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Information sheet: Proposed improvements to the Export Control (Animals) Rules 2021

Introduction

Australia's agricultural export legislation came into effect on 28 March 2021. This framework includes the *Export Control Act 2020* (the Act), and the Export Control Rules for various commodities (the Rules). These set out the operational requirements that must be met to export specific goods from Australia (e.g. animals).

The Export Control (Animals) Rules 2021 (the Animals Rules) regulate the export of prescribed livestock, prescribed live animals and prescribed animal reproductive material. The Animals Rules set out:

- which livestock, other live animals or animal reproductive materials are regulated
- export conditions that must be complied with.

Prior to the commencement of the Act and the Animals Rules, the export of animals was governed by the:

- Export Control Act 1982
- Export Control (Animals) Order 2004
- Export Control (Prescribed Goods—General) Order 2005
- Relevant parts of the Australian Meat and Live-Stock Industry Act 1997, Regulations and Orders.

Proposed improvements to the Animals Rules are outlined below and must be read in conjunction with the [Act](#) and the [Rules](#).

Conditions of approved arrangements

Under the Act, an approved arrangement is subject to conditions, including the conditions outlined in the Rules. These conditions are set out in Chapter 5 of the Animals Rules.

It is proposed that the Animals Rules be improved to include a condition of an approved arrangement that all importing country requirements and requirements of the Australian Standards for the Export of Livestock (ASEL) are met. It is important for holders of approved arrangements to comply with importing country requirements and the ASEL to ensure market access and the integrity of goods exported.

The amendment would mean if the Secretary reasonably believes the proposed condition is being contravened, they may vary, suspend or revoke the approved arrangement.

The proposed condition would apply to all approved arrangements, regardless of when they were approved.

Under the Act and Animals Rules, it is an existing requirement for the approval of a proposed arrangement that importing country requirements and ASEL are met. This amendment clarifies that these requirements continue to apply as a condition of the approved arrangement and ensures ongoing compliance by holders of approved arrangements.

Request for suspension of approved arrangement for ESCAO by holder

Under the Act, the holder of an approved arrangement may request the Secretary to suspend the approved arrangement or a part of the approved arrangement. This request may only be made in the circumstances outlined in the Animals Rules.

As there are currently no circumstances included for this purpose in the Animals Rules, it is proposed the Animals Rules be amended to allow a holder of an approved arrangement for exporter supply chain assurance operations (ESCAO) to request the suspension of the approved arrangement or a part of the approved arrangement.

It is proposed that the circumstances when the holder of an approved arrangement for ESCAO may request a suspension, include where:

- The holder considers some or all ESCAO covered by the approved arrangement will not be carried out for a continuous period of 12 months or more; or
- The holder does not have personnel with appropriate qualifications or expertise to carry out some or all ESCAO in accordance with the approved arrangement.

It is also proposed that a request by the holder must include:

- A plan for how each entity will be transitioned to alternative mechanisms to ensure animal welfare is maintained up until, and including, the point of slaughter (this may include for the entity to seek assurance from a different holder of another approved arrangement for ESCAO or for the entity to comply with an approved exporter supply chain assurance system (ESCAS)); and
- A written declaration that there are no feeder livestock or slaughter livestock in the export operations carried out at or by the entity.

The proposed amendment will provide flexibility to the holder of an approved arrangement for ESCAO to request a suspension in the above circumstances. The purpose of the plan and written declaration is to provide assurances that animal welfare outcomes will not be compromised by the suspension of the approved arrangement.

Revocation of approval of notice of intention to export – prescribed livestock and prescribed live animals

The Animals Rules require that a notice of intention to export a consignment of prescribed livestock and other prescribed live animals be approved, and allows for the Secretary to revoke the approval in certain circumstances.

It is proposed the Animals Rules be amended to expand the circumstances where the Secretary may revoke the approval of a notice of intention to export, to include circumstances where the exporter has not supplied true or accurate information.

The grounds to revoke approval of a notice of intention to export would include where an exporter:

- made a false, misleading or incomplete statement in the notice of intention to export
- gave false, misleading or incomplete information or documents to the Secretary or to another person performing functions or exercising powers under the Act
- gave false, misleading or incomplete information or documents to the Secretary or the department under a prescribed agriculture law.

This proposed improvement would apply to prescribed livestock and prescribed live animals.

This amendment is not intended to affect the process by which NOIs are currently approved under the Animal Rules (including in relation to short haul cattle consignments to Indonesia by sea or in other instances where the commercial realities of the livestock trade mean certain details cannot sometimes be fully provided on the NOI until closer to the departure date). This amendment is targeted towards the revocation of the approval of NOIs where the Secretary becomes aware, after the NOI is approved, that the exporter gave false, misleading or incomplete information.

Revocation of an ESCAS – period of response to show cause notice

Under the Animals Rules, the holder of a livestock export licence must comply with an approved exporter supply chain assurance system (ESCAS) in carrying out export operations.

The Secretary may revoke the approval of an ESCAS by giving written notice with details of the revocation to the holder of the ESCAS. As part of this notice, the holder has 14 days to provide a written statement to the Secretary, showing why the approved ESCAS should not be revoked (unless the grounds for the proposed revocation are serious and urgent).

It is proposed the Animals Rules be amended to provide greater flexibility for determining the timeframe by which the holder of an approved ESCAS is required to provide a written statement. This will allow the department to provide holders with more time to respond to the show cause notice in appropriate cases, particularly where there are more complex issues to be addressed.

It is proposed the written statement by the holder of the ESCAS may be given either within:

- 14 days after the day the show cause notice is given (unless the grounds for the proposed revocation are serious and urgent); or
- a longer period specified in the show cause notice.

Revocation of an ESCAS – notice of revocation

Under the Animals Rules, the Secretary may cancel an approved ESCAS, by written notice to the holder of an approved ESCAS, in certain circumstances. However, the Animals Rules do not currently set out any requirements for such a written notice.

It is proposed the Animals Rules be improved to outline the requirements for a notice of revocation and when the revocation is to take effect.

Where the holder of the approved ESCAS is requested to provide a response to a show cause notice, it is proposed that the revocation must not take effect before the earlier of:

- the day after any response to the request is received; and

- the end of 14 days after the show cause notice was given, or such longer period for response given in the show cause notice, unless the grounds for the proposed revocation are serious or urgent

It is intended that where the Secretary decides to revoke an approved ESCAS, they must give the holder of the ESCAS a written notice stating:

- that the approval of the ESCAS is to be revoked
- the reasons for the revocation; and
- the date the revocation is to take effect.

Revocation and reissue of government certificates

The Act provides for the revocation of government certificates and the circumstances when a government certificate may be revoked. The Act also allows for the Rules to prescribe circumstances in which a government certificate may be revoked, however the Animals Rules do not currently prescribe any such circumstances.

It is proposed the Animals Rules be improved to include a provision for the revocation of a government certificate in circumstances where the exporter has requested it be revoked. This will apply to prescribed livestock, prescribed live animals or prescribed animal reproductive material.

The Animals Rules currently provides that when considering the reissue of a government certificate in relation to prescribed livestock, the application for the new government certificate must include details of any changes from the earlier application. The issuing body for the government certificate may also accept information previously given by the exporter in relation the earlier application.

It is proposed that these provisions be extended to applications for the reissue of a government certificate in relation to prescribed live animals or prescribed animal reproductive material.

Approved export programs

The Animals Rules require an exporter to hold an approved export program. An exporter may apply to the Secretary for an approved export program to be undertaken by an accredited veterinarian, to ensure the health and welfare of livestock in the course of export operations.

It is proposed the Animals Rules be improved to require an exporter to ensure a copy of the relevant parts of the approved export program is provided to the accredited veterinarian. This would be the parts of the approved export program that are relevant for the particular consignment and relating to the program of export operations to be undertaken by that accredited veterinarian. The exporter will also be required to record the fact that they have done so, and to retain these records for at least 2 years.

Furthermore, it is intended that accredited veterinarians will be required to record that they have received this and to retain these records for at least 2 years.

Conditions of livestock export licences – significant exotic diseases

Australia is currently free of a number of diseases, infections or infestations that can cause a significant impact on livestock and other animals, including exotic diseases. This includes Lumpy skin disease (LSD), a viral disease of cattle and water buffalo, spread primarily by biting insects; and Foot-and-mouth disease

(FMD), a highly contagious disease affecting many animal species including cattle, buffalo, sheep and goats.

While there are existing arrangements in place to respond to a detection of LSD or FMD in Australia, it is proposed the Animals Rules be improved to manage potential risks relating to the detection of a suspected case of an exotic disease. This would include restricting the movement of livestock for export, either to a port and/or loading onto a vessel or aircraft during a suspected case to prevent the consignment being loaded and potentially rejected by the importing country.

It is proposed the Animals Rules be improved to include a condition on a livestock export licence, requiring that the holder of the livestock export licence must not, where directed by an authorised officer:

- move livestock intended for export to a port of embarkation, airport or other place for the purpose of being exported
- unload a consignment of livestock at a port of embarkation, airport or other place for the purpose of being exported
- load a consignment of livestock onto any aircraft or vessel for export.

There would be an exception to this requirement if written permission is given by an authorised officer.

It is proposed that this condition would be activated when the Secretary reasonably believes a 'significant exotic disease' is present in Australia, or reasonably suspects the presence of that disease in Australia. A 'significant exotic disease' would be either:

- A disease, infection or infestation that is listed in [Chapter 1.3 of the Terrestrial Animal Health Code](#), published on the World Organisation for Animal Health (WOAH) website, as existing from time to time; or
- Any other disease, infection or infestation that the Secretary considers has the potential to cause significant harm to human, animal or plant health, and whose presence in Australia could result in trade in the export of livestock being adversely affected; and
- provided that, in either case, the disease, infection or infestation is not endemic to Australia.

It is intended that the condition will apply to all livestock export licences on or after commencement, regardless of when the licence is granted.

Amendments relating to accredited veterinarians

False, misleading or incomplete information from accredited veterinarians

Under the Animals Rules, the Secretary may suspend or revoke the accreditation of a veterinarian if the Secretary reasonably believes certain matters, including where the accredited veterinarian:

- made a false, misleading or incomplete statement in an application
- gave false, misleading or incomplete information or documents to the Secretary or to another person performing functions or exercising powers under the Act
- gave false, misleading or incomplete information or documents to the Secretary or the department under a prescribed agriculture law.

Under current arrangements, there are no agriculture laws which have been prescribed in the Rules made under the Act, and an accreditation can only be suspended or revoked where the false, misleading or incomplete information or documents were provided in an application or under the Act.

It is proposed the Animals Rules be improved to expand the grounds of suspension and revocation to include circumstances where false, misleading or incomplete information or documents were previously provided to the Secretary or the department under the *Australian Meat and Live-stock Industry Act 1997* or the *Export Control Act 1982*.

Period of response to show cause notice – variation, suspension and revocation of accreditation

Under the Animals Rules, the Secretary may vary any aspect of the accreditation of a veterinarian or to vary the conditions of the accreditation in certain circumstances. Before doing so, the Secretary must have given a written notice to the accredited veterinarian detailing the proposed variation.

As part of this notice, the accredited veterinarian is given 14 days to provide the Secretary with a written statement showing why the proposed variation should not be made (unless the grounds for the proposed variation are serious and urgent).

It is proposed that the Animals Rules be improved to provide greater flexibility for determining the timeframe in which the accredited veterinarian is required to provide a written statement. This will allow the department to provide accredited veterinarians with more time to respond to the show cause notice in appropriate cases, particularly where there are more complex issues to be addressed.

It is proposed that the written statement by the accredited veterinarian may be given either:

- within 14 days after the day the show cause notice is given
- within a longer period specified in the show cause notice.

It is also proposed to amend the Animals Rules to provide that a variation must not take effect before the earlier of:

- the day after any response to the request is received; and
- the end of 14 days after the show cause notice was given, or such longer period for response given in the show cause notice.

It is also proposed that the same improvements be made in relation to a notice given to suspend or revoke the accreditation of a veterinarian.

Records by shipboard accredited veterinarians

Under the Animals Rules, accredited veterinarians are required to keep records of certain matters. This includes matters such as the examination, inspection, testing or treatment of exported livestock.

Under current arrangements, there are certain matters that relate specifically to pre-export preparation operations where land-based accredited veterinarians would be engaged; as well as matters relating to livestock during their transport from Australia, where shipboard accredited veterinarians would be engaged.

To avoid any confusion regarding record-keeping requirements, it is proposed the Animals Rules be improved to clarify that both land-based and shipboard accredited veterinarians should comply with the relevant record-keeping requirements.

This change will remove doubt relating to record-keeping requirements for accredited veterinarians.

Records of invoices

Under the Animals Rules, an accredited veterinarian is required to keep records of certain matters. This includes where they administer or supervise any veterinary examination, inspection, testing or treatment of prescribed livestock.

Where livestock are administered a drug or product, the accredited veterinarian is required to keep records of the name of the active constituent in the drug or product, and the amount of the drug or product that was administered.

Under the former arrangements (the Export Control (Animals) Order 2004), accredited veterinarians were also required to keep invoices received for purchasing any drugs or products administered to the livestock, however there is no corresponding requirement in the current Animals Rules.

It is proposed that the Animals Rules be improved to require accredited veterinarians to keep a copy of the invoice received upon the purchase of any drugs/products to treat livestock for export.

Further information

Email: exportlegislation@agriculture.gov.au

Website: [Improved agricultural export legislation](#)

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