



Australian Meat and Live-stock Industry (Sheepmeat and Goatmeat Export to the European Union) Order 2014

I, Matthew Koval, delegate of the Secretary of the Department of Agriculture, make the following order.

Dated 11 November 2014

Matthew Koval
Delegate of the Secretary of the Department of Agriculture

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Part 1—Preliminary

1 Name

This is the *Australian Meat and Live-stock Industry (Sheepmeat and Goatmeat Export to the European Union) Order 2014*.

2 Commencement

This instrument commences on the day after it is registered.

3 Authority

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

4 Definitions

In this instrument:

access amount, for a quota year, means the total carcase equivalent weight of sheepmeat and goatmeat that may, under the law of the EU dealing with tariff quotas for sheepmeat and goatmeat, be exported from Australia to the EU during the quota year.

Act means the *Australian Meat and Live-stock Industry Act 1997*.

approval means an approval for a consignment issued under Part 4.

AUS-MEAT means AUS-MEAT Limited (ACN 082 528 881).

AUS-MEAT handbook cut number, for a cut of meat, means the number for that cut of meat set out in the *AUS-MEAT RFP Cut Code Reference*.

AUS-MEAT meat type cipher, for a type of meat, means the cipher for that type of meat set out in the *AUS-MEAT RFP Cut Code Reference*.

AUS-MEAT RFP Cut Code Reference means the current edition of the document of that name published by AUS-MEAT.

Note: The *AUS-MEAT RFP Cut Code Reference* could in 2014 be viewed on AUS-MEAT's website (<http://www.ausmeat.com.au>).

carcase equivalent weight means:

- (a) for bone-in meat—its weight; or
- (b) for boneless mutton—its weight divided by 0.55; or
- (c) for boneless goatmeat—its weight divided by 0.55; or
- (d) for boneless lamb—its weight divided by 0.6.

certificate means the Document of Origin required by the EU for sheepmeat or goatmeat exported to the EU.

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Note: Part 5 provides for the issue of certificates.

consignment means a single shipment of quota meat or erga omnes meat (by sea or air) by an exporter to a single consignee.

eligible exporter means an exporter to whom EU quota is allocated or transferred.

erga omnes meat means fresh, chilled or frozen mutton, lamb or goatmeat that is exported, or is to be exported, from Australia to the EU by an exporter in accordance with the provision for erga omnes meat mentioned in the Annex to the *Commission Implementing Regulation (EU) No 1354/2011*, but does not include:

- (a) edible offal; or
- (b) canned or processed meat; or
- (c) product for ships' stores; or
- (d) a product for which a certificate is not required by the EU.

EU means the European Union.

EU-accredited establishment means premises that:

- (a) are under the full-time inspection and supervision of the Department; and
- (b) are registered under the *Export Control Act 1982*; and
- (c) have been accredited by AUS-MEAT and the Department for the export of meat to the EU.

EU quota, for an eligible exporter in a quota year, means the carcase equivalent weight of quota meat that the eligible exporter is entitled to export to the EU in the quota year.

EXDOC means the electronic documentation system maintained by the Department.

exporter means the holder of a meat export licence allowing the holder to export sheepmeat or goatmeat to the EU.

meat does not include edible offal.

performance year means a period of 12 months starting on 1 November.

QA Unit means the section of the Department known as the Quota Administration and Statistics Unit.

Note: The address of the Department's QA Unit is given in section 24.

quota meat means fresh, chilled or frozen mutton, lamb or goatmeat that is exported, or is to be exported, from Australia to the EU as part of Australia's tariff quota for sheepmeat and goatmeat under the law of the EU, but does not include:

- (a) edible offal; or
- (b) canned or processed meat; or
- (c) product for ships' stores; or
- (d) a product for which a certificate is not required by the EU.

Section 4

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

quota year means 2015 or a later calendar year.

shipped weight, for quota meat or erga omnes meat, means the actual weight of the meat (whether it is bone-in or boneless).

Part 2—Prohibition of certain exports

5 No export without approval and certificate

- (1) An eligible exporter may export quota meat or erga omnes meat to a member country of the EU only if the Secretary has issued an approval under Part 4, and a certificate under section 17, for the export.

Note 1: An eligible exporter may export a sheepmeat or goatmeat product, other than quota meat or erga omnes meat, to the EU without an approval or a certificate.

Note 2: An exporter that is not an eligible exporter may export a sheepmeat or goatmeat product to the EU without an approval or a certificate. The import of that product into the EU will attract a tariff at the relevant out-of-quota rate.

Note 3: An exporter may export quota meat specified in a limitation notice issued under subsection 5(1) of the Quotas Act to a country specified in the notice only if the exporter has been granted a quota (see subsection 5(1) of that Act).

- (2) An exporter must obtain a separate approval for each consignment of quota meat or erga omnes meat to be exported.

Part 3—EU quotas

6 Purpose of this Part

This Part sets out:

- (a) how an exporter obtains EU quota; and
- (b) how to work out an exporter's EU quota for a quota year.

7 How EU quota is obtained

- (1) The Secretary may:
 - (a) invite exporters to apply for an EU quota for a quota year; and
 - (b) set a deadline for applications for the quota year.

Note: The Secretary intends to give exporters a notice, called a notice of limitation, that advises the amount of quota meat that may be exported to the EU during a quota year and, in that notice, may seek applications from exporters for the allocation of quota within this amount (see section 5 of the Quotas Act).

- (2) An application for EU quota for a quota year must be made in writing to the QA Unit, in a form approved by the Secretary, before the deadline for applications set by the Secretary.
- (3) The Secretary may allocate EU quota in accordance with section 8.
- (4) An exporter may also receive EU quota by transfer under section 9.

8 How EU quota is worked out

- (1) After the deadline for applications for a quota year set under subsection 7(1), the Secretary must work out the amount of EU quota to be allocated for the quota year to each exporter that has applied for EU quota.

Note: The EU quota is allocated by the Secretary under section 6 of the Quotas Act. A fee is payable for the quota under the *Australian Meat and Live-stock (Quotas) Regulations 2000*.

- (2) Subject to subsections (4) and (5), the amount of EU quota to be allocated to an exporter for the quota year is:

$$0.8 \times AA \times \frac{\text{Exporter's quota meat exports}}{\text{Total quota meat exports}} + 0.2 \times AA \times \frac{\text{Exporter's EU-accredited exports}}{\text{Total EU-accredited exports}}$$

where:

AA is:

- (a) the access amount for the quota year; or
- (b) if the EU has not published the access amount for the quota year when the EU quota is being worked out—the amount determined by the Secretary under subsection (3).

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exporter's EU-accredited exports is the carcase equivalent weight of the exporter's exports of sheepmeat and goatmeat from an EU-accredited establishment to all destinations in the previous performance year, including amounts transferred to the exporter under section 22.

exporter's quota meat exports is the carcase equivalent weight of the exporter's exports of quota meat in the previous performance year.

total EU-accredited exports is the carcase equivalent weight of all applicants' exports of sheepmeat and goatmeat from an EU-accredited establishment to all destinations in the previous performance year, including amounts transferred to an applicant under section 22.

total quota meat exports is the carcase equivalent weight of all applicants' exports of quota meat in the previous performance year.

Note: See Part 6 for provisions about how the carcase equivalent weight of exports is determined.

- (3) If, when EU quotas are being worked out for a quota year, the EU has not published the access amount for the quota year, the Secretary may determine the total amount of EU quota available for allocation, based on:
 - (a) the access amount for the previous year; and
 - (b) the Secretary's estimate of the likely access amount for the quota year.
- (4) If the amount of EU quota worked out for an exporter under subsection (2) is less than 12 000 kilograms, no EU quota is to be allocated to the exporter for the quota year.
- (5) An amount of EU quota for a quota year that, because of the operation of subsection (4), is not to be allocated to an exporter is to be redistributed among other applicants in proportion to the amount of EU quota to be allocated to each of them under subsection (2).
- (6) The Secretary must give each applicant a notice stating the amount of EU quota that the exporter is to be allocated for the quota year.

Note 1: This is the quota document mentioned in section 6 of the Quotas Act. The quota document may also identify any conditions of the grant of quota.

Note 2: The Department's QA Unit maintains an account (a **quota account**) for each eligible exporter. An eligible exporter's quota is recorded in its quota account and exports of quota meat by the exporter are recorded in the account as debits.

Note 3: The Secretary may at any time vary any of the following:

- (a) the period of effect of a quota;
- (b) the quantity or description of goods covered by a quota;
- (c) a condition applying to a quota.

See section 28 of the Act.

Note 4: Certain decisions by the Secretary about a quota are reviewable by the Administrative Appeals Tribunal: see section 30 of the Act.

- (7) If:
 - (a) an amount of EU quota for a quota year is to be allocated to an exporter under this section; and

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- (b) the exporter pays the fee prescribed by the *Australian Meat and Live-stock (Quotas) Regulations 2000* for the allocation of the EU quota; the Secretary must allocate the EU quota to the exporter.
- (8) The Secretary may increase an exporter's EU quota for a quota year if:
- (a) a country becomes a member country of the EU; and
 - (b) the access amount for the quota year is increased as a result; and
 - (c) the exporter exported sheepmeat or goatmeat to the country before the year in which the country became a member country of the EU.
- (9) For subsection (8), the year in which a country became a member country of the EU is as determined by the EU.

9 Transfer of EU quota

- (1) Subject to subsection (2), an eligible exporter may transfer all or part of its EU quota for a quota year to another exporter.
- (2) The transferor must notify the QA Unit, in writing, of the following information:
- (a) the name of the transferor;
 - (b) the name of the transferee;
 - (c) the carcase equivalent weight, in kilograms, of EU quota to be transferred.

Note: The Department's QA Unit maintains an account (a **quota account**) for each eligible exporter. An eligible exporter's quota is recorded in its quota account and exports of quota meat by the exporter are recorded in the account as debits.

10 When unused EU quota lapses

- (1) An eligible exporter must, before 18 October in a quota year, give the Secretary written notice of how it intends to deal with any of the eligible exporter's EU quota for the quota year that is unused.
- Note: Before 18 October each year, the Secretary intends to send each eligible exporter a notice asking it to tell the Secretary, in writing, how it intends to deal with any unused EU quota.
- (2) If an eligible exporter does not, before 1 November in a quota year, do either of the following in relation to the exporter's unused EU quota (if any):
- (a) make an application for approval under section 11;
 - (b) give the QA Unit the consignment information mentioned in subsection (3) in relation to the unused EU quota;
- the exporter's unused EU quota lapses at the start of 1 November in the quota year.
- (3) For paragraph (2)(b), the consignment information in relation to a proposed consignment of quota meat is as follows:
- (a) the eligible exporter's name;
 - (b) the eligible exporter's exporter licence number;
 - (c) whether the quota meat is chilled or frozen;
 - (d) whether the quota meat is bone-in or boneless, and the weight (in kilograms) of it in each form;

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- (e) the name of the importer;
- (f) the estimated shipped weight (in kilograms) of the quota meat;
- (g) the intended port of loading and the expected date of loading;
- (h) the name of the final destination country;
- (i) the intended port of discharge.

(4) If:

- (a) an eligible exporter gives the Secretary consignment information in relation to unused EU quota under paragraph (2)(b); and
- (b) the eligible exporter does not make an application for approval under section 11 before:
 - (i) the expected date of loading specified in the consignment information;
or
 - (ii) if the Secretary varies that date to a later date—that later date;

the exporter's unused EU quota lapses at the start of the date mentioned in subparagraph (b)(i) or (ii) (whichever is applicable).

Note: An exporter who was an eligible exporter during the quota year may apply for approval to export using lapsed EU quota (see subsection 12(1)).

Part 4—Approvals

11 Approval to export quota meat using EU quota

- (1) An eligible exporter may apply, in accordance with section 14, for approval to export a consignment of quota meat in a quota year using the exporter's EU quota for the quota year.
- (2) An exporter may also apply for approval to export a consignment of quota meat as part of the exporter's EU quota after the exporter receives a notice under subsection 8(6) about the amount of EU quota it is to be allocated for the quota year.
- (3) The Secretary must issue an approval for the consignment to the exporter if the sum of:
 - (a) the carcase equivalent weight of quota meat in the consignment; and
 - (b) the total carcase equivalent weight of the exporter's exports previously approved under this section for the quota year;is not more than the exporter's EU quota for the quota year.

Note: Subsections 16(1) and (2) provide for when an approval issued under this section lapses.

12 Approval to export quota meat using lapsed EU quota

- (1) If an amount of EU quota for a quota year has lapsed under section 10, an exporter who was an eligible exporter during the quota year may apply (after 31 October in the quota year) in accordance with section 14 for approval to export a consignment of quota meat in the quota year.
- (2) The Secretary must issue an approval for the consignment to the exporter if the sum of:
 - (a) the carcase equivalent weight of quota meat in the consignment; and
 - (b) the total carcase equivalent weight of all exports of quota meat in the quota year previously approved under this Part;is not more than the access amount for the quota year.

Note: Subsections 16(3) and (4) provide for when an approval issued under this section lapses.

13 Approval to export erga omnes meat

- (1) An exporter may apply, in accordance with section 14, for approval to export a consignment of erga omnes meat in a quota year.
- (2) The Secretary must issue an approval for the consignment to the exporter unless:
 - (a) it is more than 3 months before the start of the quota year; or
 - (b) the quota year has ended.

Note: Subsections 16(3) and (5) provide for when an approval issued under this section lapses.

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14 Application for approval

- (1) An application under section 11, 12 or 13 for approval to export a consignment must set out the following information for the consignment:
 - (a) the applicant's name;
 - (b) the applicant's exporter licence number;
 - (c) for the meat to be exported:
 - (i) its type; and
 - (ii) its AUS-MEAT meat type cipher; and
 - (iii) its AUS-MEAT handbook cut number; and
 - (iv) whether it is chilled or frozen; and
 - (v) whether it is bone-in or boneless, and the weight (in kilograms) of it in each form; and
 - (vi) the establishment number of the EU-accredited establishment that prepared the meat;
 - (d) the name of the importer;
 - (e) the shipped weight (in kilograms);
 - (f) the carcase equivalent weight (in kilograms);
 - (g) the name of the ship and the voyage number, or the air freight carrier and flight number, to be used;
 - (h) the intended port of loading and the expected date of loading;
 - (i) the name of the final destination country;
 - (j) the intended port of discharge;
 - (k) the Department's regional office at which the Department's notice of intention to export is to be lodged;
 - (l) the Department's regional office at which the Department's health certificate is to be produced.
- (2) The application must be made to the QA Unit.
- (3) The application must include an appropriate entry in EXDOC.

15 Approvals for exports unlikely to be accepted into EU

An exporter that is issued with an approval on or before 31 October in a quota year, for export of a consignment in the quota year, must notify the QA Unit in writing before 1 December in the quota year if it is likely that an export will not be accepted for entry into a member country of the EU before the end of the quota year.

16 Duration of approvals

- (1) An approval to export a consignment in a quota year that was issued to an exporter under section 11 before 1 November in the quota year lapses if the exporter does not obtain a certificate for the consignment by the earlier of:
 - (a) 5 pm on 31 October in the quota year; and
 - (b) 3 months after the issue of the approval.

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- (2) An approval to export a consignment in a quota year that was issued to an exporter under section 11 on or after 1 November in the quota year lapses at the end of 31 December in the quota year if the consignment is not accepted into a member country of the EU on or before that day.
- (3) An approval to export a consignment in a quota year issued to an exporter under section 12 lapses if the exporter does not obtain a certificate for the consignment within 4 weeks after the approval is given.
- (4) An approval to export a consignment in a quota year issued to an exporter under section 13 lapses 3 months after the issue of the approval.
- (5) An approval to export a consignment in a quota year issued to an exporter under section 12 or 13 lapses at the end of 31 December in the quota year if the consignment is not accepted into a member country of the EU on or before that day.

Part 5—Certificates

17 How to obtain certificates

- (1) An exporter may apply for a certificate for a consignment for which the Secretary has issued an approval.
- (2) An application under subsection (1) must be made to the QA Unit.
- (3) The application must include an appropriate entry in EXDOC.

18 Issue of certificate

The Secretary must issue a certificate for a consignment to an exporter if the exporter:

- (a) has an approval for the consignment; and
- (b) applies for the certificate under section 17.

Note: A certificate that is issued to an exporter for a consignment that is intended for entry into a member country of the EU in a quota year will not be able to be used until the start of the quota year.

19 When certificates lapse

A certificate for a consignment that is approved for export in a quota year lapses if the consignment is not accepted for entry into a member country of the EU before the end of the quota year.

Part 6—Recording exports

20 Weight of quota meat exported

- (1) Subject to this section and section 21, an exporter is taken to have exported in a consignment of quota meat the carcase equivalent weight shown in the approval for the consignment at the time that the approval was issued.
- (2) If the carcase equivalent weight of quota meat actually exported in a consignment by the exporter is less than the weight stated in the certificate for the consignment, the exporter is not taken to have exported the difference in weight if:
 - (a) the identifying number of the approval is shown on the consignment information; and
 - (b) the exporter gives that information to the QA Unit by 5 pm on the next 31 October after the approval for the consignment was issued; and
 - (c) the difference between the actual carcase equivalent weight of the export and the weight stated in the certificate for the consignment is no more than 50 kilograms.
- (3) If the carcase equivalent weight of quota meat actually exported in a consignment by the exporter is less than the weight stated in the certificate for the consignment, the exporter is not taken to have exported the difference in weight if the exporter gives a copy of the certificate, annotated by the relevant EU authority to show the actual weight of meat exported, to the QA Unit by 5 pm on the next 31 October after the approval for the consignment was issued.
- (4) If an exporter is granted approval for a consignment of quota meat but does not export the consignment, the exporter is not taken to have exported the weight of quota meat stated in the approval if the exporter gives all the copies of the certificate for the consignment to the QA Unit by 5 pm on the next 31 October after the approval for the consignment was issued.
- (5) If the approval of a consignment of quota meat lapses before 5 pm on the next 31 October after the approval was issued and before any export takes place under the approval, the exporter is not taken to have exported the weight of quota meat stated in the approval.
- (6) If a consignment of quota meat is refused entry to the EU, the exporter is not taken to have exported the consignment if the exporter returns all copies of the certificate for the consignment to the QA Unit by the earlier of:
 - (a) 5 pm on the next 31 October after the approval for the consignment was issued; and
 - (b) 3 months after the day the consignment left Australia.
- (7) An export of a consignment of quota meat in a performance year is to be disregarded for the purpose of working out EU quota for the next quota year under section 8 if the exporter does not give consignment information to the QA Unit before 5 pm on 7 November after the end of the performance year.

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21 Gift packs not to be counted in exports

An export of sheepmeat or goatmeat that has been authorised as a gift pack is not to be taken into account in determining the amount of an exporter's exports for the purpose of this instrument.

22 Transfer of export records

- (1) An exporter may transfer all or part of the carcase equivalent weight of its exports of sheepmeat and goatmeat from an EU-accredited establishment in a performance year, other than exports of quota meat, to another exporter.

Note: The transfer will be taken into account in working out EU quota for the next quota year under section 8.
- (2) The transfer must be carried out by giving the QA Unit, before 5 pm on 7 November after the end of the performance year, a notice in writing setting out:
 - (a) the transferor's name; and
 - (b) the transferee's name; and
 - (c) the carcase equivalent weight, in kilograms, to be transferred.

23 Errors in recording exports

- (1) If an exporter thinks that a record of its exports given to it by the QA Unit contains an error, the exporter must notify the QA Unit in writing within 30 days after receiving the record.
- (2) A notice of a possible error that is not given to the QA Unit within the time allowed by subsection (1) is of no effect.

Part 7—Miscellaneous

24 Where to send notices and documents

If a provision of this instrument requires or permits a person to give a document, notice or information to the QA Unit, the document, notice or information must be sent in one of the following ways:

- (a) by post to:
Quota Administration and Statistics Unit
Department of Agriculture
GPO Box 858
CANBERRA ACT 2601;
- (b) by email to:
quota.admin@agriculture.gov.au.