



## **Export Control (Animals) Amendment (2014 Measures No. 1) Order 2014**

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I, Barnaby Joyce, Minister for Agriculture, make the following order.

Dated 12 November 2014

Barnaby Joyce  
Minister for Agriculture

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## **1 Name**

This is the *Export Control (Animals) Amendment (2014 Measures No. 1) Order 2014*.

## **2 Commencement**

This instrument commences on 15 November 2014.

## **3 Authority**

This instrument is made under regulation 3 of the *Export Control (Orders) Regulations 1982*.

## **4 Schedules**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *Export Control (Animals) Order 2004*

#### **1 Paragraph 2.02(b)**

Omit “a NOI, a CRMP and an ESCAS for the export”, substitute “an NOI and a CRMP for the export and an ESCAS that applies to the export”.

#### **2 Paragraph 2.02(e)**

Repeal the paragraph, substitute:

- (e) the exporter complies with the approved NOI and CRMP and the approved ESCAS that applies to the export; and

#### **3 At the end of paragraph 2.41(2)(b)**

Add:

- ; (xii) the ESCAS that will apply to the proposed export.

#### **4 Paragraph 2.42A(2)(a)**

Omit “the supply chain that will apply to the proposed export”, substitute “a supply chain that will apply to exports of a particular species of live-stock to one or more specified ports,”.

#### **5 Subparagraph 2.42A(2)(a)(i)**

Repeal the subparagraph, substitute:

- (ia) the species of live-stock;
- (i) the port or ports of arrival;

#### **6 Subparagraph 2.42A(2)(a)(v)**

After “subparagraphs”, insert “(ia),”.

#### **7 Subsection 2.42A(3)**

Omit “an ESCAS that the exporter has given to the Secretary for the purposes of another proposed export”, substitute “another ESCAS that the Secretary has previously approved”.

#### **8 Subsection 2.43(1)**

Omit “, CRMP and ESCAS”, substitute “and CRMP for a proposed export”.

#### **9 After subsection 2.43(1)**

Insert:

(1A) An ESCAS must be given to the Secretary no later than:

- (a) if the importing country requirements for the port or ports to which the ESCAS relates require pre-export quarantine or isolation of the live-stock to which the ESCAS relates—10 working days before the quarantine or isolation begins for the first export to which the ESCAS will apply; or
- (b) otherwise—10 working days before the first export to which the ESCAS will apply.

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**10 Subsection 2.43(2)**

Omit “subsection (1)”, substitute “subsections (1) and (1A)”.

**11 Subsection 2.44(1)**

Repeal the subsection, substitute:

- (1) The Secretary may by notice in writing:
  - (a) require further information about a proposed export; or
  - (b) require further information about an ESCAS; or
  - (c) direct that an NOI or a CRMP be amended, or an ESCAS be varied, in a specified way.

**12 After subsection 2.44(2)**

Insert:

- (2AA) However, the Secretary must not approve the NOI for a proposed export unless the Secretary is satisfied that an approved ESCAS applies to the proposed export.

**13 Subsection 2.44(2A)**

Repeal the subsection, substitute:

- (2A) The Secretary may approve an ESCAS if he or she is satisfied that the ESCAS will ensure that live-stock to which it will apply will be transported, handled, slaughtered and subjected to any other related operations in accordance with relevant OIE recommendations.

**14 Subsection 2.44(3)**

Omit “the NOI, CRMP and ESCAS,”, substitute “an NOI, a CRMP or an ESCAS”.

**15 Subsection 2.44(4)**

Omit “and”, substitute “or”.

**16 Subsection 2.44(5)**

Repeal the subsection, substitute:

- (5) Without limiting subsection (4), the conditions of an ESCAS may relate to the following matters:
  - (a) the matters mentioned in paragraph 2.42A(2)(a);
  - (b) publication of information provided by the exporter in relation to the supply chain set out in the ESCAS;
  - (c) the number of consignments to which the ESCAS may apply;
  - (d) any other matter the Secretary considers appropriate.

**17 Subsections 2.45(1) and (2)**

Repeal the subsections, substitute:

- (1) Approval of an NOI and a CRMP for a proposed export of live-stock is permission for the exporter to prepare to export the live-stock in compliance with the approved NOI and CRMP.

(2) Approval of an NOI and a CRMP for a proposed export does not oblige the Secretary to grant an export permit for the export.

(2A) Approval of an ESCAS does not oblige the Secretary to grant an export permit for a proposed export to which the ESCAS would apply.

**18 Paragraph 2.46A(3)(a)**

Omit “the live-stock”, substitute “live-stock to which the approved ESCAS will apply”.

**19 At the end of section 2.46A**

Add:

(4) A variation of an ESCAS (including a variation of the conditions imposed) applies in relation to all exports to which the ESCAS applies, including in relation to consignments that have left Australia before the variation takes effect.

**20 Subsection 2.47(2)**

Omit “NOI, CRMP and ESCAS”, substitute “NOI and CRMP”.

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

Omit “NOI, CRMP and ESCAS”, substitute “NOI and CRMP”.

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

Omit “, the CRMP and the ESCAS”, substitute “and the CRMP and the approved ESCAS that applies to the export”.

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

Omit “, CRMP and ESCAS”, substitute “and CRMP and the approved ESCAS that applies to the export”

**24 Paragraph 2.58(2)(f)**

Omit “ESCAS”, substitute “approved ESCAS that applies to the export”.

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

Omit “, CRMP and ESCAS”, substitute “and CRMP and the approved ESCAS that applies to the export”.

**26 Subparagraph 2.59(1)(c)(v)**

After “ESCAS”, insert “that applies to the export”.

**27 Paragraph 2.60(1)(d)**

Omit “the approved ESCAS”, substitute “an approved ESCAS that applies to the export”.

**28 Paragraph 3.03(d)**

Omit “and the ESCAS”, substitute “for the export and an ESCAS that applies to the export”.

**29 At the end of paragraph 3.04(2)(b)**

Add:



- ; (xiv) in the case of a proposed export of live-stock by air—the ESCAS that will apply to the proposed export.

**30 Paragraph 3.04A(2)(a)**

Omit “the supply chain that will apply to the proposed export”, substitute “a supply chain that will apply to exports of a particular species of live-stock to one or more specified ports,”.

**31 Subparagraph 3.04A(2)(a)(i)**

Repeal the subparagraph, substitute:

- (ia) the species of live-stock;
- (i) the port or ports of arrival;

**32 Subparagraph 3.04A(2)(a)(v)**

After “subparagraphs”, insert “(ia),”.

**33 Subsection 3.04A(3)**

Omit “an ESCAS, that the exporter has given to the Secretary for the purposes of another proposed export”, substitute “, another ESCAS that the Secretary has previously approved”.

**34 Subsection 3.05(1)**

Omit “and ESCAS”, substitute “for a proposed export”.

**35 After subsection 3.05(1)**

Insert:

(1A) An ESCAS must be given to the Secretary no later than:

- (a) if the importing country requirements for the port or ports to which the ESCAS relates require pre-export quarantine or isolation of the live-stock to which the ESCAS relates—10 working days before the quarantine or isolation begins for the first export to which the ESCAS will apply; or
- (b) otherwise—10 working days before the first export to which the ESCAS will apply.

**36 Subsection 3.05(2)**

Omit “subsection (1)”, substitute “subsections (1) and (1A)”.

**37 Subsection 3.07(1)**

Repeal the subsection, substitute:

- (1) The Secretary may by notice in writing:
  - (a) require further information about a proposed export; or
  - (b) require further information about an ESCAS; or
  - (c) direct that an NOI be amended, or an ESCAS be varied, in a specified way.

**38 After subsection 3.07(2)**

Insert:

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- (2AA) However, the Secretary must not approve the NOI for a proposed export of live-stock by air unless the Secretary is satisfied that an approved ESCAS applies to the proposed export.

**39 Subsection 3.07(2A)**

Repeal the subsection, substitute:

- (2A) The Secretary may approve an ESCAS if he or she is satisfied that the ESCAS will ensure that live-stock to which it would apply will be transported, handled, slaughtered and subjected to any other related operations in accordance with relevant OIE recommendations.

**40 Subsection 3.07(3)**

Omit “the NOI and the ESCAS”, substitute “an NOI or an ESCAS”.

**41 Subsection 3.07(5)**

Repeal the subsection, substitute:

- (5) Without limiting subsection (4), the conditions of an ESCAS may relate to the following matters:
- (a) the matters mentioned in paragraph 3.04A(2)(a);
  - (b) publication of information provided by the exporter in relation to the supply chain set out in the ESCAS;
  - (c) the number of consignments to which the ESCAS may apply;
  - (d) any other matter the Secretary considers appropriate.

**42 Section 3.08**

Repeal the section, substitute:

**3.08 Effect of approval of NOIs and ESCASs**

- (1) Approval of an NOI for a proposed export of live animals is permission for the exporter to prepare to export the animals in compliance with:
- (a) the approved NOI; and
  - (b) in the case of live-stock—an approved ESCAS that applies to the export.
- (2) Approval of an NOI for a proposed export does not oblige the Secretary to grant an export permit for the export.
- (3) Approval of an ESCAS does not oblige the Secretary to grant an export permit for a proposed export to which the ESCAS would apply.

**43 Paragraph 3.09A(3)(a)**

Omit “the live-stock”, substitute “live-stock to which the approved ESCAS will apply”.

**44 At the end of section 3.09A**

Add:

- (4) A variation of an ESCAS (including a variation of the conditions imposed) applies in relation to all exports to which the ESCAS applies, including in relation to consignments that have left Australia before the variation takes effect.

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**45 Subsection 3.10(2)**

Omit “and ESCAS”.

**46 Paragraphs 3.15(1)(a) to (c)**

Repeal the paragraphs, substitute:

- (a) the exporter has given the Secretary an NOI about the export in accordance with section 3.04; and
- (b) the Secretary has approved the NOI; and
- (c) the exporter has complied with the NOI; and

**47 At the end of paragraph 3.15(1)(f)**

Add:

- (iii) an approved ESCAS applies to the export; and
- (iv) the exporter is in a position to comply with the approved ESCAS; and

**48 Paragraph 3.15(1)(i)**

Omit “and”.

**49 Paragraph 3.15(1)(j)**

Repeal the paragraph.

**50 Sections 7.01 to 7.03**

Repeal the sections, substitute:

**7.01 Transitional arrangements in relation to ESCASs—ongoing approvals**

- (1) If an exporter has, before 15 November 2014, given the Secretary an ESCAS for a proposed export of a species of live-stock to a port or ports, and the Secretary has not decided before 15 November 2014 whether to approve the ESCAS, the exporter is taken to have given the Secretary an ESCAS for a supply chain that will apply to exports of that species of live-stock to that port or those ports.
- (2) An ESCAS that was approved by the Secretary before 15 November 2014 continues to apply to the consignment of live-stock for which it was approved, but, subject to this section, does not apply to any other exports.
- (3) An exporter may request, in writing, the Secretary to vary an ESCAS that was approved before 15 November 2014 so that the approval of the supply chain is not restricted to the consignment of live-stock for which the ESCAS was originally approved.
- (4) If the Secretary approves the variation mentioned in subsection (3), the Secretary may also make other variations to the ESCAS.
- (5) For subsection (3) it does not matter whether the export of the consignment of live-stock for which the ESCAS was originally approved has been completed.

**51 Section 7.05 (heading)**

Repeal the heading, substitute:

**7.05 Effect of declaration under section 7.04**

**52 Section 7.05**

Omit “section 7.03 or”.

**53 Section 7.07**

Repeal the section.