

Export Control (Plants and Plant Products) Order 2011

made under regulation 3 of the

Export Control (Orders) Regulations 1982

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**About this compilation**

**This compilation**

This is a compilation of the *Export Control (Plants and Plant Products) Order 2011* that shows the text of the law as amended and in force on 1 December 2015 (the ***compilation date***).

This compilation was prepared on 8 December 2015.

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

**Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on ComLaw (www.comlaw.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on ComLaw for the compiled law.

**Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

**Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on ComLaw for the compiled law.

**Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary 1

1 Name of Order 1

2 Commencement 1

3 Declaration of prescribed goods (section 3 of the Act) 1

4 Order to be read with Prescribed Goods (General) Order 1

5 Interpretation 1

6 Meaning of *prescribed grain* 4

7 Secretary may determine required tests and certificates 5

Part 2—Conditions on export of prescribed goods 6

8 No export unless this Order complied with 6

9 Basic conditions for export of prescribed goods 6

Part 3—Registered establishments 8

Division 1—General 8

10 Requirements for registered establishments 8

11 Preparation and inspection must take place in registered establishment 8

12 Transport of prescribed goods 8

13 Records of dates of packaging 8

Division 2—Small horticultural products registered establishments 9

13A Secretary may determine that a registered establishment is a small horticultural products registered establishment for a financial year 9

Part 4—Notice of intention to export 11

14 Notice of intention to export prescribed goods 11

15 Exporter to be responsible for goods 11

16 Certificates of analysis 11

Part 5—Inspection for export compliance 12

17 Inspection for export compliance 12

18 Duration of export compliance 12

19 Goods to be re‑inspected 13

20 Resubmission of goods 13

21 Segregation of goods 13

Part 6—Packaging and trade descriptions 14

22 Packaging and other materials to be clean 14

23 Characteristics of packaging and other materials 14

24 Trade description to contain certain information 14

Part 7—Exporting in packages 15

25 When goods may be packaged for export 15

Part 8—Exporting in containers 16

26 Container approvals 16

27 Issue of container approval 16

28 Period of container approval 16

29 Cancellation of container approval 17

30 Surrender of container approval 17

31 Sealing and identification of empty containers 17

Part 9—Exporting in bulk vessels 18

Division 1—Surveys of bulk vessels 18

32 Arrangements for bulk vessel to be surveyed before loading 18

33 Obligations of marine surveyor 18

34 Acceptance of marine surveyor’s certificate 18

Division 2—Vessel approvals 19

35 When bulk vessel may be loaded 19

36 Application for vessel approval 19

37 Vessel approval 19

38 Period of vessel approval 19

39 Suspension of vessel approval 20

40 Revocation of suspension of vessel approval 20

40A Cancellation of vessel approval 21

Part 10—Export permit 22

41 Export permit 22

Part 11—Phytosanitary and other Certification 23

42 Certificate as to condition in respect of prescribed goods 23

43 Certificates and other information 23

44 Offence of issuing false certificate 23

Part 12—Miscellaneous 24

45 Secretary may require audits 24

46 Assistance to be provided 24

47 Electronic communications 24

48 Alteration of notice after certification 25

Part 13—Repeal and transitional 26

49 Repeal of orders 26

50 Transitional 26

Schedule 1—Marine surveyors’ qualifications 27

1 Marine surveyors’ qualifications 27

Schedule 2—Inspection of prescribed goods 28

Part 1—Preliminary 28

1 Interpretation 28

2 Tolerances for pests and contaminants 28

3 Sampling rate 28

Part 2—Prescribed goods in bulk 29

4 Treatment of rejected goods 29

5 Site of inspection 29

6 Sampling rate 29

7 Undue delay after detecting insects 29

8 Re‑presentation of goods 29

9 Screening of goods 29

10 Blending of goods 30

Part 3—Prescribed goods inspected for phytosanitary certification 31

11 Inspection 31

12 Re‑inspection of consignments where shipment delayed 31

Part 4—Treatment of rejected prescribed goods 32

13 Insect infestation 32

14 Use of insecticides, fumigants and other products 32

15 Contaminants 32

Schedule 3—Requirements for registered establishments 33

1 Application for registration 33

2 Requirements for plans and specifications 33

3 Alterations, extensions and rearrangements to establishments 33

4 Records to be maintained 33

5 Structural requirements for establishments preparing prescribed goods 33

6 Operational and hygiene requirements for establishments preparing prescribed goods 34

Schedule 4—Container inspection for issue of container approval 35

1 Empty container inspection 35

2 Place of inspection 35

3 Assistance to be given to authorised officers 35

4 Inspection procedures for empty containers 35

5 Live insects, being *Trogoderma* spp., found in a container 35

6 Treatment of empty containers 35

Schedule 5—Bulk vessel inspection for issue of vessel approval 37

1 Parts of a bulk vessel which must be inspected 37

2 What an authorised officer must inspect for 37

3 Inspections away from a wharf 37

4 Inspection procedure 37

5 On entering a hold 38

6 Bulk vessels’ stores and general galley areas 38

7 Treatments 38

8 Reporting of conditions of the bulk vessel 38

9 Issuing the vessel approval 39

10 Live insects, being *Trogoderma* spp., found in a bulk vessel 39

Schedule 6—Requirements relating to issuing of phytosanitary certificate 40

1 Inspection 40

2 Certification 40

3 Responsibility of exporter 40

4 Conditions of issuance 40

5 Forms of certificates 40

6 Importing country requirements 41

7 Name of authorised officer 41

8 Disinfestation or disinfection treatment 41

9 Additional declarations 41

10 Signature 41

11 Other endorsements 42

12 Description of the consignment 42

13 Name of goods 42

14 Consignee’s name and address 42

15 Point of entry 43

16 Quality statements 43

17 Number of copies to be issued 43

18 Copy required by the Secretary 43

19 Re‑exports from Australia 43

20 Re‑inspection of delayed consignments 44

Endnotes 45

Endnote 1—About the endnotes 45

Endnote 2—Abbreviation key 46

Endnote 3—Legislation history 47

Endnote 4—Amendment history 48

Part 1—Preliminary

1 Name of Order

This Order is the *Export Control (Plants and Plant Products) Order 2011*.

2 Commencement

 This Order commences on the day after it is registered.

3 Declaration of prescribed goods (section 3 of the Act)

 The following are declared to be prescribed goods for the definition of ***prescribed goods*** in section 3 of the Act:

 (a) prescribed grain;

 (b) hay and straw;

 (c) fresh fruit;

 (d) fresh vegetables;

 (e) plants or plant products for which a phytosanitary certificate or any other official certificate is required by an importing country authority.

4 Order to be read with Prescribed Goods (General) Order

 This Order is read as one with the General Order.

Note: The General Order provides for matters including:

• certain general exemptions (Part 2);

• specific exemptions granted by the Secretary (Part 3);

• registration of registered establishments (Part 4);

• electronic transmission of documents (Part 5);

• export permits (Part 6);

• certificates (Part 8);

• official marks (Part 13);

• sampling and analysis (Part 14).

5 Interpretation

 5.1 In this Order, unless the contrary intention appears:

***Act*** means the *Export Control Act 1982*.

***apple*** has the same meaning as in Part 3 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

***approved*** means approved by the Secretary by instrument in writing.

Note: This can include writing in electronic form. An approved form is a document in either paper or electronic format approved by the Secretary.

***authorised officer***, in a provision of this Order, means a person who has been appointed under section 20 of the Act as an authorised officer for that provision in the relevant circumstances.

***bulk vessel*** means a ship in which it is intended to transport prescribed goods in bulk.

***cherry*** has the same meaning as in Part 5 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

***citrus*** has the same meaning as in Part 7 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

***consignment*** means a quantity of prescribed goods assembled at the same place and intended for export at the same time to the same country.

***container*** means a container for prescribed goods that:

 (a) is designed for use as a unit of cargo handling equipment in the transport of the goods by aircraft or ship, including a shipping container; and

 (b) effectively protects the goods from relevant pests and contamination; and

 (c) is intended to be used for goods that require the protection offered by the containers because they are not in smaller quantities in protective packaging.

***contaminant*** means any foreign matter, whether organic or inorganic, that is included in, on, or with prescribed goods, and includes soil, leaves, or stems.

***disease*** means any abnormal condition of, or in, prescribed goods arising from, caused by, or due to the presence, operation, development or growth of any insect, fungus, bacterium, phytoplasma, parvo‑virus, virus or other parasite.

***export compliant***—see section 17.

***fresh***, in relation to fruits or vegetables, means fruits or vegetables that have not been canned, frozen, dried, or processed in any other manner that changes their basic characteristics.

***fresh vegetables*** includes herbs, mushrooms, cured onions, and sprouts.

***fumigation*** means treatment with poisonous gas (not including the use of contact insecticides propelled by carbon dioxide), smoke generators, fogging or spraying.

***General Order*** means the *Export Control (Prescribed Goods—General) Order 2005*.

***hay and straw*** means a pasture or cereal plant, (whether whole or after harvesting seed) that is cut and dried.

***importing country authority*** for a consignment of goods, means the authority which is responsible for regulating the import of goods into the country to which they are being exported.

***IPPC*** means the International Plant Protection Convention of the Food and Agriculture Organization of the United Nations.

***marine surveyor*** means a surveyor who is qualified in accordance with Schedule 1.

***master***, in relation to a bulk vessel, means the person who has command of, or is in charge of, the vessel.

***occupier***:

 (a) in relation to a registered establishment, means the person in whose name an establishment used to prepare prescribed goods for export is registered; and

 (b) in relation to an unregistered establishment, means the person in charge of operations at the establishment.

***package*** means the principal covering in which prescribed goods are packed.

***passed as export compliant***—see section 17.

***pear*** has the same meaning as in Part 3 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

***pest*** means a live or viable species, strain, or biotype of plant or animal life, or a pathogenic agent, that is injurious or potentially injurious to plants or plant products.

***phytosanitary certificate*** means a certificate issued in accordance with Article V of the IPPC or at the request of an importing country authority.

***prescribed goods*** means the goods declared to be prescribed goods by section 3.

***prescribed goods for consumption*** means prescribed goods that may be consumed by humans or livestock with or without further processing.

***prescribed grain***—see section 6.

***re‑export phytosanitary certificate*** means a certificate issued in accordance with Article V of the IPPC or at the request of an importing country authority for the purpose of re‑export.

***registered establishment*** means premises registered under the General Order for the preparation of prescribed goods within the meaning of this Order.

***stone fruit*** has the same meaning as in Part 15 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

***strawberry*** has the same meaning as in Part 16 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

***table grapes*** has the same meaning as in Part 20 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*.

***treatment*** means any treatment that is useful or necessary for the control or eradication of pests, including:

 (a) any dismantling, repairing, cleaning or deodorising; or

 (b) the application of any substance; or

 (c) fumigation; or

 (d) the controlling of atmosphere or temperature; or

 (e) repacking.

 5.2 If in this Order the words ‘*Penal provision*’ are set out at the foot of a provision of a section, the provision is taken to provide that it is a penal provision for the purposes of subregulation 4 (1) of the *Export Control (Orders) Regulations 1982* and, if that provision specifies that it is a penal provision of a particular level, the applicable penalty is that specified in that subregulation.

Note: The offence created by such a penal provision is one of strict liability. See subregulation 4 (2) of the *Export Control (Orders) Regulations 1982*. For strict liability, see section 6.1 of the *Criminal Code Act 1995*.

6 Meaning of *prescribed grain*

 6.1 For this Order, the following are ***prescribed grain***:

(a) ***barley***—whole grain of *Hordeum vulgare* (whether 2‑row or 6‑row), but not including hulled, milled or malted grain of that kind;

(b) ***canola****—*whole seed of *Brassica napus* var; *napus* cv; ‘Canola’;

 (c) ***chickpeas***—seed (whole or split) of *Cicer arietinum*;

(d) ***dried field peas***—dried seeds of the species *Pisum sativum* that are angular or spherical in shape, and not of the varieties known as processing peas, vegetable peas, garden peas or peas in pod;

(e) ***faba beans****—*seed (whole or split) of *Vicia faba*;

(f) ***lentils***—seed (whole or split) of *Lens culinaris*;

(g) ***lupins***—seed (whole or split) of *Lupinus angustifolius* or *Lupinus albus*;

(h) ***mung beans***—whole seeds of the species *Vigna radiata* or *Vigna mungo,* including varieties, and synonyms;

(i) ***oats****—*grain (whole or clipped) of *Avena sativa* or *Avena strigosa,* but not including rolled, crushed, milled, hulled or kiln‑dried grain of that kind;

(j) ***sorghum***—whole unmilled seed of *Sorghum bicolor*;

(k) ***soybeans***—whole unmilled seed of *Glycine max*;

(l) ***split vetch***—split seed of *Vicia sativa;*

(m) ***wheat***—whole unmilled grain of *Triticum aestivum* or *Triticum durum or Triticum tauschii*;

(n) ***whole vetch***—seed (whole or broken) of *Vicia sativa*, but not including split seed of *Vicia sativa*.

Note: For paragraphs (l) and (n), split vetch seeds are a particular form of vetch seeds and are not the same as whole vetch seeds that have been broken (for example, in the course of harvesting or transport).

 6.2 A reference to a species of plant in a paragraph of subsection 6.1 includes every cultivated subspecies, variety and cultivar of the species and every cross of which a plant of the species is a parent, unless the paragraph limits the reference to a particular subspecies, cultivar or cross.

7 Secretary may determine required tests and certificates

 The Secretary may determine that specified tests or certificates are required for:

 (a) specified prescribed goods; or

 (b) specified prescribed goods for export to specified countries.

Part 2—Conditions on export of prescribed goods

8 No export unless this Order complied with

 8.1 The export of prescribed goods (other than split vetch) is prohibited unless the conditions or restrictions specified in this Order are complied with.

 8.2 The export of split vetch is prohibited absolutely.

Note:Subsection 8 (1) of the *Export Control Act 1982* makes it an offence for a person to export prescribed goods the export of which is prohibited, and subsection 8 (3) makes it an offence for a person to export prescribed goods in contravention of the applicable conditions or restrictions (see sections 17 and 18 of the Act).

9 Basic conditions for export of prescribed goods

 9.1 A consignment of prescribed goods must not be exported unless the conditions set out in the following subsections are met.

*Registered establishment*

 9.2 The goods must have been prepared in a registered establishment in accordance with Part 3.

*Inspection of goods*

 9.3 The goods must have been passed as export compliant in accordance with Part 5.

 9.4 If a trade description is attached to the goods—the description must comply with Part 6.

*Packages, containers and vessels*

 9.5 Any packaging or other material with the goods must comply with Part 6.

 9.6 If the goods are to be exported in packages—the packages must comply with Part 7.

 9.7 If the goods are to be exported in a container—an authorised officer must have inspected the container and issued a container approval in accordance with Part 8.

 9.8 If the goods are to be exported in bulk in a bulk vessel:

 (a) a marine surveyor must have inspected the vessel and issued a certificate in relation to the part where the goods will be stowed in accordance with Division 1 of Part 9; and

 (b) an authorised officer must have inspected the vessel and issued a vessel approval in accordance with Division 2 of Part 9.

*Notices, export permits and phytosanitary certificates*

 9.9 A notice of intention to export must have been lodged for the consignment in accordance with Part 4.

 9.10 An authorised officer must have issued an export permit for the consignment in accordance with Part 10.

 9.11 If a phytosanitary or other certificate is required for the goods—an authorised officer must have issued the certificate in accordance with Part 11.

Part 3—Registered establishments

Division 1—General

10 Requirements for registered establishments

 10.1 A person who wishes to apply for registration of an establishment for the preparation or inspection of prescribed goods within the meaning of this Order must comply with Schedule 3.

Note1:Applications for registration are made under Part 4 of the General Order.

Note 2: Section 3 of the *Export Control Act 1982* contains a definition of preparation in relation to prescribed goods.

 10.2 A registered establishment must be operated in accordance with Schedule 3.

Note:A failure to comply can lead to suspension or cancellation of registration (see Part 4 of the General Order.

11 Preparation and inspection must take place in registered establishment

 Prescribed goods intended for export may not be presented for inspection under Part 5 unless:

 (a) they were prepared in a registered establishment; and

 (b) they are presented for inspection in a registered establishment.

12 Transport of prescribed goods

 12.1 Goods may be transported between registered establishments only in accordance with orders and instructions from an authorised officer.

 12.2 If prescribed goods are despatched to another registered establishment where the export permit is to be issued, a transfer certificate for the goods may be issued by an authorised officer in a form approved by the Secretary.

 12.3 Goods being transported in accordance with this section are taken to be in a registered establishment.

13 Records of dates of packaging

 If prescribed goods originate from different registered establishments and are repacked at another registered establishment, the occupier of that other registered establishment must keep, for at least two years, a record of:

 (a) the packing dates; and

 (b) the establishments at which the goods were originally packed.

Note:See clause 4 of Schedule 3 for record keeping requirements to be met by an occupier of a registered establishment.

Division 2—Small horticultural products registered establishments

13A Secretary may determine that a registered establishment is a small horticultural products registered establishment for a financial year

 (1) The occupier, or (if there are 2 or more occupiers) the occupiers jointly, of a registered establishment may apply, in writing, to the Secretary for a determination under subsection (6) that the establishment is a small horticultural products registered establishment for a financial year (the ***relevant financial year***) if:

 (a) the registered establishment is to be used, in the relevant financial year, only for operations associated with the production and preparation for export of horticultural products (the ***relevant horticultural products***) of a kind referred to in a single item in the table in subsection (2); and

 (b) the occupier is the grower, or (if applicable) the occupiers are the growers, of the relevant horticultural products; and

 (c) the occupier is not, or (if applicable) none of the occupiers are, an occupier in relation to any other registered establishment; and

 (d) the total amount of the relevant horticultural products to be produced and prepared at the registered establishment for export in the relevant financial year will not exceed the total amount for the relevant horticultural products referred to in column 2 of the item in the table in subsection (2) that applies to the relevant horticultural products.

 (2) The following table sets out:

 (a) for paragraph (1)(a)—kinds of horticultural products; and

 (b) for paragraph (1)(d)—the total amounts (in tonnes) for export for those kinds of horticultural products for a financial year.

| Horticultural products and total amounts for export in a financial year |
| --- |
| Item | Column 1Horticultural products | Column 2Total amount (in tonnes) for export in a financial year |
| 1 | Apples or pears (or both) | 400 |
| 2 | Citrus | 400 |
| 3 | Stone fruit (except cherries) | 400 |
| 4 | Table grapes | 400 |
| 5 | Mangoes | 100 |
| 6 | Cherries | 30 |
| 7 | Either (or both) of the following:(a) strawberries;(b) berries to which Part 25 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991* applies | 5 |
| 8 | Leafy vegetables | 10 |
| 9 | Vegetables other than leafy vegetables | 100 |

 (3) For subsection (1), a person is a grower of relevant horticultural products if the person:

 (a) has a right to, or interest in, the horticultural products; and

 (b) contributes labour and capital to the production and preparation of the horticultural products.

 (4) An application by the occupier, or (if applicable) the occupiers, of a registered establishment under subsection (1) must be accompanied by a written declaration by the occupier, or (if applicable) the occupiers, stating the matters referred to in paragraphs (1)(a) to (d).

 (5) The Secretary may request, in writing, further information from an applicant that the Secretary considers is relevant to making a decision whether or not to make a determination under subsection (6).

 (6) The Secretary may determine*,* in writing, that a registered establishment is a small horticultural products registered establishment for a financial year if:

 (a) an application is made under subsection (1) by the occupier, or (if applicable) the occupiers, of the establishment; and

 (b) the application is accompanied by a declaration in accordance with subsection (4); and

 (c) the Secretary is satisfied that the declaration is correct.

Note: A decision to refuse to make a determination under this subsection is reviewable under Part 16 of the General Order.

 (7) For the purpose of deciding whether to make a determination under subsection (6) in relation to a registered establishment for a financial year, the Secretary may take into account:

 (a) the amount (in tonnes) of the relevant horticultural products produced and prepared at the registered establishment for export in previous financial years; and

 (b) any other relevant information.

Note: If a determination is in force for a registered establishment for a financial year under subsection (6), the charge payable in relation to the registered establishment for the financial year, under the *Export Charges (Imposition—General) Regulation 2015* or the *Export Charges (Imposition—Customs) Regulation 2015*, is the charge set out in item 4 of the table in subsection 11(1) of the relevant regulation.

Part 4—Notice of intention to export

14 Notice of intention to export prescribed goods

 14.1 For section 6 of the Act, a notice of intention to export prescribed goods must:

 (a) be in an approved form; and

 (b) identify the exporter; and

 (c) specify the tests and certificates that are requested for the goods, as well as those that are required under section 7; and

 (d) be completed by the exporter or an agent of the exporter in a manner that will enable an authorised officer to identify the goods; and

 (e) be given to an authorised officer by a person who intends to export the goods in sufficient time to allow any necessary inspections and the issue of the export permit and any necessary certificates.

 14.2 The notice of intention to export must include a declaration by the person giving notice:

 (a) that sections that apply to the goods have been complied with; and

 (b) that the information contained in the notice is true and correct; and

 (c) as to how conditions or restrictions imposed by the importing country in relation to the goods will be complied with.

 14.3 The approved form may require any other information the Secretary considers relevant.

15 Exporter to be responsible for goods

 The person identified as the exporter in a notice of intention to export is responsible for ensuring that sections that apply to the prescribed goods are complied with from the time the declaration specified in subsection 14.2 is made until the time the goods are exported.

16 Certificates of analysis

 16.1 The owner, processor or exporter of prescribed goods, or an agent of any of them, must provide to an authorised officer, at the time of inspection of the goods, such certificates of analysis in respect of the goods as are approved by the Secretary.

 16.2 If the Secretary permits the analysis of a sample, the analysis must be made in accordance with an approved method.

Part 5—Inspection for export compliance

17 Inspection for export compliance

 17.1 An authorised officer may declare a consignment of prescribed goods to be ***passed as export compliant*** if he or she is satisfied that:

 (a) the goods, together with the places and any bins, receptacles or elements of a transport system in which they are stored or carried:

 (i) are free of pests, including any pest for which a declaration of freedom is required by any relevant importing country authority; and

 (ii) contain no contaminants above the relevant levels specified in or under this Order; and

 (b) any necessary certificates under Part 11 can properly be issued in relation to the goods.

 17.2 The authorised officer must satisfy himself or herself on the basis of inspection or sampling of the goods in accordance with Schedule 2 and, where necessary, re‑inspection after treatments have been carried out.

 17.3 The authorised officer must:

 (a) specify a period of not more than 28 days during which the goods may remain passed as export compliant; and

 (b) make a record in a way approved by the Secretary.

 17.4 In addition to subsection 17.3, the authorised officer may specify one or more additional periods during which the goods may remain passed as export compliant. An additional period must not exceed the period specified by the Secretary under subsection 17.5.

 17.5 The Secretary must determine, in writing, the length of an additional period, or additional periods, during which the goods may remain passed as export compliant. The Secretary may determine different lengths for different additional periods.

 17.6 If the authorised officer specifies one or more periods during which the goods may remain passed as export compliant, the authorised officer:

 (a) must specify the first additional period before the end of the period specified under paragraph 17.3(a); and

 (b) must specify any further additional period before the end of the last period specified by the authorised officer; and

 (c) must make a record of each additional period in an approved way.

18 Duration of export compliance

 Prescribed goods that have been passed as export compliant cease to be passed as export compliant if:

 (a) the goods are not stored in a registered establishment; or

 (b) an authorised officer requires them to be re‑inspected; or

 (c) the period specified under paragraph 17.3(a), or an additional period specified under subsection 17.4, expires.

19 Goods to be re‑inspected

 Section 6.09 of the General Orderapplies in relation to prescribed goods that cease to be passed as export compliant.

20 Resubmission of goods

 20.1 This section applies when prescribed goods that:

 (a) were presented for inspection to an authorised officer who refused to declare them to be passed as export compliant; or

 (b) have ceased to be passed as export compliant under section 18;

are resubmitted for inspection by an authorised officer.

 20.2 The exporter or packer must:

 (a) advise the authorised officer in writing that the goods are being resubmitted for inspection; and

 (b) provide evidence that any further preparation, treatment or processing operations that have been undertaken in relation to the goods have resulted in the goods being suitable for export; and

 (c) hold the goods under such conditions of security as are considered necessary by an authorised officer.

 20.3 Prescribed goods that have been treated with an insecticide or fumigant must not be re‑presented for inspection:

 (a) until after the safety precautions (including exposure or airing periods) specified on the registered label have been observed; or

 (b) in the absence of such information, as approved by the Secretary.

21 Segregation of goods

 Prescribed goods to which section 19 applies must be dealt with in a manner that clearly distinguishes the goods from goods which are export compliant.

Part 6—Packaging and trade descriptions

22 Packaging and other materials to be clean

 Subject to this Order, materials to be used as packaging materials for prescribed goods and other materials applied to prescribed goods at the time of packaging:

 (a) must be unused and clean; or

 (b) if designed for multiple use and previously used—must have been cleaned and re‑conditioned to the satisfaction of an authorised officer.

23 Characteristics of packaging and other materials

 Subject to this Order, materials to be used as packaging materials for prescribed goods and other materials applied to prescribed goods at the time of packaging:

 (a) must be used in a manner that is unlikely to place the integrity of the prescribed goods at risk; and

 (b) must be sufficiently strong to withstand the handling ordinarily incurred by the materials during transit to the final destination; and

 (c) must be otherwise appropriate to the goods.

24 Trade description to contain certain information

 24.1 When a trade description is applied to prescribed goods, the export of those goods is prohibited unless that trade description is adequate and accurate.

 24.2 A trade description applied to goods is ***adequate*** for this section if it:

 (a) contains sufficient information to enable the goods to be readily identified; and

 (b) is not ambiguous or unclear; and

 (c) satisfies any particular requirements under this Order relating to the application of trade descriptions; and

 (d) satisfies any requirements of the importing country.

 24.3 A trade description applied to goods is ***accurate*** for this section if it correctly describes the goods.

 24.4 The trade description applied to prescribed goods must contain sufficient information, as approved by the Secretary, to enable the importing country authority to clear the goods.

Part 7—Exporting in packages

25 When goods may be packaged for export

 25.1 A person must not pack prescribed goods into packages for export unless:

 (a) the goods have been passed as being export compliant; or

 (b) an authorised officer has agreed to the use of a method approved by the Secretary for inspecting the goods, or appropriate samples of the goods, for export compliance after packing.

 25.2 For this section, prescribed goods are in ***packages for export*** when they are in the receptacles in which they will be exported, being receptacles that:

 (a) have been approved by the Secretary for prescribed goods of that type; or

 (b) an authorised officer has approved, in the circumstances in which the goods will be transported, as sufficient to protect the goods effectively during export.

Part 8—Exporting in containers

26 Container approvals

 A person must not load prescribed goods intended for export into a container unless an authorised officer has issued a container approval for the container.

27 Issue of container approval

 27.1 An authorised officer must inspect a container in accordance with Schedule 4 for the purpose of considering whether to issue a container approval.

 27.2 The authorised officer must issue a container approval to the person intending to load prescribed goods intended for export into the container, if he or she is satisfied that:

 (a) the container will not infest or infect the goods with pests; and

 (b) any cargo already loaded into the container will not infest or infect the goods with pests; and

 (c) no material is present in the container that is likely to harbour pests; and

 (d) no material is present in the container that is likely to contaminate the goods; and

 (e) the container is not in a condition that could result in the infestation or infection of the goods.

 27.3 The authorised officer must record a container approval in a way approved by the Secretary.

28 Period of container approval

 28.1 A container approval is valid for 90 days after the day on which it is issued.

 28.2 In addition to subsection 28.1, the authorised officer may specify one or more additional periods during which the container approval is valid. An additional period must not exceed the period specified by the Secretary under subsection 28.3.

 28.3 The Secretary must determine, in writing, the length of an additional period, or additional periods, during which the container approval is valid. The Secretary may determine different lengths for different additional periods.

 28.4 If the authorised officer specifies one or more periods during which the container approval is valid, the authorised officer:

 (a) must specify the first additional period before the end of the period mentioned in subsection 28.1; and

 (b) must specify any further additional period before the end of the last period specified by the authorised officer; and

 (c) must make a record of each additional period in an approved way.

29 Cancellation of container approval

 If an authorised officer believes that the conditions of a container have changed since the container approval was issued under subsection 27.2:

 (a) the authorised officer may cancel the approval; and

 (b) if the approval is cancelled, the authorised officer must notify:

 (i) the person to whom the approval was issued; and

 (ii) any other person to whom a paper version of the approval was given;

 as soon as practicable after cancelling the approval, that the approval has been cancelled.

30 Surrender of container approval

 If a container approval is cancelled, each person to whom a paper version of the approval was given must surrender:

 (a) the paper version; and

 (b) any copy of the paper version in his or her possession;

to an authorised officer as soon as practicable after being notified of the cancellation.

*Level 4 penal provision*

31 Sealing and identification of empty containers

 31.1 If a container that is approved under section 27 is not to be loaded immediately, the authorised officer must seal the container with a tamper‑evident seal and apply an inspection sticker that includes the identification number of the authorised officer.

 31.2 If a container has been sealed after inspection, the person responsible for the prescribed goods that are to be loaded into the container:

 (a) must not load the container unless the seal is intact; and

 (b) must not remove or obliterate the inspection sticker.

Level 2 penal provision

Part 9—Exporting in bulk vessels

Division 1—Surveys of bulk vessels

32 Arrangements for bulk vessel to be surveyed before loading

 If a bulk vessel is intended to carry prescribed goods for consumption, the shipowner or shipowner’s agent must provide an authorised officer with a declaration, approved by the exporter of the goods, that a named marine surveyor has, or surveyors have, been appointed to survey the vessel.

33 Obligations of marine surveyor

33.1A marine surveyor appointed under section 32 must survey the bulk vessel with a view to establishing whether the vessel is suitable to carry the prescribed goods for consumption in the holds or areas of the vessel proposed.

 33.2 If the marine surveyor is satisfied that the vessel:

 (a) is free of conditions that could result in contaminating, wetting or imparting an odour to the prescribed goods for consumption; and

 (b) is a suitable vessel to carry the prescribed goods for consumption in the areas proposed;

the marine surveyor may issue a certificate to that effect, and if it is in paper form, give the certificate and a copy to the master of the vessel.

 33.3 The marine surveyor must not issue a certificate if he or she is not so satisfied.

Level 4 penal provision

34 Acceptance of marine surveyor’s certificate

 For the purpose of issuing a vessel approval under section 37, an authorised officer may accept a certificate referred to in section 33 only if the name of the marine surveyor issuing the certificate appears in a declaration under section 32.

Division 2—Vessel approvals

35 When bulk vessel may be loaded

 A person must not load prescribed goods intended for export in bulk into a bulk vessel unless a vessel approval has been issued under this Part to load the vessel.

36 Application for vessel approval

 An application for an approval to load a bulk vessel must be in an approved form.

37 Vessel approval

 37.1 On receiving an application for a vessel approval, an authorised officer must:

 (a) check whether a certificate in relation to the vessel has been issued by a marine surveyor under subsection 33.2 if it is intended to load prescribed goods for consumption into the vessel; and

 (b) inspect the vessel in accordance with Schedule 5 to ensure that there are no pests, or infestible residues that could harbour pests or diseases, or conditions that could permit cross‑infestation.

 37.2 The authorised officer must issue a vessel approval to the person who made the application if he or she is satisfied that:

 (a) the cargo spaces and other parts of the vessel, or any cargo already loaded in the vessel, are not likely to infest or infect the goods with pests; and

 (b) no material is present in the cargo spaces or other parts of the vessel that is likely to harbour pests or diseases.

 37.3 The authorised officer must record a vessel approval in a way approved by the Secretary.

38 Period of vessel approval

 38.1 A vessel approval is valid for 28 days after the day on which it is issued.

 38.2 In addition to subsection 38.1, the authorised officer may specify one or more additional periods during which the vessel approval is valid. An additional period must not exceed the period specified by the Secretary under subsection 38.3.

 38.3 The Secretary must determine, in writing, the length of an additional period, or additional periods, during which the vessel approval is valid. The Secretary may determine different lengths for different additional periods.

 38.4 If the authorised officer specifies one or more periods during which the vessel approval is valid, the authorised officer:

 (a) must specify the first additional period before the end of the period mentioned in subsection 38.1; and

 (b) must specify any further additional period before the end of the last period specified by the authorised officer; and

 (c) must make a record of each additional period in an approved way.

39 Suspension of vessel approval

Suspension

 39.1 If an authorised officer believes that the conditions on a vessel have changed since a vessel approval was issued for the vessel:

 (a) the authorised officer may suspend the approval; and

 (b) if the approval is suspended, the authorised officer must notify:

 (i) the person to whom the approval was issued; and

 (ii) any other person to whom a paper version of the approval was given;

 as soon as practicable after suspending the approval, that the approval has been suspended.

 39.2 If the vessel approval is suspended, an authorised officer may inspect the vessel.

Surrender of vessel approval

 39.3 If a vessel approval is suspended, each person to whom a paper version of the approval was given must surrender:

 (a) the paper version; and

 (b) any copy of the paper version in his or her possession;

to an authorised officer as soon as practicable after being notified of the suspension.

*Level 4 penal provision*

40 Revocation of suspension of vessel approval

 If an authorised officer is satisfied that the suspension of a vessel approval is no longer justified (whether or not the authorised officer has inspected the vessel), the authorised officer:

 (a) must revoke the suspension as soon as practicable; and

 (b) must notify:

 (i) the person to whom the approval was issued; and

 (ii) any other person to whom a paper version of the approval was given;

 as soon as practicable after revoking the suspension, that the suspension has been revoked; and

 (c) must return a paper version of the approval to any person who has surrendered it under subsection 39.3.

40A Cancellation of vessel approval

 If an authorised officer inspects a vessel for which a vessel approval has been suspended and is satisfied, having regard to the vessel’s condition, that the conditions on the vessel that have changed, as mentioned in subsection 39.1, have not been rectified, the authorised officer:

 (a) must cancel the vessel approval; and

 (b) must notify:

 (i) the person to whom the approval was issued; and

 (ii) any other person to whom a paper version of the approval was given;

 as soon as practicable after cancelling the approval, that the approval has been cancelled.

Part 10—Export permit

41 Export permit

 41.1 Part 6 of the General Orderapplies in relation to the grant of an export permit in respect of prescribed goods.

41.2 The export of prescribed goods is prohibited unless an export permit for the export of the goods is in force.

Note:As to the period of validity of permits and the circumstances in which permits may be revoked, see sections 6.04 and 6.05 of the General Order.

Part 11—Phytosanitary and other Certification

42 Certificate as to condition in respect of prescribed goods

 If an exporter requires a certificate as to the condition of prescribed goods for which an export permit has been granted, the export permit is taken to be that certificate, except where separate certification is required to meet the requirements of an importing country authority.

43 Certificates and other information

 43.1 If a certificate is required, an exporter must submit to an authorised officer:

 (a) such information in relation to the prescribed goods as the authorised officer requires; and

 (b) a declaration of where and when the goods may be inspected; and

 (c) any necessary certificates of analysis.

 43.2 In relation to all prescribed goods for which a phytosanitary certificate is required, an exporter must, at the time the notice of intention to export is submitted, provide to an authorised officer details of all requirements that are to be certified on the certificate.

 43.3 An inspection of prescribed goods for which a phytosanitary certificate is required must be carried out in accordance with Schedule 2.

 43.4 Schedule 6 sets out requirements relating to the issuing of phytosanitary certificates.

44 Offence of issuing false certificate

 A person other than an authorised officer must not issue a phytosanitary certificate or a document purporting to be a phytosanitary certificate.

Level 5 penal provision

Part 12—Miscellaneous

45 Secretary may require audits

 45.1 The Secretary may require the following matters to be audited by a qualified person for compliance with the Act and this Order:

 (a) the operation of a registered establishment, including the work of authorised officers relating to the establishment;

 (b) operations for the export of prescribed goods;

 (c) operations for the certification of prescribed goods;

 (d) the work of an authorised officer.

 45.2 The Secretary may specify the scope of an audit.

 45.3 An audit may be unannounced.

 45.4 The auditor must give the person responsible for a matter being audited a copy of the report of the audit.

 45.5 For this section, a ***qualified person*** is an authorised officer who:

 (a) is an employee of an agency of the government of the Commonwealth or of a State or Territory; and

 (b) the Secretary is satisfied has the necessary skills and experience to perform the audit required, and will do so objectively, fairly and accurately.

46 Assistance to be provided

 46.1 The occupier of an establishment and the exporter must provide such assistance required by an auditor as is reasonably necessary to enable the auditor to perform the audit of their operations.

 46.2 Without limiting the generality of section 46.1 the occupier or exporter must:

 (a) provide information to the auditor on request (including explanations and documents) and operate any equipment; and

 (b) allow an auditor to:

 (i) observe and interview employees, agents or contractors; and

 (ii) observe any procedures; and

 (iii) use equipment for the purpose of accessing, examining, testing, sampling, recording or reproducing any documents or other thing; and

 (iv) bring equipment onto the premises at which the audit is being conducted for the purposes of the audit.

47 Electronic communications

 The Secretary may determine in writing electronic methods for electronic notification and certification under this Order.

48 Alteration of notice after certification

 48.1 A person must not alter, add to or delete a certificate or permit under this Order except in accordance with subsection 48.2.

Level 2 penal provision

 48.2 An authorised officer may alter the details of a certificate or permit that has been issued under this Order if the authorised officer is satisfied that any details mentioned in the certificate or permit have changed, otherwise than in a way that is material to the issuing of the certificate or permit.

*Level 2 penal provision*

Part 13—Repeal and transitional

49 Repeal of orders

 The following orders are repealed:

 (a) *Export Control (Plants and Plant Products) Orders 2005*;

 (b) *Export Control (Hay and Straw) Orders 2005*;

 (c) any orders that amended any of the above orders.

50 Transitional

 50.1 Despite the repeals effected by section 49:

 (a) any instrument in force or any approval given under orders referred to in that section remains in force according to its tenor as if it had been made, issued or given under this Order; and

 (b) if a person was an approved inspector under an approved arrangement under a repealed instrument:

 (i) the arrangement continues to operate on its terms; and

 (ii) the person is taken to be an authorised officer, with the same powers and in the same circumstances as the approved inspector, until the arrangement ceases.

 50.2 For subparagraph 50.1(b)(ii), if the Secretary is satisfied that the term of an arrangement should be extended to effect a satisfactory transition, the arrangement is taken to cease at the end of any extension approved by the Secretary.

Schedule 1—Marine surveyors’ qualifications

(definition of ***marine surveyor*** in section 5)

1 Marine surveyors’ qualifications

 1.1 A marine surveyor becomes ***qualified*** for the purposes of this Order if he or she:

 (a) holds either:

 (i) a Certificate of Competency as Master Class 1 (Unrestricted) or its current equivalent; or

 (ii) a Diploma in Marine Surveying which includes a module on dry bulk cargoes issued by a nationally accredited training establishment; and

 (b) has inspected at least 10 bulk vessels, while in the company of a qualified marine surveyor conducting a survey for suitability to carry prescribed goods for consumption, over a maximum period of 2 years.

 1.2 A person who has been qualified for 3 years or more ceases to be qualified if he or she has not surveyed at least 3 bulk vessels during the past 3 years for suitability to carry prescribed goods for consumption.

Schedule 2—Inspection of prescribed goods

(sections 6, 17 and 43)

Part 1—Preliminary

1 Interpretation

 In this Schedule:

***sub‑sample*** means a quantity of prescribed goods that is drawn from a consignment of the goods in a manner that ensures that the total quantity drawn is:

 (a) in the same proportion to the total quantity of the consignment as 2.25 litres is to 33.33 tonnes; or

 (b) sufficient to enable an inspection to be made.

2 Tolerances for pests and contaminants

 2.1 A nil tolerance for live pest infestations must be applied to all prescribed goods presented for inspection.

 2.2 Despite subclause 2.1, if a pest is non‑injurious and is not a quarantine pest of an importing country, the Secretary may specify variations to the nil tolerance for the pest.

 2.3 A nil tolerance for all vermin, including rodents, and their waste, must be applied to all prescribed goods presented for inspection.

 2.4 Despite subclause 2.3, the Secretary may specify variations to the nil tolerances for specified goods.

 2.5 A tolerance level for contaminants may be specified by the Secretary or by the importing country in relation to prescribed goods.

 2.6 If during routine examination of prescribed goods other contaminating material is detected, this must be reported by an authorised officer to the person responsible for the goods.

3 Sampling rate

 Sampling must be undertaken in accordance with the directions of the Secretary.

Part 2—Prescribed goods in bulk

4 Treatment of rejected goods

 4.1 This clause applies if prescribed goods are rejected for reasons that will respond to treatment.

 4.2 If there is an approved method of treating the goods, the goods must not be re‑presented for inspection unless they have been treated using an approved method.

 4.3 If there is no approved method of treating the goods, the goods must not be re‑presented for inspection unless they have been treated.

5 Site of inspection

 The site of inspection must be in a position which is well lit, free of environmental hazards (including dust and fumigant gases) and which will allow an authorised officer to draw and examine samples without risk to his or her personal safety.

6 Sampling rate

 The required sampling rate for bulk prescribed grain is 2.25 litres of product per 33.33 tonnes or equivalent.

7 Undue delay after detecting insects

 Should unnecessary delay occur between the discovery of insects and stopping of the stream flow, an export permit or phytosanitary certificate must not be issued for that tonnage of goods loaded after rejection was notified to a responsible person, unless the goods are discharged.

Note: See section 17.

8 Re‑presentation of goods

 Re‑presented goods must be inspected in the normal manner and rejected if live insects or other unsatisfactory conditions are present.

9 Screening of goods

 9.1 Screening of prescribed goods is not taken to be sufficient for the removal of live insects.

 9.2 Goods must be screened to remove large contaminants when automatic sampling is in use.

 9.3 For the purpose of subclause 9.2, screenings must be available for examination by the authorised officer during and at the end of each working day.

10 Blending of goods

 10.1 Blending of prescribed goods rejected for insect infestation is not permitted.

 10.2 Despite subclause 10.1, blending is permitted in the case of contaminants.

 10.3 If blending is being carried out during the pre‑weighing or loading of a ship and blended goods are rejected, all cells or other sources feeding the blend must be included in the rejection.

Part 3—Prescribed goods inspected for phytosanitary certification

11 Inspection

 11.1 Inspection procedures for prescribed goods being loaded in bulk into bulk vessels' holds and containers must be carried out in accordance with a method approved by the Secretary.

 11.2 Inspection procedures for bagged consignments of prescribed goods must be carried out in accordance with a method approved by the Secretary.

12 Re‑inspection of consignments where shipment delayed

 12.1 Subject to subclause 12.2, re‑inspection of a consignment is not required until the end of the period during which the prescribed goods are passed as export compliant.

Note: Section 17 explains this period.

 12.2 If a foreign country authority specifies a maximum time that may elapse between inspection and export and that time has elapsed before export takes place, an exporter may request a further inspection and issue of another certificate.

 12.3 Re‑inspection must be carried out by inspecting and sub‑sampling surface layers without the need to discharge bulk vessels or containers, except where the integrity of the consignment has not been maintained.

Part 4—Treatment of rejected prescribed goods

13 Insect infestation

 13.1 If prescribed goods have an insect infestation, they must be treated using an approved method.

Note: Each method will be appropriate to the prescribed goods, the insect and the degree of infestation. A particular approved method may include one or more of the following:

(a) treatment with an insecticide;

(b) fumigation;

(c) use of a controlled atmosphere.

 13.2 If a method of treatment would require or permit the use of an insecticide, a fumigant or another product, the Secretary must not approve the method unless the Secretary is satisfied that:

 (a) the insecticide, fumigant or other product is registered for that use under a law of the Commonwealth, a State or a Territory; or

 (b) registration under such a law is not required.

14 Use of insecticides, fumigants and other products

 14.1 An insecticide, a fumigant or another product that is used on prescribed goods as part of an approved method under clause 13 must:

 (a) be used in accordance with its registered label (if a registered label is required); and

 (b) be acceptable to the importing country; and

 (c) be approved by the exporter.

 14.2 Goods that have been treated with an insecticide, a fumigant or another product as part of an approved method under clause 13 must not be presented, or re‑presented, for inspection until the whole of the approved method has been completed.

Note: An approved method may include an airing period or another safety precaution that is to happen after the goods have been treated with the insecticide, fumigant or other product.

15 Contaminants

 15.1 For contaminants for which a nil tolerance applies, cleaning of the prescribed goods must be carried out to remove the contaminating material, if the goods are to be re‑presented for export.

 15.2 For contaminants for which a numerical tolerance applies, cleaning or blending of the prescribed goods to below the permitted tolerance may be carried out.

 15.3 Contamination that has occurred on the outsides of bags or other packages may be removed by brushing or other mechanical means if approved by the Secretary.

Schedule 3—Requirements for registered establishments

(section 10)

1 Application for registration

 An application for registration of an establishment under the General Order must be completed and returned to an authorised officer in the State or Territory in which the establishment is located, together with plans and specifications of the establishment.

2 Requirements for plans and specifications

 2.1 For the purposes of registration, plans or diagrams giving the general structural and operational layout of the establishment must be provided.

 2.2 Plans must be sufficiently detailed to allow evaluation of the establishment and must include:

 (a) a locality map showing the site in relation to the local area; and

 (b) a site plan showing all salient features of the site and adjoining sites including location of the establishment; and

 (c) a floor plan of processing areas, showing all permanent fixtures and layout of equipment; and

 (d) a product flow chart, and main features of product.

3 Alterations, extensions and rearrangements to establishments

 Notice of changes to a registered establishment that may result in residual infestation problems or that may affect sampling and inspection of prescribed goods must be submitted in accordance with clause 1.

4 Records to be maintained

 The occupier of a registered establishment must:

 (a) keep, for at least two years, records of cleaning and pest control measures in sufficient detail to enable an authorised officer to monitor the effectiveness of pest control measures; and

 (b) keep, for at least two years, records of receivals and loadings, and make them available to an authorised officer upon request.

5 Structural requirements for establishments preparing prescribed goods

 5.1 An establishment in which prescribed goods are prepared or inspected for export must be designed and constructed to allow all operations for which the establishment may be registered to be carried out efficiently, effectively and hygienically.

 5.2 Without limiting clause 5.1, the design and construction of the establishment must, as appropriate:

 (a) provide adequate ventilation where treatments are carried out; and

 (b) allow effective cleaning of floors and surrounds in the product handling areas; and

 (c) minimise harbourage for pests or diseases; and

 (d) minimise the possibility of contamination of the prescribed goods during preparation; and

 (e) allow effective cleaning of the plant and equipment used in the preparation or handling of the prescribed goods; and

 (f) provide handwashing and toilet facilities; and

 (g) make provision for the disposal of all waste material, including both liquids and solids, in an efficient and hygienic manner.

 5.3 Equipment provided for the fumigation or treatment of prescribed goods must be constructed, tested, maintained and operated in accordance with applicable local government, State, Territory and Commonwealth regulations.

 5.4 The occupier of the establishment must provide suitable facilities for the safe and effective inspection of prescribed goods, in accordance with any requirements set by the Secretary.

6 Operational and hygiene requirements for establishments preparing prescribed goods

 6.1 The operator of a registered establishment must:

 (a) maintain the establishment in a hygienic condition in order to control pests (including rodents and other vermin, and weeds) and prevent cross‑contamination of prescribed goods; and

 (b) have a defined program of hygiene and pest control.

 6.2 Any of the following must be stored and handled in a way that ensures that it does not in any way contaminate, infest or provide a source of infestation of prescribed goods or of an area used for their preparation or storage, or of anything that may come into contact with them:

 (a) material likely to provide a source of contamination or infestation:

 (b) rodenticides, fumigants, fungicides, insecticides or other toxic substances.

 6.3 Animals (including birds and rodents) must not be present in the establishment where preparation of prescribed goods takes place.

 6.4 Handwashing facilities and toilet facilities must be kept in a clean and sanitary condition at all times.

 6.5 Establishments handling edible products must comply with the applicable State and Territory laws relating to food handling.

Schedule 4—Container inspection for issue of container approval

(section 27)

1 Empty container inspection

 The following types of inspection are required for empty containers:

 (a) in the case of containers for prescribed grain and prescribed goods for consumption—an authorised officer must inspect the container for pests, infestible residues, contaminants and other conditions that could affect the goods;

 (b) in any other case—an authorised officer must inspect the container system unit to ensure that there are no pests, or residues that could harbour pests, or conditions which could cause cross‑infestation.

2 Place of inspection

 Containers may be inspected at any place where there are adequate facilities for the inspection.

3 Assistance to be given to authorised officers

 The person responsible for a container must give all reasonable assistance to an authorised officer, including moving, opening and closing units and providing ladders or other necessary equipment.

4 Inspection procedures for empty containers

 4.1 When containers are inspected prior to transport, the units must be sealed and identified in accordance with section 31.

 4.2 All parts of the interiors and exteriors of the containers may be inspected for the purposes of clause 6.

5 Live insects, being *Trogoderma* spp., found in a container

 If live insects, being *Trogoderma* spp., are found in a container:

 (a) the container must be rejected; and

 (b) an authorised officer must order the container to be treated using an approved method.

6 Treatment of empty containers

 The authorised officer must be satisfied that:

 (a) there are no live pests in the container; and

 (b) any infestible residues have been removed, including those behind any lining or panels; and

 (c) any non‑infestible residues will not contaminate the prescribed goods.

Schedule 5—Bulk vessel inspection for issue of vessel approval

(section 37)

1 Parts of a bulk vessel which must be inspected

 An authorised officer must inspect the following:

 (a) holds or areas where the prescribed goods will be stored; and

 (b) other areas from which it is possible that cross‑infestation or contamination of the goods could occur; and

 (c) other cargo from which it is possible that cross‑infestation or contamination of the goods could occur.

2 What an authorised officer must inspect for

 An authorised officer must inspect a bulk vessel for the presence of any of the following:

 (a) pests, including rodents and other vermin; and

 (b) contaminants; and

 (c) any other matter required by the Secretary.

3 Inspections away from a wharf

 3.1 An authorised officer may:

 (a) agree to inspect away from a wharf if he or she is satisfied that this is suitable; but

 (b) may decline to leave shore, or to start or continue inspections, if weather or other conditions are such that he or she considers it unsafe to do so.

 3.2 The authorised officer may discontinue inspection when the results of the inspection indicate that a bulk vessel will have to be brought to shore for cleaning or treatment and recommence inspection after berthing.

4 Inspection procedure

 4.1 On boarding the bulk vessel, an authorised officer must obtain from the master all information required to assess the suitability of the vessel to enable the loading of prescribed goods.

 4.2 The authorised officer must require a ship’s officer to accompany the authorised officer during the inspection to ensure the provision of all assistance necessary.

5 On entering a hold

 5.1 On entering a hold, an authorised officer may examine all sites that may harbour infestible residues, insects or rodents.

 5.2 If the authorised officer believes that assistance or equipment is required to safely inspect an area in the hold that would otherwise be inaccessible, the master must make available:

 (a) sufficient crew to allow the authorised officer to inspect the area safely; and

 (b) all equipment that is necessary to allow the authorised officer to inspect the area safely.

 5.4 If it is not possible to gain access to an area and the authorised officer suspects that there are insects or residues in the area, the authorised officer may order cleaning of the area.

 5.5 The authorised officer must be satisfied that all residues have been removed.

6 Bulk vessels’ stores and general galley areas

 6.1 Wet stores and refrigerated or chilled stores need not be inspected, unless there is reason to believe that these areas may have become infested with pests.

 6.2 It is necessary to inspect areas in the bulk vessel where stores are handled and food is prepared only when substantial insect infestation or insects suspected to be *Trogoderma* spp. have been detected during the course of inspection of dry stores.

7 Treatments

 7.1 If a pest or infestible residue has been found on a bulk vessel, the authorised officer must:

 (a) notify the responsible person of the detection of the pest or infestible residue; and

 (b) require that the level of the pest or infestible residue be reduced to the level specified by the authorised officer.

 7.2 The notification must be by way of an approved form.

 7.3 The responsible person must:

 (a) complete the approved form with the details of the treatment that has occurred; and

 (b) return the form to the authorised officer.

8 Reporting of conditions of the bulk vessel

 The results of the inspection of the bulk vessel must be reported on an approved form and include details of the particular chemical used in any treatment of the cargo spaces of the ship.

9 Issuing the vessel approval

 9.1 An authorised officer must indicate on a vessel approval the time at which the officer determines that the holds comply with the requirements of this Order.

 9.2 The time shown must be when inspection of the holds has been completed and the responsible ship’s officer was informed of this.

 9.3 This time must not be altered.

10 Live insects, being *Trogoderma* spp., found in a bulk vessel

 If live insects, being *Trogoderma* spp., are found in a bulk vessel:

 (a) the bulk vessel must be rejected; and

 (b) an authorised officer must order the vessel to be treated using an approved method.

Schedule 6—Requirements relating to issuing of phytosanitary certificate

(section 43)

1 Inspection

 For the purposes of the issuing of a phytosanitary certificate, inspection must be carried out by an authorised officer.

2 Certification

 Manually issued phytosanitary certificates may be altered by an authorised officer and, if an alteration is made, the authorised officer must sign the certificate adjacent to the alteration and:

 (a) insert beneath that signature that officer’s identity number; or

 (b) apply in close proximity to that signature an impression of the official mark of the Department.

3 Responsibility of exporter

 3.1 The exporter must request the necessary inspection and certification if an importing country authority so requires.

 3.2 It is the responsibility of the exporter to comply with the requirements of the importing country authority and the authorities of any country through which the consignment may transit or trans ship.

4 Conditions of issuance

 4.1 Certification must be provided if it can be verified that an importing country requirement for such certification exists.

 4.2 Certificates must be addressed to an importing country authority unless the Secretary determines otherwise.

 4.3 Phytosanitary certificates must not be issued or used for commercial purposes but they may include details of an associated Letter of Credit number, date and the party to whom the Letter of Credit is given.

5 Forms of certificates

 5.1 Subject to subclause 5.3, the form of certificate must be the international model specified by the IPPC.

 5.2 Subject to subclause 5.3, in the case of re‑exports the IPPC model re‑export certificate must be used.

 5.3 Bilingual and trilingual certificates must only be used to meet the specific requirements of an importing country authority.

6 Importing country requirements

 6.1 If a phytosanitary certificate is required but an importing country authority has not prescribed specific conditions for the goods concerned, the tolerances specified under clause 2 of Schedule 2 apply.

 6.2 The Secretary must determine whether certificates should be issued in cases where the requirements of an importing country authority are not known.

7 Name of authorised officer

 7.1 The name of the authorised officer who inspected the consignment, or the most senior of the authorised officers, must be included in the certificate.

 7.2 If the name is hand‑written on a paper certificate, it must be in block letters.

8 Disinfestation or disinfection treatment

 8.1 Treatments not supervised by an authorised officer may be added to the certificate if the exporter submits a written declaration certifying the details of the treatment carried out.

 8.2 Any space on a paper certificate not used to record treatments must be struck out.

9 Additional declarations

 9.1 Additional declarations relating to such matters as:

 (a) freedom from weed seeds;

 (b) specific pests; or

 (c) pest or fumigation treatment applied;

may be included when such declarations are specified by an importing country authority, or are included in import permits, and when the matter can be verified by an authorised officer.

 9.2 If no requirement for an additional declaration appears in the requirements of an importing country authority, evidence from that authority must be produced before consideration can be given to its endorsement.

 9.3 If no additional declarations are given, the phytosanitary certificate must state ‘no additional declaration’. On a paper certificate, any spaces not used for such declarations must be struck out.

10 Signature

 10.1 All paper certificates issued, including any copies of those certificates, must bear an authorised officer’s signature and the official mark of the Department.

 10.2 When certificates are signed by an authorised officer other than the person who inspected the goods, records must exist to confirm inspection of the goods and that the matters attested to in the certificate are correct.

 10.3 For subclause 10.1, if a complete paper certificate is generated from a computer system that stores the authoritative records, the signature and official mark may be facsimiles.

11 Other endorsements

 11.1 If an importing country authority requires endorsement of phytosanitary certificates by its representatives in Australia as a precondition for import of the goods to which the certificate relates, adequate time must be allowed for inspection prior to shipment.

 11.2 Phytosanitary certificates must not be submitted to a commercial body for endorsement.

12 Description of the consignment

 12.1 Sufficient detail must be provided in a certificate to allow the consignment to be readily identified.

 12.2 Container numbers must be included.

 12.3 Import and export permit numbers may be indicated if these are known.

 12.4 For a paper version of a certificate that has more than one sheet

 (a) the sheets must be securely attached together; and

 (b) each sheet must have the number of the phytosanitary certificate and the name and address of the exporter; and\

 (c) each sheet must include the official mark of the Department and the signature of the same authorised officer.

 12.5 For a paper version of a certificate that has spaces for the details, any spaces not used must be struck out.

13 Name of goods

 13.1 Both the common and botanical name of the goods must appear on the certificate for prescribed goods.

 13.2 If for miscellaneous goods of complex composition a botanical name is not appropriate, a general term or the description appearing on the packages may be used.

14 Consignee’s name and address

 The name and address of the consignee must be specified on the certificate when possible but, if the consignee is not known, ‘To order’ is to be specified.

15 Point of entry

 The point of entry must be specific to the country of import and, if possible, the actual place of importation.

16 Quality statements

 Information such as details of purity and viability of seeds or statements attesting to the quality of the goods must not be included, unless required by the importing country authority.

17 Number of copies to be issued

 17.1 If a paper version of the phytosanitary certificate is used for the goods, it must be the original.

 17.2 Additional certified copies of the phytosanitary certificate may be provided to the exporter, at the discretion of the Secretary.

18 Copy required by the Secretary

 18.1 A copy of each paper phytosanitary certificate must be forwarded to the Secretary.

 18.2 A copy of a paper import permit issued by an importing country authority must be forwarded with the phytosanitary certificate to the Secretary.

19 Re‑exports from Australia

 19.1 Re‑export phytosanitary certificates must be issued for prescribed goods re‑exported from Australia if phytosanitary certification is required by an importing country authority and:

 (a) the goods are accompanied by a phytosanitary certificate issued by the country of origin and complying with the requirements of a foreign country authority;

 (b) the identity of the goods can be established; and

 (c) the consignment has not been exposed to infestation while in Australia.

 19.2 Re‑export certificates must not be issued for products rejected under the *Quarantine Act 1908* for entry into Australia unless the products meet the requirements of the importing country.

 19.3 If imported goods in transit or in bond through Australian ports en route to other destinations have not been formally cleared as imports into Australia, they will not be issued with a re‑export phytosanitary certificate.

 19.4 If imported goods are subsequently exported as part of a larger consignment containing Australian prescribed goods, the goods may be covered under the general phytosanitary certificate issued for the consignment, provided that:

 (a) any additional declarations required by an importing country authority can be satisfied by product inspection; and

 (b) the certificate indicates that the consignment is a product of Australia and the other country.

 19.5 If the additional declaration requires endorsements relating to growing conditions or treatments in the original exporting country, certification must not be provided.

 19.6 If imported goods not accompanied by a phytosanitary certificate are to be exported, a re‑export phytosanitary certificate must be issued for the goods provided that:

 (a) a reference to the phytosanitary certificate of the country of origin is deleted from the re‑export phytosanitary certificate; and

 (b) the words ‘Phytosanitary Certificate from the Country of Origin not Available’ are appended to the certifying statement; and

 (c) the amendments in paragraphs (a) and (b) are subject to the provisions of paragraphs 2 (a) and (b) of this Schedule; and

 (d) an exporter declares the country of origin of the goods; and

 (e) no additional declaration is given which cannot be verified by an authorised officer.

20 Re‑inspection of delayed consignments

 20.1 Re‑inspection of prescribed goods is necessary if:

 (a) the time between inspection and export exceeds 28 days; or

 (b) the maximum time between inspection and export permitted by the importing country is exceeded.

 20.2 If the period exceeds 28 days, re‑inspection must be carried out to assess whether the originally issued certificate remains valid.

 20.3 If delays are likely to occur in the shipment of consignments after phytosanitary inspection has taken place, appropriate measures must be instituted by the exporter to ensure that the goods are not subject to infestation or infection (including cross‑infestation or cross‑infection) or contamination before shipment.

 20.4 If, after re‑inspection in accordance with subclause 20.2, the original phytosanitary certificate is not valid, the exporter must surrender all paper copies of the certificate to an authorised officer.

 20.5 If re‑inspection is requested by the exporter, the consignment must not be re‑inspected unless all paper copies of the original phytosanitary certificate have been surrendered to an authorised officer.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

**Abbreviation key—Endnote 2**

The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

|  |  |
| --- | --- |
| A = Act | o = order(s) |
| ad = added or inserted | Ord = Ordinance |
| am = amended | orig = original |
| amdt = amendment | par = paragraph(s)/subparagraph(s) |
| c = clause(s) |  /sub‑subparagraph(s) |
| C[x] = Compilation No. x | pres = present |
| Ch = Chapter(s) | prev = previous |
| def = definition(s) | (prev…) = previously |
| Dict = Dictionary | Pt = Part(s) |
| disallowed = disallowed by Parliament | r = regulation(s)/rule(s) |
| Div = Division(s) | Reg = Regulation/Regulations |
| exp = expires/expired or ceases/ceased to have | reloc = relocated |
|  effect | renum = renumbered |
| F = Federal Register of Legislative Instruments | rep = repealed |
| gaz = gazette | rs = repealed and substituted |
| LI = Legislative Instrument | s = section(s)/subsection(s) |
| LIA = *Legislative Instruments Act 2003* | Sch = Schedule(s) |
| (md) = misdescribed amendment can be given | Sdiv = Subdivision(s) |
|  effect | SLI = Select Legislative Instrument |
| (md not incorp) = misdescribed amendment | SR = Statutory Rules |
|  cannot be given effect | Sub‑Ch = Sub‑Chapter(s) |
| mod = modified/modification | SubPt = Subpart(s) |
| No. = Number(s) | underlining = whole or part not |
|  |  commenced or to be commenced |

Endnote 3—Legislation history

| Name | FRLI registration | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- |
| Export Control (Plants and Plant Products) Order 2011  | 30 Sept 2011 (*see* F2011L02005) | 1 Oct 2011 (s 2) |  |
| Export Control (Plants and Plant Products) Amendment (2014 Measures No. 1) Order 2014 | 23 Apr 2014 (*see* F2014L00434) | 1 May 2014 (s 2) | — |
| Export Control (Plants and Plant Products) Amendment (Registered Establishments) Order 2015 | 30 Nov 2015 (F2015L01885) | 1 Dec 2015 (s 2(1) item 1) | — |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| Readers guide  | rep F2014L00434 |
| **Part 1** |  |
| s 5  | am F2014L00434; F2015L01885 |
| s 6  | am F2014L00434 |
| **Part 3** |  |
| **Division 1** |  |
| Division 1 heading  | ad F2015L01885 |
| **Division 2** |  |
| Division 2  | ad F2015L01885 |
| s 13A  | ad F2015L01885 |
| **Pt 5** |  |
| s 17  | am F2014L00434 |
| s 18  | am F2014L00434 |
| **Pt 7** |  |
| s 25  | am F2014L00434 |
| **Pt 8** |  |
| s 26  | am F2014L00434 |
| s 27  | am F2014L00434 |
| s 28  | rs F2014L00434 |
| s 29  | rs F2014L00434 |
| s 30  | rs F2014L00434 |
| **Pt 9** |  |
| **Div 1** |  |
| s 32  | am F2014L00434 |
| s 33  | am F2014L00434 |
| **Div 2** |  |
| s 35  | am F2014L00434 |
| s 36  | rs F2014L00434 |
| s 37  | am F2014L00434 |
| s 38  | rs F2014L00434 |
| s 39  | rs F2014L00434 |
| s 40  | rs F2014L00434 |
| s 40A  | ad F2014L00434 |
| **Pt 12** |  |
| s 45  | am F2014L00434 |
| s 48  | am F2014L00434 |
| **Sch 1** |  |
| Sch 1  | am F2014L00434 |
| **Sch 2** |  |
| Sch 2  | am F2014L00434 |
| **Sch 4** |  |
| Sch 4  | am F2014L00434 |
| **Sch 5** |  |
| Sch 5  | am F2014L00434 |