

EXPLANATORY STATEMENT

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

Export Control (Fish and Fish Products) Amendment Order 2012 (No. 1)
made under the *Export Control (Orders) Regulations 1982* and
Export Control Act 1982

Legislative Authority

Section 7 of the *Export Control Act 1982* (Act) provides that the regulations may prohibit the export of prescribed goods from Australia. Section 25(1) of the Act provides that the Governor-General may make regulations. Regulation 3 of the *Export Control (Orders) Regulations 1982* (Regulations) provides that the Minister may by instrument in writing, make orders in respect to any matter for or in relation to which provision may be made by the Regulation.

Under section 3 of the Act, prescribed goods can be declared by regulation. Section 3 defines “prescribed goods” to mean goods, or goods included in a class of goods, that are declared by the Regulation to be prescribed goods for the purposes of the Act.

The *Export Control (Fish and Fish Products) Orders 2005* (Principal Order) regulate the export of fish and fish products from Australia and Order 9 declares fish and fish products to be prescribed goods.

Purpose

The purpose of the *Export Control (Fish and Fish Products) Amendment Order 2012 (No. 1)* (Amendment Order) is to make various minor amendments to the Principal Order. These amendments include clarification and definitions within the Principal Order.

Consultation

The department consulted with the Seafood Export Consultative Committee (SECC) in the identification of these amendments. SECC consists of the seafood peak industry bodies including the Commonwealth Fisheries Association and the National Aquaculture Council. Industry representation on SECC also includes a number of individual participants representing specific sectors of the seafood export industry such as the prawn, lobster, abalone and scallops industry. SECC support the amendments.

The Office of Best Practice Regulation (OBPR) determined that the amendments are of a minor or machinery nature and do not substantially alter existing arrangements (OBPR 13772).

Details

Details of the Amendment Order are set out below:

Section 1 provides that the name of the Amendment Order is the *Export Control (Fish and Fish Products) Amendment Order 2012 (No.1)*.

Section 2 provides that the Amendment Order commences on the day after it is registered.

Section 3 provides that Schedule 1 amends the *Export Control (Fish and Fish Products) Order 2005*.

Schedule 1 Amendments

Item 1 amends the definition of *Australian Fish Names Standard AS SSA 5300-2009* in Order 8 of the Principal Order by replacing the definition with:

- *Australian Fish Names Standard* means the Australian Standard known as ‘AS SSA 5300-2011’.

Note The Australian Standard known as AS SSA 5300-2011 is available for purchase from the Standards Australia website—see www.standards.org.au.

The new definition of *Australian Fish Names Standard* reflects the updated version of the standard, currently available. This provides that a reference to the *Australian Fish Names Standard* in this Order is a reference to the publication titled the Australian Standard AS SSA 5300-2011. The fish names standard is produced by Seafood Service Australia, Fish Names Committee, which is available for purchase on the Standards Australia website.

Item 2 amends the definition of *catcher boat* in Order 8, paragraph (b) of the Principal Order. The item omits the words ‘(other than shucking molluscs)’ and inserts in its place the words ‘(other than shucking shellfish)’. The purpose of this amendment is to amend the definition of catcher boat and to correct the drafting inconsistency between Order 8 and Order 23.

Order 8 contains a reference to *molluscs*, referring to abalone and shellfish. All other references in the Order are to *shellfish*, which by definition excludes abalone. Due to this difference in wording, abalone has been expressly excluded from the definition of catcher boat.

Item 3 amends the definition of *catcher boat* in Order 8, at the foot of the Principal Order. The item inserts ‘Note: For the definition of preparation, see section 3 of the Act.’

The purpose of this amendment is for consistency between Order 8 and Order 23, to identify which activities are preparations. A note similar to the note below Order 23 will be included in Order 8 that provides a signpost to the reader of the definition of that term in section 3 of the *Export Control Act 1982* (the Act).

Item 4 amends Suborder 17.1 (b) by replacing with ‘(b) they are for export in small consignments; or’ and inserting a new paragraph ‘(c) they are for export to New Zealand.’

The purpose of the amendment is to refer to, in a separate Suborder, consignments of fish and fish products for exports that are destined for international countries other than New Zealand from those exports destined for New Zealand. This amendment intends the latter to be referred to in a separate Suborder “(c)”. This change does not amend the intent of the Order but serves to clarify it.

Item 5 substitutes the current heading of Order 23 with ‘Establishments that engage in particular activities related to fish’.

The purpose of this amendment is to remove the reference to “Etc”. This change does not amend the intent of the Order but serves to clarify it.

Item 6 amends Order 23, paragraph (c) of the current Suborder by removing ‘killing’ and replacing it with ‘killing (other than shucking shellfish)’.

This amendment is required to make the definition of a catcher boat in Order 8 and 23 consistent in relation to the references to shellfish.

Statement of Compatibility with Human Rights

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

Export Control (Fish and Fish Products) Amendment Order 2012 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the Amendment Order is to make various minor amendments to the Principal Order. These amendments clarify definitions within the *Export Control (Fish and Fish Products) Amendment Order 2012 (No. 1)*.

Human rights implications

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

Conclusion

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

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