 3**

202. This clause specifies the amenities to be provided for authorised officers at slaughter establishments or other locations where authorised officers are permanently located. These amenities must take into account the need for privacy, personal comfort, convenience and occupational health and safety.

#### **Clause 4**

203. This clause specifies the amenities to be provided at establishments other than those referred to in clause 3. It provides for amenities at establishments where officers are not permanently located.

#### **Clause 5**

204. This clause specifies the requirements for an office for authorised officers referred to in clause 3.

#### **Clause 6**

205. This clause provides for post-mortem inspection of slaughter animals to be carried out without interference from equipment or personnel.

#### **Clause 7**

206. This clause provides the requirements for a meat examination facility for use by authorised officers. This facility may not be for exclusive use but authorised officers must be unimpeded while using the facility.

#### **Clause 8**

207. This clause provides that slaughter establishments must have a laboratory facility and the clause specifies the requirements for the facility. Authorised officers must be unimpeded in their use of the facility.

## **Clause 9**

208. This clause provides that export establishments must have a separate and secure storage area for the storage of all meat and meat products required to be retained or held under security. It must be additional to other storage areas and its construction must not jeopardise the integrity and security of meat and meat products contained within.

## **Schedule 3 – Part 2 – Meat transport vehicles and equipment**

### **Clause 10**

209. This clause provides that meat transport vehicles and equipment used in the transport of meat and meat products between establishments must comply with the requirements of the new Orders.

### **Clause 11**

210. This clause requires meat transport vehicles and container unit systems transporting meat to and from establishments to have accurate measuring devices to assess whether the requirements of the new Orders are complied with during transport and loading.

## **SCHEDULE 4 – OPERATIONAL HYGIENE REQUIREMENTS**

### **PART 1 – Requirements for water**

#### **Clause 1**

211. This clause gives the specific requirements for potable water and provides that the approved arrangement must be able to verify that the specific requirements are met.

#### **Clause 2**

212. This clause provides that the potable water supply to an establishment must be protected from contamination to ensure the safe preparation of meat and meat products.

### **PART 2 – Animal food and pharmaceutical material**

#### **Clause 3**

213. This clause provides that animal food must comply with the applicable requirements of the *Australian Meat Standard* and the activities of packaging, storing, handling and loading animal food do not contaminate meat and meat products for human consumption.

#### **Clause 4**

214. This clause provides that meat and meat products for pharmaceutical use must comply with the applicable requirements of the *Australian Meat Standard*.

## **SCHEDULE 5 – THE PREPARATION AND TRANSPORT OF MEAT**

### **PART 1 – Preparation and transport**

#### **Division I – Slaughter and dressing**

##### **Clause 1**

215. This clause describes the requirements to be contained in the approved arrangement for the preparation of Halal meat and includes the identification of the Muslim slaughterer and the certifying Islamic Organisation (the organisation must have an approved arrangement under clause 22 of Schedule 7). Other requirements in the new Orders applying to Halal meat include Halal official marks (order 65, clauses 13 and 17 of Schedule 6), integrity of Halal meat (clause 4 of Schedule 7) and additional importing country requirements (clause 13 of Schedule 2). Clause 7.12 of the *Australian Meat Standard* contains the requirements for ritual slaughter with prior stunning. This clause only applies where a Halal certificate is required for Halal meat.

##### **Clause 2**

216. This clause provides that animals must be unconscious and primary bleeding completed before dressing of the animal commences. “Primary bleeding” is defined in suborder 8.1 of the new Orders.

#### **Division II – Dispositions**

##### **Clause 3**

217. This clause provides that any decision or disposition including any conditions associated with the disease or disposition, made by an authorised officer in relation to animals, carcasses, carcase parts, meat and meat products must be complied with. Clause 3 gives the meaning for “a decision or a disposition”.

##### **Clause 4**

218. This clause provides that, where there is aggregation of carcase parts derived from different slaughter animals, the disposition applied to all the carcase parts must be the most restrictive disposition applied to any of the carcasses from which the aggregated parts are derived or any of the carcase parts forming part of the aggregation.

##### **Clause 5**

219. This clause provides that, for post mortem decisions, clauses 10.12 and 10.14 of the *Australian Meat Standard* do not apply. Clause 5 also specifies the particular dispositions to be applied.

##### **Clause 6**

220. This clause provides that if carcase parts from carcasses passed for human consumption require further treatment, the treatment must take place under conditions of security specified in the approved arrangement.

## **Clause 7**

221. This clause provides that edible fat for food must only be sourced from carcasses and carcass parts that are passed for human consumption.

## **Division III – Chilling, freezing, thawing and tempering**

## **Clause 8**

222. This clause specifies the importance of the refrigeration index criteria (as defined in suborder 8.1) in the chilling and freezing of carcasses and carcass parts. Paragraph 11.6(a) or 11.6(b) of the *Australian Meat Standard* will only be taken to be complied with if chilling is achieved within the refrigeration index criteria. Additional controls for freezing require carcasses and carcass parts to be hard frozen without delay, achieve time and temperature controls for freezing specified in the approved arrangement and achieve the refrigeration index criteria. The refrigeration of modified atmosphere packaged or vacuum packaged carcass parts must meet the relevant time and temperature controls specified in the approved arrangement and achieve the refrigeration index criteria.

## **Clause 9**

223. This clause provides that the hot boning of carcasses and carcass parts must be carried out in accordance with the hot boning controls specified in the approved arrangement and achieve chilling within the refrigeration index criteria.

## **Clause 10**

224. This clause describes the controls required after processing raw meat. The meat must be further processed without delay; or chilled to a surface temperature no warmer than 7 degrees centigrade at the site of microbiological concern and achieve the refrigeration index criteria; or meet the alternative time and temperature controls for chilling and achieve the refrigeration index criteria. If frozen, it needs to be hard frozen without delay after meeting the requirements of paragraphs 10.1(b) or 10.1(c) of the new Orders, achieve the time and temperature controls specified in the approved arrangement and achieve the refrigeration index criteria. Processed meat that is to be vacuum packaged or modified atmosphere packaged must, after meeting the requirements of paragraph 10.1(b) or 10.1(c) of the new Orders, achieve the time and temperature controls specified in the approved arrangement and achieve the refrigeration index criteria.

## **Clause 11**

225. This clause specifies the objective parameters to be met in achieving the refrigeration index criteria.

## **Clause 12**

226. This clause provides that clauses 12.8 and 12.9 of the *Australian Meat Standard* do not apply to the thawing and tempering of meat. Thawing and tempering must be undertaken under refrigerated conditions. These controls must not adversely affect the microbiological safety of the meat.

### **Clause 13**

227. This clause provides that the term “processing” has the meaning given in clause 12.1(2) of the *Australian Meat Standard*.

### **Division IV – Further processing**

### **Clause 14**

228. This clause provides that the drying of dried meat must achieve a water activity of no more than 0.85.

### **Division V – Storage and handling**

### **Clause 15**

229. This clause provides that if meat and meat products are received at an establishment without meat transfer documentation as described in clause 8 of Schedule 7 or the documentation is inaccurate or incomplete, the meat or meat products must be held under security until assessed and a determination is made by an authorised officer, or is identified as not for export for human consumption and kept separate from export product for human consumption so that the integrity of the export goods is not compromised.

## **PART 2 – Loading for export**

### **Clause 16**

230. This clause provides that meat and meat products must be loaded for export for food under the supervision or direction of an authorised officer or a person designated in the approved arrangement as a person who may supervise and direct the loading for export of meat and meat products at the establishment.

### **Clause 17**

231. This clause provides that, at the time of loading for export, meat and meat products must be packaged to effectively protect them from contamination and deterioration. Clause 17 also states that meat and meat products that are not wholesome must not be loaded for export.

### **Clause 18**

232. This clause provides the requirements for container system units or areas into which meat and meat products are loaded for export. Container system units or areas must be clean, not a source of contamination, free of odours, equipped with effective refrigeration where necessary, be effectively maintained and, where required, be capable of being secured by an official seal specified under the *Prescribed Goods (General) Orders 1985*. The clause also requires that the loading equipment complies with the *Australian Meat Standard*.

### **Clause 19**

233. This clause provides that the manner of stowage in a container unit system or area must not adversely affect the condition or packaging of meat and meat products.

## **Clause 20**

234. This clause provides that an official seal specified under the *Prescribed Goods (General) Orders 1985* must be applied to the container system unit when export eligible meat and meat products are loaded for export. The person applying the seal must be authorised or appropriately designated in accordance with suborder 64.3.

## **SCHEDULE 6 – TRADE DESCRIPTIONS AND OFFICIAL MARKS**

### **PART 1 – Trade descriptions**

#### **Division I – Requirement to have a trade description**

##### **Clause 1**

235. This clause provides that clause 16.7 of the *Australian Meat Standard* does not apply. The clause provides that meat and meat products for export must have a trade description applied no later than at the time they are packaged and the trade description must specify animal species, the primary descriptor (for example, beef, bull, etc as defined in suborder 8.1), net weight, country of origin, establishment registration number at which meat and meat products are last packed for export, name and address of establishment occupier or exporter or consignee, date or dates of packaging, ingredient list (where more than one ingredient), batch identification, for other than shelf stable product – a chilled or frozen statement and, where applicable, specific details for cans.

236. Where meat and meat products are packaged on behalf of a person who is not the occupier, the trade description must contain the identity of the person who undertook the packing and the person on whose behalf the packing took place. Labelling and identification of ingredients must be in accordance with the *Food Standards Code*.

##### **Clause 2**

237. This clause provides that trade descriptions for cartons containing meat and meat products must be applied to any one end panel of the carton and for cans, must be embossed on cans or applied directly to cans.

##### **Clause 3**

238. This clause provides that, for meat and meat products being transported between registered establishments for further processing, an occupier may elect to apply a trade description containing animal species, date of packaging (for packaged meat and meat products) and the words “for further processing before export”. If the meat and meat products are subsequently exported, the trade description must contain all of the information contained in subclause 1.2, however the words “for further processing before export” must not appear.

#### **Division II – Miscellaneous**

##### **Clause 4**

239. This clause provides that information required to be contained in a trade description must be accurate.

## **Clause 5**

240. This clause provides that any additional information or pictures applied to meat and meat products for export must be consistent with the mandatory information required in the trade description.

## **Clause 6**

241. This clause provides that, where a trade description appears in a language other than English, the translation must be consistent with the trade description in the English language.

## **Clause 7**

242. This clause provides that information required to be contained in a trade description must be legible, conspicuous, securely applied and, to the extent possible, tamper evident.

## **Clause 8**

243. This clause provides that a trade description must not be altered or interfered with unless with the approval of the Secretary or as otherwise provided for in the approved arrangement.

## **Clause 9**

244. This clause provides the meaning of the term “applied to” for the purpose of this Part.

# **PART 2 – Official marks**

## **Division I – Requirement to apply an official mark**

## **Clause 10**

245. This clause provides, unless this clause is specifically excluded under the approved arrangement, the requirement to apply an official mark to carcasses and carcase parts that have been passed by an authorised officer as fit for human consumption. The mark must be applied as soon as possible after dressing and before removal from the premises. The official mark must be applied so that it is visible during handling of the carcase and carcase parts.

246. An approved arrangement may specify that an alternative to the requirements of clause 10 may apply.

## **Clause 11**

247. This clause provides that the official marks that must be applied under subclause 10.1 are specified under paragraph 87(c) of the *Prescribed Goods (General) Orders 1985* for lamb and paragraph 87(a) *Prescribed Goods (General) Orders 1985* in any other case.

## **Clause 12**

248. This clause provides that an official mark in accordance with paragraph 87(a) of the *Prescribed Goods (General) Orders 1985* must be applied to cartons as soon as possible after the carton is packed, applied at the same end as the trade description and be conspicuous during handling.

### **Clause 13**

249. This clause provides that, for Halal meat, an official mark must be applied in accordance with paragraph 87(g) of the *Prescribed Goods (General) Orders 1985*. This is additional to the requirements of clauses 10 and 12 of this Schedule and the mark must be applied before it is removed from the establishment at which the animal was slaughtered and be applied so that it is visible during handling.

### **Clause 14**

250. This clause provides that, where an importing country has specified that it will accept meat and meat products prepared under State and Territory inspection and audit arrangements, the official marks to be applied are specified in paragraph 87(s) of the *Prescribed Goods (General) Orders 1985* for lamb and paragraph 87(q) of the *Prescribed Goods (General) Orders 1985* for meat and meat products other than lamb.

### **Clause 15**

251. This clause provides that an official mark is only recognised as being applied when applied by a person authorised to do so under suborder 64.3.

## **Division II – General requirements for official marks**

### **Clause 16**

252. This clause provides that official marks applied to meat and meat products or cartons must be legible and securely applied.

### **Clause 17**

253. This clause provides the circumstances under which official marks (other than the official mark for Halal meat) must be removed or defaced. These are the deterioration of the meat and meat products and the cessation of the requirement for the mark by an importing country. Clause 17 also provides the circumstances under which official marks (official marks other than for Halal meat and meat produced under State and Territory inspection and audit arrangements) must be defaced.

254. These circumstances are the intention to export is abandoned or the carton to which the mark is applied is to be no longer used. An official Halal mark must be removed or defaced if the meat is not Halal meat or the integrity of Halal meat is jeopardised.

### **Clause 18**

255. This clause provides that an official State or Territory mark must not appear on meat or meat products for export.

## **SCHEDULE 7 – INTEGRITY, TRANSFER, HALAL CERTIFICATION AND EU**

### **PART 1 – Segregation, identification, security and integrity**

#### **Clause 1**

256. This clause provides that, in order to maintain system integrity, animals and meat and meat products meeting a particular description must be identified and separated during preparation and transport from other animals, meat and meat products not meeting that description and not be confused with other animals, meat and meat products not meeting that description. They must be prepared and transported under conditions of security and the necessary inventory controls and tracing systems must be maintained.

#### **Clause 2**

257. This clause provides that the integrity of meat and meat products for export must not be compromised (including during any applicable processing steps) by the presence of meat and meat products not prepared at a registered establishment; meat and meat products not for export; inedible parts of animals; meat and meat products that are brought on to but not unloaded at the establishment; animals, meat and meat products that are retained for inspection, testing or treatment; animal food and pharmaceutical material.

258. During concurrent boning activities, meat and meat products for export must be readily distinguishable from meat and meat products not for export. It is also a requirement that meat and meat products from unregistered establishments (other than casings) or not for export must be separated from export meat and meat products at all times.

259. The integrity of meat and meat products for export must not be compromised. The identity of meat and meat products that comply with Part 4 of these Orders must be readily ascertainable and not lost or confused with any other meat or meat products that do not comply.

#### **Clause 3**

260. This clause provides the requirement for accurate animal species identification.

#### **Clause 4**

261. This clause provides for the integrity of Halal meat for export. Clause 4 provides that Halal meat must not be compromised by the presence of non-Halal meat. Halal meat must be kept physically separate from non-Halal meat and must be accurately identified as being Halal meat.

#### **Clause 5**

262. This clause provides that meat and meat products can only be described as “grain fed” if it satisfies the requirements for Grain Fed and Grain Fed Young Beef under the Australian Meat Industry Classification System (“AUS-MEAT Language”). Paragraphs 15(2)(a) to 15(2)(c) of the Act describe the circumstances under which the description Grain Fed is taken to be applied.

#### **Clause 6**

263. This clause provides for the maintenance of export market eligibility of meat and meat products for export and, where particular meat and meat products are restricted in export market

access, they must be segregated from meat and meat products with different market eligibility and identified so that their market eligibility is evident.

#### **Clause 7**

264. This clause provides for the action to be taken if the integrity of meat and meat products is suspected of being jeopardised. The meat and meat products must be identified and held separately under security until a meat safety inspector determines a course of action and gives a notice accordingly.

### **PART 2 – Transfer of meat and meat products**

#### **Clause 8**

265. This clause provides that certain information in respect of meat and meat products for export despatched from the establishment that prepared them must be given to the person receiving the meat and meat products. This information includes a full description of the meat and meat products, details of the despatching establishment, date of preparation, quantity of meat, transport vehicle identification, details of receiving establishment and importing countries. It also includes declarations of compliance with the new Orders and importing country requirements and a declaration concerning the truthfulness and completeness of the information.

266. Animal food or pharmaceutical material must be accompanied with a full description of the food or material and certain other information as specified in paragraphs 8.1(b) to 8.1(i) of this Schedule.

#### **Clause 9**

267. This clause provides that the information in clause 8 must be given to the consignee in writing at time of despatch or accompanies the meat and meat products during despatch.

#### **Clause 10**

268. This clause provides that declarations made under paragraph 8.1(h) and 8.1(i) of this Schedule are made by the person in management and control of operations to prepare meat and meat products at the establishment who is doing so in accordance with the provisions of the approved arrangement.

#### **Clause 11**

269. This clause provides that a declaration must be signed and dated by the maker of the declaration, be true and accurate and must not be made if there is no sound basis for making the declaration.

### **PART 3 – Halal certification**

#### **Division 1 – Application**

#### **Clause 12**

270. This clause provides that Part 3 applies if it is an importing country requirement that a Halal certificate is required.

### **Clause 13**

271. This clause provides the definitions for the purposes of Part 3 of Schedule 7.

## **Division II – Requirements for certifying Islamic Organisations**

### **Clause 14**

272. This clause provides that, unless a person is an Islamic Organisation and has an applicable approved arrangement, a person must not engage in operations for the certification of Halal meat.

### **Clause 15**

273. This clause provides that certifications about Halal meat made by, or on behalf of an Islamic Organisation, must be fair, objective, accurate and complete.

### **Clause 16**

274. This clause provides that the holder of an approved arrangement must ensure that importing country requirements for Halal meat are met.

### **Clause 17**

275. This clause provides that, where the Islamic Organisation provides certification of Halal meat produced at an establishment and a relevant person (as defined in Part 3) becomes aware of a critical non-compliance, the Secretary must be notified immediately. It is the responsibility of the holder of the Islamic Organisation's approved arrangement to ensure that such notification occurs. The meaning of *critical non-compliance* is given under this clause.

### **Clause 18**

276. This clause provides that an Islamic Organisation must commit in writing to management requirements under the new Orders, which includes the relevant provisions of the Act, and compliance with the requirements of clauses 2 to 5 of Schedule 2 (management practices, verification, corrective action and review).

### **Clause 19**

277. This clause provides that, where there is a change in relevant persons, the holder of the Islamic Organisation's approved arrangement must notify the Secretary of the change within 7 days and advise the details of new relevant persons. Additionally, the Secretary must be notified by the holder of the Islamic Organisation's approved arrangement within 7 days where there has been a change in certain matters specified within paragraph 33(a), subparagraph 33(b)(ii) and subparagraph 33(b)(iv) and paragraph 33(c) of the *Prescribed Goods (General) Orders 1985*.

278. This clause is a penal provision with a level 5 penalty. This means that a person who is guilty of this offence is punishable by a fine of 50 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

279. The level 5 penalty is necessary to protect the integrity of the regulatory system. Holders of an Islamic Organisation's approved arrangement must retain appropriate documentation for the

purposes of audits and otherwise verifying information provided to authorised officers. Audits and inspections are conducted to ensure that the objectives of the new Orders are met. Failure to keep records is a serious offence because it prevents approved auditors or authorised officers from being satisfied that the holder of the approved arrangement has prepared meat and meat products in accordance with that arrangement.

280. The level of penalty applying to this offence is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary for the offence because of the serious implications for trade in cases of non-compliance.

#### **Clause 20**

281. This clause provides that the holder of an Islamic Organisation's approved arrangement must retain a copy of each certification and all other documentation relevant to whether the requirements of the Act and the new Orders applying to the Islamic Organisation are complied with for a minimum period of 2 years.

282. This clause is a penal provision with a level 5 penalty. This means that a person who is guilty of this offence is punishable by a fine of 50 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

283. The rationale for this offence is the same as rationale given in relation to clause 19 above.

### **Division III – Approval of Islamic Organisation's approved arrangement**

#### **Clause 21**

284. This clause provides that an application for approval of an arrangement may be made by a person who is to be in charge of certification operations of an Islamic Organisation. The application must give the details of the relevant person (and any convictions for serious offences) and show that the organisation is recognised by an importing country authority. A copy of the arrangement must be provided and the arrangement must cover all aspects of the certification operations, identify applicable importing country requirements and document the system of controls to demonstrate compliance with the Act and the new Orders and importing country requirements.

#### **Clause 22**

285. This clause provides the circumstances under which the Secretary may approve an arrangement. These include recognition of the organisation as an Islamic Organisation by the importing country, competency of relevant persons, whether the arrangement suitably addresses all requirements, whether compliance with the arrangement will demonstrate there is a sound basis for certification, whether relevant persons are deemed to be fit and proper persons and the applicant has no outstanding debts payable to the Commonwealth. An arrangement must not be approved if there is a belief that the export trade could be adversely affected.

286. Clause 22 also provides that, if the Secretary decides not to register the establishment, the Secretary must give the applicant a notice in writing setting out the reasons for the decision and advising the applicant that they may apply for reconsideration of the decision in accordance with Part 10 of the new Orders.

## **Clause 23**

287. This clause provides that the Secretary may approve an arrangement subject to conditions specified in the notice of approval. The Secretary may also impose new conditions to an approval or vary or revoke the conditions by notice in writing to the holder of the approved arrangement.

## **Division IV – Variation of Islamic Organisation’s approved arrangement**

## **Clause 24**

288. This clause provides that the holder of an Islamic Organisation’s approved arrangement must keep a record of each variation of the approved arrangement.

289. This clause is a penal provision with a level 2 penalty. This means that a person who is guilty of this offence is punishable by a fine of 20 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

290. This offence is less serious than other offences in the new Orders. However, it is necessary to ensure that the requirement is complied with because failure to keep records of variations to approved arrangements may jeopardise compliance with that arrangement and prohibits proper auditing. The level of penalty applying to this offence is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences.

## **Clause 25**

291. This clause provides that the holder of an Islamic Organisation’s approved arrangement must not implement a proposed variation that has the potential to adversely affect compliance with the Act and the new Orders or the accuracy and completeness of any Halal certificate unless the holder has applied in writing to the Secretary and received written approval for the variation.

292. This clause also provides that the holder must not implement a proposed variation that identifies persons in management or control or their functions unless the Islamic Organisation has applied in writing and received written approval for the variation.

293. Both subclauses are penal provisions with level 5 penalties. This means that a person who is guilty of either offence under this clause is punishable by a fine of 10 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

294. These offences are serious offences because holders of an Islamic Organisation’s approved arrangement must not prepare meat and meat products for export except in accordance with the approved arrangement, and any proposed variation to the matters specified in the clause requires the Secretary’s approval.

295. The level of penalty applying to these offences is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary for these offences as failure to obtain the Secretary’s approval under this clause could have serious implications for trade.

## **Clause 26**

296. This clause provides that the Secretary can give a notice requiring the holder to submit a variation to an approved arrangement if there have been changes to importing country requirements

or if the Secretary is not satisfied that the arrangement will meet requirements of subparagraphs 22.1(e)(i) or (ii). The notice must specify the variation required and the time period for submitting the variation. The Secretary may approve the variation by notice in writing. The holder is obliged to comply with the notice.

#### **Clause 27**

297. This clause provides that an approved arrangement includes approved variations.

#### **Clause 28**

298. This clause provides that an approval of an arrangement may be suspended or revoked if one or more of the requirements of subclause 22.1 of this Schedule does not exist or a relevant person gives false or misleading information or the holder of an arrangement fails to allow entry for the purposes of audit or provide assistance to an auditor or fails to provide relevant documentation or if the Islamic Organisation ceases operations for the certification of Halal meat for 6 months or longer. If there is a belief that export trade from Australia could be adversely affected as a consequence of the approved arrangement, the Secretary must revoke the approval. Clause 28 specifies the time at which the suspension or revocation takes effect.

#### **Clause 29**

299. This clause provides for other matters relating to approval or suspension and revocation of an arrangement that the Secretary may take into account for the purpose of being satisfied of the matters specified in clauses 22 or 28 of this Schedule. This includes consideration of any real or perceived conflicts of interest and all the circumstances of production, certification and export of Halal meat.

#### **Clause 30**

300. This clause provides that, if suspension or revocation of an arrangement applies, the Secretary must give the holder the reasons and advise the holder of his or her right to apply for reconsideration of the decision. Where suspension applies, the holder must be advised of the period of suspension. The clause also provides that the period of suspension of an approved arrangement may not be longer than twelve months and can be extended provided the total period of suspension does not exceed twelve months.

#### **Clause 31**

301. This clause provides that the Secretary may revoke a suspension of an approved arrangement if the grounds for the suspension no longer exist.

#### **Clause 32**

302. This clause provides that an approved arrangement can be revoked during any period of suspension.

#### **Clause 33**

303. This clause provides that the holder may terminate the approved arrangement by giving the Secretary notice in writing of the termination. The termination takes effect 7 days after the notice is given to the Secretary or on a later day specified in the notice.

#### **Clause 34**

304. This clause provides that approval of arrangement lapses if the holder ceases to be the person who carries on operations for the certification of Halal meat. Clause 34 specifies the day on which approval of the arrangement lapses.

#### **Clause 35**

305. This clause provides that an arrangement ceases to have effect if it is revoked, lapses or is terminated. Where an arrangement is suspended, it ceases to have effect during the period of suspension.

#### **Clause 36**

306. This clause provides that the Secretary may reinstate approval of an arrangement if the grounds for revocation no longer exist.

#### **Clause 37**

307. This clause provides that if an approval is suspended, revoked or lapses or the Islamic Organisation terminates the arrangement, the Secretary may require action within a specified period in respect of official marks and documents. The holder of the Islamic Organisation's approved arrangement must take the action within the specified period.

308. This clause is a penal provision with a level 5 penalty. This means that a person who is guilty of this offence is punishable by a fine of 50 penalty units – see subregulation 4(1) of the *Export Control (Orders) Regulations 1982*.

309. This is the highest penalty that can be applied under the orders. The purpose of this offence is to ensure that holders of an Islamic Organisation's approved arrangement comply with notices given by the Secretary under this provision. The action specified in the notice must be action that is necessary to ensure that the objectives specified in the new Orders are met. This level of penalty is within the limits considered appropriate by Commonwealth policy in relation to strict liability offences. Strict liability is necessary to ensure the integrity of the regulatory system relating to persons who prepare meat and meat products for export for human consumption. Failure to comply with actions required by the Secretary is a serious offence.

### **PART 4 – Exports to the EU – HGP, identification and traceability**

#### **Division I – General**

#### **Clause 38**

310. This clause provides an explanation for Part 4. It specifies the hormone growth promotant ("HGP") free requirements for bovine meat exported to the European Union ("the EU").

#### **Clause 39**

311. This clause provides the definitions for Part 4 of Schedule 7.

## **Division II – Meat and meat products derived from cattle must be HGP free**

### **Clause 40**

312. This clause provides that a bovine animal (other than a bobby calf) must only be admitted to an establishment for slaughter for export to the EU if it is properly identified with an identification tag and an attached tail tag and accompanied by the required declaration as specified in the clause.

### **Clause 41**

313. This clause provides that a bovine animal (other than a bobby calf) must not be presented for ante mortem inspection or slaughter unless it has an identification tag and attached tail tag and these have not been removed at presentation or slaughter.

### **Clause 42**

314. This clause provides that bovine animals treated with HGP must not be slaughtered for export to the EU.

### **Clause 43**

315. This clause provides that meat and meat products for export to the EU must be HGP free.

### **Clause 44**

316. This clause provides that an animal is deemed to have been treated with HGP if it is identified with a HGP identifying triangular ear mark or a HGP identifying marker found during inspection of the animal or carcass.

## **Division III – Cattle sourcing, movement declarations and identification**

### **Clause 45**

317. This clause provides for the definition of “animal” for the purposes of Division III of Part 4 of Schedule 7.

### **Clause 46**

318. This clause provides that animals for slaughter for export to the EU must be sourced from an accredited property.

### **Clause 47**

319. This clause provides that a HGP free declaration must not be issued for an animal treated with a HGP.

### **Clause 48**

320. This clause provides that a HGP treated animal may not have a HGP free identifying tail tag attached to its tail.

## **Division IV – Accreditation of properties**

### **Clause 49**

321. This clause provides that an application may be made by the manager of a property for accreditation of the property for the purposes of export of meat and meat products to the EU.

### **Clause 50**

322. This clause provides that the application for accreditation must contain information including name and address of the manager and, for a property other than a saleyard, the property code and registered plan details.

### **Clause 51**

323. This clause provides that the Secretary must accredit the property if the Secretary has an application containing all necessary details and is satisfied that no animals to which Division IV applies that have been or will be held on the property have been or will be treated with HGP. If these criteria are not met the Secretary must refuse accreditation. If a decision is not made within 30 days of receipt of an application, the Secretary is deemed to have refused accreditation.

### **Clause 52**

324. This clause provides the requirements for a farm that are necessary to satisfy consideration for accreditation under Division IV. These requirements relate to property identification, animal identification, records to be kept, written undertakings by the manager and property access.

### **Clause 53**

325. This clause provides the requirements for a feedlot that are necessary to satisfy consideration for accreditation under Division IV. These requirements relate to property identification, property management system for animal tracing and identification, written undertakings by the manager and property access.

### **Clause 54**

326. This clause provides the requirements for a saleyard that are necessary to satisfy consideration for accreditation under Division IV. These requirements relate to the need for a management system for animal identification and segregation and written undertakings by the saleyard manager.

### **Clause 55**

327. This clause provides that, if the application is approved, the property must be entered on the accredited property register and advice given to the property manager in writing when the entry was made.

### **Clause 56**

328. This clause provides that, initially, an accreditation of a property is in place for 12 months unless the accreditation ceases to have effect in accordance with clause 58. Following the initial 12-month period, the Secretary may approve an application for renewal of accreditation and the

accreditation then continues to have effect indefinitely unless it ceases to have effect in accordance with clause 58.

#### **Clause 57**

329. This clause provides that the Secretary may arrange for on-site inspections of accredited properties by authorised officers acting within their powers under the Act.

#### **Clause 58**

330. This clause provides that accreditation ceases to have effect if the property is withdrawn from accreditation or the manager of the property to whom notice of accreditation is given ceases to be the manager. The accreditation also ceases if it is revoked for non-compliance with an undertaking, the manager has failed to make available required documents or the manager fails to consent to entry to the property by an authorised officer. Clause 58 specifies the time the revocation takes effect.

#### **Clause 59**

331. This clause provides that a notice must be given to the manager if the Secretary decides not to accredit or renew accreditation or revokes accreditation and the notice must give the reasons for the decision and advise of the right to apply for reconsideration under Part 10 of the new Orders.

### **SCHEDULE 8 – EXPORT DOCUMENTATION**

#### **Part 1 – Export permits**

##### **Division I – Application for an export permit**

##### **Clause 1**

332. This clause provides that the application for a permit must be in the approved form, made by a person (or on behalf of a person) who intends to export and be given to the Secretary. The application must provide the details of the exporter, establishment registration number or numbers, preparation dates of the meat and meat products, country of origin, details of consignee, port of loading, departure date, flight number or ship details, port of discharge, country of destination, net contents, description of meat and meat products and any other required information.

##### **Clause 2**

333. This clause provides that the exporter must declare that all information given in the application is true and complete.

##### **Division II – Verification of compliance**

##### **Clause 3**

334. This clause provides that, where an application has been made and an authorised officer is satisfied that there is compliance with the conditions and restrictions on export specified in Part 4 of the new Orders and the importing country requirements, the authorised officer may give a written verification to this effect.

## **Clause 4**

335. This clause provides that an authorised officer may inspect, examine and take samples of meat and meat products to verify compliance with the conditions and restrictions on export specified in Part 4 of the new Orders and the importing country requirements.

## **Clause 5**

336. This clause provides that, where a person in management and control of operations at the last place of preparation before export has inspected the meat and meat products and is satisfied that the conditions and restrictions on export specified in Part 4 of the new Orders and the importing country requirements are complied with, the person may, for the purposes of an application for a permit, provide verification of these matters where the approved arrangement provides for this to be done.

337. The verification must declare the authority of the person to make the declaration as provided for in the approved arrangement, be signed and dated by the declarer, state the truthfulness and completeness of the information and not be false or misleading or be given if there is no sound basis for making it.

## **Division III – Permission to export**

### **Clause 6**

338. This clause provides that the Secretary may issue a permit to the exporter only if a notice of intention to export has been given and an authorised officer has had the opportunity to inspect the meat and meat products, the application contains all relevant information specified in subclause 1.2 of this Schedule, the relevant verification referred to in clauses 3 or 5 of this Schedule has been provided, there are reasonable grounds to believe there is compliance with the conditions and restrictions on export specified in Part 4 of the new Orders and reasonable grounds to believe the accuracy and completeness of the information contained in the application. This clause does not apply where the permit is given in electronic form (see subclause 7.1 of this Schedule).

### **Clause 7**

339. This clause provides for the issue of electronic export permits generated through the electronic system (“EXDOC”) described in paragraph 16.1(a) of this Schedule. Such a permit must only be generated when a notice of intention to export has been given and an authorised officer has been given the opportunity to inspect the meat and meat products, the application contains all the relevant information specified in subclause 1.2 of this Schedule, the relevant verification referred to in clauses 3 or 5 of this Schedule has been provided, there are reasonable grounds to believe there is compliance with the conditions and restrictions on export specified in Part 4 of the new Orders and reasonable grounds to believe the accuracy and completeness of the information contained in the application.

### **Clause 8**

340. This clause provides that an export permit must not be issued if there is a condition or disease present in Australia that could affect the acceptability of meat or meat products to importing countries or the export of the meat or meat products could adversely affect Australia’s trade in such products. Additionally, a permit may be refused if an importing country requirement is not complied with, the exporter has failed to consent to entry or provide assistance, or the exporter has

failed to comply with their obligations under Part 5 (*Exporter's obligations*) or order 78 of the new Orders.

#### **Clause 9**

341. This clause provides for a unique identifying number to be allocated to each export permit at the time it is generated.

#### **Clause 10**

342. This clause provides that, in a notice given to the exporter, the Secretary may vary or revoke a permit. A variation may be made to correct any error or update information. A revocation may only be given where there are reasonable grounds to believe that there is non-compliance with a condition or restriction on export as specified in Part 4 of the new Orders; non-compliance with the importing country requirements; risk of deterioration, or deterioration, of meat and meat products; intention to export is abandoned; information given to the Secretary is inaccurate or incomplete; a condition or disease is present in Australia that could affect the acceptability of meat and meat products to importing countries; or there is potential to impact upon Australia's trade in meat and meat products.

#### **Clause 11**

343. This clause provides that an export permit ceases to have effect at the time of revocation or, in any other case, 28 days after it is issued.

#### **Clause 12**

344. This clause provides that a notice issued by an authorised officer under order 76 requiring action to be taken or a disposition applied by an authorised officer under order 69 or 70 prevails over an export permit where there is inconsistency between the two. In this circumstance, the permit is deemed to have no effect.

### **PART 2 – Government certificates**

#### **Clause 13**

345. This clause provides that an application for a government certificate must be given in the approved form, specify the importing country requirements and contain any other required information.

#### **Clause 14**

346. This clause provides that, before a government certificate is issued, the conditions and restrictions on export specified in Part 4 of the new Orders, importing country requirements and any matters specified on the certificate must be complied with.

#### **Clause 15**

347. This clause provides for restrictions on the issuing of a government certificate. A certificate may not be issued where an export permit has not been given or ceases to have effect, the information given in the application is incorrect or incomplete or there is no sound basis for the

information, a disease or condition is present that may make the meat unacceptable to an importing country or the export could adversely affect trade from Australia.

348. Clause 15 also provides that the issue of a certificate for meat and meat products prepared under State and Territory inspection and audit arrangements may only take place where the preparation, inspection and audit is provided for under the approved arrangement and the importing country has approved the acceptability of the arrangements. Additionally, this clause provides that a certificate may be refused if the exporter fails to consent to entry or provide assistance or has failed to comply with their obligations under Part 5 (*Exporter's obligations*) or order 78 of the new Orders.

### **PART 3 – Giving information or documents about exports**

#### **Clause 16**

349. This clause provides that, for the purposes of section 24A of the Act, the EXDOC Operating System and the EXDOC Exporter Software Interface System and any other specified software operating system is the system for giving documents or information in relation to the export of meat and meat products. A notice of intention, an application for an export permit, amendment or withdrawal of that application, application for a government certificate, a verification performed under clause 3 or 5 of this Schedule, the giving or revocation of a permit and the giving of a government certificate must all be given electronically by using the specified systems.

350. In exercising the requirements under this clause, the Secretary must take into account any special needs of a person in respect of the giving or issuing of documents.

#### **Clause 17**

351. This clause provides that, if the system under clause 16 is not in operation, the Secretary will prescribe in writing the manner in which the information must be given.

#### **Clause 18**

352. This clause provides that electronic transmissions made to a person other than the Secretary must be transmitted using the approved identifying code for that person.

#### **Clause 19**

353. This clause provides that electronic transmissions made to the Secretary must be transmitted using the approved identifying code for the person carrying out the transmission.

#### **Clause 20**

354. This clause provides that the requirements of clauses 16 to 19 of this Schedule are specifications for the purpose of section 24A (*Electronic transmission of information and documents*) of the Act.

#### **Clause 21**

355. This clause provides that, to satisfy the requirements of this Schedule, the Secretary must take all reasonable steps to ensure that the person is given an identifying code for use in electronic transmissions.

## **SCHEDULE 9 – APPROVAL OF AUDITORS**

### **PART 1 – Approved auditors**

#### **Division I – Register of approved auditors**

##### **Clause 1**

356. This clause provides that the Secretary must keep a register of approved auditors that is readily accessible by members of the public and the register must contain the auditor's name and whether the approval is for operations for the preparation, export or certification of meat and meat products. The register must state any limitations of the auditor specified in paragraph 5.3(b) related to operations for the preparation of meat and meat products for export.

#### **Division II – Approval of auditors**

##### **Clause 2**

357. This clause provides that an individual may make application for approval as an approved auditor and the written application must include evidence of the applicant's qualifications, details of relevant work experience as an auditor and documented procedures for the conduct of audits by the applicant. Additionally, in the case of applications for approval to be an auditor of establishments preparing meat and meat products, the application must specify the scope of the approval sought in respect of the kind of meat and meat products, the kinds of preparation of meat and meat products, the kinds of establishments and industry or industry sector and the relevant provisions of the Act and the new Orders.

##### **Clause 3**

358. This clause provides that, to assist the Secretary in reaching a decision on an application, the applicant can be requested to provide additional information or documents and submit to assessment that can include interview, observation of audit ability or written examination.

##### **Clause 4**

359. This clause provides that the Secretary must make a decision regarding the approval of an applicant within 30 days of receiving the application. However, if the Secretary makes a request for additional information under subclause 3.1, the time taken for this is not included in the 30 days.

##### **Clause 5**

360. This clause provides that the Secretary may approve an applicant provided that the Secretary is satisfied that the applicant has the skills required to competently conduct audits in an objective, independent, fair and accurate manner, that the applicant will comply with the requirements in Division II of Part 6 of the new Orders (which relate to failures to comply and audit reporting) and will comply with documented procedures for the conduct of audits that are necessary to ensure that an accurate assessment of the matters specified in paragraphs 5.1(c) and 5.1(d) are met. The applicant must be deemed to be a fit and proper person and the Secretary may take into account any perceived or real conflict of interest. The scope of the approval may be broad, or limited to a particular kind of meat and meat products, or a particular preparation, or to particular kinds of establishments. The scope may also include particular industries or industry sectors.

## **Clause 6**

361. This clause provides that the Secretary may not approve an applicant where money is owed to the Commonwealth, or a false, misleading or incomplete statement has been made, or where there is no sound basis for making a statement.

## **Clause 7**

362. This clause provides that, where the Secretary decides not to approve an applicant, the applicant must be given a notice in writing that explains the reasons for the decision, and includes details on the right to apply for reconsideration of the decision.

## **Order 8**

363. This clause provides that the approval may be subject to conditions. The Secretary is also able to impose new conditions or vary or revoke the conditions by written notice to the approved auditor. The conditions must be for the purpose of ensuring that matters in paragraphs 5.1(b) to (e) of this Schedule are met.

## **Clause 9**

364. This clause provides that the approval has a timeframe. The approval commences from the day the approval is given, or in the case where fees apply, from the day the fee is paid. The approval is in place for 12 months from date of commencement or an earlier date if it is revoked.

## **Clause 10**

365. This clause provides that the Secretary may assess the competence of an approved auditor as often as the Secretary thinks necessary. The assessment may include an examination of reports prepared by the auditor, or an audit of an establishment where the approved auditor has conducted an audit in the last six months, or by observing the auditor during an audit.

## **Division III – Revocation of approval of auditor**

### **Clause 11**

366. This clause provides that the Secretary may revoke the approval of an auditor. The revocation may occur when there are reasonable grounds to believe that the auditor does not possess the skills required to competently conduct audits in an objective, independent, fair and accurate manner, or if the person fails to comply with the requirements in Division II of Part 6 of the new Orders, which relate to failures to comply and audit reporting. Revocation may also occur if the person has made a statement which is false, misleading or incomplete, or where there is no sound basis for making the statement or the person is deemed not to be a fit and proper person. The Secretary may also take into account perceived or real conflicts of interest.

367. When revoking the approval of an auditor, the Secretary must give the person a notice in writing, explaining the reasons for revocation, and includes details on the right to apply for reconsideration of the decision. The approval of the auditor ceases to have effect at the time the notice of revocation is given or at a later time specified in the notice.

## **SCHEDULE 10 – PROVISION OF SERVICES OF AUTHORISED OFFICERS**

### **PART 1 – Application for slaughter floor and ancillary meat inspection services**

#### **Clause 1**

368. This clause provides that an occupier must apply for inspection services at least one month before commencing export operations. The occupier must notify in the application all relevant details of establishment operations to enable the Secretary to determine inspection services required. Services will not be provided unless the requirements of this clause are met.

#### **Clause 2**

369. This clause provides that, in determining preliminary allocation of inspection services, the Secretary must take into account industry requirements, international obligations, negotiated staffing formulas, certain matters prescribed in the *Prescribed Goods (General) Orders 1985*, establishment construction and intended operations. Inspection and ancillary inspection services will be allocated on an assessment of these matters. Annual allocation of services can only be made for establishments that operate for 10 months in any financial year.

#### **Clause 3**

370. This clause provides that the occupier will be advised by the Secretary of the preliminary allocation and, as appropriate, further advised on possible opportunities to reduce the inspection service requirement.

#### **Clause 4**

371. This clause provides for a formal memorandum of agreed intent where the occupier accepts the Secretary's preliminary determination.

#### **Clause 5**

372. This clause provides that the occupier may seek a review of the Secretary's determination within 7 days of the determination. A review is to be undertaken by a committee. Where, within 7 days, the occupier does not seek a review or a memorandum of agreed intent has not been completed, the Secretary's determination is deemed to be a memorandum of agreed intent.

#### **Clause 6**

373. This clause provides that if the occupier accepts the Secretary's further advice on inspection service requirements and this results in the need for a revised determination of inspection service allocation, the Secretary must make that determination and advise the occupier.

#### **Clause 7**

374. This clause provides that if a revised determination of inspection service allocation is made, a new memorandum of agreed intent must be completed.

## **Clause 8**

375. This clause provides that the occupier may seek a review of the Secretary's revised determination within 7 days of the determination. A review is to be undertaken by a committee. Where, within 7 days, the occupier does not seek a review or a memorandum of agreed intent has not been completed, the Secretary's determination is deemed to be a memorandum of agreed intent.

## **Clause 9**

376. This clause provides that a committee established to review a determination or revised determination of inspection service allocation must comprise the occupier, the Executive Director of the Australian Quarantine and Inspection Service, a union representative of authorised officers and a meat industry representative nominated by the occupier.

## **Clause 10**

377. This clause provides that, following review of the occupier's application and the Secretary's advice and determination, the committee, within 14 days of the first meeting, must make a recommendation to the Secretary on the appropriate level of inspection services.

## **Clause 11**

378. This clause provides that the Secretary must consider the committee's recommendation and determine the allocation of inspection services to the occupier's establishment. This determination is deemed to be a new memorandum of agreed intent.

## **Clause 12**

379. This clause provides that the Secretary, within 45 days of an application for review being received, must advise the applicant of the decision and the reasons for the decision.

## **Clause 13**

380. This clause provides that an application may be made to the Administrative Appeals Tribunal for a review of the decision made by the Secretary under subclause 11.1.

## **Clause 14**

381. This clause provides that the notice referred to in clause 12 must include a statement advising the applicant that application may be made to the Administrative Appeals Tribunal for a review of the decision.

## **Clause 15**

382. This clause provides that, if the Secretary fails to advise on the option for application to the Administrative Appeals Tribunal to review the Secretary's decision, the failure to advise does not affect the validity of the decision.

## **Clause 16**

383. This clause provides that clause 5 and clauses 8 to 15 of this Schedule are to be read in lieu of Part 20 of the *Prescribed Goods (General) Orders 1985*.

## **Clause 17**

384. This clause provides the meaning of “decision” for the purposes of clauses 12, 13, 14 and 15.

## **Part 2 – Alteration of allocation of inspection services**

### **Clause 18**

385. This clause provides that, if there are any proposed changes to establishment construction or operations, which may affect the allocation of inspection services, the occupier is required to notify the Secretary.

### **Clause 19**

386. This clause specifies the procedures to be taken by an occupier in applying to alter allocation of inspection services, other than for additional inspection services or cessation of services during a shutdown.

### **Clause 20**

387. This clause specifies the procedures for applying for additional inspection services which may be provided on a monthly, weekly, daily or, for ancillary services, on an hourly basis. If the occupier has applied but not given the required notice, the Secretary must attempt to provide the additional inspection services at the earliest possible time.

### **Clause 21**

388. This clause provides that, where no period is specified in the application, the occupier may terminate the additional inspection services by giving 2 weeks’ notice in writing.

### **Clause 22**

389. This clause provides that, where a period of intended shutdown of an establishment is to be a continuous period of 14 days or more, an occupier may provide a notice to the Secretary stating that inspection services are not required for this period. Clause 22 only applies to establishments where the memorandum of agreed intent includes an annual allocation of services.

### **Clause 23**

390. This clause provides that the Secretary must advise the occupier of the revised allocation of inspection services if there is a need to vary the allocation because of a change in circumstances listed in paragraphs 2.1(a) to 2.1(f).

### **Clause 24**

391. This clause provides that the occupier must apply for reconsideration and the Secretary must negotiate with the occupier if there is disagreement with the revised allocation and, if agreement cannot be reached, the Secretary must further negotiate with a representative of the relevant industry organisation nominated by the occupier. If this is not successful, the Secretary must determine the allocation of inspection services.

## **Clause 25**

392. This clause provides that the initial allocation ceases to have effect if the Secretary is required to make a decision under subclause 24.3.

## **Clause 26**

393. This clause provides that the Secretary, within 45 days of an application for reconsideration under subclause 24.1 being received, must advise the applicant of the decision and the reasons for the decision.

## **Clause 27**

394. This clause provides that the occupier may apply to the Administrative Appeals Tribunal for a review of a decision about the allocation of inspection services made under subclause 24.3.

## **Clause 28**

395. This clause provides that the Secretary, in advising of his decision on an application for review, must also advise that application can be made to the Administrative Appeals Tribunal for a review of the Secretary's decision.

## **Clause 29**

400. This clause provides that, if the Secretary fails to advise on the option for application to the Administrative Appeals Tribunal to review the Secretary's decision, the failure to advise does not affect the validity of the decision.

## **Clause 30**

401. This clause provides that clauses 24 to 29 of this Schedule are to be read in lieu of Part 20 of the *Prescribed Goods (General) Orders 1985*.

## **Clause 31**

402. This clause provides the meaning of *decision* for the purposes of clauses 25, 26, 27, 28 and 29.

## **Clause 32**

403. This clause provides that, where fees for inspection services remain unpaid after 14 days of the due date, the Secretary may withdraw inspection services.

## Regulation Impact Statement

### Export Control (Meat and Meat Products) Orders 2005

#### *Introduction*

1. This regulation impact statement relates to the new *Export Control (Meat and Meat Products) Orders 2005* (“the new Orders”) made under the *Export Control Act 1982* (“the Act”).
2. Certain food commodities exported from Australia are defined as “meat and meat products” for the purposes of the Act. “Meat and meat products” are subject to regulatory control as a condition of export eligibility. The new Orders contain conditions and restrictions applicable to the export of meat and meat products that, for the purpose of facilitating trade, aim to ensure that these products:
  - are safe and suitable for export;
  - have been prepared in hygienic conditions;
  - are accurately described;
  - are processed according to a system that can be audited;
  - are appropriately certified where necessary; and
  - meet importing country requirements.
3. The basis for this degree of regulatory control is summarised by the National Competition Policy (“NCP”) Review of the *Export Control Act 1982*, which found that “non-legislative alternatives could not deliver the same benefits to exports and the nation as can be obtained by legislation. The Review Committee considers that most overseas governments will continue to insist that Australia retain the legislative power to impose standards for the foreseeable future. It is also clear that trade partners expect certification to be backed by investigative powers and strong penalties to ensure compliance. The Review Committee concluded that legislation is necessary.”<sup>1</sup>
4. The Australian Quarantine and Inspection Service (“AQIS”), an operating group of the Australian Government Department of Agriculture, Fisheries and Forestry, administers the *Export Meat Orders 1985* (“the old Orders”). The old Orders were made on 29 April 1985 under the *Export Control (Orders) Regulations 1982* and are based on the domestic and international standards, as well as importing country requirements. Since its commencement in 1985, numerous amendments have been made to the original instrument addressing various issues relating to product integrity, ritual slaughter, animal identification for European access, approved arrangements, quality assurance arrangements, provision of authorised officers and trade description.

#### *Industry overview*

5. World trade in food and agricultural products is more complex and involves greater government intervention than trade in most other manufactured products and services. This complexity and involvement stems from the desire of governments to avoid risks associated with such products including risks to human and animal health and threats to animal welfare and the environment.
6. Many of the risks originate from the characteristics of the products. For example:
  - most food products are perishable;
  - many require special storage and transportation arrangements;

- risks to human health associated with food products are not necessarily physically conspicuous, for example, pesticide residues.

7. For meat and meat products, effective management of these risks is essential as the export of these products is highly significant to the Australian economy. Australia is the world's largest exporter of beef, the world's largest exporter of mutton and second largest exporter of lamb.

8. In 2002, Australia exported 65% of its total beef production (valued at \$5,713.2 million), 77% of its total mutton production (valued at \$402 million), 36% of its total lamb production (valued at \$554 million) and 22% of its pig meat valued at \$256 million.<sup>2</sup>

9. The major markets for Australian meat include the United States, Japan, Korea, Taiwan, Middle East, European Union and, increasingly, South-East Asia.

10. The number of exporters licensed to export meat and meat products is 377 (as at 30 April 2004). These businesses include abattoirs, independent boning rooms, further processing establishments, cold-stores, cool-stores, dry-stores, freight forwarding facilities, air container terminals and container depots.

11. It is estimated that 75% of export production originates through large processing businesses, 20% through medium businesses and 5% through small businesses.

12. Australia's largest processor advises that, in a typical year, it processes 1.4 million cattle with product value of \$1.5 billion. The company has 4,800 employees and services more than 50 export markets. In contrast, there are a number of small export businesses that employ less than 50 staff.

## 1. Problem

13. The NCP Review of the Act found that aspects of export legislation did not meet NCP principles. Accordingly, the Review Committee made fourteen (14) recommendations to ensure that NCP principles would be met (see Appendix 1). Specifically, the Review Committee stated:

“The *Export Control Act* is compact, but the subordinate legislation (including regulations and orders) is lengthy and complex. It is also the part which directly affects the daily operations of exporters...excessive prescriptiveness is anti-competitive, potentially stifling of innovation, and lacks the necessary flexibility.”<sup>3</sup>

14. The old Orders create an unnecessary regulatory burden on exporters and processors of meat and meat products. The old Orders were developed 19 years ago, and changes in domestic and international standards and requirements have necessitated the need for a review of these Orders. Specifically, the old Orders are too prescriptive, inconsistent with other legislation, could not be regarded as ‘minimum effective regulation’, are out-of-date and do not reflect the current science, and may not meet importing country requirements. The net effect of these issues is that trade may be unnecessarily restricted.

15. For example, the structural requirements in the old Orders are overly prescriptive, and not consistent with domestic (national) requirements. A comparison between the old Orders and the domestic structural requirements is presented in Table 1, and demonstrates that there are inconsistencies in both content and policy.

<b>Requirements</b>	<b>Export Meat Orders 1985</b>	<b>Standard 2.3.2 of the Food Standards Code/Australian Meat Standard (SCARM 80)</b>
Location	Contains prescriptive provisions for location and immediate surrounds of establishments. Addresses drainage, objectionable odours, smoke, dust, flooding, pests, paving, landscaping etc.	Must be appropriate for the activities for which the premises are used. Contains outcome-based provisions regarding pests, cleaning, spacing. (An outcome-based approach requires the desired outcome to be achieved and facilitates innovation and flexibility in doing so.)
Buildings and facilities	Contains provisions for design and construction, such as the space around equipment.	
Floors	Contains prescriptive provisions for construction of floors (eg. water-proof, non-absorbent, without crevices, of non-slip materials, easy to clean etc), slope of floor, drains, and construction of drains.	Outcome-based requirements for construction of floors, walls and ceilings, including exemptions, based on “fit for purpose” approach. (“Fit for purpose” means suitable for the intended use).
Internal walls	Contains prescriptive provisions for construction of walls (eg. water-proof, non-absorbent, light coloured, impact resistant etc), and when walls are required for segregation purposes.	
Ceilings	Contains prescriptive provisions for design and construction (eg. smooth, impervious, minimize condensation, colour of ceilings, absence of ledges etc.).	
External points of entry	Contains prescriptive requirements for insect-proof screens, the need for airlocks and ventilation structures.	Not specifically addressed, but addressed broadly through overarching provisions which require premises to be constructed so as to prevent the entry of pests.
Stairs, platforms, and stands	Contains prescriptive provisions for design and construction (eg. non-slip. Non- corrosive, easy to clean).	Outcome-based requirements for fixtures and fittings, addressing their design, construction, location and installation, based on “fit for purpose” approach.
Design, construction and installation of equipment and services	Contains prescriptive provisions for construction equipment and utensils used (eg. non-absorbent, resistant to corrosion, made from materials which do not transmit odour, taste or toxic substances, etc), installation (eg. for lights), and design of storage containers (eg. leak-proof).	
Materials used	Use of timber is not permitted in food processing areas, with some exemptions provided (eg. the use of epoxy coatings)	

Hand washing, storage, cleaning, disinfecting, sterilising, refrigeration, and storage facilities	Contains prescriptive provisions for design (eg. non-hands operated taps) location (eg. adjacent to personnel entrances to food handling areas), requirement for notices to be posted, and construction (eg. drainage, constructed of corrosion resistant materials etc).	Outcome-based requirements for facilities, including exemptions, based on “fit for purpose” approach.
Essential services	Contains provisions for effluent and waste disposal, storage of water and inedible material, lighting and ventilation.	Outcome-based requirements for storage, lighting and ventilation, based on “fit for purpose” approach.

Table 1 – Comparison between export and domestic regulations for structural requirements in meat establishments.

16. In terms of international legislation, many changes have occurred through the Codex Alimentarius Commission, which impacts on export legislation in Australia. One important example is traceability requirements, and the focus on a whole of supply chain approach. Whilst the old Orders address these issues, their scope and coverage is not as broad as the direction being taken in international legislation. Note – the Codex Alimentarius Commission is the international inter-governmental body established under the 1994 Agreement on the Application of Sanitary and Phytosanitary Measures that develops food safety and commodity standards to facilitate trade and promote consumer safety. It is not compulsory but signatories do not depart from it without very good reason.

17. Overlapping regulatory regimes and variations in domestic, export and international requirements may place an unnecessary burden on those businesses that produce meat and meat products for both the domestic and export market.

18. In the changing food regulatory environment both domestically and internationally, there has been a shift from prescriptive requirements to more outcome-based measures that allow for equivalency. This means that instead of telling industry how to go about their business, the objectives are defined and industry can decide how to meet these objectives, within certain bounds. This is often regarded as ‘minimum effective regulation’. Given that the old Orders were written prior to this shift, they are not sufficiently outcome-focussed and cannot be regarded as ‘minimum effective regulation’.

19. The old Orders do not always reflect changing industry practices. For example, the preference by industry to utilise electronic systems for export documentation rather than manual systems is not sufficiently addressed by the old Orders, which essentially only contemplates manual issuance of export documentation. All export documentation for edible meat and meat products is raised electronically. One of the recommendations by the Review Committee was to align the administration of regulation with current Government policy on electronic commerce.<sup>4</sup>

## 2. Objectives

20. The NCP recommendations of relevance to this regulation impact statement are:

- Recommendation 2 – Objectives of the legislation

- Recommendation 3 – Adoption of an integrated export assurance system (“the three-tier model”);
- Recommendation 4 – Harmonisation of domestic and export standards;
- Recommendation 6 – Contestability of monitoring, auditing and inspection;
- Recommendation 11 – Accelerate the current review of existing subordinate legislation; and
- Recommendation 13 – Electronic commerce.

21. The NCP stated that the objective of export legislation is to facilitate, enhance and sustain Australia’s exports by providing authority for the imposition of systems which:

- ensure compliance with overseas country requirements, and
- ensure compliance with any other standards established through government and industry consultation on the basis of net public benefit.

22. The main objective of the old Orders is to facilitate trade. The facilitation is based on adequate food safety and wholesomeness procedures and accurate descriptions of product. Audit provisions are required to substantiate the adequacy of these programs. On this basis, certification is provided as required by importing countries, thereby facilitating trade.

*Australian Meat Standard – its significance to the new Orders*

23. In 1999, the development of a new single standard for food safety and wholesomeness was deemed to be necessary to establish “harmonised” requirements for the production and transportation within Australia of meat and meat products for human consumption regardless of whether the meat and meat products were for domestic use or export. Further, the development of a new set of rules for the production of safe and wholesome meat within a single new Australian Standard provided the opportunity to produce a standard that:

- can be applied to all meat and meat products regardless of whether they are produced for the domestic or export market;
- are consistent with world standards set out in Codex Alimentarius Volume 10;
- will allow for innovation and flexibility in the industry by identifying outcomes or performance based principles rather than prescriptive requirements;
- can be readily incorporated into a broader legislative framework; and
- are suitable in substance and presentation to overseas audiences.

24. The Australian Meat Standards Committee agreed to a review of the previous Australian Standard in 1999, and appointed a working party comprising Commonwealth, State and industry representatives to conduct the review. Expert scientific advice was obtained as required to ensure that the standard was based on sound science.

25. The result of this process was the approval by the Agriculture and Resource Management Council of Australia and New Zealand (“ARMCANZ”) of a single harmonised standard, called the *Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption* (AS 4696: 2002) (“the Australian Meat Standard”).

26. The benefits to industry and Australia more generally of developing a harmonised standard can be summarised in terms of improved food safety and wholesomeness outcomes, the development of a framework that is conducive to enhanced industry competitiveness and the potential for a reduction in regulatory burden. Further, a harmonised standard for the production of meat and meat products should allow domestic producers previously restrained from producing for the export market to expand their operations to include processing for the export market. A strong

export sector has broad benefits for the Australian economy, in terms of employment, improved balance of payments and higher living standards generally.

27. The Australian Meat Standard benefits industry, domestic and overseas consumers by ensuring that food, sold domestically and internationally, is safe and wholesome. The Australian Meat Standard ensures a uniform approach to food safety and wholesomeness is achieved for meat and meat products, thus ensuring the mutual recognition principles are applied throughout the meat industry.

28. Consumers benefit from the confidence that meat and meat products manufactured under the Australian Meat Standard are consistently wholesome, while the community as a whole benefits from food regulation as a result of reduced risk of food safety incidents and the subsequent costs to the community associated with those incidents. The *Salmonella* outbreak in Victoria in 1997, cost the community over \$1 million<sup>5</sup> while the *E. coli* outbreak in South Australia has been estimated to cost the community a minimum of \$1.17 million<sup>6</sup>

29. Industry also benefits when consumers are confident that Australian meat is safe and wholesome. For example, the aftermath of Bovine Spongiform Encephalopathy (BSE or “mad cow disease”) incidents has provided marketing opportunities for Australian beef overseas. In advocating the application of the Australian Meat Standard, industry and regulatory agencies can reference the recognised benefits of the Hazard Analysis Critical Control Point (“HACCP”) approach to food safety. Processors develop production systems that are documented and controlled, regulatory agencies establish audit systems that verify process control and accountability. Consumer confidence in safe food is enhanced and this is a powerful tool in market access promotion. Should a food safety incident occur, trace-back and trace-forward procedures strengthened by the Australian Meat Standard enhance the restoration of consumer confidence.

30. The Australian Meat Standard is consistent with Codex, which offers internationally accepted guidelines. A national harmonised standard for the hygienic production of meat and meat products reduces the need for, and extent of, separate export legislation for food safety and wholesomeness thus reducing regulatory burden and associated costs as well as increasing market options for individual processors. This principle underlies the recommendation of the NCP Review. The review found that the existence of two sets of standards was not consistent with competition principles and recommended that domestic and export standards be harmonised, and consistent with relevant international standards. The report stated that “Australian industry should be encouraged to produce for a global market with health and hygiene and product standards built into production systems.”

31. Controlling authorities established a timeframe of 2002 for industry to fully implement the Australian Meat Standard. However, in the export sector, the requirements of the old Orders were deemed to be equivalent and, as a result, the Australian Meat Standard was not adopted into export legislation.

32. The new Orders incorporate by reference the Australian Meat Standard with some modifications. The objective is that, as far as is possible, all food safety and wholesomeness requirements relevant to the production of meat and meat products for export will be contained within the Australian Meat Standard, leaving the new Orders to largely deal specifically with the mechanics of export. The new Orders will need to contain some food safety and wholesomeness matters relevant to export until such time as the Australian Meat Standard can be amended.

### 3. Options

33. Four options have been identified:

- |                 |  |
|-----------------|--|
| <b>Option 1</b> | Retain the status quo                                      |
| <b>Option 2</b> | De-regulation (repeal the <i>Export Meat Orders 1985</i> ) |
| <b>Option 3</b> | Rely on domestic (national) legislation                    |
| <b>Option 4</b> | Review the <i>Export Meat Orders 1985</i>                  |

#### *Option 1      Retain the status quo*

34. The old Orders contain detailed requirements on conditions and restrictions on the export of meat and meat products, which include:

- Registration of establishments procedures
- Registered establishments – construction and equipment, plans, specifications and approvals
- Services and facilities
- Operational hygiene
- Live animals and ante-mortem inspection
- Slaughter, dressing and post-mortem inspection
- Refrigeration requirements and further processing
- Identification, tracing systems, integrity and transfer
- Approved programs
- Quality assurance arrangements
- Services of authorised officers
- Sampling and analysis
- Official marks and marking devices
- Foreign country requirements

35. The old Orders deliver an internationally recognised system of inspection and certification that assists Australian exporters to gain access to markets with stringent food health and safety standards. The level of inspection and certification is tailored to meet the requirements of individual export markets.

#### *Option 2      De-regulation – repeal the Export Meat Orders 1985*

36. Under this option, the market would be left to develop and comply with self-regulatory arrangements.

37. The meat industry in Australia is a robust and progressive industry. The entire meat industry (both export and domestic) has adopted a uniform HACCP based approach to food safety and quality issues and is committed to an outcomes based regulatory framework.

38. All meat production for export is regulated through Commonwealth legislation which is currently administered by AQIS. Separate domestic meat safety legislation is also in place for each State and Territory and is enforced by the relevant State or Territory meat safety authorities. Whilst each State and Territory has different legislation, that legislation adopts the nationally agreed Australian Meat Standard. This Standard is now in place for red meat, poultry meat, game meat, ratite meat, crocodile meat, rabbit meat and pet meat. Compliance with importing country requirements is addressed through the Commonwealth export legislation and is not covered by any domestic legislation or guidelines.

39. Under this option, industry would inevitably use, as a basis for self-regulatory controls, proven aspects of the current legislative frameworks for export and the production of safe and wholesome meat and meat products.

*Option 3 Rely on domestic (national) legislation*

40. Under this option, specific export legislation would not be required, as food that is eligible for sale in Australia (as defined by national standards such as the *Food Standards Code* and the Australian Meat Standard) would become eligible for export. This is consistent with the NCP recommendation for the adoption of an integrated export assurance system (“the three-tier model”), with Australian standards forming the first tier.

40. Domestic food legislation is administered by State and Territory Governments. Historically, this legislation has focussed primarily on the processing section. However, following the recommendations of the Council of Australian Government (“COAG”) Senior Officials Working Group on Food Regulation (“SOWG”) in 1999 that all existing domestic food standards, including primary product standards, be combined to produce a single set of standards consistent with internationally recognised Codex standards, Food Standards Australia New Zealand (“FSANZ”) assumed the responsibility for this task in 2001.

41. Currently, FSANZ is in the process of developing primary production and processing standards for seafood and chicken meat.

42. The development of a primary production and processing standard for dairy is scheduled to commence in mid-2004.

43. A review of the Australian Standards for meat (other than chicken meat) to meet the SOWG recommendations will not occur for some time because of the current perceived adequacy of these nationally adopted meat standards.

*Option 4 Review the Export Meat Orders 1985 in line with the stated objectives*

44. A full review of the old Orders should ensure the objectives are addressed in a systematic way, particularly with respect to the NCP recommendations. A review of the old Orders commenced in 2003. The objectives of this review are to:

- Protect and facilitate market access;
- Ensure that meat and meat products are safe, suitable and accurately described;
- Harmonise between domestic and export standards;
- Promote a partnership approach between industry and government;
- Be based on good science, as well as current technical and international standards;
- Improve industry competitiveness;
- Encourage innovation and flexibility of operation by the use of outcome-based legislation; and
- Be enforceable.

45. The new Orders have taken into account the NCP recommendations. The new Orders contain outcome-based requirements on conditions and restrictions on the export of meat and meat products, similar in general scope to the old Orders. However, they differ in terms of the degree of prescription and content. The major changes can be directly linked to the NCP recommendations:

- Adoption of an integrated export assurance system (“the three-tier model”)
- Harmonisation of domestic and export standards

The three-tier model replaces the existing arrangement by creating a single system for the production of meat and meat products within a global market. The key objectives of this tiered approach are to support the single system and to harmonise Australian Standards in a way that leaves the processor free to choose to supply either the domestic market or importing countries that do not have special requirements. An additional objective is to provide flexibility for individual processors to make their own decisions about supplying individual markets that have additional requirements.

Tier 1 relates to the preparation of meat and meat products to Australian Standards covering essential health and hygiene issues and based on accepted international standards such as those established by Codex and Office International des Epizooties (“OIE”). Tier 2 covers standards set by overseas governments for access to their markets additional to the standards set under Tier 1. Tier 3 covers those occasions when government or industry set special requirements for all exporters of a particular product to a particular market and are additional to Tier 1 and Tier 3.

As noted previously, the old Orders were drafted prior to the development of national standards for food safety and wholesomeness. The new Orders incorporate by reference the Australian Meat Standard, with some modifications. Primarily these modifications relate to current perceived inadequacies in that Standard.

Other modifications relate specifically to importing country requirements, which is consistent with the three-tier model recommended by the NCP Review. For example, many importing countries require regular microbiological sampling of water used in processing areas where the water comes into contact with food for human consumption. Domestic (national) standards include requirements for potable water to be used; however do not include provisions for water sampling.

- Contestability of monitoring, auditing and inspection

The NCP Review recommended that monitoring and inspection arrangements be made fully contestable as soon as third party arrangements are acceptable to overseas governments, but that this should not extend to the function of certification.

Accordingly, the new Orders have sought to provide increased clarity to alternative monitoring, audit and inspection arrangements.

Currently, there is a quality assurance based system available for industry adoption to ensure the conditions and restrictions are met. The MSQA system – Meat Safety Quality Assurance system – entails a fully documentation quality management system. The system addresses all aspects of the conditions and restrictions in the new Orders. It also generally addresses quality parameters and commercial needs. The system is subject to monitoring, auditing and inspection arrangements, however, the old Orders do not allow for third-party auditing of establishments that adopt the MSQA system.

The changes proposed to the old Orders aim to fully address the NCP recommendation. The new Orders propose the mandatory implementation of a requirement to be known as the “approved arrangement”. This is parallel to the system described in the Australian Meat Standard. This will assist those establishments that want to move from a purely domestic

operation to an export one. The approved arrangement format is also applicable to other commodities. This allows for a more uniform approach to documented program development, inspection and audit across commodities.

The new Orders also contain provisions that allow for contestability of third party audit thus meeting the NCP recommendations. However, while this option may be acceptable to some importing countries, a number of major trading partners still require that government directly involves itself in the monitoring, auditing and inspection of meat operations.

- Electronic commerce

The NCP recommended that AQIS align the administration of the regulation with current Government policy on electronic commerce. The new Orders have addressed this recommendation, as well as ensuring consistency with Commonwealth legislation, particularly the *Electronic Transactions Act 1999*.

46. The majority of other changes relate to an increased flexibility in meeting the outcome, for example, the use of electronic data recording and retrieval programs. Provisions for adopting scientifically validated alternative methodologies to support innovative processing practices are also provided under this option.

47. Some changes relate to improvements in knowledge in food safety and technology. For example, the use of a refrigeration index (based on predicted growth of pathogens using a mathematical model) to determine whether a refrigeration regime can produce safe storage conditions for meat and meat products. These types of changes allow for greater industry flexibility and potentially greater innovation.

#### **4. Impact analysis**

48. This regulation impact statement seeks to quantify, where possible, the costs and benefits of the proposed reforms. In addition, this regulation impact statement seeks to describe the qualitative costs and benefits.

49. There is limited available quantitative data on the current cost to industry of export meat regulation and the degree of benefit, which may be expected as a result of reforming the existing regulation. Where an indicative assessment can be made, it has been included in the analysis.

50. Importantly, the review of the old Orders is required as a direct consequence of recommendations of the NCP Review.

51. Parties affected by a review of the regulation include:

- Industry
  - primary producers of meat and meat products for export
  - processors of meat and meat products for export
  - other sectors of the supply chain including storage establishments, wholesalers, freight forwarders, etc.
  - agents and exporters who raise export documentation
- Related industry
  - independent (third party) auditors
- Australia's trade partners and their consumers
- Government

- AQIS
- State and Territory service providers, such as State and Territory meat authorities
- Australian consumers

52. The value of farm production of livestock for slaughter within Australia<sup>7</sup> in 2002/03 was \$8,385.7 million, comprised of \$5,713.2 million for cattle and calves, \$1,776.6 million for sheep and lambs and \$ 895.9 million for pigs. Meat exports for the same period had a value of \$4,985 million, comprised of \$3,756 million for beef and veal, \$956 million for lamb and mutton, \$256 million for pig meat and \$17 million for canned meat. Disruption to these industries would have serious impact on the performance of the Australian economy, particularly for the rural and meat-processing sectors. The continued viability of the livestock slaughtering and export meat industries is dependent upon domestic and overseas consumer confidence about the safety, wholesomeness and integrity of meat and meat products.

### ***Option 1      Retain the status quo***

#### ***Costs***

53. The total annual cost to Government for administering and enforcing the current meat export regulations for 2003/04 is \$59 million. Fees and charges will generate revenue of \$56.7 million for 2003/04.

54. In retaining the old Orders, there is a potential cost to government as this option does not meet the NCP Review recommendations nor does it reflect the current food policy applied domestically. Furthermore, this option does not give any long-term assurance of facilitating market access, as recommendations made by trade partners would not be addressed. This is regarded as a high risk to Government, and hence a cost.

55. Additionally, a further cost of this option is the lack of enforceability of a number of the provisions in the old Orders, which can lead to negative trade implications.

56. Quantifying this cost is difficult, as the consequences of not meeting importing country requirements varies from the cost to return the goods to Australia, to destruction costs, to loss of market for a particular good, entire commodity grouping, or in extreme cases the loss of market for other commodities as well. It is also a possibility that loss of market access into one country may result in other countries restricting access.

57. It is generally accepted by the NCP Review, AQIS and industry that the old Orders are not adequate. The NCP Review stated that “the committee believes that all subordinate legislation applying under the Act should be reviewed with the same specific objective”<sup>8</sup>. The NCP Review noted that some deficiencies in the old Orders, including excessive prescriptiveness, are potentially stifling innovation, and that the old Orders lack necessary flexibility.

58. Representations by some industry groups since the mid 1990s have requested that AQIS review this legislation for a variety of reasons. Generally, industry agrees with the NCP Review about comments such as excessive prescription and lack of flexibility.

59. There are some elements of the old Orders that do not meet AQIS needs, such as the emergence of exports from domestic establishments registered by State and Territory authorities. This has occurred where an importing country has agreed to accept product produced to the Australian Meat Standard. These exports have been accommodated under the exemption provisions of the old Orders and by interpreting the existing quality assurance provisions “flexibly”.

60. Option 1 does not effectively and efficiently address all of the objectives in part 2 of this regulation impact statement. Whilst trade is facilitated through this option, the impost on industry could be increased, potentially decreasing their competitiveness, access to markets and limiting innovation and flexibility. Therefore, the direct cost to industry of this option is anticipated to be higher than for other options.

#### *Benefits*

61. Government is the main beneficiary under this option, as retention of the status quo would have the least direct cost impact.

62. Staying with the current system would obviate the cost to government of introducing the new Orders, albeit these costs are largely one-off direct costs in reviewing and implementing the new Orders.

63. From industry's perspective, maintaining the status quo can benefit industry as no additional effort is required by businesses provided they are already complying with the current regulations.

#### *Summary*

64. In summary, this option to continue with the current regulatory system:

- does not remove the regulatory burden of the current highly prescriptive and outdated regulation;
- does not encourage a business environment that can respond quickly to changing market demands;
- does not encourage a business environment in which businesses can take increased responsibility for their food production systems; and
- does not support export initiatives for Australia to compete more effectively on world food markets.

### ***Option 2      De-regulation – repeal the Export Meat Orders 1985***

#### *Costs*

65. There is considerable cost associated with this option. Financial cost to industry would be high initially in order to develop self-regulatory arrangements. The ongoing financial cost of maintaining these arrangements would also be passed to industry. This option may also contribute to uncertainty about how to adhere to requirements, which would come at a cost.

66. An example of this type of arrangement, understood to exist in certain African states, is where government plays little role in export oversight and exports are solely facilitated on the basis of third party certification. This model relies upon third party certifiers strictly meeting importing country requirements and provides no opportunities for demonstration of equivalency, and hence little opportunities for maximising cost efficiencies. It provides a complex and costly environment for larger exporters who service a number of markets.

67. For Australia, this option does not provide any assurances of facilitating market access. It is highly unlikely that this option would be acceptable to the major trade partners and hence is an enormous potential cost to industry and government. Additionally, this option does not facilitate

the issuance of certification by AQIS, which may result in loss in market confidence and subsequently market access.

68. The value of meat exports in 2002/03 totalled \$4,985 million.<sup>9</sup> However, the loss of market access impacts not only on the export sector but also the livestock industries generally. In 2000, ABARE undertook an assessment of the estimated impact of loss of access to the United States beef market for one year and estimated that the gross value of production in the beef industry could fall by around \$1.1 billion as a result.<sup>10</sup> The adverse effects are also felt in related industries such as the sheep industry, which is estimated to suffer a decrease in gross value of production of some \$50 million as a result of lower lamb prices.

69. Because of the significant cost to industry and the economy more generally a move to self-regulation, or quasi regulation cannot be justified. Additionally, importing countries have an expectation that government certification attesting to a food's fitness for human consumption is provided on the basis of a satisfactory regulatory regime and appropriate standards.

70. The NCP Review considered this option in the context of all exports, not just those regulated under the old Orders, and reported that, generally, stakeholders recognised significant benefits of being regulated. However, stakeholders felt that these benefits imposed significant costs. The NCP Review concluded that legislation is necessary.

#### *Benefits*

71. The potential benefits of this option may include a reduction in compliance and input costs when dealing with less stringent markets. However, generally, the extent of any benefits under this option is dependent on the type of self-regulation implemented.

#### *Summary*

72. In summary, this option to repeal the old Orders:

- does not provide any assurances of facilitating market access;
- does not provide importing countries with confidence in the integrity of an export system; and
- does not support export initiatives for Australia to compete more effectively on world food markets.

### ***Option 3      Rely on domestic (national) legislation***

#### *Costs*

73. There are major costs to industry under this option.

74. The Australian Meat Standard and *Food Standards Code* do not meet importing country requirements in a number of regards, as they do not currently have the scope to apply to exports and have not been developed to meet export needs. For example, they do not allow for importing country regulations to apply, whereas the new Orders allow for differences in importing country requirements.

75. Quite a number of markets require additional conditions on the goods to be exported that cannot be covered under Australian domestic legislation. Therefore reliance on Australian domestic

legislation may not provide AQIS the necessary assurances to facilitate the issuance of certification, which may result in loss in market confidence and subsequently market access.

76. The regulation of the production of export meat undergoes close scrutiny by countries that import that meat, and a national domestic standard would have to be able to withstand overseas scrutiny to ensure ongoing market access. For example, the European Commission and the United States Department of Agriculture Food Safety Inspection Service conduct regular reviews of the operations of Australia's export registered meat establishments as well as the legislation that regulates the operations of those registered establishments. Other countries accept Australian products on the basis that the product is acceptable to the United States. Consequently, a national standard that applies to export meat must be suitable for international audiences in substance and presentation as well as being consistent with international standards as set by Codex.

77. Many importing countries rely on AQIS to ensure that food is both safe and wholesome, however the domestic legislation does not focus as heavily on wholesomeness. An example of this is where the United States require that product be assessed for processing defects such as bone chips cartilage and bruising prior to export whereas the Australian Meat Standard is more focused on food safety concerns. Feedback from trade partners has indicated that they view these requirements in export legislation as necessary.

78. This option does not provide any assurances of facilitating market access. It is highly unlikely that this option would be acceptable to some of our major trading partners. As noted above, the financial cost of loss of access to markets would be significant.

#### *Benefits*

79. As this option eliminates a dual Commonwealth, State and Territory system, it presents numerous benefits to industry, potentially in reduced compliance and input costs and access into the export chain for the domestic industry in the event that importing countries accepted the arrangements under this option. For Government, this option also presents benefits in terms of streamlining functions, which would result in a reduction in direct costs.

#### *Summary*

80. In summary, this option to rely on domestic legislation:

- does not provide any assurances of facilitating market access; and
- does not support export initiatives for Australia to compete more effectively on world food markets.

### ***Option 4      Review the Export Meat Orders 1985 in line with the stated objectives***

#### *Costs*

81. This option presents a one-off direct cost to Government in reviewing and implementing the new Orders. This includes the dedication of staff to prepare the new Orders and supporting material, legal assistance during the preparation and the training of AQIS staff to ensure a consistent approach in the interpretation and application of the outcomes-based new Orders. The estimated costs for Government in this regard are \$425,000.

82. There is the potential for initial uncertainty for industry about how to adhere to any revised legislation, especially moving from a highly prescriptive regulatory environment to a least

prescriptive, outcomes-based one. This may be partially offset through guideline material being prepared by AQIS, which is discussed below (see Implementation and Review).

83. Small businesses may be disadvantaged more than larger ones because of a potential lack of suitably qualified staff to assist the transition into the new regulatory environment. This includes specific matters such as the review and amendment of approved arrangements to ensure compliance with the new Orders and the increased need for scientific validation of certain processes such as refrigeration controls. The cost for assistance in this regard could be in the region of up to \$5,000. However, these costs are offset by the opportunities for innovation and flexibility created by the new Orders. Larger businesses would have similar costs or higher consistent with the complexity of processing operations, however, they generally have the capacity to absorb these costs through the use of an in-house skills base.

### *Benefits*

84. This option addresses the relevant recommendations of the NCP Review including:

- the adoption of an integrated export assurance system (“the three-tier model”);
- harmonisation of domestic and export standards;
- contestability of monitoring, auditing and inspection; and
- electronic commerce.

85. This option presents the most benefits to industry. Industry innovation and flexibility should also flow from this option, which will be beneficial. There is likely to be an increase in regulatory transparency and predictability.

86. Benefits to Government may include streamlined regulatory processes, greater harmonisation with other Australian legislation, reduced monitoring and enforcement costs and higher levels of compliance. The new Orders provide for more flexibility in service delivery. They also provide the opportunity to adopt more innovative processing practices that were limited by the previous prescription.

87. The objectives of the three-tier model are to avoid the current broad practice of imposing the most stringent (and potentially most costly) controls set by one country or group of countries on exports to all destinations, eliminate the confusion and additional costs created by the existence of domestic and export systems and avoid the need for exemptions from the Act such as those currently allowed under the export meat program. This approach should result in substantial cost reductions for all sectors, particularly the smaller firms and removes many of the current distortions and impediments to competition. Benefits will flow from a more targeted export assurance system. The incorporation of a single certification system, with AQIS as the sole certifier, minimises costs and maximises benefit in terms of contact and negotiation with importing countries.

88. The incorporation by reference of a harmonised Australian Meat Standard is an essential component of the new Orders and an important objective for stakeholders. The benefits of this approach are detailed on page 6 (Australian Meat Standard – its significance to the new Orders).

89. Adoption of contestability of monitoring, auditing and inspection is dependent on securing agreement to this approach by overseas governments. Under such arrangements, industry should pay no more for services subject to contest, and may be able to secure cost reductions.

90. Where company meat inspection arrangements are possible there would be a reduction in employee overhead costs and additional efficiency gain through better utilisation of inspection

labour. It is estimated that there would be savings of around \$10,000 a year for each inspector through the replacement of government employees with company employees.

91. Government has a commitment to electronic commerce. Accessibility to information that may change frequently is an issue for current or potential exporters. Competitiveness depends, in part, on the ability of industry and individual businesses to identify and respond to opportunities. Electronic commerce is a continuing initiative that has increasing potential to reduce costs both for the administrative system and for industry through reduced charges and greater efficiencies. Electronic commerce significantly improves the capacity to demonstrate product integrity and security and the traceability of meat and meat products. In the abattoir and boning or distribution systems, the introduction of electronic commerce has demonstrated savings of \$1,000 for each container of meat produced.

92. The old Orders do not directly encourage innovation, although the “lateral” application of the old Orders would do so to some extent. The new Orders directly permit alternative arrangements that meet the same outcome. Two examples are:

- Collection of lamb brains: Lamb brains collected the traditional way in a lamb slaughtering operation running at 6 carcasses a minute requires 8 additional units of labour. An alternative processing trial at one export plant only requires 3 additional units of labour, saving the plant approximately \$225,000 a year in labour costs.
- Current prescriptive refrigeration requirements can cause “hard beef”. This is where the fat on the outside of a carcass becomes hard during conventional carcass chilling creating physical difficulties in boning resulting in an increase in the incidence of repetitive strain injury in boners and slicers. The new Orders allow the use of a “refrigeration index” which allows much more flexibility in carcass chilling whilst not compromising food safety and the potential to reduce repetitive strain injuries significantly. A small abattoir with an average annual compensation premium of \$1 million may be able to reduce the premium by 25% with no additional capital expenditure required.

### *Summary*

93. In summary, this option to review the old Orders in line with stated objectives:

- addresses the recommendations of the NCP Review;
- removes the regulatory burden of the current highly prescriptive and outdated regulation;
- encourages a business environment that can respond quickly to changing market demands;
- encourages a business environment in which businesses can take increased responsibility for their food production systems; and
- supports export initiatives for Australia to compete more effectively on world food markets.

### **Impact Analysis Summary**

#### *Objective*

To ensure that a satisfactory benchmark is identified in terms of food safety and wholesomeness, accurate descriptions, audit provisions and certification in order to facilitate trade.

<b>Option</b>	<b>Impact on industry</b>	<b>Impact on government</b>	<b>Likely benefit and comments</b>
1. Retain status quo	<ul style="list-style-type: none"> <li>• May be unnecessarily restrictive on trade</li> <li>• Does not facilitate innovation and flexibility</li> <li>• Cost to industry in meeting overly prescriptive requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Low direct cost</li> <li>• Does not meet the recommendations of the NCP Review</li> <li>• Potential threat to market access longer term</li> </ul>	This option does not address all of the objectives. Importantly, it does not provide any long-term assurance of facilitating market access. It provides little opportunity for standards harmonisation, does not improve industry competitiveness, does not reflect current science and does not encourage innovation. The cost to industry in direct costs is high.
2. De-regulation	<ul style="list-style-type: none"> <li>• Initial and on-going financial cost to industry to develop &amp; comply with arrangements</li> <li>• May contribute to uncertainty</li> <li>• Highly unlikely to facilitate trade</li> <li>• May reduce market confidence and hence market access</li> <li>• May reduce compliance and input costs</li> </ul>	<ul style="list-style-type: none"> <li>• Highly unlikely to facilitate trade</li> <li>• Does not facilitate issuance of certification</li> <li>• Reduced enforcement costs</li> </ul>	Whilst this option may appear to reduce direct costs to industry, it does not meet the objectives and hence would have high indirect costs. It would not facilitate market access, reduces opportunities for a partnership approach between industry and government and would not support a sound enforcement and compliance system.
3. Rely on domestic legislation	<ul style="list-style-type: none"> <li>• May reduce compliance and input costs, increase innovation and flexibility</li> <li>• May provide access into the export chain for the domestic industry</li> <li>• Highly unlikely to facilitate trade</li> <li>• May reduce market confidence and hence market access</li> </ul>	<ul style="list-style-type: none"> <li>• May streamline government functions</li> <li>• Highly unlikely to facilitate trade</li> <li>• Does not facilitate issuance of certification</li> </ul>	Whilst this option may appear to reduce direct costs to industry, it does not meet the objectives and hence would have high indirect costs. It would not facilitate market access, would not provide for an adequate export product integrity system, provides no opportunity for standards harmonisation, does not reflect current science and is unlikely to improve industry competitiveness.
4. Review old Orders in line with stated	<ul style="list-style-type: none"> <li>• May reduce compliance and input costs, increase innovation</li> </ul>	<ul style="list-style-type: none"> <li>• One-off cost to review and implement</li> <li>• May streamline the regulatory process</li> </ul>	Meets all objectives, although the on-going cost to industry may be higher than in other options. This cost may

objectives	and flexibility <ul style="list-style-type: none"> <li>• May increase regulatory transparency &amp; predictability</li> <li>• Implementation cost</li> <li>• On-going costs</li> <li>• Potential for initial uncertainty</li> <li>• May increase service delivery options</li> </ul>	<ul style="list-style-type: none"> <li>• Improves harmonisation with other legislation</li> <li>• May reduce monitoring and enforcement costs</li> <li>• May result in higher levels of compliance</li> </ul>	potentially be offset through reduction in costs in other areas.
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## 5. Consultation

94. AQIS has established close linkages with the peak bodies and industry sectors operating under the old Orders. Feedback from these groups has indicated that they support the revision of the old Orders in line with the stated objectives.

95. AQIS convenes a range of consultative committees as the principal advisory forums for consultation with industry on certification, market access issues and quarantine matters. The peak industry bodies nominate industry representatives to their respective committees. The consultative committees for the meat and meat products industries have been convened by AQIS in various forms since 1984.

96. An exposure draft of the new Orders was circulated to industry for comment in April 2004. The peak industry body (the Australian Meat Industry Council) conducted a number of consultation forums around Australia in May 2004.

97. Generally, stakeholders were supportive of the direction taken in the exposure draft (see Appendix 2). The main views of industry were that the reduction in prescription was supported, the potential for innovation and flexibility was supported and further harmonisation with domestic standards is desirable where possible. The exposure draft has subsequently been amended where possible, to address specific issues identified by these stakeholders.

## 6. Conclusion and recommended option

98. Consistent with the recommendations of the NCP Review, there is general agreement amongst stakeholders that a review of the current export regulations for meat and meat products is necessary, due to the changing needs of the export industry and its trade partners. Government initiated the review of the old Orders to address the NCP findings.

99. Four options have been considered:

- **Option 1** – Maintaining the status quo is costly for industry, does not provide any long-term assurances of facilitating market access, and does not meet all of the stated objectives.
- **Option 2** – Repealing the old Orders and relying on industry to develop self-regulatory arrangements may result in a decrease in direct costs to industry, but it does not meet the objectives and is highly unlikely to facilitate trade.

- **Option 3** – Reliance on domestic (national) legislation may also reduce direct costs to industry, but again this option does not meet the objectives and is highly unlikely to facilitate trade.
- **Option 4** – A comprehensive review of the old Orders in line with the stated objectives may result in a one-off direct cost to Government in review and implementation but has significant on-going benefits to government and industry.

100. Option 4 is considered to meet all of the stated objectives and therefore is the preferred option.

## **7. Implementation and review**

101. AQIS currently administers the old Orders and would continue to do so after their revision. AQIS is proposing to implement the new Orders on 1 July 2005, which is agreeable to stakeholders.

102. AQIS is preparing policy and guideline material to assist industry in understanding and complying with the new Orders to help companies to refocus and simplify their existing arrangements. Guidelines will apply to matters such as the registration process, approved arrangements, graduated sanctions approach and process for approval of new technologies. In addition, AQIS is aware of a range of consultants, technical advisors, etc that industry may engage to assist them through the implementation period. Peak industry bodies are well positioned and experienced to commission such assistance.

103. Additionally, AQIS recognises the need for the training of AQIS staff in the consistent interpretation and application of the new Orders. There may be some opportunity to streamline aspects of the training for industry and AQIS staff by coordinating joint sessions.

104. An important facet of implementation of the new Orders is enforcement and compliance. The new Orders perpetuate the philosophy that AQIS, as the regulating authority, has the role of auditor and certifier rather than “policeman”. Compared to the traditional inspection regime, the further enhancement of the approved arrangement model through the new Orders provides an environment for stricter controls through continual monitoring, audit and evaluation. These systems push companies to improve processes continually rather than the historic culture of doing the minimum to achieve compliance under an inspection-based system.

105. Non-compliance, or the potential for non-compliance, is an ever-present threat and mechanisms exist to ensure compliance and to stop acts of non-compliance. These take the form of sanctions – punitive and operational. Punitive court sanctions can result in imprisonment or fines as provided for in the legislation. Operational sanctions (for example, higher levels of audit, extra audits, costs for rectification or removal of the ability to operate in the industry) can be a much greater deterrent to non-compliance than the threat of punitive sanctions. Operational sanctions are also generally more effective as they can be imposed administratively, applied promptly and targeted to encourage compliant behaviour. As an example, suspending operations of registered premises is a severe financial imposition as the business is unable to operate during that period. Importing countries usually expect effective sanctions to be built into legislative arrangements, which underpin export certification.

106. The new Orders promote the concept of co-regulation, which fosters greater industry responsibility and creates opportunities for a more compliant industry.

107. A future step to advancing the national regulatory approach will be to facilitate a process to suitably amend the Australian Meat Standard to include those additional technical food safety and wholesomeness matters that by necessity, at this point, are required to be contained in the new Orders. At that time, the new Orders can be amended to delete these technical matters leaving the new Orders to deal solely with the mechanics of export.

108. The new Orders address a number of matters that could be more properly located in the *Prescribed Goods (General) Orders 1985* (“the PGGOs”), which are also administered by AQIS. The PGGOs apply to all prescribed goods, including meat, fish, dairy and eggs. It is AQIS’ intention to include administrative arrangements in the PGGOs and to retain the conditions and restrictions on export and on the preparation of prescribed goods in the relevant commodity Orders.

109. However, the PGGOs are in the process of being reviewed and until that review is completed and any consequent changes are in place, it is considered to be desirable (and necessary) to incorporate the relevant provisions of the existing PGGOs into the new Orders to enable their progression.

## **Regulation Impact Statement on the production of Halal meat**

### *Introduction*

1. This regulation impact statement relates to the production of Halal meat under the proposed *Export Control (Meat and Meat Products) Orders 2005* (“the new Orders”) to be made under the *Export Control Act 1982* (“the Act”).

2. Certain food commodities exported from Australia are defined as “meat and meat products” for the purposes of the Act. “Meat and meat products” are subject to regulatory control as a condition of export eligibility. The new Orders contain conditions and restrictions applicable to the export of meat and meat products for the purpose of facilitating trade. These conditions and restrictions aim to ensure that these goods:

- are safe and suitable;
- have been prepared in hygienic conditions;
- are accurately described;
- are processed according to a system that can be audited;
- are appropriately certified where necessary; and
- meet importing country requirements.

3. The basis for this degree of regulatory control is summarised by the National Competition Policy (“NCP”) review of the Act, which found that “non-legislative alternatives could not deliver the same benefits to exports and the nation as can be obtained by legislation. The Committee considers that most overseas governments will continue to insist that Australia retain the legislative power to impose standards for the foreseeable future. It is also clear that trade partners expect certification to be backed by investigative powers and strong penalties to ensure compliance. The Review Committee concluded that legislation is necessary.”<sup>11</sup>

4. The production for export of Halal meat forms a specific set of regulatory requirements established to ensure the integrity of the Muslim slaughter system. Requirements for Halal slaughter and certification have been in place to address recommendations of the Royal Commission into the Australian Meat Industry in 1982. The Commission found there was a need to

re-establish importing country confidence in the integrity of Halal product. Not to do so presented a significant risk of market failure.

5. The Australian Quarantine and Inspection Service (“AQIS”), an operating group of the Australian Government Department of Agriculture, Fisheries and Forestry, administers the *Export Meat Orders 1985* (“the old Orders”). The old Orders were made on 29 April 1985 under the *Export Control (Orders) Regulations 1982* and are based on the domestic and international standards, as well as importing country requirements. Since its commencement in 1985, numerous amendments have been made to the original instrument addressing various issues relating to product integrity, ritual slaughter, animal identification for European access, approved arrangements, quality assurance arrangements, provision of authorised officers and trade description.

#### *Industry overview*

6. World trade in food and agricultural products is more complex and involves greater government intervention than trade in most other manufactured products and services. This complexity and involvement stems from the desire of governments to avoid risks associated with such products including risks to human and animal health, threats to animal welfare and the environment and market failure through a loss of product integrity. Effective management of these risks is essential as the export of these products is highly significant to the Australian economy.

7. Each year Australia exports a variety of Halal food types to more than 70 countries throughout the world. With an estimated 1.8 billion Muslims world-wide, this represents an important market for Australian Halal food products. In 2002, Australian food exports to Muslim countries were valued at \$3.2 billion and, of this, the combined export value of beef, veal and sheep-meat products was over \$330 million.<sup>12</sup>

8. The major Halal market destinations for meat are Indonesia, Malaysia, Egypt, Bangladesh, Saudi Arabia, United Arab Emirates and other Middle East countries.

9. In the 2002 calendar year, 40,000 tonnes of chilled and frozen beef and veal and 61,000 tonnes of chilled and frozen sheep-meat were exported to these markets. The value and volume of meat exports has risen in the 5 years to 2002 by 48 percent and 66 percent respectively. At its current growth rate, the world Muslim population can be expected to double in size in 24 years. Market share for Australia is expected to continue to grow.<sup>13</sup>

10. Programs developed by industry to meet the requirements of the Australian Government Supervised Muslim Slaughter (“AGSMS”) Program form the basis for both the health certification issued by AQIS and the Halal certification issued by a certifying Islamic Organisation.

11. The old Orders provide the legal power for the recognition of certifying Islamic Organisations. At the present time there are 14 approved organisations but not all have listings for all markets requiring specific prior approval.

12. All organisations are considered to be small businesses with most employing one to two people for the purposes of Halal certification. Revenue raised from this function contributes to assisting the Muslim community and advancing the Islamic cause. Certifying Organisations are located in each State but not in the Northern Territory or Australian Capital Territory.

13. The predominant customer base for certifying Organisations is within the export industry (meat, dairy, grains, horticulture and processed foods) to enable legislative and importing country requirements to be met, however there is a small domestic requirement for Halal certification.

## **1. Problem**

14. The majority of importing countries require that their meat be certified as Halal meat by both the Secretary and a recognised Islamic Organisation. Halal meat is meat slaughtered in accordance with Islamic rites by a Muslim slaughterer. Halal meat only retains its Halal status if it retains its separate identification and is kept segregated from non Halal meat.

15. Currently, AQIS requires that an occupier of an establishment producing Halal meat for export engage an Islamic Organisation recognised by AQIS to certify that the meat has retained its Halal status. Apart from requiring that the Islamic Organisation be recognised, AQIS imposes no other direct controls over the Islamic Organisation. The absence of additional controls is considered to be a problem by the Australian export sector because there is no way for AQIS to ensure that the Islamic Organisation is performing its role correctly.

16. A number of overseas countries have identified a problem of national consistency in the certification of Halal meat by Islamic Organisations. These concerns are also reflected in the increasing incidence of overseas reviews and the strict application of rules particularly relating to religious slaughter, prior stunning of slaughter animals and separation of Halal and non-Halal product. There are also concerns about the large number of Islamic Organisations being accredited in exporting countries including Australia. There is a need to rationalise the system with increased focus on both religious credentials and the competency or performance of Halal service providers.

17. If the Secretary is required by the importing country to co-sign the Halal certificate, it is unacceptable for the Secretary to be placed in a situation where the Secretary is required to accept, without verification, that the certifying Islamic Organisation is doing its job properly.

## **2. Objectives**

18. The NCP Review stated that the objective of export legislation is to facilitate, enhance and sustain Australia's exports by providing authority for the imposition of systems which:

- ensure compliance with overseas country requirements; and
- ensure compliance with any other standards established through government and industry consultation on the basis of net public benefit.

19. The main objective of the new Orders is to facilitate trade. The facilitation is based on adequate food safety and wholesomeness procedures and product integrity, including accurate descriptions of product. Audit provisions are required to substantiate the adequacy of these programs. On this basis, certification is provided as required by importing countries, thereby facilitating trade.

20. In terms of Halal meat, a further objective is to amend the current legislative approach to facilitate a partnership arrangement to ensure the integrity of Australian Halal production and the certification subsequently provided by AQIS and recognised Halal service providers.

## **3. Options**

- |                 |   |
|-----------------|---|
| <b>Option 1</b> | Retain the status quo   |
| <b>Option 2</b> | Remove the linkage between government certification and Halal product |
| <b>Option 3</b> | Impose greater controls over certifying Islamic Organisations         |

*Option 1      Retain the status quo*

21. The old Orders contain detailed requirements on conditions and restrictions on the export of Halal meat, which include:

- Preparation of Halal meat;
- Establishment approval;
- Slaughtering;
- Australian Government Supervised Muslim Slaughter Program;
- Halal markets;
- Determination and notification of markets;
- Restrictions and exceptions;
- Halal trade description; and
- Certification of Halal meat

22. The old Orders provide a system of inspection and certification that assists Australian exporters to gain access to Halal markets.

23. Importing countries accept Islamic Organisations as Organisations for the purpose of engaging in operations for the certification of Halal meat if they are recognised by AQIS providing they are satisfied they meet their own criteria as certifiers of Halal meat.

24. The Islamic Organisation is engaged by the occupier of the establishment that prepares the meat. The role of the Islamic Organisation is to give certifications that the animals are slaughtered by a Muslim slaughterer in accordance with Islamic rites and that the Halal meat has retained its Halal status. The Islamic Organisation is seen as playing a part in meeting the importing country requirements for the meat.

*Option 2      Remove the linkage between government certification and Halal product*

25. Under this option there would be no system for the Government certification of Halal meat. Importing countries would establish Halal inspection and certification criteria directly with a Halal service provider. In effect, this places Halal inspection and certification in a 'de-regulated' environment.

*Option 3      Impose greater controls over certifying Islamic Organisations*

26. This option provides the opportunity to establish criteria within the new Orders to facilitate approval of certifying Islamic Organisations and performance standards to ensure the on-going integrity of the Halal meat certification system.

27. It is only sought to regulate Islamic Organisations where it is an importing country requirement that a Halal certificate be provided.

28. Importantly, certifying Islamic Organisations will be required to have an approved arrangement that will describe how the requirements of the new Orders are to be met and the arrangement will be subject to audit to ensure compliance.

29. Specifically, this option will require certifying Islamic Organisations to:

- (a) have an approved arrangement that is approved by the Secretary (this includes a requirement for the applicant organisation to be first recognised as an Islamic Organisation by an importing country authority);
- (b) comply with requirements relating to the accuracy of the certification given;
- (c) verify the accuracy of the certification given;
- (d) report non-compliances of Halal requirements to AQIS (ie non-compliance of occupier's obligations in relation to Halal meat);
- (e) keep records;
- (f) report changes in certifying personnel to AQIS; and
- (g) comply with certain directions of an authorised officer where an arrangement is suspended or revoked.

30. It is also sought to make it a criterion for the approval of arrangements that key personnel in the certifying Islamic Organisation or who make certifications for the Organisation are fit and proper persons within the meaning of order 47 of the *Prescribed Goods (General) Orders 1985*. Consistent with all other sectors of the export meat industry, this requirement serves to maintain the integrity of the export system.

#### **4. Impact analysis**

31. This regulation impact statement seeks to establish the costs and benefits of the proposed reforms.

32. There is limited available quantitative data on the current cost to industry of Halal meat regulation and the degree of benefit, which may be expected as a result of reforming the existing regulation. Qualitative costs and benefits are described below.

33. Parties affected by a review of the regulation include:

- Industry
  - ▶ certifying Islamic Organisations
  - ▶ processors of meat and meat products for export
- Australia's trade partners and their consumers
- Government
  - ▶ AQIS

34. All businesses (certifying Islamic Organisations) that are the subject of this regulation impact statement are small business enterprises so there are no particular issues relevant to this regulation impact statement differentiating one business from another.

35. There are no restrictions on competition arising from the proposal. Entry into the industry is dependant on all applicants meeting and maintaining the same requirements for approval as a certifying Islamic Organisation. Existing certifying Organisations will also be required to meet these requirements.

#### ***Option 1 Retain the status quo***

##### ***Costs***

36. This option does not give any long-term assurance of facilitating market access with potentially resultant negative trade implications. This is regarded as a high risk to Government and

hence a cost. As stated previously, the value of the Halal meat exports in 2002 was \$330 million and increasing annually.

37. Quantifying costs is difficult, as the consequences of not meeting importing country requirements varies from the cost to return the goods to Australia, to disposition costs, to loss of market for a particular good, entire commodity grouping, or in extreme cases the loss of market for other commodities as well. It is also a possibility that loss of market access into one country may result in other countries restricting access.

38. Option 1 does not effectively and efficiently address all of the objectives. Whilst trade is currently facilitated through this option, the impost on industry could be increased, potentially decreasing their competitiveness.

#### *Benefits*

39. Government is the main beneficiary under this option, as retention of the status quo would have the least direct cost impact.

40. Staying with the current system would obviate the cost to government of introducing and monitoring new requirements for Halal meat.

41. From industry's perspective, maintaining the status quo can benefit industry as no additional effort is required by businesses provided they are already complying with the current regulations.

#### *Summary*

42. In summary, this option to continue with the current regulatory system does not support export initiatives for Australia for the export of Halal meat and enabling Australia to compete more effectively on world food markets. The current approach provides opportunity for the integrity of the Halal meat system to be undermined and call into question the veracity of Australian Government certification.

### ***Option 2      Remove the linkage between government certification and Halal product***

#### *Costs*

43. There are significant costs associated with this option as the majority of countries importing Halal meat require Australian Government certification in accordance with the Australian Government Supervised Muslim Slaughter ("AGSMS") Program. There is the expectation that government certification attesting to a food meeting customer expectation is provided, on the basis of a satisfactory regulatory regime and appropriate standards. As such, this option would not be acceptable to the major trade partners, and hence is an enormous potential cost to industry and Government through loss of market access and export revenue.

#### *Benefits*

44. If this option were possible, the potential benefits may include a reduction in compliance and input costs. Some industry may see benefits in a reduction in regulatory burden.

#### *Summary*

45. In summary, this option to remove the requirement for government certification:

- does not facilitate market access;
- does not provide importing countries with confidence in the integrity of the Halal meat export system; and
- does not support export initiatives for Australia to compete more effectively on world food markets.

### ***Option 3      Impose greater controls over certifying Islamic Organisations***

#### *Costs*

46. This option presents a cost to government and industry in implementing and monitoring the legislative requirements for the production and export of Halal meat.

47. The imposition of the ‘fit and proper person’ requirement represents no cost impediment upon certifying organisations. This requirement has long been in place for the broader export industry and serves to ensure that people with criminal convictions for serious offences (as defined under the new Orders) are not associated with establishment registration, management responsibility for approved arrangements or undertake a certification function, hence assisting in maintaining the integrity of the export industry. The assessment of criminal records is an AQIS responsibility and would be conducted as part of routine ‘fit and proper person’ assessments for the export industry. Because of the relatively small number of businesses, there is minimal additional cost to Government in undertaking this function.

48. The development of approved arrangements, again a requirement across the broader meat industry, will impose initial costs upon certifying organisations. These arrangements – essentially a business plan describing management controls, operational activity and the system of controls for demonstrating compliance with the new Orders – are to be developed by industry for approval by AQIS. There may be a disadvantage because of a potential lack of suitably qualified industry people to assist in the preparation of approved arrangements (which could cost \$1000 to \$3000), however the preparation of specific guideline material by AQIS will greatly assist in minimising these costs.

49. There is a cost to government in assessing and approving arrangements and verifying, on an on-going basis, overall compliance with Halal requirements, however, because this will be undertaken as part of the broader export meat regulatory program additional cost is estimated to be no more than 0.5 FTE equivalent.

50. Given the current volume and value of Halal meat exports (101,000 tonnes and \$330 million in 2002) and the anticipated continued strong growth of this export market into the foreseeable future, the impact of the relatively small costs of implementing and maintaining the new arrangements on the production of Halal meat is considered to be minimal and will have no observable impact upon export sales. A significant issue is that, if the proposed arrangements are not implemented, there could be a serious negative impact upon the industry with a consequent reduction in export sales because of a lack of importing country confidence in the integrity of Australia’s Halal meat export system. In recent times, a number of importing countries have expressed concern about the adequacy of this system demonstrated by an increase in the incidence of overseas reviews.

#### *Benefits*

51. This option presents benefits to industry and Government alike, as it will result in an increase in regulatory transparency and predictability.

52. Benefits to Government include higher levels of compliance with requirements for the export of Halal meat.
53. It provides a legal framework to ensure responsibilities of AQIS and certifying Islamic Organisations to both importing countries and the Australian meat industry are understood and complied with.
54. It provides the Secretary with the level of assurance required to maintain the integrity of the Government certification of Halal products issued by the Secretary.
55. It provides an environment for closer co-operation between AQIS and certifying Islamic Organisations in approving AGSMS Programs and in jointly evaluating industry compliance with the program once approved. Such an approach will result in greater consistency in applying the agreed standards and demonstrate to overseas reviewers that all parties are working together to meet Muslim consumer expectations.

### *Summary*

56. In summary, this option to review the Orders and impose greater controls over certifying Islamic Organisations:

- meets the stated objectives;
- maintains integrity in the Halal meat export system; and
- supports export initiatives for Australia to compete more effectively on world food markets.

## **5. Consultation**

57. Successive exposure drafts of the new Orders were circulated to industry for comment in April, August and October 2004.

58. AQIS convenes a range of consultative committees as the principal advisory forums for consultation with industry on certification, market access issues and quarantine matters. AQIS has established close linkages with the peak bodies and industry sectors operating under the Halal meat provisions of the Orders. Feedback from these groups has indicated that the peak export meat processing body (“AMIC”) and the majority of certifying Islamic Organisations approved by AQIS strongly support the proposed changes to the legislation as necessary to address concerns that have arisen with the performance of some of the organisations.

59. The small number (2) of organisations with a dissenting view considered that Government was inappropriately attempting to establish a greater level of control over certifying organisations and, hence, undermine their ability to properly undertake their Halal certification functions. There was particular concern about the proposed imposition of the ‘fit and proper person’ test (in their view, there is an interpretation that this enables AQIS to ‘interfere’ in assessing religious credentials) and the obligation to demonstrate appropriate knowledge, training, skills and experience. The ‘fit and proper person’ provision only applies to an assessment of criminal history (relevant to *serious offences* as defined under the new Orders) and knowledge, training, skills and experience is necessary to establish that certifications can be made competently.

60. The long-term viability of the Halal meat market is important to the Australian meat industry and the majority of certifying Islamic Organisations see that more effective and transparent regulatory controls will have benefits in maintaining and expanding Halal meat exports.

## 6. Conclusion and recommended option

61. Consistent with the recommendations of the NCP Review, there is general agreement amongst stakeholders that a review of the current export regulations for Halal meat is necessary to facilitate and enhance Australia's exports and protect market access. To address the NCP findings, Government initiated the review.

62. Three options have been considered:

- **Option 1** – Maintaining the status quo is potentially costly for industry as it does not provide any long-term assurances of facilitating market access, and does not meet all of the objectives.
- **Option 2** – Removing the linkage between government certification and Halal product is not a suitable option as it would not be acceptable to the majority of countries importing Halal meat which require Government certification.
- **Option 3** – Imposing greater controls over certifying Islamic Organisations has significant on-going benefits to Australia. This option is considered to meet all of the stated objectives and therefore is the preferred option.

## 7. Implementation and review

63. AQIS currently administers the old Orders, and would continue to do so after their revision. AQIS is proposing an implementation date of 1 July 2005 for the new Orders and for this date to apply to all businesses subject to the provisions of the new Orders. The meat industry generally is accepting of this timeframe, as it has been anxious to adopt the revised export meat regulatory environment as recommended by the NCP Review.

64. AQIS is preparing policy and guideline material to assist industry in understanding and complying with the new Orders to help industry stakeholders to amend, as necessary, their existing arrangements. Guidelines will apply to matters such as approved arrangements, audit and graduated sanctions approach. The AQIS Halal Consultative Committee will be consulted in the development of those guidelines to facilitate industry acceptance and understanding of the new requirements.

65. Additionally, AQIS recognises the need for the training of AQIS staff in the consistent interpretation and application of the new Orders. There may be some opportunity to streamline aspects of the training for industry and AQIS staff by coordinating joint sessions.

66. An important facet of implementation of the new Orders is enforcement and compliance. The new Orders perpetuate the philosophy that AQIS, as the regulating authority, has the role of auditor and certifier rather than "policeman". Compared to the traditional inspection regime, the implementation of the approval arrangement model through the new Orders provides an environment for more effective controls through continual monitoring, audit and evaluation. This approach encourages industry to accept greater responsibility for its actions and improve processes continually. Currently, there is little regulatory ability to assess the activities of certifying Islamic Organisations in relation to Halal certification functions and the new Orders establish a transparent process to ensure compliance with importing country requirements. (The impacts of this are previously discussed under Impact Analysis – *Option 3*)

67. Non-compliance, or the potential for non-compliance, is an ever-present threat and mechanisms exist to ensure compliance and to stop acts of non-compliance. These take the form of sanctions – both punitive and operational. Punitive sanctions can result in imprisonment or fines as provided for in the legislation. Operational sanctions (for example, higher levels of audit, extra audits, costs for rectification or removal of the ability to operate in the industry) can be a much greater deterrent to non-compliance than the threat of punitive action. They are also generally more effective as they can be imposed administratively, applied promptly and targeted to encourage compliant behaviour. As an example, suspending an approved arrangement is a severe financial imposition as a certifying Islamic Organisation is unable to operate during that period. Importing countries usually expect effective sanctions to be built into legislative arrangements, which underpin export certification.

68. The new Orders promote the concept of co-regulation, which fosters greater industry responsibility and creates opportunities for a more compliant industry.

69. The new Orders will be subject to review within 3 years of implementation. This review will be undertaken by AQIS.

## Appendix 1

### National Competition Policy Review Committee Recommendations

The Review Committee made the following recommendations:

1. Retention of the Act:
  - 1.1 The Export Control Act be retained, in its current form, and with its current general structure;
  - 1.2 The title of the Act be changed to the “Export Assurance Act”
  - 1.3 Specific amendments be made in the areas of:
    - the objectives of the Act;
    - the scope of the legislation;
    - adoption of a three-tier system of export assurance; and
    - legislative monitoring, as outlined in other recommendations.

2. Objectives of the legislation – the Review Committee recommended that the Act be amended to include a statement of specific objectives. The Review Committee recommended the following objectives:

The objective of future export control legislation is to facilitate, enhance and sustain Australia’s exports by providing authority for the imposition of systems which:

- ensure compliance with overseas country requirements; and
- ensure compliance with any other standards established through government and industry consultation on the basis of net public benefit.

3. Adoption of an integrated export assurance system (“the three-tier model”) – the Review Committee recommended that programs established under the Act be administered under the following three-tier model comprising:

- Australian Standards (Tier 1)
- Standards set by overseas governments for access to their markets (Tier 2)
- Market-specific requirements (Tier 3).

4. Harmonisation of domestic and export standards – the Review Committee recommended that domestic and export standards for the production of food and agricultural products in Australia be harmonised, and that they be consistent with relevant international standards.

5. Certification by a single Authority – the Review Committee recommended that certification of Australia export products continue to be administered by a single government-based agency.

6. Contestability of monitoring, auditing and inspection – the Review Committee recommended that monitoring and inspection arrangements be made fully contestable under all programs as soon as third party arrangements are acceptable to overseas governments.

7. Scope of the legislation – the Review Committee recommended that the focus of the Act extend through the entire food chain and not rely primarily on the product preparation stages immediately prior to export, as occurs at present.

8. Criteria for application of legislation – the Review Committee recommended that specific criteria for the application of the Act be prepared in consultation with industry.

9. Certification for non-prescribed goods – the Review Committee recommended that only prescribed goods be certified under the Act.
10. Review of individual Programs against NCP principles – the Review Committee recommended that the Quarantine and Export Advisory Committee (“QEAC”) establish a program of periodic monitoring of the operation of regulation, particularly in economic terms, ensuring that:
- the activity under the Act and its administration are measurable against its objectives; and
  - the Act be periodically monitored in relation to the net benefit it confers.
11. Accelerate the current review of existing subordinate legislation – the Review Committee recommended that the current review of subordinate legislation should be accelerated, and conducted with reference to the principles expressed in the Review Committee’s report, in particular, reflecting the partnership between government and industry, and the assumption of greater industry responsibility.
12. Co-responsibility for strategy and program delivery – the Review Committee recommended that:
- 12.1 A Development Committee be established for each program
  - 12.2 Membership of the committee comprises representatives of AQIS and industry
  - 12.3 The Committees operate independently and be charged with the specific responsibility to:
    - determine strategies
    - establish priorities, and
    - establish plans for their implementation
  - 12.4 QEAC review the performance of these committees biennially and report to the Minister against the adopted plans.
13. Electronic commerce – the Review Committee recommended that AQIS move quickly to align the administration of the regulation with current Government policy on electronic commerce.
14. Implementation – the Review Committee recommended that the outcome of its Review and its recommendations be included as part of the COAG policy on the reform of food regulation.

## Appendix 2

### Comments on the exposure draft June 2004

Stakeholder	Comment	Response
AMIC	Operational requirements to be removed from the exposure draft and included in the Australian Meat Standard: <ul style="list-style-type: none"> <li>• Divisions III and IV in Part 1 of Schedule 2</li> <li>• Measuring devices in Schedule 3</li> <li>• Schedule 4</li> <li>• Part 1 of Schedule 5</li> </ul>	<ul style="list-style-type: none"> <li>• These matters to remain in the new Orders until addressed in the Australian Meat Standard</li> </ul>
AMIC	Precise alignment with Australian Meat Standard required: <ul style="list-style-type: none"> <li>• Definitions at Order 7</li> <li>• Clauses 5, 6 and 14 of Schedule 2</li> </ul>	<ul style="list-style-type: none"> <li>• Strengthening of the Australian Meat Standard is necessary.</li> <li>• Cross check with Codex definitions.</li> <li>• Remove “12 months” in clause 5.</li> <li>• Clause 14 to remain in the new Orders until the Australian Meat Standard is amended.</li> </ul>
AMIC	Schedule 2 – Approved arrangements: <ul style="list-style-type: none"> <li>• Nature of an approved arrangement needs to be clearly defined. How does MSQA fit? How do non-MSQA programs fit?</li> <li>• Phasing or interim arrangements need to be defined for certain situations: <ul style="list-style-type: none"> <li>- commissioning a new establishment</li> <li>- new occupant at a previously registered site</li> <li>- commissioning a new or modified operation at a registered establishment</li> </ul> </li> <li>• Mechanism for approval of variations to an approved arrangement to be defined</li> <li>• Review of MSQA program recommended before</li> </ul>	<ul style="list-style-type: none"> <li>• MSQA is an example of an approved arrangement. The equivalence principle applies.</li> <li>• Approved arrangements must address the elements for an approved arrangement as specified in the guideline (and as relevant to the business operations).</li> <li>• Phasing or interim arrangements – provision for 90 days to be included in Orders (consistent with US requirement).</li> <li>• Policy document required for two circumstances – variation to arrangement, and management of ‘emergency’ non-compliance.</li> <li>• Development of the approved arrangement guideline supersedes</li> </ul>

	promulgation of exposure draft	the need to review MSQA.
AMIC	<p>Schedule 1 – Registration:</p> <ul style="list-style-type: none"> <li>Guidance is required on the registration process</li> </ul>	<ul style="list-style-type: none"> <li>Assignment of registration – need to align with the PGGOs</li> <li>Renewal of registration – need to clarify whether stay with indefinite registration period or specify a term</li> <li>Fit and proper person – ideally should be located in the PGGOs with a cross-reference to the PGGOs.</li> </ul>
AMIC	<p>Schedule 1 – Registration and Schedule 2 – Approved Arrangement:</p> <ul style="list-style-type: none"> <li>Consolidate 2 processes into one</li> </ul>	<ul style="list-style-type: none"> <li>Principle agreed. Better approach is to accredit a person to operate an approved arrangement at an establishment (consistent with States and Food Standards Code).</li> </ul>
AMIC	<p>Sanctions:</p> <ul style="list-style-type: none"> <li>Graduated progressive approach required</li> <li>Other than for periods less than 1 hour, suspension or revocation at senior management level</li> <li>Policy document required</li> </ul>	<ul style="list-style-type: none"> <li>Agreed. Policy document for sanctions to be developed.</li> </ul>
AMIC	<p>Part 4 – Audit</p> <ul style="list-style-type: none"> <li>Documented policy framework required to include: <ul style="list-style-type: none"> <li>audit frequency and intensity</li> <li>relationship with Scheme for Corrective Action</li> <li>relationship with Verification Unit</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Agreed to develop policy framework for audit.</li> </ul>
AMIC	<p>Notices to comply:</p> <ul style="list-style-type: none"> <li>Delete orders 55 to 60</li> </ul>	<ul style="list-style-type: none"> <li>Disagree at this stage. To be addressed in sanctions policy.</li> </ul>
AMIC	<p>Halal production:</p> <ul style="list-style-type: none"> <li>Decision required whether provisions for Halal should be maintained as general rules under legislation or removed from exposure draft and appended to importing country requirements</li> </ul>	<ul style="list-style-type: none"> <li>AMIC undertaking further policy development before this issue can be resolved.</li> <li>Agreed principle – Government does not provide certification unless under AGSMS program.</li> </ul>
AMIC	<p>Schedule 6 – Trade descriptions:</p> <ul style="list-style-type: none"> <li>Unambiguous link needed between national meat trading language and legislation</li> <li>Request for AQIS to precisely define minimum requirements for</li> </ul>	<ul style="list-style-type: none"> <li>To be addressed with AUS-MEAT issues (refer later in this document).</li> </ul>

	product description	
AMIC	Order 12: <ul style="list-style-type: none"> <li>• Include plain English explanations for meaning of terms (phalangeridae, bubaline, etc)</li> </ul>	<ul style="list-style-type: none"> <li>• Agreed – include as a ‘note’.</li> </ul>
AMIC	Order 46: <ul style="list-style-type: none"> <li>• Recommend alternative expression to “in the auditor’s opinion” to reflect objective evidence.</li> </ul>	<ul style="list-style-type: none"> <li>• Agreed – use words “based on objective assessment”.</li> </ul>
AMIC	Order 48: <ul style="list-style-type: none"> <li>• Recommend 5 working days in lieu of 14 for submission of audit reports</li> </ul>	<ul style="list-style-type: none"> <li>• Agreed to remove reference to days in order 48. More appropriate to address in guideline for audit process.</li> </ul>
AMIC	Order 49: <ul style="list-style-type: none"> <li>• What is status of Australia restricted mark?</li> </ul>	<ul style="list-style-type: none"> <li>• Agreed that no longer used, therefore no need to refer.</li> </ul>
AMIC	Order 51: <ul style="list-style-type: none"> <li>• Paragraph (d) requires re-drafting to reflect current arrangements for when an official mark must not be applied</li> </ul>	<ul style="list-style-type: none"> <li>• Agreed to delete paragraph (d) on basis that provision in subclause 15.1 of Schedule 6 is retained.</li> </ul>
AMIC	Order 61: <ul style="list-style-type: none"> <li>• Condemnation certificate to be provided within 1 working day of request by occupier.</li> </ul>	<ul style="list-style-type: none"> <li>• Not agreed. To be dealt with administratively.</li> </ul>
AMIC	Suborders 64.2 and 64.3: <ul style="list-style-type: none"> <li>• Delete (related to admission and slaughter of certain animals)</li> </ul>	<ul style="list-style-type: none"> <li>• Suborder 64.2 to remain in the new Orders until addressed in the Australian Meat Standard.</li> <li>• Delete suborder 64.3 and use provision in Part 3 of the Australian Meat Standard.</li> <li>• Export Slaughter Interval (“ESI”) may need to be handled under importing country requirements.</li> </ul>
AMIC	Order 66: <ul style="list-style-type: none"> <li>• Delete (Things and areas retained for further inspection)</li> </ul>	<ul style="list-style-type: none"> <li>• Further advice from Attorney General’s Department required. Issue could be advanced as part of PGGO review.</li> </ul>
AMIC	Orders 77 to 82: <ul style="list-style-type: none"> <li>• Sampling and analysis provisions. Have these provisions been used in last 15 years? Are they necessary? Would powers under the Act be sufficient? Suggest delete.</li> </ul>	<ul style="list-style-type: none"> <li>• Agreed to retain pending outcome of PGGO review.</li> </ul>

AMIC	<p>Schedule 1:</p> <ul style="list-style-type: none"> <li>Delete links with listing arrangements with overseas country authorities in paragraph 10.1(c).</li> </ul>	<ul style="list-style-type: none"> <li>Agreed to delete.</li> </ul>
AMIC	<p>Schedule 2:</p> <ul style="list-style-type: none"> <li>Subclause 3.1. Competency for adequate training needs to be defined (guideline?)</li> <li>Inventory controls. Redraft suborder 7.2 to reflect principle rather than prescription</li> <li>Subclause 9.1. Recommend retention period for records of 2 years rather than 3 years</li> <li>Clause 22 central to exports for Tier 1. Simpler drafting required.</li> <li>Subclause 29.2. Suspension period. Delete words “and may be extended...”</li> </ul>	<ul style="list-style-type: none"> <li>Agreed. Training needs to be defined in the guideline.</li> <li>Agreed – remove the reference to ‘daily/weekly’.</li> <li>Agreed.</li> <li>Agreed to re-draft. Clause not related to Tier 1.</li> <li>Disagreed because of court interpretation regarding periods of suspension.</li> </ul>
AMIC	<p>Schedule 3:</p> <ul style="list-style-type: none"> <li>Delete paragraphs 3.2(b) and 7.1(e) and subclause 7.2 (provisions for exclusive use of authorised officers)</li> <li>Remove ambiguity in paragraph 5.1(b) regarding office accommodation for authorised officers</li> <li>Delete 8.2 (provision for secure storage area)</li> <li>Redraft clause 10 – measuring devices.</li> </ul>	<ul style="list-style-type: none"> <li>Agreed to retain paragraph 3.2(b), delete paragraph 7.1(e) and reword subclause 7.2.</li> <li>Agreed to reword.</li> <li>Agreed to delete.</li> <li>Agreed to reword subclause 10.1 to restrict to inter-establishment transfer only and delete subclause 10.2.</li> </ul>
AMIC	<p>Schedule 4:</p> <ul style="list-style-type: none"> <li>Subclause 2.1 needs to be broadened to accommodate methods other than chlorination. Key issue is whether water is potable not method.</li> </ul>	<ul style="list-style-type: none"> <li>Agreed with reference to MLA Technical meeting outcomes.</li> </ul>
AMIC	<p>Schedule 6:</p> <ul style="list-style-type: none"> <li>Defacing official mark. Redraft paragraph 15.1(c).</li> </ul>	<ul style="list-style-type: none"> <li>Agreed to re-draft.</li> </ul>
AMIC	<p>Schedule 7:</p> <ul style="list-style-type: none"> <li>Clause 7 – delete reference to kosher meat.</li> </ul>	<ul style="list-style-type: none"> <li>Agreed.</li> </ul>

AMIC	<p>Schedule 9:</p> <ul style="list-style-type: none"> <li>Qualifications for auditors to reflect international standards for external audit.</li> </ul>	<ul style="list-style-type: none"> <li>Agreed to refer to qualifications in guideline.</li> </ul>
AMIC	<p>Schedule 10:</p> <ul style="list-style-type: none"> <li>Can square shape be used under Part 3 as well as round?</li> </ul>	<ul style="list-style-type: none"> <li>Not agreed.</li> </ul>
MLA Technical Committee	<p>Schedule 4:</p> <ul style="list-style-type: none"> <li>Delete paragraph 2.1(c) as, in practice, not possible to always demonstrate a disinfectant residual in municipal water supplied to abattoirs. Paragraph precludes innovation or alternative.</li> </ul>	<ul style="list-style-type: none"> <li>Agreed. Occupiers will need to demonstrate in approved arrangement how to meet potable water requirements.</li> </ul>
MLA Technical Committee	<p>Schedule 5:</p> <ul style="list-style-type: none"> <li>Delete subclause 1.1 (denaturing of cadavers) because the provision is out-of-date, impractical and onerous</li> </ul>	<ul style="list-style-type: none"> <li>Agreed.</li> </ul>
MLA Technical Committee	<p>Schedule 5:</p> <ul style="list-style-type: none"> <li>Delete paragraphs 6.2(a)(i) and 6.2(a)(ii) – chilling at 7C/5C - because not scientifically valid</li> </ul>	<ul style="list-style-type: none"> <li>Agreed. Occupiers will need to demonstrate in approved arrangement how chilling procedures will ensure refrigeration index criteria can be achieved.</li> </ul>
MLA Technical Committee	<p>Schedule 5:</p> <ul style="list-style-type: none"> <li>Modify paragraph 6.4(a) to read “hard frozen without delay” as no scientific basis for specifying temperature.</li> </ul>	<ul style="list-style-type: none"> <li>Agreed. Occupiers will need to demonstrate freezing procedures in approved arrangement.</li> </ul>
MLA Technical Committee	<p>Schedule 5:</p> <ul style="list-style-type: none"> <li>Delete subclauses 7.1 and 7.2 because they refer to temperatures in paragraphs 6.2(a) and 6.4(a)</li> </ul>	<ul style="list-style-type: none"> <li>Agreed. Occupiers will need to demonstrate maintenance procedures in approved arrangement.</li> </ul>
MLA Technical Committee	<p>Schedule 5:</p> <ul style="list-style-type: none"> <li>Modify paragraph 8.2(a) to read “must be placed under refrigeration and hard frozen without delay”</li> </ul>	<ul style="list-style-type: none"> <li>Agreed.</li> </ul>
MLA Technical Committee	<p>Schedule 5:</p> <ul style="list-style-type: none"> <li>Delete paragraph 8.3(a) regarding vacuum packaging</li> </ul>	<ul style="list-style-type: none"> <li>Agreed. Occupiers will need to demonstrate vacuum packaging procedures in approved arrangement.</li> </ul>
MLA Technical Committee	<p>Schedule 5:</p> <ul style="list-style-type: none"> <li>Rewrite subclauses 9.1 to 9.5 regarding tempering and thawing.</li> </ul>	<ul style="list-style-type: none"> <li>To be included in the new Orders until addressed through amendments to the Australian Meat Standard.</li> </ul>

MLA Technical Committee	Schedule 5: <ul style="list-style-type: none"> <li>Delete from subclause 13.1 the words in brackets “(other than slow dried cured meat)” as it is covered by paragraph 13.1(b)</li> </ul>	<ul style="list-style-type: none"> <li>Agreed.</li> </ul>
MLA Technical Committee	Schedule 5: <ul style="list-style-type: none"> <li>Clause 15 - re-name “green offal”</li> <li>Subclause 15.2 – delete provision, as it is out-dated and more commercial than food safety</li> </ul>	<ul style="list-style-type: none"> <li>Agreed. Also agreed to redraft to permit storage in cold-stores with pharmaceutical materials and animal food.</li> <li>Agreed.</li> </ul>
MLA Technical Committee	Schedule 5: <ul style="list-style-type: none"> <li>Delete the word “frozen” from the heading of clause 18 and re-write provision so that frozen and chilled products are covered</li> </ul>	<ul style="list-style-type: none"> <li>Agreed.</li> </ul>
MLA Technical Committee	Schedule 5: <ul style="list-style-type: none"> <li>Add “as specified in the approved arrangement” in subclause 19.1</li> </ul>	<ul style="list-style-type: none"> <li>Agreed.</li> </ul>
MLA Technical Committee	Schedule 5: <ul style="list-style-type: none"> <li>Delete paragraph 21.1(b) as industry view is that shelf life is a commercial consideration and industry is prepared to take responsibility</li> </ul>	<ul style="list-style-type: none"> <li>Agreed.</li> </ul>
AUS-MEAT	Schedule 6: <ul style="list-style-type: none"> <li>Add a new subclause 4.3 as follows: “The definitions of beef, lamb, mutton, pork, sow pork and veal must accord with the Australian Meat Industry Classification System (AUS-MEAT Language)”</li> </ul>	<ul style="list-style-type: none"> <li>Agreed to review order 7.</li> <li>Agreed to include in approved arrangement guideline: <ul style="list-style-type: none"> <li>primary descriptors to accord with AUS-MEAT language</li> <li>verification process</li> <li>who will undertake</li> </ul> </li> </ul>
AUS-MEAT	<ul style="list-style-type: none"> <li>Add as a condition of approval to an approved arrangement “the Secretary must have regard to a report or recommendation from the Standards Body before taking a decision to approve the arrangement”</li> <li>Definition of Standards Body required.</li> </ul>	<ul style="list-style-type: none"> <li>Agreed.</li> </ul>

ALFA	<ul style="list-style-type: none"> <li>• Orders need to maintain the connection between the trade description of grain fed beef and the sourcing of cattle from which this beef is derived under the NFAS</li> </ul>	<ul style="list-style-type: none"> <li>• Agreed.</li> </ul>
ALFA	<ul style="list-style-type: none"> <li>• The Export Control Act 1982 needs to reference and underpin the AUS-MEAT trade description language</li> </ul>	<ul style="list-style-type: none"> <li>• Addressed under AUS-MEAT issues</li> </ul>
ALFA	<ul style="list-style-type: none"> <li>• Precondition of registration that a processing establishment be accredited under the AUS-MEAT National Accreditation Standards</li> </ul>	<ul style="list-style-type: none"> <li>• Addressed under AUS-MEAT issues</li> </ul>
Sheepmeats Council	<ul style="list-style-type: none"> <li>• No comments to date</li> </ul>	
Cattle Council	<ul style="list-style-type: none"> <li>• Prescription removed regarding maximum aging period for product intended for export. Replaced with outcomes-based provision. How will shelf-life issue be managed?</li> </ul>	<ul style="list-style-type: none"> <li>• Meat industry wants responsibility for managing this issue. Companies will demonstrate in approved arrangement how shelf-life will be addressed. Interpretation of out-comes based legislation will be facilitated through guidelines.</li> </ul>
State and Territory Controlling Authorities	<p>Western Australia:</p> <ul style="list-style-type: none"> <li>• Criteria for disposition of meat from export load-out to domestic market to ensure compliance with the Australian Meat Standard.</li> </ul> <p>New South Wales:</p> <ul style="list-style-type: none"> <li>• Harmonisation of various matters between the new Orders and the Australian Meat Standard: <ul style="list-style-type: none"> <li>- definition of lamb (order 7)</li> <li>- potable water (orders 7, 34, and Schedule 4)</li> <li>- approved arrangement for transport (order 35)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• All export production (other than any product produced under exemption to meet importing country requirement) conforms with requirements of the Australian Meat Standard. Legislative drafter to advise on wording to ensure product produced under exemption cannot be diverted to domestic market.</li> <li>• Orders will be completed to address export requirements. Discussion on possible changes to the Australian Meat Standard will be undertaken at a later date.</li> <li>• Definition reflects Australian Meat Industry Classification System</li> <li>• AQIS believes that many plants are unable to meet NHMRC requirements as specified in the Australian Meat Standard.</li> <li>• 10 coliforms in 100ml sample originates from the old Orders.</li> <li>• Not applicable in export sector.</li> </ul>

	<ul style="list-style-type: none"> <li>- NATA accreditation for analysts (order 77)</li> <li>- Schedule 5 – refrigeration provisions</li> <li>- Schedule 5 – subclause 15.1</li> </ul>	<ul style="list-style-type: none"> <li>• There is no general requirement for analysts to be NATA accredited.</li> <li>• Refrigeration provisions to be re-written.</li> <li>• Subclause 15.1 extends the scope of the Australian Meat Standard</li> </ul>
Refrigerated Transport and Warehouse Association	<ul style="list-style-type: none"> <li>• Members accept the exposure draft</li> </ul>	
Meat Standards Committee	<ul style="list-style-type: none"> <li>• The new Orders must not conflict with the Australian Meat Standard</li> </ul>	<ul style="list-style-type: none"> <li>• The new Orders will not conflict with the Australian Meat Standard. However, until discussion takes place with MSC regarding possible amendments to the Australian Meat Standard, the new Orders will continue to contain those particular technical matters.</li> </ul>
CPSU	<ul style="list-style-type: none"> <li>• Omission of the specific role of on-plant veterinary officers.</li> <li>• Omission of some orders detailing minimum standards of amenities and facilities for the use of veterinary officers and other on-plant authorised officers.</li> <li>• Omission of orders that have the potential to impact upon the ability of on-plant veterinary officers and authorised officers to perform their regulatory roles.</li> <li>• Lack of “legislative tools” to enable authorised officers to ensure that the objectives of the Act and the new Orders are met.</li> <li>• On-plant veterinarians to be consulted on subsequent drafts of the new Orders</li> <li>• Prior to implementation on-plant veterinarians to be consulted about impact of the new Orders</li> <li>• Work instructions, administrative</li> </ul>	<ul style="list-style-type: none"> <li>• Not intended that there be any reduction in the level of control that AQIS exerts over the preparation of wholesome, accurately described meat and meat products. Guidelines will provide the detail. The term “authorised officer” does not diminish the role of a veterinary officer.</li> <li>• As the new Orders are out-come based, the detail is contained in the guidelines.</li> <li>• These functions are addressed by reference in the new Orders to the Australian Meat Standard</li> <li>• Prescriptive details have been removed. These will be addressed by way of guidelines.</li> <li>• Agreed.</li> <li>• Agreed.</li> <li>• Agreed.</li> </ul>

	<p>guidelines and standard operating procedures relevant to on-plant activities to be developed in consultation with on-plant veterinarians prior to implementation of the new Orders.</p> <ul style="list-style-type: none"> <li>• Training on the new Orders to be provided to on-plant veterinarians</li> </ul>	<ul style="list-style-type: none"> <li>• Agreed.</li> </ul>
AQIS staff	<ul style="list-style-type: none"> <li>• Order 7: <ul style="list-style-type: none"> <li>- product description definitions</li> <li>- dressing – udder removal</li> <li>- religious slaughter – qualifications</li> <li>- importing country requirement</li> <li>- notifiable disease</li> </ul> </li> <li>• Order 12 – description of animals</li> <li>• Order 50 – official marking device</li> <li>• Order 66</li> <li>• Schedule 4 – potable water</li> <li>• Schedule 5: <ul style="list-style-type: none"> <li>- subclause 3.1 (dressing)</li> <li>- subclause 8.3 (vacuum packaging)</li> <li>- subclause 19.1 (removal from refrigeration)</li> </ul> </li> <li>• Schedule 6: <ul style="list-style-type: none"> <li>- clause 4.1 (trade description)</li> <li>- clause 15.1 (official mark)</li> </ul> </li> <li>• Schedule 8: <ul style="list-style-type: none"> <li>- subclauses 10.1 and 12.3 (permits)</li> </ul> </li> <li>• Schedule 10</li> </ul>	<ul style="list-style-type: none"> <li>• Agreed. To be amended accordingly.</li> <li>• To be addressed in guidelines.</li> <li>• To be addressed in guidelines.</li> <li>• Agreed. To be re-written.</li> <li>• To be addressed in guidelines.</li> <li>• Not agreed. Australian Meat Standard definitions to apply.</li> <li>• Agreed. To be amended.</li> <li>• Order 66 to be deleted.</li> <li>• Paragraph 2.1(c) to be deleted. Prescription to be contained in guidelines.</li> <li>• Subclause 3.1 to be re-worded.</li> <li>• Industry has agreed to take responsibility for shelf-life. The word “alternative” has been deleted.</li> <li>• Agreed – subclause reworded.</li> <li>• Issue will be addressed in guidelines.</li> <li>• Subclause (c) deleted.</li> <li>• Agreed – clauses to be amended.</li> <li>• Comments noted. Australia Restricted stamp no longer used. Guidelines will provide further detail on these matters. Tyden seal to be re-instated. Importing country requirements (Volume 2) will also deal with certain stamps.</li> </ul>

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- <sup>1</sup> Frawley P, Makin L, Nieper R, Wilson B (2000) Export Assurance National Competition Policy Review of the *Export Control Act 1982*, Canberra.
- <sup>2</sup> Australia Bureau of Agricultural and Resource Economics (ABARE) Australian Commodity Statistics 2003.
- <sup>3</sup> Frawley et al op cit
- <sup>4</sup> Frawley et al op cit
- <sup>5</sup> Imported Food – A National Competition Policy Review of the Imported Food Control Act 1992, C Tanner, AJ Beaver, AG Carroll and E Flynn Canberra 1998, page 107.
- <sup>6</sup> ibid, page 109.
- <sup>7</sup> ABARE op cit
- <sup>8</sup> Frawley et al op cit
- <sup>9</sup> ABARE op cit
- <sup>10</sup> Frawley et al op cit
- <sup>11</sup> Frawley P, Makin L, Nieper R, Wilson B (2000) Export Assurance National Competition Policy Review of the *Export Control Act 1982*, Canberra
- <sup>12</sup> Australia's Halal Food Industry: Current and Potential Contribution to the Australian Economy. Report of the Department of Immigration and Multicultural and Indigenous Affairs, 2003.
- <sup>13</sup> ibid