EXPLANATORY STATEMENT

*Australian Meat and Live-stock (Quotas) Act 1990*

*Australian Meat and Live-stock Industry Act 1997*

***Australian Meat and Live-stock Industry***

***(High Quality Beef Export to the European Union)***

***Order 2014***

**Legislative Authority**

Under the *Australian Meat and Live-stock (Quotas) Act 1990* and the *Australian Meat and Live-stock Industry Act 1997*, the Secretary of the Australian Government Department of Agriculture (the department) may, where restrictions are imposed on exports of Australian meat, establish a scheme to allocate quota among holders of meat export licences.

This order is made under section 17 of the *Australian Meat and Live-stock Industry Act 1997*.

**Purpose**

The purpose of the order is to set out the administrative arrangements for the fair and equitable allocation of, and access to, the 2014-15 European Union high quality beef (EU HQB) quota. The quota permits Australian exporters to export 7150 tonnes of high quality beef to the EU at a reduced tariff rate. The order also sets out the administrative arrangements for the EU high quality grain fed beef quota.

**Background**

Australia’s high quality beef shipments to the European Union under quota arrangements are small compared to total beef exports but valuable (about $9000 a tonne for European Union shipments compared with $4800 a tonne for global shipments according to 2013 Australian Bureau of Statistics export data).

The EU allows Australia to ship each financial year (1 July to 30 June) a quantity of high quality beef to EU member countries at reduced tariff rates under a country-specific quota. Australia manages the quota on a cost-recovery basis.

The aim of the quota allocation is to optimise the value of the quota for the collective benefit of the Australian beef industry. The HQB quota is divided into 6650 tonnes of standard quota and 500 tonnes of non-standard quota to make provision for new entrants to the EU beef market.

Australia also has access to the EU’s 42 800 tonne high quality grain fed beef quota. This quota is administered by the EU, but requires exporting countries to issue quota certificates to identify product as entering under quota conditions.

For the purpose of this order the quota year is from 1 July 2014 to 30 June 2015.

**Impact and Effect**

The order provides for administrative arrangements to ensure fair and equitable access by regular quota users and new entrants to the EU beef market. The impact of the order is minimal as it provides for administrative arrangements that are similar to the previous quota year.

**Consultation**

In March 2014 the Department of Agriculture (the department) consulted with 24 exporters holding 2013-14 EU HQB quota, the meat export industry’s peak body (the Australian Meat Industry Council), and the Australian Beef Processors Committee on arrangements for 2014-15 and other matters related to the quota administration. The consultation paper outlined changes of a minor, medium or major scale. In relation to the arrangements for 2014-15 the paper recommended that the existing arrangements operate with minor modifications.

Responses were received from 18 quota holders, the Australian Meat Industry Council and the Australian Beef Processors Committee. Two responses supported the department’s recommendation for 2014-15 arrangements, 15 responses provided no comment on the recommendation and two provided comments on the existing arrangements.

Accordingly the department has continued with current arrangements in the order with minor modifications outlined in this explanatory statement. These arrangements are in line with the agreed recommendations from the independent review conducted in 2011 (http://www.daff.gov.au/agriculture-food/meat-wool-dairy/quota/eu-beef-quota-review).

A regulatory impact analysis was conducted in line with Office of Best Practice Regulation guidelines (ID 16924 refers) and it indicates that the changes would have low or no impact on businesses.

**Operation**

The order sets out

* which exporters are eligible for quota entitlement
* the multiple stages of allocation process
* how the amount of entitlement is determined
* the different arrangements for standard quota holders and first, second, and third year new entrants
* conditions under which quota can be withdrawn
* conditions for the transfer of entitlement
* how to obtain approvals and quota certificates.

The quota allocation process is made about six weeks before the end of the quota year. This gives exporters enough time to have approved consignments arrive in the EU at the beginning of the new quota year.

The administrative rules encourage exporters to use their entitlement to the fullest extent possible or return them to the Department of Agriculture for re-distribution. Entitlement may be transferred (or traded) to another exporter in most instances. The transfer rules place limits on how much may be transferred to ensure that trade in quota is not the principle business model. Failure to use the quota appropriately results in forfeiture of current entitlement or penalties that are applied against the next year’s entitlement.

The order is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

**Explanation of the Amendments**

*Determination of new-entrant quota entitlements*

The order has been amended to remove the Section 15 of the previous order which was redundant. The paragraphs that detail how new entrants’ non-standard quota entitlements are determined are retained under Section 18 of the new order.

*Application of Penalties*

The previous orders provided for any penalties for unused quota entitlement to be determined, and subsequently applied, after the next year’s quota has already been allocated. Quota is allocated around mid-May but any unused quota entitlement cannot be identified until at least early June.

The amendment to the order will allow the Secretary to vary an allocated quota in order to apply a penalty after the initial allocation process. The order will also stipulate that any quota user that fails to use at least 95% of their entitlement for the quota year, will attract a one-for-one penalty in the following quota year. This is consistent with the government’s response to the 2011 independent review.

*Dates*

The amendments to the dates reflect the timelines for the 2014-2015 quota year.

The supplementary and first-come-first-served allocation processes previously lacked dates to identify when demand for quota should be known. To ensure consistency with the rest of the order the amendment makes provision for demand for supplementary quota to be known by the early August and first-come first-served quota by around mid February. Quota which becomes available after the supplementary allocation will be allocated through the first-come-first-served allocation in February.

*Lapsed and Forfeited Quota*

The dates for which quota entitlements lapse or are forfeited have been moved back by two weeks to February 16. This provides more time after the summer holiday period to allow exporters to meet their reporting requirements as outlined under Part 5 of the order.

Amendment to these provisions ensure, in the case where a quota entitlement has both lapsed and forfeited, that it is clear to quota users the entitlement is taken to have been forfeited and the consequences relating to forfeiture are applicable.

*Approval to export from unallocated quota entitlement*

Previously the order allowed for export from unallocated quota entitlement from August onwards. This is now reserved for the first-come first-served allocation process after February 16. Approval to export from unallocated quota entitlement continues to be permitted once that has been finalised in early March.

*Maintaining current contact details*

Section 45 of the order provides for improved communications in that quota users must keep their quota related contact details current. This will ensure that as many of the quota users as possible receive notices relating to quota.

**Attachment A**

**Statement of Compatibility with Human Rights**

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

**Australian Meat and Live-stock Industry**

**(High Quality Beef Export to the European Union)**

**Order 2014**

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 European Union (EU) allows Australia to ship each financial year (1 July to 30 June) a quantity of high quality beef (HQB) to EU member countries at reduced tariff rates under a country-specific quota. The order is updated each year to continue existing administrative arrangement into the next quota year.

**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.

**Patrycia Stone**

**Delegate of the Secretary of the Department of Agriculture**