



# Export Control (Animals) Amendment Order 2012 (No. 1)<sup>1</sup>

*Export Control (Orders) Regulations 1982*

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I, JOSEPH WILLIAM LUDWIG, Minister for Agriculture, Fisheries and Forestry,  
make this Order under regulation 3 of the *Export Control (Orders) Regulations 1982*.

Dated 27 February 2012

JOSEPH WILLIAM LUDWIG  
Minister for Agriculture, Fisheries and Forestry

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**1 Name of Order**

This Order is the *Export Control (Animals) Amendment Order 2012 (No. 1)*.

**2 Commencement**

This Order commences on 1 March 2012.

**3 Amendment of *Export Control (Animals) Order 2004***

The Schedule to this Order amends the *Export Control (Animals) Order 2004*.

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## Schedule 1 Amendments

(section 3)

### [1] Subsection 1.05(1)

*insert*

**AMLI Indonesia Order** means the *Australian Meat and Live-stock Industry (Export of Live-stock to the Republic of Indonesia) Order 2011 (No. 2)*.

**ESCAS** means exporter supply chain assurance system.

**OIE recommendations** means the recommendations and standards set out in Section 7 of the *Terrestrial Animal Health Code (2010)* published by the World Organisation for Animal Health.

*Note* On 1 March 2012, the Terrestrial Animal Health Code (2010) was available on the Internet at [http://web.oie.int/eng/normes/mcode/a\\_summry.htm](http://web.oie.int/eng/normes/mcode/a_summry.htm).

### [2] Paragraph 2.02(b)

*omit*

and a CRMP

*substitute*

, a CRMP and an ESCAS

### [3] Paragraph 2.02(e)

*omit*

and CRMP

*substitute*

, CRMP and ESCAS, to the extent that the ESCAS applies prior to export

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**[4] After section 2.42**

*insert*

**2.42A Exporter supply chain assurance systems (ESCASs)**

*Approved form for documents describing an ESCAS*

- (1) An ESCAS must be in writing in the form approved by the Secretary for the purpose.
- (2) An ESCAS must:
  - (a) set out an outline of the details of the supply chain that will apply to the proposed export up to and including the point of slaughter, including details relating to the following matters:
    - (i) the port of arrival;
    - (ii) transport, handling and slaughter of the live-stock;
    - (iii) feedlots;
    - (iv) identification, tracking or accounting and reconciliation of live-stock;
    - (v) independent auditing and reporting in relation to matters referred to in subparagraphs (i), (ii), (iii), (iv) and (vii);
    - (vi) access to premises;
    - (vii) any related operations and facilities; and
  - (b) be accompanied by any documents or information evidencing the ESCAS that the Secretary requires.

*Reliance on previous ESCAS*

- (3) However, an exporter may refer the Secretary to details contained in, or documents or information accompanying, an ESCAS that the exporter has given to the Secretary for the purposes of another proposed export.

*Exception — when ESCAS is not required*

- (4) If the Secretary is satisfied that live-stock will be exported as breeder live-stock.
  - (a) an ESCAS is not required; and
  - (b) any provision of this Order that imposes a requirement on the exporter in relation to an ESCAS is taken to apply as if it did not impose that requirement.

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[5] **Section 2.43**

*substitute*

**2.43 Giving NOIs, CRMPs and ESCASs to Secretary**

- (1) The NOI, CRMP and ESCAS must be given to the Secretary no later than:
  - (a) if the importing country requirements require pre-export quarantine or isolation of the animal or animals — 10 working days before the quarantine or isolation begins; or
  - (b) otherwise — 10 working days before the proposed export.
- (2) Despite subsection (1), the Secretary may accept an NOI, CRMP or ESCAS at any time, if the Secretary considers it reasonable to do so in all the circumstances.

[6] **Heading to section 2.44**

*omit*

**and CRMPs**

*substitute*

**, CRMPs and ESCASs**

[7] **Paragraph 2.44(1)(a)**

*insert, after 'export'*

, including further information relating to an ESCAS

[8] **Paragraph 2.44(1)(b)**

*insert, after 'amended'*

, or an ESCAS be varied,

[9] **Subsection 2.44(2)**

*omit*

- (d) the conditions of the exporter's AMLI licence;
- (e) the Australian Standards for the Export of Live-stock.

*insert*

- (d) the conditions of the exporter's AMLI licence.

*Note* Section 3 of the *Australian Meat and Live-stock Industry (Standards) Order 2005* provides that the holder of a live-stock export licence must not export live-stock except in accordance with the Australian Standards for the Export of Livestock.

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**[10] After subsection 2.44(2)**

*insert*

- (2A) The Secretary may approve an ESCAS in relation to a proposed export if satisfied that the ESCAS will ensure that the live-stock will be transported, handled, slaughtered and subjected to any other related operations in accordance with relevant OIE recommendations.
- (2B) Without limiting the matters to which the Secretary may have regard when deciding whether to approve an ESCAS, the Secretary:
  - (a) must have regard to how the ESCAS addresses the matters mentioned in subparagraphs 2.42A (2) (a) (i) to (vii); and
  - (b) may have regard to:
    - (i) the exporter's record in adherence to approved ESCASs and compliance with approval conditions; and
    - (ii) any other relevant information of which the Secretary is aware.

**[11] Subsection 2.44(3)**

*omit*

and CRMP

*substitute*

, CRMP and ESCAS

**[12] Subsection 2.44(4)**

*omit*

and a CRMP

*substitute*

, a CRMP and an ESCAS

**[13] After subsection 2.44(4)**

*insert*

- (5) Without limiting subsection (4), the conditions in respect of an ESCAS may relate to the following matters:
  - (a) the matters mentioned in subparagraphs 2.42A (2) (a) (i) to (vii);
  - (b) publication of information provided by the exporter in relation to the export;
  - (c) any other matter the Secretary considers appropriate.

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**[14] Heading to section 2.45**

*omit*

**and CRMPs**

*substitute*

**, CRMPs and ESCASs**

**[15] Subsection 2.45(1)**

*omit*

and a CRMP is approval

*substitute*

, a CRMP and an ESCAS is permission

**[16] Subsection 2.45(1)**

*omit*

and CRMP

*substitute*

, CRMP and ESCAS

**[17] Subsection 2.45(2)**

*omit*

and a CRMP

*substitute*

, a CRMP and an ESCAS

**[18] Heading to section 2.46**

*insert, after 'change'*

**(NOI and CRMP)**

**[19] After section 2.46**

*insert*

**2.46A Variation and revocation of approved ESCAS**

(1) The Secretary may, at the request of the exporter or of his or her own motion, and at any time:

(a) require an approved ESCAS to be varied in a specified manner; or

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- (b) approve a variation of an approved ESCAS; or
  - (c) vary the conditions imposed on an approved ESCAS.
- (2) An exporter must:
- (a) subject to any condition imposed on the ESCAS, if there is any relevant change in any circumstance that relates to an approved ESCAS — inform the Secretary in writing of that change as soon as practicable, but not later than 5 working days after becoming aware of the change; or
  - (b) if the Secretary requires an approved ESCAS to be varied in a specified manner — comply with that requirement.
- (3) Without limiting the circumstances in which the Secretary may revoke or vary approval of an ESCAS, the Secretary may revoke or vary approval if:
- (a) the Secretary is not satisfied that the live-stock will be dealt with in accordance with the approved ESCAS; or
  - (b) the exporter has not complied with any conditions in the approval or in a previous approval under either:
    - (i) the AMLI Indonesia Order; or
    - (ii) this Order.

*Note* Section 33 of the *Acts Interpretation Act 1901* provides for revocation and amendment of instruments.

**[20] Subsection 2.47(2)**

*omit*

and CRMP

*substitute*

, CRMP and ESCAS

**[21] Paragraph 2.52(3)(a)**

*omit*

and CRMP

*substitute*

, CRMP and ESCAS

**[22] Paragraph 2.54(3)(b)**

*omit*

and the CRMP

*substitute*

, the CRMP and the ESCAS

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**[23] Paragraph 2.58(2)(d)**

*omit*

and CRMP

*substitute*

, CRMP and ESCAS

**[24] Paragraph 2.58(2)(e)**

*omit*

live-stock.

*insert*

live-stock; and

(f) a declaration that no relevant circumstances have changed in relation to the ESCAS.

**[25] Subparagraph 2.59(1)(c)(iv)**

*omit*

and CRMP

*substitute*

, CRMP and ESCAS

**[26] After subparagraph 2.59(1)(c)(iv)**

*insert*

(v) the exporter is in a position to comply with the approved ESCAS;  
and

**[27] Paragraph 2.60(1)(c)**

*omit*

export.

*insert*

export; or

(d) to be dealt with other than in accordance with the approved ESCAS.

**[28] Paragraph 3.03(b)**

*substitute*

(b) the exporter has obtained approvals of the NOI and the ESCAS and has complied with all conditions to which the approvals are subject;

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**[29] After section 3.04**

*insert*

**3.04A Exporter supply chain assurance system (ESCAS)**

*Approved form for ESCAS documents*

- (1) An ESCAS must be in writing in the form approved by the Secretary for the purpose.
- (2) An ESCAS must:
  - (a) set out an outline of the details of the supply chain that will apply to the proposed export up to and including the point of slaughter, including details relating to the following matters:
    - (i) the port of arrival;
    - (ii) transport, handling and slaughter of the live-stock;
    - (iii) feedlots;
    - (iv) identification, tracking or accounting and reconciliation of live-stock;
    - (v) independent auditing and reporting in relation to matters referred to in subparagraphs (i), (ii), (iii), (iv) and (vii);
    - (vi) access to premises;
    - (vii) any related operations and facilities; and
  - (b) be accompanied by any documents or information evidencing the ESCAS that the Secretary requires.

*Reliance on previous ESCAS documents*

- (3) However, an exporter may refer the Secretary to details contained in, or documents or information accompanying an ESCAS, that the exporter has given to the Secretary for the purposes of another proposed export.

*Exception*

- (4) If the Secretary is satisfied that live-stock will be exported as breeder live-stock:
  - (a) an ESCAS is not required; and
  - (b) any provision of this Order that imposes a requirement on the exporter in relation to an ESCAS is taken to apply as if it did not impose that requirement.

**[30] Heading to section 3.05**

*insert, after 'NOIs'*  
**and ESCASs**

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**[31] Subsection 3.05(1)**

*insert, after 'NOI'*  
and ESCAS

**[32] Subsection 3.05(2)**

*substitute*

- (2) Despite subsection (1), the Secretary may accept an NOI or an ESCAS at any time, if the Secretary considers it reasonable to do so in all the circumstances.

**[33] Heading to section 3.07**

*insert, after 'NOIs'*  
**and ESCASs**

**[34] Paragraph 3.07(1)(a)**

*insert, after 'export'*  
, including further information relating to an ESCAS

**[35] Paragraph 3.07(1)(b)**

*insert, after 'amended'*  
, or an ESCAS be varied,

**[36] Subparagraph 3.07(2)(b)(iv)**

*omit*

**[37] After paragraph 3.07(2)(c)**

*insert*

*Note* Section 3 of the *Australian Meat and Live-stock Industry (Standards) Order 2005* provides that the holder of a live-stock export licence must not export live-stock except in accordance with the Australian Standards for the Export of Livestock.

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**[38] After subsection 3.07(2)**

*insert*

- (2A) The Secretary may approve an ESCAS in relation to a proposed export if satisfied that the ESCAS will ensure that the live-stock will be transported, handled, slaughtered and subjected to any other related operations in accordance with relevant OIE recommendations.
- (2B) Without limiting the matters to which the Secretary may have regard when deciding whether to approve an ESCAS, the Secretary:
  - (a) must have regard to how the ESCAS addresses the matters mentioned in subparagraphs 3.04A (2) (a) (i) to (vii); and
  - (b) may have regard to:
    - (i) the exporter's record in adherence to approved ESCASs and compliance with approval conditions; and
    - (ii) any other relevant information of which the Secretary is aware.

**[39] Subsection 3.07(3)**

*insert, after 'NOI'*  
and the ESCAS

**[40] Subsection 3.07(4)**

*insert, after 'NOI'*  
or an ESCAS

**[41] After subsection 3.07(4)**

*insert*

- (5) Without limiting subsection (4), the conditions in respect of an ESCAS may relate to the following matters:
  - (a) the matters mentioned in subparagraphs 3.04A (2) (a) (i) to (vii);
  - (b) publication of information provided by the exporter in relation to the export;
  - (c) any other matter the Secretary considers appropriate.

**[42] Heading to section 3.08**

*insert, after 'NOIs'*  
**and ESCASs**

**[43] Subsection 3.08(1)**

*omit*  
is approval

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*substitute*

and an ESCAS is permission

**[44] Subsection 3.08(1)**

*insert, after 'approved NOI'*

and ESCAS

**[45] Subsection 3.08(2)**

*insert, after 'NOI'*

and an ESCAS

**[46] Heading to section 3.09**

*insert, after 'change'*

**(NOI)**

**[47] After section 3.09**

*insert*

**3.09A Variation and revocation of approved ESCAS**

- (1) The Secretary may, at the request of the exporter or of his or her own motion, and at any time:
  - (a) require an approved ESCAS to be varied in a specified manner; or
  - (b) approve a variation of an approved ESCAS; or
  - (c) vary the conditions imposed on an approved ESCAS.
- (2) An exporter must:
  - (a) subject to any condition imposed on the ESCAS, if there is any relevant change in any circumstance that relates to an approved ESCAS — inform the Secretary in writing of that change as soon as practicable, but not later than 5 working days after becoming aware of the change; or
  - (b) if the Secretary requires an approved ESCAS to be varied in a specified manner — comply with that requirement.
- (3) Without limiting the circumstances in which the Secretary may revoke or vary approval of an ESCAS, the Secretary may revoke or vary approval if:
  - (a) the Secretary is not satisfied that the live-stock will be dealt with in accordance with the approved ESCAS; or
  - (b) the exporter has not complied with any conditions in the approval or in a previous approval under either:
    - (i) the AMLI Indonesia Order; or
    - (ii) this Order.

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*Note* Section 33 of the *Acts Interpretation Act 1901* provides for revocation and amendment of instruments.

**[48] Subsection 3.10(2)**

*insert, after 'NOI'*  
and ESCAS

**[49] Paragraph 3.15(1)(a)**

*insert, after '3.04'*  
and an ESCAS in accordance with section 3.04A

**[50] Paragraph 3.15(1)(b)**

*insert, after 'NOI'*  
and the ESCAS

**[51] After paragraph 3.15(1)(i)**

*insert*  
and  
(j) the exporter is in a position to comply with the approved ESCAS;

**[52] Section 5.01**

*omit*  
and CRMP  
*substitute*  
, CRMP and ESCAS

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**[53] After section 5.01**

*insert*

**5.01A Part does not limit conditions that can be imposed on an ESCAS**

Nothing in this Part limits the conditions that can be imposed on an ESCAS in relation to audits.

**[54] After section 7.02**

*insert*

**7.03 Transitional arrangements in relation to ESCASs — defined period**

- (1) The Secretary may declare by notice published on the Department's web site that this section applies to a country, or to a class of countries (the *declared countries*), in relation to specified live-stock (the *declared live-stock* for those countries), until a specified date (the *declaration date* for export of declared live-stock to a declared country).
- (2) An ESCAS is not required for the export of declared live-stock to a declared country if:
  - (a) the proposed export date indicated in the NOI is before the declaration date; and
  - (b) either:
    - (i) the Secretary grants an export permit before the declaration date; or
    - (ii) in the case of export by sea — the Secretary grants a permission to leave for loading before the declaration date.

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#### **7.04 Transitional arrangements in relation to ESCASs — indefinite**

- (1) The Secretary may declare by notice published on the Department's web site that this section applies to a country, or to a class of countries (the *declared countries*), in relation to specified live-stock (the *declared live-stock* for those countries).
- (2) An ESCAS is not required for the export of declared live-stock to a declared country.

#### **7.05 Effect of declaration under section 7.03 or section 7.04**

If an ESCAS is not required in relation to a proposed export because of section 7.03 or section 7.04, then any provision of this Order that imposes a requirement on the exporter in relation to an ESCAS is taken to apply as if it did not impose that requirement.

#### **7.06 Transitional arrangements in relation to repeal of the AMLI Indonesia Order**

If the Secretary has granted an approval under section 6 of the AMLI Indonesia Order in relation to an export:

- (a) the exporter is taken to have given the Secretary an ESCAS within the time mentioned in section 2.43 or section 3.05; and
- (b) the Secretary is taken to have approved the ESCAS under this Order; and
- (c) the ESCAS is taken to consist of the relevant arrangements referred to in subsection 6 (2) of the AMLI Indonesia Order on the basis of which the Secretary granted the approval referred to in this subsection; and
- (d) if the Secretary granted approval subject to any conditions, the Secretary is taken to have imposed those conditions under this Order.

#### **7.07 Transitional arrangements in relation to the time for giving NOIs, CRMPs and ESCASs to the Secretary (section 2.43)**

If section 2.43 would require an NOI, a CRMP or an ESCAS to be given to the Secretary before 1 March 2012, then that section is taken to require that those documents be given to the Secretary no later than the later of:

- (a) 1 March 2012; and
- (b) before the exporter begins sourcing the animals for export.

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#### **Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.