**EXPLANATORY STATEMENT**

Issued by Authority of the Minister for Agriculture and Water Resources

*Imported Food Control Regulations 1993*

*Imported Food Control Order 2001*

*Imported Food Control Amendment (Recognised Foreign Government Certificates and Other Measures) Order 2015*

**Legislative Authority**

Section 16 of the *Imported Food Control Act 1992* (the Act) provides that the Minister may make orders identifying food of particular kinds as food of a kind that is required to be inspected, or inspected and analysed, under the Imported Food Inspection Scheme and from time to time to vary orders so made.

**Purpose**

Recent amendments were made to the *Imported Food Control Regulations 1993* (the Regulations) to implement arrangements for certain risk food to require recognised foreign government certification. The purpose of the *Imported Food Control Amendment (Recognised Foreign Government Certificates and Other Measures) Order 2015* (Amendment Order) is to give effect to these recent amendments to the Regulations, by identifying specific risk food which require mandatory foreign government certificates as a condition of import. This certification will be evidence the food has been subject to satisfactory primary production and processing controls, providing assurance the foods are safe on importation. The Amendment Order also amends the list of imported food classified as a risk food.

**Background**

Food Standards Australia New Zealand (FSANZ) conducts food safety risk assessments on imported food. These assessments identify some hazards which require food safety controls throughout the primary production and processing of the food. These controls may also include animal and plant health requirements. Physical inspection alone for these specific hazards in some risk food may not provide sufficient assurance of food safety. Recognised government certification of primary production and processing controls is a more effective means of managing these hazards by providing Australia’s food regulators with end-point assurance that the exporting country is controlling hazards and the food may be considered safe.

The Amendment Order also reflect changes to the list of risk food based on the food safety risk assessments and advice provided to the department by FSANZ.

**Impact and Effect**

The Amendment Order lists the risk food subject to one hundred per cent inspection at the border, and identifies the risk food which must be covered by a recognised foreign government certificate as a condition of import. The department will advise governments in exporting countries where food safety controls and certification are a mandatory requirement.

Where such food is not already imported, the department will not permit trade until government controls are assessed and arrangements are negotiated.

Where a food has a history of import and it is determined food safety controls will be mandated, Australia will advise governments in exporting countries of the requirements and negotiate a transition to new arrangements.

**Consultation**

Industry was consulted through the Imported Food Consultative Committee, which is the department’s forum for consultation with the food and beverage importing industry, and it supports the Amendment Order. The committee contains representatives of the Food and Beverage Importers’ Association, Australian Food and Grocery Council, Seafood Importers’ Association and FSANZ.

Consultation also occurred other Commonwealth, state and territory government food authorities which support this work by the department.

In accordance with section 17 of the Act, the department has consulted with the Australia New Zealand Food Authority who agreed to the Amendment Order.

The department consulted with the Office of Best Practice Regulation (ID 17861).

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

The Amendment Order is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in the Attachment.

**Details of the *Imported Food Control Amendment (Recognised Foreign Government Certificates and Other Measures) Order 2015***

Section 1 – Name

This section provides that the name of the Amendment Order is the *Imported Food Control Amendment (Recognised Foreign Government Certificates and Other Measures) Order 2015*.

Section 2 – Commencement

This section provides that the Amendment Order commences on the day after registration.

Section 3 – Authority

This section provides that the Amendment Order is made under the *Imported Food Control Act 1992*.

Section 4 – Schedules

This section provides that the *Imported Food Control Order* 2001 (the Principal Order) is amended as set out in the Schedule.

Schedule 1 – Amendments

**Item 1** substitutes order 5 of the Principal Order with a new order 5 which provides that identified risk food in schedule 1 and schedule 2 to the Amendment Order must be covered by a recognised foreign government certificate.

**Item 2**, in the table in clause 1 of schedule, substitute the table heading ‘Kinds of food’ and column headings ‘Item’ and ‘Kinds of food’ 1 with a new table heading ‘Kinds of food that are required to be inspected, or inspected and analysed’.

**Item 3**, in the table in clause 1 of schedule 1, substitute item 1 ‘Beef (whether cooked or uncooked and whether or not chilled or frozen)’, and item 2 ‘Beef products (whether cooked or uncooked and whether or not chilled or frozen)’ with ‘Beef’ and ‘Beef products’ respectively.

**Item 4**, in the table in clause 1 of schedule 1: substitute item 4 ‘Cheese of the following kinds:

(a) curd cheese;

(b) fresh cheese that is not fermented, including whey cheese;

(c) soft cheese;

(d) soft smoked cheese;

(e) surface‑ripened cheese’

with ‘Cheese in which the growth of *Listeria monocytogenes* can occur’; add new item 4A ‘Raw milk cheese’; substitute item 5 ‘Chicken meat that is cooked (whether or not chilled or frozen), but is not canned’ in clause 1 of schedule 1 with ‘Cooked chicken meat that is ready-to-eat, but is not canned’.

**Item 5** repeals table item 19 in clause 1 of schedule 1.

**Item 6**, in the table in clause 1 of schedule, substitute table item 20 ‘Poultry pâtés and poultry livers that are ready for consumption (whether or not chilled or frozen), but that are not canned’ with ‘Cooked poultry pâté and poultry livers that are ready-to-eat, but are not canned’.

**Item 7**,in the table in clause 1 of schedule 2: substitute the table heading ‘Kinds of food’ and column headings ‘Item’ and ‘Kinds of food’ with ‘Kinds of New Zealand product that are required to be inspected, or inspected and analysed’; substitute item 1 ‘Beef (whether cooked or uncooked and whether or not chilled or frozen)’ and item 2 ‘Beef products (whether cooked or uncooked and whether or not chilled or frozen)’ with ‘Beef’ and ‘Beef products’ respectively; repeal items 4 and 5.

**Item 8** repeals clause 2 of schedule 2.

**Attachment**

**Statement of Compatibility with Human Rights**

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

***Imported Food Control Amendment (Recognised Foreign Government Certificates and***

***Other Measures) Order 2015***

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**

Recent amendments were made to the *Imported Food Control Regulations 1993* (the Regulations) to implement arrangements for certain risk foods to require recognised foreign government certification. The Imported Food Control Amendment (Recognised Foreign Government Certificates and Other Measures) Order 2015gives effect to these recent amendments to the Regulations by identifying specific risk foods which require mandatory foreign government certificates as a condition of import and also amends the list of imported food classified as a risk food.

**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. Barnaby Joyce MP**

**Minister for Agriculture and Water Resources**