

EXPLANATORY STATEMENT

Issued by Authority of the Secretary of the Department of Agriculture, Water and the Environment

Export Control Act 2020

Export Control (Fees and Payments) Amendment Rules 2021

Legislative Authority

The *Export Control (Fees and Payments) Amendment Rules 2021* (the Amendment Rules) are made by the Secretary of the Department of Agriculture, Water and the Environment (the department) under section 432 of the *Export Control Act 2020* (the Act).

Section 432 of the Act relevantly provides that the Secretary may, by legislative instrument, make rules prescribing matters required or permitted by the Act, or are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 399 of the Act provides that the rules may prescribe fees that may be charged in relation to fee-bearing activities carried out by, or on behalf of, the Commonwealth in the performance of functions or the exercise of powers under the Act.

Paragraph 400(a) provides that the rules may prescribe the time when a specified cost-recovery charge is due and payable, and paragraph 400(b) provides that the rules may prescribe rules relating to the liability of a person's agent to pay cost-recovery charges on behalf of the person and the recovery of such cost-recovery charges from the person by the agent.

Section 401 provides that the rules may prescribe one or more persons who are liable to pay a specified cost-recovery charge. If the rules specify the time when a cost-recovery charge is due and payable, section 403 allows for the rules to also specify a late payment fee that is due and payable if a basic charge is not paid at or before the time.

Under section 289 of the Act, the Minister may, by legislative instrument, issue directions to the Secretary about the performance of the Secretary's functions or the exercise of the Secretary's powers in making rules under section 432 of the Act. Directions made by the Minister to the Secretary are legislative instruments but are not subject to the disallowance or sunset provisions of the *Legislation Act 2003*. At the time of commencement, a Ministerial direction has not been made under section 289 of the Act for the purposes of rules relating to fees and payments.

Purpose

The *Export Control (Fees and Payments) Rules 2021* (the Fees Rules) prescribes fees, cost-recovery charges and late payment fees, persons liable to pay fees or late payment fees, liability of a person's agent to pay cost-recovery charges, and the time for payment of cost-recovery charges, in relation to functions carried out by, or on behalf of, the Commonwealth, under the Act.

The purpose of the Amendment Rules is to amend the existing fee prices in the Fees Rules to reflect the Government's \$328.4 million Busting Congestion for Agricultural Exporters package, as part of the 2020-21 Budget. This package aims to ensure that departmental systems and processes underpinning the agricultural and food export system are made more efficient and reliable.

As part of this decision, the Amendment Rules provide for increases to charges from 2021-22, and apply a stepped return to full cost recovery by 2023-24 for departmental export certification regulatory functions. The transition over four years, commencing with a freeze of fees and charges in 2020-21, is designed to ease the impact for agriculture and food exporters. To ensure export regulatory functions continue to be sustained during this transitional period, the Government has also allocated \$71.1 million in appropriation funding to the department. As this appropriation funding phases out, prices will increase in successive years, with full cost recovery under the new arrangements in place by 2023-24.

Background

The Act and its subordinate legislation provide the basis for ensuring that exports such as meat, seafood, dairy, plants, non-prescribed goods and live animals meet the requirements of importing countries.

The Amendment Rules prescribe changes to fees where a service is provided directly to an individual, business or organisation, and reflects the activities carried out by, or on behalf of, the Commonwealth under the Act.

The Amendment Rules provide for the implementation of these new cost recovery arrangements, in conjunction with the *Export Charges (Imposition—General) Regulations 2021* and *Export Charges (Imposition—Customs) Regulations 2021*.

Impact and Effect

The Amendment Rules provide for the increased prices to be implemented from 1 July 2021 and will assist the department to appropriately recover fees for activities carried out by, or on behalf of, the Commonwealth. Price changes will apply across every export arrangement, but the specific price changes for each fee vary, depending on the department's costs of delivering each functional activity.

The phased increases in prices set out in the Amendment Rules reflect the department's costs of delivering export regulatory functions. The prices have been based on the modelling set out in the cost recovery implementation statements (CRISs), and are no higher than the department's expected costs of delivering the regulatory functions for export certification.

Consultation

The department has been engaging with industry on cost recovery charging arrangements since 2019, with food and plant CRISs released for public consultation between October 2019 and January 2020. Live animal export representatives have been consulted on alternate charging arrangements through consultative committee discussions from February 2020. In October 2020, the Government announced the Busting Congestion for Agricultural Exporters package, including announcing \$71.1 million to freeze fees and charges in 2020–21 and the intention to return to full cost recovery by 2023–24.

In February 2021, 2020–21 CRISs were published on the department’s website for 7 agriculture and food export CRISs, which provided industry stakeholders with a description of the stepped increase to full cost recovery.

The department consulted publicly on proposed changes to cost recovery arrangements between 14 May 2021 and 10 June 2021. On 14 May 2021, the department released 7 draft 2021-22 agriculture and food export CRISs for public consultation. During that time the department invited stakeholder feedback through a submissions process. 36 submissions were received. The department held 15 virtual meetings during the consultation period to engage with stakeholders across all 7 agricultural exports arrangements.

Feedback was considered by the department following the consultation period. Some stakeholders disagree with cost recovery in principle and raised concerns about price increases. Stakeholder views on CRISs varied with some supporting restructured charging arrangements and some preferring to continue working with the department over time to identify alternative charging structures. The final CRISs were certified by the Secretary of the department and endorsed by the Minister for Agriculture, Drought and Emergency Management (the Minister). The Minister for Finance agreed to release the final CRISs for live animal and horticulture exports which are available on the department’s website alongside the other 5 final CRISs.

Details and Operation

Details of the Amendment Rules are set out in Attachment A.

The Amendment Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amendment Rules commence on 1 July 2021.

Other

The Amendment Rules are 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 Attachment B.

Details of the *Export Control (Fees and Payments) Amendment Rules 2021*

Section 1 – Name

This section provides that the name of the instrument is the *Export Control (Fees and Payments) Amendment Rules 2021* (the Amendment Rules).

Section 2 – Commencement

This section provides that the Amendment Rules commence on 1 July 2021.

There is a note below the table, that provides the table relates only to the provisions of the Amendment Rules as originally made. It will not be amended to deal with later amendments of the Amendment Rules. The purpose of this note is to clarify that the commencement of any subsequent amendments will not be reflected in this table.

Section 3 – Authority

This section provides that the Amendment Rules are made under the *Export Control Act 2020* (the Act).

Section 4 – Schedules

This section provides for the amendment or repeal of instruments as set out in a Schedule to the Amendment Rules. This enables the amendment of the *Export Control (Fees and Payments) Rules 2021* (the Fees Rules) (see Schedule 1 below).

Schedule 1 – Amendments

Export Control (Fees and Payments) Rules 2021

Item [1] – Section 1-6

Section 1-6 of the Fees Rules contains definitions of key terms which are used in the Fees Rules. The note at the start of section 1-6 lists some terms used in the Fees Rules which are defined in section 12 of the Act. Such terms will have the same meaning in the Fees Rules as they have in the Act.

This item inserts new definitions for ***Animals Rules*** and ***ESCAS*** into section 1-6 of the Fees Rules. The definitions inserted are:

- ***Animals Rules*** means the *Export Control (Animals) Rules 2021* (Animals Rules); and
- ***ESCAS*** has the meaning given by the Animals Rules.

Item [2] – Section 1-6 (paragraphs (b) and (c) of the definition of *export document*)

Section 1-6 of the Fees Rules contains definitions of key terms which are used in the Fees Rules.

This item omits the words “*Export Control (Animals) Rules 2021*” and substitutes “Animals Rules” in paragraphs (b) and (c) of the definition of ***export document*** in section 1-6. This amendment is consequential to the insertion of the definition of ***Animals Rules*** in section 1-6 (see item [1] above).

Item [3] – Section 1-6

Section 1-6 of the Fees Rules contains definitions of key terms which are used in the Fees Rules.

This item inserts a new definition for ***horticultural products*** into section 1-6 of the Fees Rules, which is defined as having the meaning given by the *Export Control (Plants and Plant Products) Rules 2021* (Plant Rules).

Item [4] – Section 1-6 (definition of *prescribed animal reproductive material*)

Section 1-6 of the Fees Rules contains definitions of key terms which are used in the Fees Rules.

This item omits the words “*Export Control (Animals) Rules 2021*” and substitutes “Animals Rules” in the definition of ***prescribed animal reproductive material*** in section 1-6. This amendment is consequential to the insertion of the definition of ***Animals Rules*** in section 1-6 (see item [1] above).

Item [5] – Section 1-6 (definition of *prescribed live animals*)

Section 1-6 of the Fees Rules contains definitions of key terms which are used in the Fees Rules.

This item omits the words “*Export Control (Animals) Rules 2021*” and substitutes “Animals Rules” in the definition of ***prescribed live animals*** in section 1-6. This amendment is consequential to the insertion of the definition of ***Animals Rules*** in section 1-6 (see item [1] above).

Item [6] – Section 1-6 (definition of *prescribed livestock*)

Section 1-6 of the Fees Rules contains definitions of key terms which are used in the Fees Rules.

This item omits the words “*Export Control (Animals) Rules 2021*” and substitutes “Animals Rules” in the definition of ***prescribed livestock*** in section 1-6. This amendment is consequential to the insertion of the definition of ***Animals Rules*** in section 1-6 (see item [1] above).

Item [7] – Subsection 2-2(1) (table item 1)

Section 2-2 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to audits carried out under the Act by a Commonwealth authorised officer. The fees are listed in the table in subsection 2-2(1), where column 1 of the table describes the type of audit and column 2 describes the corresponding fees that apply for that type of audit.

This item repeals and substitutes the fee described in table item 1 in subsection 2-2(1) of the Fees Rules.

Amended table item 1 provides the quarter hourly fees that may be charged in relation to an audit by a Commonwealth authorised officer of export operations carried out, or in relation to the performance of functions or exercise of powers under the Act in certain circumstances. These circumstances are in relation to prescribed livestock for export, prescribed live animals for export or prescribed animal reproductive material for export.

The amended fees differ depending on the financial year during which the activity is carried out and who conducts the audit. The higher fee is reflective of where the authorised officer is required to be a veterinarian to conduct the audit.

Item [8] – Subsection 2-2(1) (cell at table item 2, column 2)

Section 2-2 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to audits carried out under the Act by a Commonwealth authorised officer. The fees are listed in the table in subsection 2-2(1), where column 1 of the table describes the type of audit and column 2 describes the corresponding fees that apply for that type of audit.

Table item 2 currently provides the quarter hourly fee that may be charged in relation to audits by a Commonwealth authorised officer of export operations carried out, or in relation to the performance of functions or exercise of powers under the Act, in relation to prescribed plants or prescribed plant products for export.

This item repeals and substitutes the fee described in column 2 of table item 2 in subsection 2-2(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [9] – Subsection 2-2(1) (cell at table item 3, column 2)

Section 2-2 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to audits carried out under the Act by a Commonwealth authorised officer. The fees are listed in the table in subsection 2-2(1), where column 1 of the table describes the type of audit and column 2 describes the corresponding fees that apply for that type of audit.

Table item 3 currently provides the quarter hourly fee that may be charged in relation to an audit by a Commonwealth authorised officer of export operations carried out, or in relation to the performance of functions or exercise of powers under the Act, in relation to prescribed meat or prescribed meat products for export.

This item repeals and substitutes the fee described in column 2 of table item 3 in subsection 2-2(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out and who conducts the audit. The higher fee is reflective of where the authorised officer is required to be a veterinarian to conduct the audit.

Item [10] – Subsection 2-2(1) (cell at table item 4, column 2)

Section 2-2 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to audits carried out under the Act by a Commonwealth authorised officer. The fees are listed in the table in subsection 2-2(1), where column 1 of the table describes the type of audit and column 2 describes the corresponding fees that apply for that type of audit.

Table item 4 currently provides the quarter hourly fee that may be charged in relation to an audit by a Commonwealth authorised officer of export operations carried out, or in relation to the performance of functions or exercise of powers under the Act, in relation to prescribed milk or prescribed milk products for export.

This item repeals and substitutes the fee described in column 2 of table item 4 in subsection 2-2(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [11] – Subsection 2-2(1) (cell at table item 5, column 2)

Section 2-2 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to audits carried out under the Act by a Commonwealth authorised officer. The fees are listed in the table in subsection 2-2(1), where column 1 of the

table describes the type of audit and column 2 describes the corresponding fees that apply for that type of audit.

Table item 5 currently provides the quarter hourly fee that may be charged in relation to an audit by a Commonwealth authorised officer of export operations carried out, or in relation to the performance of functions or exercise of powers under the Act, in relation to prescribed fish or prescribed fish products for export.

This item repeals and substitutes the fee described in column 2 of table item 5 in subsection 2-2(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [12] – Subsection 2-2(1) (cell at table item 6, column 2)

Section 2-2 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to audits carried out under the Act by a Commonwealth authorised officer. The fees are listed in the table in subsection 2-2(1), where column 1 of the table describes the type of audit and column 2 describes the corresponding fees that apply for that type of audit.

Table item 6 currently provides the quarter hourly fee that may be charged in relation to an audit by a Commonwealth authorised officer of export operations carried out, or in relation to the performance of functions or exercise of powers under the Act, in relation to prescribed eggs or prescribed egg products for export.

This item repeals and substitutes the fee described in column 2 of table item 6 in subsection 2-2(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [13] – Subsection 2-2(1) (cell at table item 7, column 2)

Section 2-2 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to audits carried out under the Act by a Commonwealth authorised officer. The fees are listed in the table in subsection 2-2(1), where column 1 of the table describes the type of audit and column 2 describes the corresponding fees that apply for that type of audit.

Table item 7 currently provides the quarter hourly fee that may be charged in relation to an audit by a Commonwealth authorised officer of export operations carried out, or in relation to the performance of functions or exercise of powers under the Act, in relation to prescribed organic goods for export.

This item repeals and substitutes the fee described in column 2 of table item 7 in subsection 2-2(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [14] – Subsection 2-2(1) (cell at table item 8, column 2)

Section 2-2 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to audits carried out under the Act by a Commonwealth

authorised officer. The fees are listed in the table in subsection 2-2(1), where column 1 of the table describes the type of audit and column 2 describes the corresponding fees that apply for that type of audit.

Table item 8 currently provides the quarter hourly fee that may be charged in relation to an audit by a Commonwealth authorised officer of export operations carried out, or in relation to the performance of functions or exercise of powers under the Act, in relation to goods (other than those goods covered by table items 1 to 7), in certain circumstances. This is where an application for a government certificate has been made under subsection 65(1) of the Act. Subsection 65(1) of the Act provides that a person may apply to an issuing body for a government certificate in relation to a kind of goods that are to be, or that have been, exported.

This item repeals and substitutes the fee described in column 2 of table item 8 in subsection 2-2(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [15] – Section 2-2 (note)

Section 2-2 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to audits carried out under the Act by a Commonwealth authorised officer.

The note following section 2-2 currently explains that additional fees are payable if a fee-bearing activity is carried out in relation to certain kinds of goods by a Commonwealth authorised officer outside ordinary hours of duty or during a period for which a shift loading or overtime is payable. The note also refers the reader to sections 2-7 to 2-10 of the Fees Rules.

This item omits the words “a shift loading or” in the note following section 2-2 of the Fees Rules. This amendment is consequential to the repeal of section 2-8 of the Fees Rules, which prescribes the fees in relation to fee-bearing activities carried out in relation to prescribed meat or prescribed meat products by a Commonwealth authorised officer during a period for which a shift loading is payable (see item [45] below).

Item [16] – Section 2-3 (table items 1 and 2)

Section 2-3 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, fees that may be charged in relation to assessments and inspections carried out by a Commonwealth authorised officer or by a State or Territory authorised officer. The fees are listed in a table in section 2-3, where column 1 of the table describes the type of assessment or inspection, and column 2 describes the corresponding fee that may be charged in relation to the assessment or inspection.

This item repeals table items 1 and 2 and substitutes amended table items 1, 2 and 2A in section 2-3 of the Fees Rules.

Amended table item 1 provides the quarter hourly fees that may be charged in relation to an assessment by a Commonwealth authorised officer of prescribed livestock for export, prescribed live animals for export, or prescribed animal reproductive material for export. The

amended fees differ depending on the financial year during which the activity is carried out. The amended fees also differ depending on whether the activity was performed by a veterinarian and whether it could have been carried out by a State or Territory authorised officer or by a third party authorised officer.

Amended table item 2 provides the quarter hourly fees that may be charged in relation to an assessment by a Commonwealth authorised officer, or a State or Territory authorised officer, of horticultural products for export. The amended fees differ depending on the financial year during which the activity is carried out and whether the activity could have been carried out by a third party authorised officer.

Amended table item 2A provides the quarter hourly fees that may be charged in relation to an assessment by a Commonwealth authorised officer, or a State or Territory authorised officer, of prescribed plants or prescribed plant products (other than horticultural products) for export. The amended fees differ depending on the financial year during which the activity is carried out and whether the activity could have been carried out by a third party authorised officer.

Item [17] – Section 2-3 (cell at table item 3, column 2)

Section 2-3 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, fees that may be charged in relation to assessments and inspections carried out by a Commonwealth authorised officer or a State or Territory authorised officer. The fees are listed in a table in section 2-3, where column 1 of the table describes the type of assessment or inspection and column 2 describes the corresponding fee that may be charged in relation to the assessment or inspection.

Table item 3 currently provides the quarter hourly fees that may be charged in relation to an inspection of a bulk vessel under Part 5 of Chapter 9 of the Plants Rules by a Commonwealth authorised officer, or a State or Territory authorised officer, for the purpose of deciding whether to approve the bulk vessel.

This item repeals and substitutes the fees described in column 2 of table item 3 in section 2-3 of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out and whether the activity could have been carried out by a third party authorised officer.

Item [18] – Section 2-3 (cell at table item 4, column 2)

Section 2-3 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, fees that may be charged in relation to assessments and inspections carried out by a Commonwealth authorised officer or a State or Territory authorised officer. The fees are listed in a table in section 2-3, where column 1 of the table describes the type of assessment or inspection and column 2 describes the corresponding fee that may be charged in relation to the assessment or inspection.

Table item 4 currently provides the quarter hourly fees that may be charged in relation to an inspection of a container under Part 6 of Chapter 9 of the Plants Rules by a Commonwealth authorised officer, or a State or Territory authorised officer, for the purpose of deciding whether to approve the container.

This item repeals and substitutes the fees described in column 2 of table item 4 in section 2-3 of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out and whether the activity could have been carried out by a third party authorised officer.

Item [19] – Section 2-3 (cell at table item 5, column 2)

Section 2-3 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, fees that may be charged in relation to assessments and inspections carried out by a Commonwealth authorised officer or a State or Territory authorised officer. The fees are listed in a table in section 2-3, where column 1 of the table describes the type of assessment or inspection and column 2 describes the corresponding fee that may be charged in relation to the assessment or inspection.

Table item 5 currently provides the quarter hourly fee that may be charged in relation to an assessment by a Commonwealth authorised officer of prescribed meat or prescribed meat products for export (other than meat inspection services covered by section 2-4 of the Fees Rules).

This item repeals and substitutes the fees described in column 2 of table item 5 in section 2-3 of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out and whether the Secretary requires the activity to be carried out by a veterinarian.

Item [20] – Section 2-3 (cell at table item 6, column 2)

Section 2-3 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, fees that may be charged in relation to assessments and inspections carried out by a Commonwealth authorised officer or a State or Territory authorised officer. The fees are listed in a table in section 2-3, where column 1 of the table describes the type of assessment or inspection and column 2 describes the corresponding fee that may be charged in relation to the assessment or inspection.

Table item 6 currently provides the quarter hourly fee that may be charged in relation to an assessment by a Commonwealth authorised officer of prescribed milk or prescribed milk products for export.

This item repeals and substitutes the fees described in column 2 of table item 6 in section 2-3 of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [21] – Section 2-3 (cell at table item 7, column 2)

Section 2-3 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, fees that may be charged in relation to assessments and inspections carried out by a Commonwealth authorised officer or a State or Territory authorised officer. The fees are listed in a table in section 2-3, where column 1 of the table describes the type of assessment or inspection and column 2 describes the corresponding fee that may be charged in relation to the assessment or inspection.

Table item 7 currently provides the quarter hourly fee that may be charged in relation to an assessment by a Commonwealth authorised officer of prescribed fish or prescribed fish products for export.

This item repeals and substitutes the fees described in column 2 of table item 7 in section 2-3 of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [22] – Section 2-3 (cell at table item 8, column 2)

Section 2-3 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, fees that may be charged in relation to assessments and inspections carried out by a Commonwealth authorised officer or a State or Territory authorised officer. The fees are listed in a table in section 2-3, where column 1 of the table describes the type of assessment or inspection and column 2 describes the corresponding fee that may be charged in relation to the assessment or inspection.

Table item 8 currently provides the quarter hourly fee that may be charged in relation to an assessment by a Commonwealth authorised officer of prescribed eggs or prescribed egg products for export.

This item repeals and substitutes the fees described in column 2 of table item 8 in section 2-3 of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [23] – Section 2-3 (cell at table item 9, column 1)

Section 2-3 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, fees that may be charged in relation to assessments and inspections carried out by a Commonwealth authorised officer or a State or Territory authorised officer. The fees are listed in a table in section 2-3, where column 1 of the table describes the type of assessment or inspection and column 2 describes the corresponding fee that may be charged in relation to the assessment or inspection.

Table item 9 currently provides the quarter hourly fee that may be charged in relation to an assessment by a Commonwealth authorised officer of goods (other than goods covered by table item 1, 2 or 5 to 8) in relation to which an application for a government certificate has been made under subsection 65(1) of the Act.

This item omits the words “or 5” and substitutes “, 2A or 5” into column 1 of table item 9 of the Fees Rules. The effect of this amendment is that the fee that may be charged under table item 9 in relation to an assessment by a Commonwealth authorised officer does not apply to an assessment of goods covered by table item 1, 2, 2A or 5 to 8. This amendment is consequential to the insertion of new table item 2A in section 2-3 of the Fees Rules (see item [16] above).

Item [24] – Section 2-3 (cell at table item 9, column 2)

Section 2-3 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, fees that may be charged in relation to assessments and inspections carried out by a Commonwealth authorised officer or a State or Territory authorised officer. The fees are listed in a table in section 2-3, where column 1 of the table describes the type of assessment or inspection and column 2 describes the corresponding fee that may be charged in relation to the assessment or inspection.

Table item 9 (when read with the amendment in item [23] above) provides the quarter hourly fee that may be charged in relation to an assessment by a Commonwealth authorised officer of goods (other than goods covered by table item 1, 2, 2A or 5 to 8) in relation to which an application for a government certificate has been made under subsection 65(1) of the Act.

This item repeals and substitutes the fees described in column 2 of table item 9 in section 2-3 of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [25] – Section 2-3 (after table item 9)

Section 2-3 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, fees that may be charged in relation to assessments and inspections carried out by a Commonwealth authorised officer or a State or Territory authorised officer. The fees are listed in a table in section 2-3, where column 1 of the table describes the type of assessment or inspection and column 2 describes the corresponding fee that may be charged in relation to the assessment or inspection.

This item inserts new table item 9A after table item 9 in section 2-3 of the Fees Rules. New item 9A provides the fees that may be charged in relation to activities carried out by a Commonwealth authorised officer as directed by the Secretary under section 313 of the Act in relation to an approved export program. Section 313 of the Act allows the Secretary to direct an authorised officer to carry out some or all of the export operations in an approved export program, whether or not an authorised officer is required in accordance with the program itself to carry out those operations.

The new fees differ depending on the financial year during which the activity is carried out, based on a rate per day or part of a day. An additional component of the new fees is the reasonable costs (including the cost of the officer's salary, transport and accommodation) incurred in carrying out the activities.

Item [26] – Section 2-3 (note)

Section 2-3 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, fees that may be charged in relation to assessments and inspections carried out by a Commonwealth authorised officer or a State or Territory authorised officer.

The note following section 2-3 currently explains that additional fees are payable if a fee-bearing activity is carried out in relation to certain kinds of goods by a Commonwealth authorised officer outside ordinary hours of duty or during a period for which a shift loading

or overtime is payable. The note also refers the reader to sections 2-7 to 2-10 of the Fees Rules.

This item omits the words “a shift loading or” in the note following section 2-3 of the Fees Rules. This amendment is consequential to the repeal of section 2-8 of the Fees Rules, which prescribes the fees in relation to fee-bearing activities carried out in relation to prescribed meat or prescribed meat products by a Commonwealth authorised officer during a period for which a shift loading is payable (see item [45] below).

Item [27] – Subsection 2-4(1) (cell at table item 1, column 2)

Subsection 2-4(1) of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, fees that may be charged in relation to meat inspection services in relation to prescribed meat or prescribed meat products for export, carried out by an allocated authorised officer. Section 1-6 of the Fee Rules defines an allocated authorised officer as a Commonwealth authorised officer who is allocated to a registered establishment to carry out meat inspection services.

The fees are listed in a table in subsection 2-4(1), where column 1 of the table describes the type of fee-bearing activity and column 2 describes the corresponding fee that may be charged in relation to the activity.

Table item 1 currently provides the fees that may be charged for a meat inspection service carried out by a Commonwealth authorised officer in relation to prescribed meat or prescribed meat products for export.

The item repeals and substitutes the fees described in column 2 of table item 1 in subsection 2-4(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out and whether the activity is carried out by an allocated authorised officer who is a veterinarian.

Item [28] – After section 2-4

This item inserts a new section 2-4A after section 2-4 of the Fees Rules. New section 2-4A prescribes, for the purposes of subsection 399(1) of the Act, new fees that may be charged in relation to applications for veterinarian accreditation.

The new fees are listed in a new table in section 2-4A, where column 1 of the table describes the type of application for veterinarian accreditation and column 2 describes the corresponding fee that may be charged in relation to the application.

New table item 1 provides the fees that may be charged for consideration by a Commonwealth authorised officer of an application by a veterinarian for accreditation under Division 2 of Part 3 of Chapter 9 of the Animals Rules. The new fees differ depending on the financial year during which the application is considered and whether the application is considered by an authorised officer who is a veterinarian.

New table item 2 provides the fees that may be charged for consideration by a Commonwealth authorised officer of an application by an accredited veterinarian for renewal of the veterinarian’s accreditation under Division 3 of Part 3 of Chapter 9 of the Animals

Rules. The new fees differ depending on the financial year during which the application is considered and whether the application is considered by an authorised officer who is a veterinarian.

New table item 3 provides the fees that may be charged for consideration by a Commonwealth authorised officer of an application by an accredited veterinarian for variation of the veterinarian's accreditation under Division 4 of Part 3 of Chapter 9 of the Animals Rules. The new fees differ depending on the financial year during which the application is considered and whether the application is considered by an authorised officer who is a veterinarian.

A new note following the table in section 2-4A explains that additional fees are payable if a fee-bearing activity is carried out by a Commonwealth authorised officer outside ordinary hours of duty. The new note also refers the reader to section 2-10 of the Fees Rules.

Item [29] – Section 2-5 (cell at table item 1, column 2)

Section 2-5 of the Fees Rules prescribes fees, for the purposes of subsection 399(1) of the Act, that may be charged in relation to consideration of applications for export documents. The fees are listed in a table in section 2-5, where column 1 of the table describes the type of application for export documents and column 2 describes the corresponding fee that may be charged in relation to the application.

Table item 1 currently provides the fees that may be charged for consideration of an application for the issue of an export document (other than a tariff rate quota certificate) for prescribed livestock, prescribed live animals or prescribed animal reproductive material.

This item repeals and substitutes the fees described in column 2 of table item 1 in section 2-5 of the Fees Rules. The amended fees differ depending on the financial year during which the application is considered and whether the export document is a replacement export document. In cases where the document is not a replacement export document, a higher quarter hourly fee applies where the application is considered by an authorised officer who is a veterinarian.

Item [30] – Section 2-5 (table item 2)

Section 2-5 of the Fees Rules prescribes fees, for the purposes of subsection 399(1) of the Act, that may be charged in relation to consideration of applications for export documents. The fees are listed in a table in section 2-5, where column 1 of the table describes the type of application for export documents and column 2 describes the corresponding fee that may be charged in relation to the application.

This item repeals table item 2 in section 2-5 of the Fees Rules and substitutes amended table items 2 and 2A.

Amended table item 2 provides the fees that may be charged for consideration of an application for the issue of an export document (other than a tariff rate quota certificate) for horticultural products. The amended fees differ depending on the financial year during which the application is considered and whether the export document is a replacement export document. In cases where the document is not a replacement export document, a higher fee

applies where the application is not made using the department's electronic export documentation system.

Amended table item 2A provides the fees that may be charged for consideration of an application for the issue of an export document (other than a tariff rate quota certificate) for prescribed plants or prescribed plant products (other than horticultural products). The amended fees differ depending on the financial year during which the application is considered and whether the export document is a replacement export document. In cases where the document is not a replacement export document, a higher fee applies where the application is not made using the department's electronic export documentation system.

Item [31] – Section 2-5 (cell at table item 3, column 2)

Section 2-5 of the Fees Rules prescribes fees, for the purposes of subsection 399(1) of the Act, that may be charged in relation to consideration of applications for export documents. The fees are listed in a table in section 2-5, where column 1 of the table describes the type of application for export documents and column 2 describes the corresponding fee that may be charged in relation to the application.

Table item 3 currently provides the fees that may be charged for consideration of an application for the issue of an export document for prescribed meat or prescribed meat products.

This item repeals and substitutes the fees described in column 2 of table item 3 in section 2-5 of the Fees Rules. The amended fees differ depending on the financial year during which the application is considered and whether the export document is a replacement export document. In cases where the document is not a replacement export document, a higher fee applies where the application is not made using the department's electronic export documentation system.

Item [32] – Section 2-5 (cell at table item 4, column 2)

Section 2-5 of the Fees Rules prescribes fees, for the purposes of subsection 399(1) of the Act, that may be charged in relation to consideration of applications for export documents. The fees are listed in a table in section 2-5, where column 1 of the table describes the type of application for export documents and column 2 describes the corresponding fee that may be charged in relation to the application.

Table item 4 currently provides the fees that may be charged for consideration of an application for the issue of an export document for prescribed milk or prescribed milk products.

This item repeals and substitutes the fees described in column 2 of table item 4 in section 2-5 of the Fees Rules. The amended fees differ depending on the financial year during which the application is considered and whether the export document is a replacement export document. In cases where the document is not a replacement export document, a higher fee applies where the application is not made using the department's electronic export documentation system.

Item [33] – Section 2-5 (cell at table item 5, column 2)

Section 2-5 of the Fees Rules prescribes fees, for the purposes of subsection 399(1) of the Act, that may be charged in relation to consideration of applications for export documents. The fees are listed in a table in section 2-5, where column 1 of the table describes the type of application for export documents and column 2 describes the corresponding fee that may be charged in relation to the application.

Table item 5 currently provides the fees that may be charged for consideration of an application for the issue of an export document (other than a tariff rate quota certificate) for prescribed fish or prescribed fish products, or prescribed eggs or prescribed egg products.

This item repeals and substitutes the fees described in column 2 of table item 5 in section 2-5 of the Fees Rules. The amended fees differ depending on the financial year during which the application is considered and whether the export document is a replacement export document. In cases where the document is not a replacement export document, a higher fee applies where the application is not made using the department's electronic export documentation system.

Item [34] – Section 2-5 (cell at table item 6, column 2)

Section 2-5 of the Fees Rules prescribes fees, for the purposes of subsection 399(1) of the Act, that may be charged in relation to consideration of applications for export documents. The fees are listed in a table in section 2-5, where column 1 of the table describes the type of application for export documents and column 2 describes the corresponding fee that may be charged in relation to the application.

Table item 6 currently provides the fees that may be charged for consideration of an application under subsection 65(1) of the Act for the issue of a government certificate in relation to goods, other than goods covered by table items 1 to 5. Subsection 65(1) of the Act provides that a person may apply to an issuing body for a government certificate in relation to a kind of goods that are to be, or that have been, exported.

This item repeals and substitutes the fees described in column 2 of table item 6 in section 2-5 of the Fees Rules. The amended fees differ depending on the financial year during which the application is considered and whether the government certificate is a replacement export document. In cases where the government certificate is not a replacement export document, a higher fee applies where the application is not made using the department's electronic export documentation system.

Item [35] – Section 2-5 (cell at table item 7, column 2)

Section 2-5 of the Fees Rules prescribes fees, for the purposes of subsection 399(1) of the Act, that may be charged in relation to consideration of applications for export documents. The fees are listed in a table in section 2-5, where column 1 of the table describes the type of application for export documents and column 2 describes the corresponding fee that may be charged in relation to the application.

Table item 7 currently provides the fees that may be charged for consideration of an application for the issue of a tariff rate quota certificate in relation to goods (other than prescribed meat, prescribed meat products, prescribed milk or prescribed milk products).

This item repeals and substitutes the fees described in column 2 of table item 7 in section 2-5 of the Fees Rules. The amended fees differ depending on the financial year during which the application is considered and whether the tariff rate quota certificate is a replacement certificate. In cases where the tariff rate quota certificate is not a replacement certificate, a higher fee applies where the application is not made using the department's electronic export documentation system.

Item [36] – Section 2-5 (note 2)

Section 2-5 of the Fees Rules prescribes fees, for the purposes of subsection 399(1) of the Act, that may be charged in relation to consideration of applications for export documents.

The second note following section 2-5 currently explains that additional fees are payable if a fee-bearing activity is carried out in relation to certain kinds of goods by a Commonwealth authorised officer outside ordinary hours of duty or during a period for which a shift loading or overtime is payable. The note also refers the reader to sections 2-7 to 2-9 of the Fees Rules.

This item omits the words “a shift loading or” in the second note following section 2-5 of the Fees Rules. This amendment is consequential to the repeal of section 2-8 of the Fees Rules, which prescribes the fees in relation to fee-bearing activities carried out in relation to prescribed meat or prescribed meat products by a Commonwealth authorised officer during a period for which a shift loading is payable (see item [45] below).

Item [37] – After section 2-5

This item inserts a new section 2-5A after section 2-5 of the Fees Rules. New section 2-5A prescribes, for the purposes of subsection 399(1) of the Act, new fees that may be charged in relation to applications for livestock export licences.

The new fees are listed in a new table in section 2-5A, where column 1 of the table describes the type of application for a livestock export licence and column 2 describes the corresponding fee that may be charged in relation to the application.

New table item 1 provides the fees that may be charged for consideration of an application under section 190 of the Act for a livestock export licence. The new fees differ depending on the financial year during which the application is considered and whether the application is considered by an authorised officer who is a veterinarian.

New table item 2 provides the fees that may be charged for consideration of an application under section 195 of the Act to renew a livestock export licence. The new fees differ depending on the financial year during which the application is considered and whether the application is considered by an authorised officer who is a veterinarian.

New table item 3 provides the fees that may be charged for consideration of an application under subsection 199(1) of the Act to make a variation in relation to a livestock export

licence. The new fees differ depending on the financial year during which the application is considered and whether the application is considered by an authorised officer who is a veterinarian.

A new note following the table in section 2-5A explains that additional fees are payable if a fee-bearing activity is carried out by a Commonwealth authorised officer outside ordinary hours of duty. The new note also refers the reader to section 2-10 of the Fees Rules.

Item [38] – Section 2-6 (table item 1)

Section 2-6 of the Fees Rules prescribes the fees that may be charged, for the purposes of subsection 399(1) of the Act, in relation to an application made under section 53 of the Act for an exemption from one or more of the provisions of the Act in relation to relevant goods (other than relevant goods to which subsection 52(3) of the Act applies). Section 53 of the Act allows an application for an exemption from one or more provisions of the Act in relation to relevant goods to be made to the Secretary.

The fees are listed in a table in section 2-6, where column 1 of the table describes the type of application for an exemption and column 2 describes the corresponding fee that may be charged in relation to the application.

This item repeals table item 1 in section 2-6 of the Fees Rules and substitutes amended table items 1 and 1A.

Amended table item 1 provides the fees that may be charged for consideration of an application for an exemption (other than an application mentioned in table item 1A) in relation to prescribed livestock, prescribed live animals, or prescribed animal reproductive material for export. The amended fees differ depending on the financial year during which the activity is carried out.

Amended table item 1A provides the fees that may be charged for consideration of an application in relation to goods that are to be exported for a purpose or in a circumstance mentioned in paragraph 52(1)(b), (c) or (d) of the Act, for an exemption from the condition prescribed in the Animals Rules that prescribed livestock for export by the exporter must be prepared in accordance with an approved arrangement. The amended fees differ depending on the financial year during which the activity is carried out and whether the application is considered by an authorised officer who is a veterinarian.

Item [39] – Section 2-6 (cell at table item 2, column 2)

Section 2-6 of the Fees Rules prescribes the fees that may be charged, for the purposes of subsection 399(1) of the Act, in relation to an application made under section 53 of the Act for an exemption from one or more of the provisions of the Act in relation to relevant goods (other than relevant goods to which subsection 52(3) of the Act applies). Section 53 of the Act allows an application for an exemption from one or more provisions of the Act in relation to relevant goods to be made to the Secretary.

The fees are listed in a table in section 2-6, where column 1 of the table describes the type of application for an exemption and column 2 describes the corresponding fee that may be charged in relation to the application.

Table item 2 currently provides the fees that may be charged for consideration of an application for an exemption in relation to prescribed plants or prescribed plant products.

This item repeals and substitutes the fees described in column 2 of table item 2 in section 2-6 of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [40] – Section 2-6 (cell at table item 3, column 2)

Section 2-6 of the Fees Rules prescribes the fees that may be charged, for the purposes of subsection 399(1) of the Act, in relation to an application made under section 53 of the Act for an exemption from one or more of the provisions of the Act in relation to relevant goods (other than relevant goods to which subsection 52(3) of the Act applies). Section 53 of the Act allows an application for an exemption from one or more provisions of the Act in relation to relevant goods to be made to the Secretary.

The fees are listed in a table in section 2-6, where column 1 of the table describes the type of application for an exemption and column 2 describes the corresponding fee that may be charged in relation to the application.

Table item 3 currently provides the fees that may be charged for consideration of an application for an exemption in relation to prescribed meat or prescribed meat products.

This item repeals and substitutes the fees described in column 2 of table item 3 in section 2-6 of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [41] – Section 2-6 (cell at table item 4, column 2)

Section 2-6 of the Fees Rules prescribes the fees that may be charged, for the purposes of subsection 399(1) of the Act, in relation to an application made under section 53 of the Act for an exemption from one or more of the provisions of the Act in relation to relevant goods (other than relevant goods to which subsection 52(3) of the Act applies). Section 53 of the Act allows an application for an exemption from one or more provisions of the Act in relation to relevant goods to be made to the Secretary.

The fees are listed in a table in section 2-6, where column 1 of the table describes the type of application for an exemption and column 2 describes the corresponding fee that may be charged in relation to the application.

Table item 4 currently provides the fee that may be charged for consideration of an application for an exemption in relation to prescribed milk or prescribed milk products.

This item repeals and substitutes the fees described in column 2 of table item 4 in section 2-6 of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [42] – Section 2-6 (cell at table item 5, column 2)

Section 2-6 of the Fees Rules prescribes the fees that may be charged, for the purposes of subsection 399(1) of the Act, in relation to an application made under section 53 of the Act for an exemption from one or more of the provisions of the Act in relation to relevant goods (other than relevant goods to which subsection 52(3) of the Act applies). Section 53 of the Act allows an application for an exemption from one or more provisions of the Act in relation to relevant goods to be made to the Secretary.

The fees are listed in a table in section 2-6, where column 1 of the table describes the type of application for an exemption and column 2 describes the corresponding fee that may be charged in relation to the application.

Table item 5 currently provides the fee that may be charged for consideration of an application for an exemption in relation to prescribed fish or prescribed fish products.

This item repeals and substitutes the fees described in column 2 of table item 5 in section 2-6 of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [43] – Section 2-6 (cell at table item 6, column 2)

Section 2-6 of the Fees Rules prescribes the fees that may be charged, for the purposes of subsection 399(1) of the Act, in relation to an application made under section 53 of the Act for an exemption from one or more of the provisions of the Act in relation to relevant goods (other than relevant goods to which subsection 52(3) of the Act applies). Section 53 of the Act allows an application for an exemption from one or more provisions of the Act in relation to relevant goods to be made to the Secretary.

The fees are listed in a table in section 2-6, where column 1 of the table describes the type of application for an exemption and column 2 describes the corresponding fee that may be charged in relation to the application.

Table item 6 currently provides the fee that may be charged for consideration of an application for an exemption in relation to prescribed eggs or prescribed egg products.

This item repeals and substitutes the fees described in column 2 of table item 6 in section 2-6 of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [44] – Section 2-6 (note)

Section 2-6 of the Fees Rules prescribes the fees that may be charged, for the purposes of subsection 399(1) of the Act, in relation to an application made under section 53 of the Act for an exemption from one or more of the provisions of the Act in relation to relevant goods (other than relevant goods to which subsection 52(3) of the Act applies). Section 53 of the Act allows an application for an exemption from one or more provisions of the Act in relation to relevant goods to be made to the Secretary.

The note following section 2-6 currently explains that additional fees are payable if a fee-bearing activity is carried out in relation to certain kinds of goods by a Commonwealth authorised officer outside ordinary hours of duty or during a period for which a shift loading or overtime is payable. The note also refers the reader to sections 2-7 to 2-10 of the Fees Rules.

This item omits the words “a shift loading or” in the note following section 2-6 of the Fees Rules. This amendment is consequential to the repeal of section 2-8 of the Fees Rules, which prescribes the fees in relation to fee-bearing activities carried out in relation to prescribed meat or prescribed meat products by a Commonwealth authorised officer during a period for which a shift loading is payable (see item [45] below).

Item [45] – Section 2-8

Section 2-8 of the Fees Rules currently prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged where a fee-bearing activity specified in section 2-2, 2-3, 2-5 or 2-6 is carried out in relation to prescribed meat or prescribed meat products by a Commonwealth authorised officer during a period for which a shift loading is payable.

This item repeals section 2-8 of the Fees Rules. This effect of this amendment is that no fees will be charged in relation to any such activities carried out following the commencement of the Amendment Rules. This amendment reflects changes to the department’s cost recovery arrangements for delivering the regulatory functions for export certification.

Item [46] – Section 2-10 (heading)

The heading in section 2-10 of the Fees Rules refers to fees in relation to fee-bearing activities carried out in relation to goods (other than prescribed livestock etc. or prescribed meat or prescribed meat products) outside ordinary hours of duty.

This item repeals the heading in section 2-10 of the Fees Rules and substitutes “2-10 Fees in relation to other fee-bearing activities carried out outside ordinary hours of duty”. This amendment is consequential to the insertion of new subsection 2-10(1) of the Fees Rules (see item [47] below).

Item [47] – Subsection 2-10(1)

Section 2-10 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged where a certain fee-bearing activity is carried out in relation to a certain kind of goods, during a period outside ordinary hours of duty. Subsection 2-10(1) currently provides that section 2-10 applies if a fee-bearing activity specified in section 2-2, 2-3 or 2-6 is carried out in relation to a kind of goods (other than prescribed livestock, prescribed live animals, prescribed animal reproductive material, prescribed meat or prescribed meat products) during a period outside ordinary hours of duty.

This item repeals and substitutes subsection 2-10(1) of the Fees Rules.

New subsection 2-10(1) provides a further circumstance in which section 2-10 applies. This is where a fee-bearing activity specified in new section 2-4A or 2-5A is carried out by a Commonwealth authorised officer during a period outside ordinary hours of duty.

A note following new subsection 2-10(1) refers the reader to section 1-6 of the Fees Rules, for the definition of *ordinary hours of duty*.

Item [48] – Subsection 2-10(2) (note)

Section 2-10 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged where a certain fee-bearing activity is carried out in relation to a certain kind of goods, during a period outside ordinary hours of duty. The fees are listed in the table in subsection 2-10(2), where column 1 of the table describes the type of activity and column 2 describes the corresponding fee that may be charged in relation to the activity that is carried out.

This item omits the words “or 2-6” and substitutes “, 2-4A, 2-5A or 2-6” in the note following subsection 2-10(2) of the Fees Rules. This amendment is consequential to the insertion of new subsection 2-10(1) of the Fees Rules (see item [47] above).

Item [49] – Subsection 2-10(2) (table heading)

The table heading in subsection 2-10(2) of the Fees Rules refers to fees in relation to fee-bearing activities carried out in relation to goods (other than prescribed livestock, etc. or prescribed meat or prescribed meat products) outside ordinary hours of duty.

This item omits the words “fee-bearing activities carried out in relation to goods (other than prescribed livestock, etc. or prescribed meat or prescribed meat products)” and substitutes “other fee-bearing activities carried out” in the table heading in subsection 2-10(2) of the Fees Rules. This amendment is consequential to the insertion of new subsection 2-10(1) of the Fees Rules (see item [47] above).

Item [50] – Section 2-11 (heading)

The heading in section 2-11 of the Fees Rules refers to fees in relation to activities carried out in dealing with applications to accredit a property, register an establishment or approve a proposed arrangement.

This item omits the words “arrangement etc.” and substitutes “arrangement or an ESCAS etc.” in the heading of section 2-11 of the Fees Rules. The effect of this amendment is that the heading of section 2-11 will contain an additional express reference to ESCAS. This amendment is consequential to the insertion of new items 1B and 1C in the table in subsection 2-11(1) of the Fees Rules (see item [52] below).

Item [51] – Subsection 2-11(1) (cell at table item 1, column 2)

Section 2-11 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to activities carried out under the Act by a Commonwealth authorised officer in relation to applications to accredit a property, register an establishment or approve a proposed arrangement. When read with item [50] above, section 2-11 of the Fees Rules also prescribes the fees that may be charged in relation to activities carried out in relation to applications to approve an ESCAS.

The fees are listed in a table in subsection 2-11(1), where column 1 of the table describes the type of activity and column 2 describes the corresponding fee that may be charged in relation to the activity that is carried out.

Table item 1 currently provides the fees that may be charged for activities carried out by a Commonwealth authorised officer under subsection 379(9) of the Act in relation to:

- an application under Part 2 or 3, or Division 1 of Part 4, of Chapter 4 of the Act relating to the registration of an establishment for export operations in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material for export; or
- an application under Part 2 or 3, or Subdivision B of Division 1 of Part 4, of Chapter 5 of the Act relating to the approval of a proposed arrangement, or an approved arrangement, for export operations in relation to prescribed livestock, prescribed live animals or prescribed animal reproductive material for export.

This item repeals and substitutes the fees described in column 2 of table item 1 in subsection 2-11(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out and whether the activity is required to be carried out by a veterinarian.

Item [52] – Subsection 2-11(1) (after table item 1)

Section 2-11 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to activities carried out under the Act by a Commonwealth authorised officer in relation to applications to accredit a property, register an establishment or approve a proposed arrangement. The fees are listed in a table in subsection 2-11(1), where column 1 of the table describes the type of activity and column 2 describes the corresponding fee that may be charged in relation to the activity that is carried out.

This item inserts new table items 1A, 1B and 1C after table item 1 in subsection 2-11(1) of the Fees Rules.

New item 1A provides the fees that may be charged in relation to consideration by a Commonwealth authorised officer of:

- an application under Part 2 or 3, or Division 1 of Part 4, of Chapter 4 of the Act to register, or renew or vary the registration of, an establishment for holding and assembling prescribed livestock for export; or
- an application under Division 1 of Part 4 of Chapter 4 of the Act to approve an alteration of an establishment for holding and assembling prescribed livestock for export
- an application under Part 2 or 3, or Subdivision B of Division 1 of Part 4, of Chapter 5 of the Act to approve a proposed arrangement, renew an approved arrangement or approve a variation of an approved arrangement, for holding and assembling prescribed livestock for export.

The new fees differ depending on the financial year during which the activity is carried out and whether the activity is required to be carried out by a veterinarian.

New item 1B provides the fees that that may be charged in relation to consideration by a Commonwealth authorised officer of an application under Division 1 of Part 9 of Chapter 6 of the Animals Rules for approval of an ESCAS. The new fees differ depending on the financial year during which the activity is carried out and whether the activity is required to be carried out by a veterinarian.

New item 1C provides the fees that that may be charged in relation to consideration by a Commonwealth authorised officer of an application under Division 2 of Part 9 of Chapter 6 of the Animals Rules for approval of a variation of an ESCAS. The new fees differ depending on the financial year during which the activity is carried out and whether the activity is required to be carried out by a veterinarian.

Item [53] – Subsection 2-11(1) (cell at table item 2, column 2)

Section 2-11 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to activities carried out under the Act by a Commonwealth authorised officer in relation to applications to accredit a property, register an establishment or approve a proposed arrangement. The fees are listed in a table in subsection 2-11(1), where column 1 of the table describes the type of activity and column 2 describes the corresponding fee that may be charged in relation to the activity that is carried out.

Table item 2 currently provides the fees that may be charged for activities carried out by a Commonwealth authorised officer under subsection 379(9) of the Act in relation to:

- an application under Part 2 or 3, or Division 1 of Part 4, of Chapter 3 of the Act relating to the accreditation of a property for export operations in relation to prescribed plants or prescribed plant products for export; or
- an application under Part 2 or 3, or Division 1 of Part 4, of Chapter 4 of the Act relating to the registration of an establishment for export operations in relation to prescribed plants or prescribed plant products for export.

This item repeals and substitutes the fees described in column 2 of table item 2 in subsection 2-11(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [54] – Subsection 2-11(1) (cell at table item 3, column 2)

Section 2-11 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to activities carried out under the Act by a Commonwealth authorised officer in relation to applications to accredit a property, register an establishment or approve a proposed arrangement. The fees are listed in a table in subsection 2-11(1), where column 1 of the table describes the type of activity and column 2 describes the corresponding fee that may be charged in relation to the activity that is carried out.

Table item 3 currently provides the fees that may be charged for activities carried out by a Commonwealth authorised officer under subsection 379(9) of the Act in relation to:

- an application under Part 2 or 3, or Division 1 of Part 4, of Chapter 4 of the Act relating to the registration of an establishment for export operations in relation to prescribed meat or prescribed meat products for export; or

- an application under Part 2 or 3, or Subdivision B of Division 1 of Part 4, of Chapter 5 of the Act relating to the approval of a proposed arrangement, or an approved arrangement, for export operations in relation to prescribed meat or prescribed meat products for export.

This item repeals and substitutes the fees described in column 2 of table item 3 in subsection 2-11(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out and whether the activity is required to be carried out by a veterinarian.

Item [55] – Subsection 2-11(1) (cell at table item 4, column 2)

Section 2-11 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to activities carried out under the Act by a Commonwealth authorised officer in relation to applications to accredit a property, register an establishment or approve a proposed arrangement. The fees are listed in a table in subsection 2-11(1), where column 1 of the table describes the type of activity and column 2 describes the corresponding fee that may be charged in relation to the activity that is carried out.

Table item 4 currently provides the fees that may be charged for activities carried out by a Commonwealth authorised officer under subsection 379(9) of the Act in relation to:

- an application under Part 2 or 3, or Division 1 of Part 4, of Chapter 4 of the Act relating to the registration of an establishment for export operations in relation to prescribed milk or prescribed milk products for export; or
- an application under Part 2 or 3, or Subdivision B of Division 1 of Part 4, of Chapter 5 of the Act relating to the approval of a proposed arrangement, or an approved arrangement, for export operations in relation to prescribed milk or prescribed milk products for export.

This item repeals and substitutes the fees described in column 2 of table item 4 in subsection 2-11(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [56] – Subsection 2-11(1) (cell at table item 5, column 2)

Section 2-11 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to activities carried out under the Act by a Commonwealth authorised officer in relation to applications to accredit a property, register an establishment or approve a proposed arrangement. The fees are listed in a table in subsection 2-11(1), where column 1 of the table describes the type of activity and column 2 describes the corresponding fee that may be charged in relation to the activity that is carried out.

Table item 5 currently provides the fees that may be charged for activities carried out by a Commonwealth authorised officer under subsection 379(9) of the Act in relation to:

- an application under Part 2 or 3, or Division 1 of Part 4, of Chapter 4 of the Act relating to the registration of an establishment for export operations in relation to prescribed fish or prescribed fish products for export; or

- an application under Part 2 or 3, or Subdivision B of Division 1 of Part 4, of Chapter 5 of the Act relating to the approval of a proposed arrangement, or an approved arrangement, for export operations in relation to prescribed fish or prescribed fish products for export.

This item repeals and substitutes the fees described in column 2 of table item 5 in subsection 2-11(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [57] – Subsection 2-11(1) (cell at table item 6, column 2)

Section 2-11 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to activities carried out under the Act by a Commonwealth authorised officer in relation to applications to accredit a property, register an establishment or approve a proposed arrangement. The fees are listed in a table in subsection 2-11(1), where column 1 of the table describes the type of activity and column 2 describes the corresponding fee that may be charged in relation to the activity that is carried out.

Table item 6 currently provides the fees that may be charged for activities carried out by a Commonwealth authorised officer under subsection 379(9) of the Act in relation to:

- an application under Part 2 or 3, or Division 1 of Part 4, of Chapter 4 of the Act relating to the registration of an establishment for export operations in relation to prescribed eggs or prescribed egg products for export; or
- an application under Part 2 or 3, or Subdivision B of Division 1 of Part 4, of Chapter 5 of the Act relating to the approval of a proposed arrangement, or an approved arrangement, for export operations in relation to prescribed eggs or prescribed egg products for export.

This item repeals and substitutes the fees described in column 2 of table item 6 in subsection 2-11(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [58] – Subsection 2-11(1) (cell at table item 7, column 2)

Section 2-11 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to activities carried out under the Act by a Commonwealth authorised officer in relation to applications to accredit a property, register an establishment or approve a proposed arrangement. The fees are listed in a table in subsection 2-11(1), where column 1 of the table describes the type of activity and column 2 describes the corresponding fee that may be charged in relation to the activity that is carried out.

Table item 7 currently provides the fees that may be charged in relation to activities carried out by a Commonwealth authorised officer under subsection 379(9) of the Act in relation to:

- an application under Part 2 or 3, or Division 1 of Part 4, of Chapter 4 of the Act relating to the registration of an establishment for export operations in relation to prescribed organic goods for export; or

- an application under Part 2 or 3, or Subdivision B of Division 1 of Part 4, of Chapter 5 of the Act relating to the approval of a proposed arrangement, or an approved arrangement, for export operations in relation to prescribed organic goods for export.

This item repeals and substitutes the fees described in column 2 of table item 7 in subsection 2-11(1) of the Fees Rules. The amended fees differ depending on the financial year during which the activity is carried out.

Item [59] – Section 2-12

Section 2-12 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to activities carried out by a Commonwealth authorised officer as directed by the Secretary under section 313 of the Act in relation to an approved export program.

This item repeals section 2-12 of the Fees Rules. This amendment is consequential to the insertion of new table item 9A in section 2-3 of the Fees Rules (see item [25] above), which deals with fees that may be charged in relation to approved export programs.

Item [60] – Section 2-13 (cell at table item 1, column 2)

Section 2-13 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to fee-bearing activities in relation to third party authorised officers and prescribed plant or prescribed plant products. The fees are listed in a table in section 2-13 where column 1 describes the type of fee-bearing activity and column 2 describes the corresponding fee that may be charged in relation to that activity.

Table item 1 currently provides the fee that may be charged for the consideration of an application by a person:

- under subsection 291(3) of the Act to be a third party authorised officer for the purpose of performing functions and exercising powers in relation to prescribed plants or prescribed plant products; or
- under paragraph 298A(1)(a) of the Act by a third party authorised officer to vary the functions that the person may perform, or the powers that the person may exercise, in relation to prescribed plants or prescribed plant products.

This item repeals and substitutes the fees described in column 2 of item 1 in the table in section 2-13 of the Fees Rules. The amended fees differ depending on the financial year during which the application is considered.

Item [61] – Section 2-13 (cell at table item 2, column 2)

Section 2-13 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to fee-bearing activities in relation to third party authorised officers and prescribed plant or prescribed plant products. The fees are listed in a table in section 2-13 where column 1 describes the type of fee-bearing activity and column 2 describes the corresponding fee that may be charged in relation to that activity.

Table item 2 currently provides the fee that may be charged for the training, and initial assessment of competence, of a person who has made an application under subsection 291(3) of the Act to be a third party authorised officer.

This item repeals and substitutes the fees described in column 2 of item 2 in the table in section 2-13 of the Fees Rules. The amended fees differ depending on the financial year during which the training or initial assessment is carried out.

Item [62] – Section 2-13 (cell at table item 3, column 2)

Section 2-13 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to fee-bearing activities in relation to third party authorised officers and prescribed plant or prescribed plant products. The fees are listed in a table in section 2-13 where column 1 describes the type of fee-bearing activity and column 2 describes the corresponding fee that may be charged in relation to that activity.

Table item 3 currently provides the fee that may be charged for the additional training, and assessment of competence, of a person who was found not to be competent after an assessment specified in table item 2 in section 2-13 of the Fees Rules.

This item repeals and substitutes the fees described in column 2 of item 3 in the table in section 2-13 of the Fees Rules. The amended fees differ depending on the financial year during which the additional training or assessment is carried out.

Item [63] – Section 2-13 (cell at table item 4, column 2)

Section 2-13 of the Fees Rules prescribes, for the purposes of subsection 399(1) of the Act, the fees that may be charged in relation to fee-bearing activities in relation to third party authorised officers and prescribed plant or prescribed plant products. The fees are listed in a table in section 2-13 where column 1 describes the type of fee-bearing activity and column 2 describes the corresponding fee that may be charged in relation to that activity.

Table item 4 currently provides the fee that may be charged for making an instrument under subsection 291(7) of the Act authorising a person to be a third party authorised officer for the purpose of performing functions and exercising powers in relation to prescribed plants or prescribed plant products, or varying such an instrument under subsection 298A(6) of the Act.

This item repeals and substitutes the fees described in column 2 of item 4 in the table in section 2-13 of the Fees Rules. The amended fees differ depending on the financial year during which the instrument is made or varied.

Item [64] – Section 3-2 (cell at table item 12, column 1)

Section 3-2 of the Fees Rules prescribes, for the purposes of section 401 of the Act, one or more persons who are liable to pay a basic charge. Column 1 of the table in section 3-2 describes the type of matter and column 2 describes the person who is liable to pay the basic charge in relation to the matter.

Table item 12 currently provides that in relation to a third party authorised officer specified in item 1 in the table in section 15 of the *Export Charges (Imposition—Customs) Regulations 2021* (Customs Regulations) or item 1 in the table in section 15 of the *Export Charges (Imposition—General) Regulations 2021* (General Regulations), the person liable to pay the basic charge is the third party authorised officer.

This item inserts the words “or 2” after “item 1”, wherever the words “item 1” occur in column 1 of table item 12 in section 3-2. The effect of this amendment is to provide a reference to table items 1 and 2 in section 15 of the Customs Regulations and section 15 of the General Regulations, as amended by the *Export Charges (Imposition—Customs) Amendment Regulations 2021* and *Export Charges (Imposition—General) Amendment Regulations 2021* respectively.

Item [65] – At the end of the instrument

This item adds a new Part 5 at the end of the Fees Rules to provide for application, savings and transitional provisions. Division 1 of Part 5 of the Fees Rules provides for application, savings and transitional provisions relating to the Amendment Rules.

New section 5-1 relates to fee-bearing activities carried out in relation to prescribed meat or prescribed meat products by a Commonwealth authorised officer during a period for which a shift loading is payable. Subsection 5-1(1) provides, for the avoidance of doubt, that despite the repeal of section 2-8 by the Amendment Rules (see item [45] above), section 2-8 continues to apply, in relation to a fee-bearing activity carried out before the repeal, as if the repeal had not happened. Subsection 5-1(2) provides that section 5-1 does not limit the effect of section 7 of the *Acts Interpretation Act 1901* (as it applies because of paragraph 13(1)(a) of the *Legislation Act 2003*).

This amendment is consequential to the repeal of section 2-8 (see item [45] above) and is provided for the avoidance of doubt.

Statement of Compatibility with Human Rights

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

Export Control (Fees and Payments) Amendment Rules 2021

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 *Export Control (Fees and Payments) Amendment Rules 2021* (the Amendment Rules) are made under the *Export Control Act 2020* (the Act).

The Act provides the legislative framework for the Australian Government to regulate agricultural goods exported from Australian territory.

The purpose of the Amendment Rules is to allow the Department of Agriculture, Water and the Environment to appropriately recover fees where a service is provided directly to an individual, business or organisation, for activities carried out by, or on behalf of, the Commonwealth under the Act. The Amendment Rules amend the existing fee prices in the *Export Control (Fees and Payments) Rules 2021*.

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.

Andrew Edgar Francis Metcalfe AO
Secretary of the Department of Agriculture, Water and the Environment