



## **Export Control (Poultry Meat and Poultry Meat Products) Orders 2010<sup>1</sup>**

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I, JOSEPH WILLIAM LUDWIG, Minister for Agriculture, Fisheries and Forestry, make the following orders under regulation 3 of the *Export Control (Orders) Regulations 1982*.

Dated 11<sup>th</sup> November 2010

JOSEPH WILLIAM LUDWIG  
Minister for Agriculture, Fisheries and Forestry

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## **Part 1                      Preliminary**

### **Division 1.1              General**

#### **1.01      Name of Orders**

These Orders are the *Export Control (Poultry Meat and Poultry Meat Products) Orders 2010*.

#### **1.02      Commencement**

These Orders commence on the commencement of the *Export Control (Wild Game Meat and Wild Game Meat Products) Orders 2010*.<sup>2</sup>

#### **1.03      Objectives**

- (1) The principal objectives of these Orders are:
  - (a) to ensure that poultry meat and poultry meat products exported, or for export, for food:
    - (i) are wholesome or are identified as requiring further processing to be fit for human consumption; and
    - (ii) meet relevant importing country requirements; and
    - (iii) are traceable and can be recalled if required; and
    - (iv) are derived from animals that were treated humanely during slaughter; and
  - (b) that the integrity of poultry meat and poultry meat products exported, or for export, for food is assured; and
  - (c) that the trade descriptions for poultry meat and poultry meat products exported, or for export, for food are accurate.
- (2) Other objectives of these Orders are to ensure an accurate assessment can be made whether the following are met:
  - (a) the objectives specified in suborder (1);
  - (b) the applicable requirements of the Act and these Orders.

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**1.04 Prescribed goods**

Poultry meat and poultry meat products exported, or for export, for food are declared to be prescribed goods for the purposes of the Act.

*Note* A consequence of this order is that certain provisions of the Act (for example, Parts II and IV) apply to poultry meat and poultry meat products exported, or for export, for food.

**Division 1.2 Application of export control orders and Australian Standards**

**1.05 How the *Export Control (Prescribed Goods — General) Order 2005* applies**

- (1) The following provisions of the *Export Control (Prescribed Goods — General) Order 2005* apply to poultry meat and poultry meat products exported, or for export, for food:
- (a) Part 1 (other than section 1.07);
  - (b) Part 14.

*Note 1* Part 14 of the *Export Control (Prescribed Goods — General) Order 2005* deals with sampling and analysis.

*Note 2* The following provisions of these Orders call up provisions of the *Export Control (Prescribed Goods — General) Order 2005* in certain cases:

- (a) orders 7.01, 10.13 and 10.14;
  - (b) paragraph 5 (b), clause 12 and paragraph 18.1 (a) of Schedule 1;
  - (c) paragraphs 7 (g) and 10.1 (g) of Schedule 5;
  - (d) subclauses 11.2 and 11.3 and paragraph 13.1 (b) of Schedule 6;
  - (e) paragraphs 5.1 (a) and 12.1 (a) of Schedule 9;
  - (f) paragraph 2.1 (c) of Schedule 10
- (2) Except as expressly provided in these Orders, the *Export Control (Prescribed Goods — General) Order 2005* has no application to poultry meat or poultry meat products exported, or for export, for food.

**1.06     *Export Control (Meat and Meat Products) Orders 2005 do not apply***

The *Export Control (Meat and Meat Products) Orders 2005* have no application to poultry meat or poultry meat products exported, or for export, for food.

**1.07     **How the Australian Poultry Meat Standard applies****

In applying the Australian Poultry Meat Standard as required by these Orders, the Australian Poultry Meat Standard is to be read as if:

- (a) references to a *poultry meat business* were references to an establishment or the occupier of an establishment where the business is conducted (each as defined in suborder 1.09 (1) of these Orders); and
- (b) references to the *proprietor* were references to the occupier, as defined in suborder 1.09 (1) of these Orders, of the relevant establishment; and
- (c) references to an *operator* were references to the occupier, as defined in suborder 1.09 (1) of these Orders, of the relevant establishment; and
- (d) references to a *poultry processing premises* were references to a poultry meat processing establishment as defined in suborder 1.09 (1) of these Orders; and
- (e) other words and expressions in that Standard that are defined in these Orders had the meanings that they have in these Orders.

*Note* Order 1.07 does not amend the Australian Poultry Meat Standard. Because there are slight differences of expression between the Standard and these Orders, order 1.07 tells you what you have to do to read the Standard in a meaningful way when you are applying it as required by these Orders.

**1.08     **Inconsistency****

If there is an inconsistency between a requirement of these Orders and a requirement of:

- (a) another applicable export control order; or
- (b) a standard or other document applied by these Orders;

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the requirement of these Orders prevails to the extent of the inconsistency.

## **Division 1.3 Interpretation**

### **1.09 Definitions**

#### *Definitions*

- (1) In these Orders:

*Act* means the *Export Control Act 1982*.

*amount that is payable to the Department* means an amount payable to the Commonwealth (including an amount that is owed to the Commonwealth and has not been paid) in respect of:

- (a) a fee for a service performed at, or in respect of, an establishment; or
- (b) a charge or levy the liability for which was ascertained in relation to an establishment, certification operations or the approval of a person as an auditor by reference to a matter prescribed by a law of the Commonwealth; or
- (c) a penalty in respect of a failure to discharge such a liability.

*animal food* means:

- (a) a part of an animal or a poultry meat product to which a disposition has been applied under which it is to be recovered for food for animals; and
- (b) inedible material that can be used for food for animals; but does not include biscuits, dried hide pieces or rendered meals.

*approved* means approved by the Secretary in writing.

*approved arrangement* means an arrangement approved under Schedule 1, as varied in accordance with these Orders.

*approved auditor* means an auditor approved under Schedule 9.

*auditor* means a person who, under order 6.02, may conduct an audit.

***Australian Poultry Meat Standard*** means the *Australian Standard for Construction of Premises and Hygienic Production of Poultry Meat for Human Consumption* (AS 4465:2005), as in force on 1 December 2010.

***batch*** means an identifiable quantity of a commodity produced under essentially the same conditions and during a 24 hour period.

***carcase*** means the whole dressed body of slaughtered poultry (the skeleton and attached musculature), excluding any part that has been removed from the dressed body (such as the head, feathers, viscera and blood).

***carcase part*** means any tissue or structure removed from a carcase and includes, for example, the head, viscera, offal and blood.

***carton*** includes a case, crate or barrel.

***certificate of registration***, for an establishment, means the certificate for the establishment given under paragraph 5 (f) or subclause 13.2 of Schedule 1.

***condemn***, in relation to a carcase or a carcase part, means determine (including by way of applying a disposition) that the carcase or a carcase part is unsuitable for use in human or animal food and requires destruction.

***container system unit*** means a container designed for use as a unit of cargo handling equipment in the transport of goods by aircraft or ship.

***controlling authority*** means a State or Territory authority the functions of which are or include the administration of laws giving effect to the Australian Poultry Meat Standard as it applies to poultry meat and poultry meat products prepared in that State or Territory.

***convicted*** has the meaning given by subsection 85ZM (1) of the *Crimes Act 1914*.

***corporation*** means a legal person that is not an individual.

***critical control point*** means a point, procedure, operation or stage in the food chain, including raw materials, at which control can be applied and is essential to prevent or eliminate a hazard or reduce it to an acceptable level.

***critical non-compliance***: see suborder 6.07 (3).

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***date of packaging*** means:

- (a) for further processed poultry meat products (other than canned meat products) — the date on which the further process is completed; and
- (b) for canned meat products — the date on which the can is closed; and
- (c) in any other case — the date of first packaging.

***disability*** has the meaning given by section 4 of the *Disability Discrimination Act 1992*.

***dressing***, in relation to an animal, means the progressive separation of the body of the animal into a carcass, offal and inedible material.

***eligible for export***: see suborder (2).

***equipment*** means a machine, instrument, apparatus, utensil, container or other thing used or for use in connection with the production or transportation of poultry meat or poultry meat products (including anything used or for use for inspection, maintenance and cleaning) but does not include a poultry meat transport vehicle.

***essential services***, in relation to an establishment, includes the drainage, waste disposal, lighting, water and electricity services to the establishment.

***export control order*** means a legislative instrument (whether it is called Order or Orders) made under regulation 3 of the *Export Control (Orders) Regulations 1982*.

***export permit*** means a permit for the export of poultry meat or poultry meat products given under Schedule 8.

***exporter*** means the person named as the exporter in an application for an export permit.

***facilities*** include hygiene and sanitation facilities.

***Food Standards Code*** means the Australia New Zealand Food Standards Code as defined in section 4 of the *Food Standards Australia New Zealand Act 1991*.

*Note* At the commencement of these Orders, the Code was accessible on the Internet at: <http://www.foodstandards.gov.au/thecode>.

***further process***, in relation to a product, means a process that alters the physical or chemical characteristic of the product.

**government certificate** means a certificate issued under clause 14 of Schedule 8.

**HACCP** means a hazard analysis critical control point approach that uses the 7 principles defined by the Joint Food and Agriculture Organisation/World Health Organisation Food Standards Program of the *Codex Alimentarius* Commission (Twentieth Session Geneva) and is a structured system of analysis of hazards that identifies methods of hazard monitoring and control measures for hazards.

**hazard** means a biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse effect in humans.

**humane treatment** means treatment not inconsistent with the *Model Code of Practice for the Welfare of Animals: Domestic Poultry (4th edition)* made by the Primary Industries Standing Committee, as in force on 1 December 2010.

*Note* At the commencement of these Orders, this document was accessible on the internet at

<http://www.publish.csiro.au/Books/download.cfm?ID=3451>.

**importing country authority**, for particular poultry meat or poultry meat products imported, or to be imported, into a country from Australia, means the authority in the country responsible for regulating that import.

**importing country requirement**, for a particular country, means a requirement that must be met before poultry meat or poultry meat products may be imported into the country from Australia.

*Note 1* For guidance on importing country requirements see *Export Meat Manual Volume 2, Importing Country Requirements*, published by the Department of Agriculture, Fisheries and Forestry. At the commencement of these Orders, this document was accessible on the Internet at <http://www.daff.gov.au/aqis/export/meat/elmer-3>.

*Note 2* For when importing country requirements must be specified in the approved arrangement see clause 11 of Schedule 2. See also orders 3.06 and 9.02.

**inedible** means not suitable for human consumption.

**ingredient** means a substance (including a food additive) that:

- (a) is a constituent of poultry meat or poultry meat products (including raw materials); or

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- (b) is a processing aid for poultry meat or poultry meat products.

**inspection service** means an inspection service provided in respect of poultry meat or poultry meat products.

**integrity**: see suborder (3).

**load for export** means:

- (a) place for export into a container system unit at an establishment; or
- (b) for poultry meat or poultry meat products that are to be stowed directly on board a ship or aircraft without first being placed into a container system unit — load onto the ship or aircraft for export.

**meat extract** means a product that:

- (a) is derived from poultry meat that has been passed as fit for human consumption; and
- (b) does not contain any non-meat proteins or any additives; and
- (c) does not contain more than 25% moisture by analysis.

**meat safety inspector** means:

- (a) in relation to:
- (i) information relating to poultry that is required to be provided to a meat safety inspector; or
  - (ii) inspections, decisions and dispositions of carcasses; at a registered establishment where a veterinary officer is located —either:
  - (iii) a veterinary officer; or
  - (iv) an authorised officer acting under the supervision of a veterinary officer; and
- (b) in relation to the implementation of procedures in relation to notifiable diseases at a registered establishment where a veterinary officer is located —a veterinary officer; and
- (c) in any other context —a person who is approved by the Secretary:
- (i) to inspect carcasses and poultry meat; and
  - (ii) to perform functions specified in the approval in relation to the control of hygiene in relation to them;



at a poultry meat processing establishment.

**monitor**, in relation to a critical control point, means conduct a planned sequence of observations or measurements to assess whether the critical control point is under control.

**notice of intention** means a notice required by order 4.01.

**notifiable disease** means a disease of poultry the presence or suspected presence of which must be notified or reported (however this is expressed) under a law of the State or Territory in which the disease is present or suspected of being present.

**occupier** means:

- (a) in relation to a registered establishment — the person in whose name the registered establishment is registered; and
- (b) in relation to an unregistered establishment:
  - (i) the person who carries on the business of preparing poultry meat or poultry meat products for export for food at the establishment; or
  - (ii) if the identity of such a person cannot be ascertained — the person in charge of the operations for the preparation of poultry meat or poultry meat products at the establishment.

**offal** means the organs of the thoracic and abdominal cavities.

**person who manages or controls** means a person who has, or would have:

- (a) authority to direct the operations or an important or substantial part of the operations; or
- (b) authority to direct a person who has or is to have authority of the kind referred to in paragraph (a) in the exercise of the authority referred to in paragraph (a).

**poultry** includes fowls, ducks, geese, turkeys, pigeons, pheasants, quails, guinea fowls and other avian species ordinarily consumed as food by man, but does not include ratites (emu or ostrich).

**poultry meat** means the edible part of poultry that is intended for human consumption, whether in its natural state or prepared by freezing, chilling, preserving, salting or some other process.

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***poultry meat processing establishment*** means an establishment at which poultry meat or poultry meat products are prepared, handled, packed or stored.

***poultry meat product*** means a product containing poultry meat.

***poultry meat transport vehicle*** means a vehicle, a ship, aircraft or other conveyance used to transport poultry meat or poultry meat products for export for food, and includes the poultry meat carrying compartment of such a vehicle.

***primary bleeding*** means the initial and major part of bleeding that follows incisions made to initiate exsanguination and is characterised by a continuous flow of blood.

***production*** means:

- (a) the admission of poultry for slaughter for poultry meat and poultry meat products; and
- (b) the preparation of poultry meat or poultry meat products.

*Note* See clauses 11 and 12 of Schedule 2.

***registered*** means registered under clause 5 of Schedule 1.

***serious offence*** means an offence against a law of the Commonwealth or a State or Territory for which the maximum penalty is either or both of a period of imprisonment or a fine of 10 penalty units or more.

***slaughter*** means the killing of poultry and includes stunning, sticking and bleeding.

***State or Territory inspection and audit arrangement*** means an arrangement that is:

- (a) for the inspection of poultry meat and poultry meat products for export for food and the audit of the establishments in which the poultry meat and poultry meat products are prepared; and
- (b) made between the Secretary and the relevant State or Territory controlling authority.

***tallow*** means rendered fat or oil extracted from poultry tissue.

***thaw*** means warm to a temperature above -2° C.

***verify*** means apply methods, procedures, tests or other evaluations in addition to monitoring to determine whether a requirement is complied with or a standard is met.

***wholesome***: see suborder (4).

***working day*** means a day that is not a Saturday, a Sunday or a public holiday in the State or Territory in which the relevant operations are conducted.

*Note* Several other words and expressions used in these Orders are defined in section 3 of the Act, for example:

- animal
- apply
- authorised officer
- document
- establishment
- examine
- food
- occupier
- official mark
- official marking device
- order
- premises
- preparation
- prescribed goods
- regulations
- Secretary
- ship
- trade description.

### ***Eligibility for export***

- (2) Poultry meat and poultry meat products are ***eligible for export*** to a particular market if all the requirements of the Act, these Orders, any other relevant export control order, any relevant approved arrangement and the relevant importing country requirements are satisfied.

### ***Integrity***

- (3) For the purposes of these Orders, the ***integrity*** of poultry meat or poultry meat products is assured if the identity of the poultry meat or poultry meat products with regard to any condition, restriction or other description that may apply to them:

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- (a) is readily ascertainable; and
- (b) is not lost or confused with that of any other poultry meat or poultry meat products; and
- (c) is not lost or confused with that of any meat or meat products not derived from poultry.

*Wholesome*

- (4) For the purposes of these Orders, poultry meat and poultry meat products are *wholesome* if they:
  - (a) will not cause food-borne disease or intoxication when properly handled and prepared for their intended use; and
  - (b) do not contain residues in excess of limits fixed by law; and
  - (c) are free of obvious physical contamination; and
  - (d) are free of defects that are generally recognised as unsafe (objectionable) to consumers; and
  - (e) have been produced under adequate hygiene controls.

**1.10 Meaning of *Level x penal provision***

If the words *Level x penal provision* (where *x* is a number from 1 to 5) are set out at the foot of a provision of these Orders, the provision is a penal provision of that level for the purposes of subregulation 4 (1) of the *Export Control (Orders) Regulations 1982*.

*Note* A person who fails to comply with the provision is guilty of an offence: subregulation 4 (1) of the *Export Control (Orders) Regulations 1982*. The offence is one of strict liability: subregulation 4 (2) of those Regulations. For strict liability see section 6.1 of the *Criminal Code*.

**1.11 Notes**

A note to these Orders is not part of these Orders.

## **Part 2                      Application**

### **Division 2.1              Poultry meat and poultry meat products to which these Orders apply**

#### **2.01              Orders apply to poultry meat and poultry meat products exported, or for export, for food**

- (1) Except as expressly provided by these Orders:
  - (a) these Orders apply to poultry meat or poultry meat products exported, or for export, for food; and
  - (b) a reference in these Orders to poultry meat or poultry meat products is a reference to poultry meat or poultry meat products exported, or for export, for food.
- (2) An express reference in these Orders to poultry meat or poultry meat products exported, or for export, for food does not affect the interpretation of any other reference to poultry meat or poultry meat products.

### **Division 2.2              Orders do not apply to certain poultry meat products, small consignments and exports to New Zealand**

*Note* Even though these Orders may not apply to certain poultry meat and poultry meat products because of this Division, that poultry meat and those poultry meat products are still prescribed goods: order 1.04.

#### **2.02              Orders do not apply to certain poultry meat products**

Except as expressly provided by these Orders, these Orders do not apply to the following:

- (a) soup, soup powder, soup concentrate or meat extracts;
- (b) tallow;
- (c) gelatin;

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- (d) regenerated collagen products;
- (e) poultry meat products containing less than 5% mass of poultry meat.

**2.03 Orders do not apply to small consignments**

Except as expressly provided by these Orders, these Orders do not apply to poultry meat or poultry meat products exported, or to be exported, in a consignment of no more than 10 kg.

**2.04 Orders do not apply to exports to New Zealand**

Except as expressly provided by these Orders, these Orders do not apply to poultry meat or poultry meat products exported, or to be exported, to New Zealand.

*Note* Despite the fact that this Order does not apply to them, poultry meat and poultry meat products identified in orders 2.02 to 2.04 are still prescribed goods: order 1.04. Section 15 of the Act (accuracy of trade descriptions) applies to prescribed goods.

**Division 2.3 Re-application of Orders for purposes of government certificates**

**2.05 When this Division applies**

- (1) This Division applies to poultry meat products of a kind referred to in paragraphs 2.02 (a) to (e).
- (2) This Division applies to poultry meat and poultry meat products to be exported in consignments of less than 10 kg.
- (3) This Division applies to poultry meat and poultry meat products to be exported to New Zealand.

**2.06 Re-application of these Orders if government certificate required**

- (1) A person may apply to the Secretary for the issue of a government certificate in respect of poultry meat or poultry meat products only if a written application in accordance with

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suborder (2) is also made, or has been made, to the Secretary for a written notice under suborder 2.07 (1) specifying the provisions of these Orders that apply to the poultry meat or poultry meat products described in the application.

*Note* For government certificates see Part 2 of Schedule 8.

- (2) The application for the notice must:
  - (a) describe the poultry meat or poultry meat products to be exported; and
  - (b) identify the exporter of the poultry meat or poultry meat products; and
  - (c) identify each establishment at which the poultry meat or poultry meat products were or are to be prepared; and
  - (d) be made and signed by the exporter and the occupier of each of those establishments; and
  - (e) identify the country to which the poultry meat or poultry meat products are to be exported.
- (3) In orders 2.07 to 2.09:

*person concerned* means a person who signed a relevant application referred to in paragraph (2) (d).

**2.07 Notice that provisions apply**

- (1) If an application under order 2.06 is made, the Secretary must give each person concerned a written notice specifying the provisions of these Orders that apply to the poultry meat or poultry meat products described in the application.
- (2) However, a notice need not be given under suborder (1) if the Secretary has reasonable grounds to believe that:
  - (a) the application does not comply with suborder 2.06 (2); or
  - (b) information given to the Secretary in, or in connection with, the application is inaccurate or incomplete; or
  - (c) there is no sound basis for that information.
- (3) A notice under suborder (1) takes effect on:
  - (a) the day when the notice is first given to a person concerned; or

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- (b) if a later day is specified in the notice as the day it takes effect — that day.
  - (4) A notice under suborder (1) ceases to have effect on the earlier of:
    - (a) the day specified in the notice as the day it ceases to have effect; and
    - (b) if it is revoked — the day when the revocation takes effect.
- Note* For revocation see order 2.09.
- (5) While a notice under suborder (1) has effect:
    - (a) the provisions of these Orders specified in the notice as applying to the poultry meat or poultry meat products apply to and in relation to each person concerned; and
    - (b) a reference in those provisions to poultry meat or poultry meat products includes a reference to the poultry meat or poultry meat products specified in the notice.

**2.08 Decision not to apply provisions**

- (1) If, within 30 days after an application under order 2.06 is made, the Secretary has not made a decision whether to give a notice, the Secretary is taken to have decided at the end of the 30 days not to give a notice.
- (2) If, on an application under order 2.06, the Secretary decides not to give a notice (except because of suborder (1)), the Secretary must give each of the persons concerned written notice of that decision.
- (3) A notice under suborder (2) must state:
  - (a) the reasons for the decision; and
  - (b) that a person whose interests are affected by the decision may apply for reconsideration of the decision.

*Note* For reconsideration of the Secretary's decision see Division 10.1.



### **2.09 Amending or revoking notices**

- (1) The Secretary may at any time, by written notice, amend a notice under order 2.07 as it specifies the provisions of these Orders that apply.
- (2) The Secretary may at any time, by written notice, revoke a notice under order 2.07 if the Secretary has reasonable grounds to believe that information given to the Secretary in, or in connection with, the application for the notice under order 2.07 is inaccurate or incomplete or does not have a sound basis.
- (3) A notice under suborder (1) or (2) takes effect on:
  - (a) the day when the notice is first given to a person concerned; or
  - (b) if a later day is specified in the notice as the day it takes effect — that day.
- (4) A notice under suborder (1) or (2) must state:
  - (a) the reasons for the decision to revoke or amend the notice; and
  - (b) that a person whose interests are affected by the decision may apply for reconsideration of the decision.

*Note* For reconsideration and review of the Secretary's decision see Division 10.1.

## **Division 2.4 Orders do not apply to ships' stores etc**

*Note* Even though these Orders may not apply to certain poultry meat or poultry meat products because of this Division, that poultry meat and those poultry meat products are still prescribed goods: order 1.04.

### **2.10 When Order does not apply**

- (1) Subject to suborder (2), an expression used in this order that is also used in the *Sea Installations Act 1987* has the same meaning as in that Act.
- (2) For the purposes of suborder (3) and paragraph (4) (c), a sea installation is installed at a particular time if, under section 6 of

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the *Sea Installations Act 1987*, it would be taken to be installed in an adjacent area at that time.

- (3) For paragraphs (4) (a) and (c), a resource industry mobile unit (within the meaning given by the *Sea Installation Act 1987*) that is not installed is taken to be a ship.
- (4) These Orders do not apply to poultry meat and poultry meat products in the following circumstances:
  - (a) the poultry meat and poultry meat products are:
    - (i) ships' stores for the use of passengers or crew of, or for the service of, a ship on a voyage from Australia; or
    - (ii) aircraft stores for the use of passengers or crew of, or for the service of, an aircraft on a flight from Australia;
  - (b) the poultry meat or poultry meat products are consigned to an external Territory for consumption within the Territory;
  - (c) the poultry meat or poultry meat products are consigned to a resource industry structure that is installed within the Joint Petroleum Development Area (within the meaning given by the *Petroleum (Timor Sea Treaty) Act 2003*), for consumption on the structure.

## **Division 2.5                      Exemptions**

### **2.11                      Secretary may exempt poultry meat or poultry meat products from specified provisions**

- (1) The Secretary may, on application from the occupier of an establishment or an exporter, make an instrument exempting poultry meat or poultry meat products to be exported to a country specified in the application:
  - (a) as a commercial sample; or
  - (b) for experimental purposes; or
  - (c) in exceptional circumstances; or
  - (d) in special commercial circumstances;from specified requirements of these Orders.

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- (2) The application must:
- (a) be given to the Secretary at least 10 working days, or a shorter period as the Secretary allows, before the proposed date of export or preparation of the poultry meat or poultry meat products concerned; and
  - (b) specify the provisions of these Orders from which the exemption is sought; and
  - (c) set out the reasons for the exemption; and
  - (d) provide enough information to enable the Secretary to identify the poultry meat or poultry meat products (including, if practicable, the information specified in subclause 1.2 of Schedule 8).
- (3) The instrument must specify:
- (a) the poultry meat or poultry meat products to which it relates; and
  - (b) the provisions of these Orders that do not apply to that poultry meat or those poultry meat products.
- (4) The instrument may be subject to conditions specified in the instrument.

*Note* See order 2.13.

## **2.12 Amendments of exemptions**

The Secretary may amend an instrument under order 2.11:

- (a) as it relates to the provisions of these Orders that do not apply to poultry meat or poultry meat products to which the instrument relates; or
- (b) by imposing new conditions or varying or revoking a condition.

## **2.13 Restriction on conditions of exemptions**

The Secretary must not impose a condition on an instrument under order 2.11 unless for the purpose of ensuring that 1 or more of the objectives set out in suborders 1.03 (1) and (2) are met in relation to poultry meat or poultry meat products to which the instrument relates.

*Note* For conditions see suborder 2.11 (4) and paragraph 2.12 (b).

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**2.14      Provisions specified in instrument do not apply**

While an instrument under order 2.11 has effect, the provisions specified in the instrument as not applying do not apply to the poultry meat or poultry meat products specified in the instrument that are prepared for export or exported by the applicant to a country specified in the instrument.

**2.15      When instruments have effect**

- (1) An instrument under order 2.11 takes effect on:
  - (a) the day when it is given to the applicant; and
  - (b) if a later day is specified in the instrument as the day it takes effect — that later day.
- (2) An instrument under order 2.11 ceases to have effect on the earliest of the following:
  - (a) the day specified in the instrument as the day it ceases to have effect;
  - (b) the end of 12 months from the day the instrument is issued;
  - (c) if it is revoked — the day when the revocation takes effect.

**2.16      If instrument ceases to have effect, provisions apply**

To avoid doubt, if the instrument of exemption ceases to have effect, the provisions of these Orders that are specified in the instrument as not applying, apply.

## **Part 3**

# **Preparation of poultry meat and poultry meat products for export for food**

*Note 1* The requirements in this Part apply to poultry meat and poultry meat products exported, or for export, for food: order 2.01.

*Note 2* Failure to comply with order 3.01 or 3.02 is an offence.

*Note 3* In addition, failure to comply with a requirement of this Part (or the Schedules, standards or importing country requirements that this Part calls up) can lead to the suspension or revocation of the approval of an approved arrangement: paragraph 20.1 (a) of Schedule 1.

## **Division 3.1**

### **Registration and management practices**

#### **3.01** Requirement for registration

If operations for the preparation of poultry meat or poultry meat products for export for food are carried out at an establishment that is not registered in respect of those operations, the occupier of the establishment is guilty of an offence.

##### *Level 5 penal provision*

*Note* Breach of a level 5 penal provision is punishable by a fine of up to 50 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

#### **3.02** Approved arrangement

If operations for the preparation of poultry meat or poultry meat products for export for food are carried out at an establishment, the occupier of the establishment is guilty of an offence unless an approved arrangement for the establishment, covering the operations, is in effect.

##### *Level 5 penal provision*

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Division 3.2	Export standards

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*Note 1* Breach of a level 5 penal provision is punishable by a fine of up to 50 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

*Note 2* For audits of compliance with approved arrangements see Part 6.

### **3.03 Management practices**

The occupier of an establishment at which operations for the preparation of poultry meat or poultry meat products for export for food are carried out must comply with the applicable requirements of Schedule 2 in respect of the establishment and the operations.

## **Division 3.2 Export standards**

### **3.04 Compliance with Australian Poultry Meat Standard**

The occupier of an establishment must, in relation to the preparation at the establishment of poultry meat or poultry meat products for export for food, ensure that the requirements of the Australian Poultry Meat Standard are complied with.

*Note* For applicable requirements of the Australian Poultry Meat Standard see order 1.07.

### **3.05 Compliance with Schedules 3 to 7**

The occupier of an establishment must, in relation to the preparation (other than further processing) at the establishment of poultry meat or poultry meat products for export for food, ensure the applicable requirements of Schedules 3 to 7 are complied with.

### **3.06 Compliance with importing country requirements**

The occupier of an establishment must ensure that, so far as poultry meat is, or poultry meat products are, prepared for export for food at the establishment, the poultry meat and poultry meat products comply with relevant importing country requirements.

## **Part 4**                      **Conditions and restrictions on export of poultry meat and poultry meat products**

*Note* The requirements in this Part apply to poultry meat and poultry meat products exported, or for export, for food: see order 2.01.

### **Division 4.1**              **Requirements for notice of intention and export permit**

#### **4.01**      **Notice of intention to export poultry meat or poultry meat products required**

- (1) A person who intends to export poultry meat or poultry meat products must give notice to the Secretary or an authorised officer of:
  - (a) the person's intention to export the poultry meat or poultry meat products; and
  - (b) the place where the poultry meat or poultry meat products may be inspected.
- (2) The notice must be in writing, in a form approved by the Secretary, and be given to the Secretary before the poultry meat or poultry meat products are loaded for export.

*Note 1* Failure to give the notice is an offence: section 6 of the Act.

*Note 2* A notice of intention must be given electronically: see clause 16.2 of Schedule 8.

#### **4.02**      **Export permits required**

The export of poultry meat or poultry meat products is prohibited unless an export permit for the poultry meat or poultry meat products, or for a class of poultry meat or poultry meat products that includes the poultry meat or poultry meat products, is in effect.

*Note 1* Exporting poultry meat or poultry meat products without an export permit is an offence: section 8 of the Act.

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*Note 2* For export permits (including for when they have effect) see Part 1 of Schedule 8.

## **Division 4.2                    Conditions and restrictions on export of poultry meat and poultry meat products**

*Note 1* Divisions 4.2, 4.3 and 4.4 prescribe conditions and restrictions that apply to the export of poultry meat and poultry meat products for food.

- (a) Under sections 7A, 8, 8A, 8B and 9 of the Act, a person who exports poultry meat and poultry meat products for food that do not comply with the conditions and restrictions may be committing an offence that carries a significant maximum penalty.
- (b) Anyone who conveys or has in possession poultry meat or poultry meat products for export for food in circumstances that do not comply with the conditions and restrictions may also be committing an offence that carries a significant maximum penalty.

*Note 2* In addition, failure to comply with a condition or restriction:

- (a) can lead to the suspension or revocation of the approval of an approved arrangement: paragraph 20.1 (a) of Schedule 1; and
- (b) will prevent the issue of an export permit or a government certificate: Division 1.3 of Part 1 of Schedule 8; and
- (c) can lead to the revocation of an export permit: clause 10 of Schedule 8.

### **4.03                    Prohibition on export**

Poultry meat and poultry meat products must not be exported for food from Australia unless the conditions and restrictions in orders 4.05 to 4.14 are complied with.

### **4.04                    Conditions and restrictions**

For the purposes of sections 7A, 8, 8A, 8B and 9 of the Act, the conditions and restrictions in Divisions 4.3 and 4.4 are specified.



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## **Division 4.3            Registration and approved arrangements**

### **4.05      Registration**

- (1) Poultry meat and poultry meat products for export for food must be prepared at 1 or more establishments each of which is registered in respect of the operations for the preparation that are carried out at the establishment.
- (2) The preparation, at a registered establishment, of poultry meat or poultry meat products for export for food must be carried out by the occupier of the establishment.

### **4.06      Approved arrangements**

Poultry meat and poultry meat products for export for food must be prepared by the occupier of an establishment for which there is in effect an approved arrangement that covers the operations for the preparation that are carried out at the establishment.

## **Division 4.4            Export standards**

### **4.07      Premises, equipment and vehicles**

- (1) Poultry meat and poultry meat products for export for food must be prepared at an establishment where the premises, equipment, facilities and essential services comply with the requirements for those matters set out in:
  - (a) the Australian Poultry Meat Standard; and
  - (b) Schedule 3.
- (2) Poultry meat and poultry meat products for export for food must be transported to and from establishments engaged in their preparation using poultry meat transport vehicles and equipment that comply with the requirements for those matters set out in:
  - (a) the Australian Poultry Meat Standard; and

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- (b) Schedule 3.

**4.08 Premises not to be used for other purposes**

Poultry meat and poultry meat products for export for food must be prepared at an establishment or establishments that were not, at the relevant time, used to prepare the following:

- (a) poultry meat or poultry meat products for animal food; or
  - (b) poultry meat or poultry meat products for pharmaceutical use; or
  - (c) poultry meat or poultry meat products that are not for export;
- (each, *other products*) unless:
- (d) the approved arrangement for the relevant establishment provides that the establishment may be used for the preparation operations for the other products that were carried out; and
  - (e) the wholesomeness and integrity of the poultry meat and poultry meat products for export for food are assured (including through controls for segregation, identification and security).

**4.09 Operational hygiene**

- (1) Poultry meat and poultry meat products for export for food must be prepared at an establishment at which the operational hygiene requirements set out in:
- (a) the Australian Poultry Meat Standard; and
  - (b) Schedule 4;
- are complied with.

*Note* See for example the operational hygiene requirements in clause 15 of the Australian Poultry Meat Standard.

- (2) The transport of poultry meat and poultry meat products for export for food to and from establishments engaged in their preparation must comply with the operational hygiene requirements set out in:
- (a) the Australian Poultry Meat Standard; and

(b) Schedule 4.

*Note 1* See for example clause 15 of the Australian Poultry Meat Standard.

*Note 2* See also order 4.11.

**4.10 Preparation**

Poultry meat and poultry meat products for export for food must be prepared in accordance with the requirements set out in:

- (a) the Australian Poultry Meat Standard; and
- (b) Schedule 5.

**4.11 Transport**

Poultry meat and poultry meat products for export must not be received from, or loaded into, a poultry meat transport vehicle unless the vehicle complies with the requirements for such vehicles set out in:

- (a) the Australian Poultry Meat Standard; and
- (b) Schedule 5.

**4.12 Trade descriptions**

The trade descriptions for poultry meat and poultry meat products for export for food must comply with the requirements for trade descriptions set out in Part 1 of Schedule 6.

**4.13 Official marks**

Poultry meat and poultry meat products for export for food, and cartons used for poultry meat or poultry meat products for export for food, must have the official marks required by Part 2 of Schedule 6, and the marks must be applied in accordance with the requirements set out in that Part.

**4.14 Tracing systems, recall, integrity and transfer**

At all times when operations for the preparation of poultry meat or poultry meat products for export for food are carried

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out at an establishment, there must be arrangements in effect at the establishment for the segregation, identification, integrity assurance, recall and transfer of the poultry meat or poultry meat products, being arrangements that comply with the requirements as to those matters set out in:

- (a) the Australian Poultry Meat Standard; and
- (b) Schedule 7.

*Note* Clause 15 of the Australian Poultry Meat Standard contains requirements for the identification, traceability and recall of poultry meat and poultry meat products (including those for use for animal food).

## Part 5                      Exporter's documentary obligations

### 5.01      **Security of export permits and government certificates**

An exporter who holds an export permit or a government certificate must hold it under conditions of security when not in use.

*Level 5 penal provision*

*Note* Breach of a level 5 penal provision is punishable by a fine of up to 50 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

### 5.02      **Destruction of export permits and government certificates**

- (1) This order applies to an export permit or government certificate that has been given electronically by being transmitted using the systems specified in subclause 16.1 of Schedule 8.
- (2) If:
  - (a) an export permit is revoked; or
  - (b) a government certificate is cancelled;the exporter must destroy all electronic material:
  - (c) that is within the control of the exporter; and
  - (d) from which the permit or certificate could be used or reproduced;as soon as practicable, and must take reasonable steps to do so within 10 working days.
- (3) If an exporter abandons its intention to export poultry meat or poultry meat products, the exporter must destroy all electronic material:
  - (a) that is within the control of the exporter; and

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(b) from which an export permit or government certificate for the poultry meat or poultry meat products could be used or reproduced;

as soon as practicable, and must take reasonable steps to do so within 10 working days.

- (4) If electronic material is destroyed in accordance with this clause, the exporter must notify an authorised officer in writing that the electronic material has been destroyed, and must do so as soon as practicable after the electronic material has been destroyed.

**5.03 Return of export permits and government certificates**

- (1) This order applies to an export permit or government certificate to which order 5.02 does not apply.
- (2) If:
- (a) an export permit is revoked; or
  - (b) a government certificate is cancelled;
- the exporter must return the permit or certificate to an authorised officer as soon as practicable, and must take reasonable steps to do so within 10 working days.
- (3) If an exporter abandons its intention to export poultry meat or poultry meat products, the exporter must return to an authorised officer all relevant export permits and government certificates as soon as practicable, and must take reasonable steps to do so within 10 working days.

**5.04 Requirement to notify**

If, before the export of poultry meat or poultry meat products, the exporter has reason to suspect that:

- (a) the wholesomeness of the poultry meat or poultry meat products is jeopardised; or
- (b) the integrity of the poultry meat or poultry meat products is not assured; or
- (c) a specified relevant condition or restriction in orders 4.05 to 4.14 is not complied with; or

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- (d) the poultry meat or poultry meat products do not comply with relevant importing country requirements;

the exporter must notify an authorised officer without delay.

**5.05 Effective measures to ensure accuracy and completeness**

An exporter must have effective measures in place to ensure that:

- (a) information given to the Secretary in, or in connection with, a notice of intention or an application for an export permit or a government certificate is accurate and complete; and
- (b) there is a sound basis for the information.

*Note* It is an offence to make false or misleading statements to a Commonwealth entity: *Criminal Code* Part 7.4.

**5.06 Exporter to document compliance measures**

An exporter must document the measures the exporter is to take to ensure compliance with the requirements of each of the provisions of this Part that apply to the exporter.

*Note* For audit of an exporter's operations see Part 6.

**5.07 Record keeping requirements**

An exporter must retain:

- (a) a copy of each application for an export permit made by the exporter; and
- (b) each declaration required by paragraphs 8.1 (g) and (h) of Schedule 7 that relates to such an application; and
- (c) all other documents that:
- (i) are made by the exporter or come into the possession of the exporter; and
  - (ii) are relevant to whether the exporter complies with requirements of the Act and these Orders that apply to the exporter;

for at least 2 years after the document is made by the exporter or comes into the exporter's possession.

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*Level 5 penal provision*

*Note 1* Breach of a level 5 penal provision is punishable by a fine of up to 50 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

*Note 2* The *Criminal Code* Part 7.7 (Forgery and related offences) makes it an offence to forge or falsify documents.

*Note 3* See also suborder 6.06 (2) for making documents available to an auditor, and Division 7 of Part III of the Act.



## **Part 6 Audits**

### **Division 6.1 Performance of audits**

#### **6.01 Secretary may require audits**

- (1) The Secretary may require an audit of:
  - (a) operations for the preparation of poultry meat or poultry meat products for export (whether or not for food); or
  - (b) operations for the export of poultry meat or poultry meat products (whether or not for food);carried on by the occupier of a registered establishment or by an exporter of poultry meat or poultry meat products.
- (2) The Secretary may require such an audit to relate to any 1 or more of the following:
  - (a) compliance with all requirements, or specified requirements only, of the following:
    - (i) the Act;
    - (ii) these Orders;
    - (iii) an approved arrangement;
    - (iv) the conditions of approval of an approved arrangement;
  - (b) all aspects, or specified aspects only, of the preparation or export operations carried on by the occupier or exporter;
  - (c) all poultry meat and poultry meat products exported, or for export, for food or specified poultry meat or specified poultry meat products only.
- (3) A requirement under this order may:
  - (a) be for a specific audit, or for a program of audits; and
  - (b) relate to a particular establishment, or establishments included in a specified class of establishments.
- (4) A requirement for a program of audits does not prevent the Secretary from requiring additional, particular audits.

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**6.02 Who may conduct audits**

An audit may be performed:

- (a) by an authorised officer; or
- (b) if so specified by the Secretary in writing — by an approved auditor.

**6.03 Purpose of audit**

The purpose of an audit is to establish whether there is compliance with the requirements specified by the Secretary under paragraph 6.01 (2) (a).

**6.04 Notice of audit**

- (1) The Secretary need not give any notice of an audit.
- (2) If, before an audit commences, the occupier or exporter requests that the auditor produce the auditor's identity card for inspection, the auditor must, before commencing the audit, produce his or her identity card for inspection by the occupier or exporter.

*Note* For identity cards issued to authorised officers see section 21 of the Act. For identity cards issued to approved auditors see clause 6 of Schedule 9.

**6.05 Audits must be conducted expeditiously**

An auditor must conduct an audit as expeditiously as practicable and in a way that causes as little interference as practicable to the operations concerned.

**6.06 Assistance must be provided**

- (1) The occupier or exporter concerned must provide such assistance required by the auditor as is reasonably necessary to enable the auditor to perform the audit.
- (2) Without limiting suborder (1), *assistance* includes:
  - (a) providing the auditor with access to premises in the registered establishment; and

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- (b) providing information or explanations to the auditor (including making documents available); and
- (c) operating any equipment; and
- (d) allowing an auditor to:
  - (i) observe or interview employees, agents or contractors; and
  - (ii) observe any procedure; and
  - (iii) use equipment to access, examine, test, sample, record or reproduce any document or thing; and
  - (iv) bring equipment onto the premises at which the audit is conducted for a purpose referred to in subparagraph (iii).

*Note 1* Failure to provide assistance is a ground for suspension or revocation of the approval of an approved arrangement: paragraph 20.1 (f) of Schedule 1.

*Note 2* Failure by an exporter to provide assistance or consent to entry may preclude the giving of an export permit or the issue of a government certificate: Division 1.3 and Part 2 of Schedule 8.

## **Division 6.2 Failure to comply and audit report**

### **6.07 Notification and assessment of failures to comply**

- (1) If, as the result of an audit, the auditor considers that there has been a failure to comply with a requirement mentioned in paragraph 6.01 (2) (a), the auditor must:
  - (a) notify the occupier or exporter concerned immediately after completing the audit; and
  - (b) determine whether the failure, either by itself or in combination with other failures to comply with such requirements, is a critical non-compliance.
- (2) If in the auditor's opinion the failure, either by itself or in combination with other failures, amounts to a critical non-compliance, the auditor must notify the Secretary immediately.
- (3) A ***critical non-compliance*** is a failure to comply with a requirement referred to in suborder 6.01 (2) (either by itself or in combination with other failures) that:

**Order 6.08**

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- (a) results in or is likely to result in the preparation, export or certification of poultry meat or poultry meat products for export for food:
  - (i) that is or are not wholesome; or
  - (ii) the integrity of which is not assured; or
  - (iii) that is or are not traceable or cannot be recalled if required; or
  - (iv) that is or are derived from animals that have been treated inhumanely; or
  - (v) that does not or do not comply with relevant importing country requirements; or
- (b) prevents or is likely to prevent an accurate assessment being made whether the poultry meat and poultry meat products exported or for export for food:
  - (i) is or are wholesome; or
  - (ii) is or are traceable and can be recalled if required; or
  - (iii) is or are derived from animals that have been treated inhumanely; or
  - (iv) complies or comply with relevant importing country requirements;or whether the integrity of poultry meat or poultry meat products exported or for export for food is assured.

**6.08      Audit reports**

- (1) An auditor must make a written report of an audit.
- (2) An audit report must include the following information:
  - (a) the name of the auditor;
  - (b) the date the audit commenced, the date it ended and the duration of the audit;
  - (c) the identity of the operations audited;
  - (d) the nature and scope of the audit, including the operations audited.
- (3) An audit report must state:
  - (a) whether, in the auditor's opinion:

**Order 6.09**

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- (i) the audit was satisfactorily completed or was ended before it could be satisfactorily completed; and
    - (ii) the applicable requirements referred to in suborder 6.01 (2) are complied with; and
  - (b) the reasons for the auditor's opinion.
- (4) An audit report must:
- (a) describe each failure to comply with any applicable requirement referred to in suborder 6.01 (2) identified by the auditor; and
  - (b) state whether, in the auditor's opinion, the failure (either by itself or in combination with other failures) amounts to a critical non-compliance or has contributed to a critical non-compliance; and
  - (c) state the reasons for the auditor's opinion.
- (5) An audit report may identify potential non-compliance with any of the requirements referred to in paragraph 6.01 (2) (a).
- (6) Without limiting what an audit report may contain, an audit report may contain recommendations to take the following action:
- (a) action to address the fact that a requirement is not complied with;
  - (b) action to address the risk of potential non-compliance with a requirement;
  - (c) action designed to ensure that a failure to comply with a requirement does not recur;
  - (d) action to assess the effectiveness of the action taken as referred to in paragraph (a), (b) or (c).

**6.09 Audit reports must be given to Secretary**

- (1) An auditor must, within 14 working days after the auditor completes the audit, give the audit report to the Secretary.
- (2) An auditor must, within 14 working days after the auditor completes the audit, give the occupier or exporter concerned a copy of the audit report.

**Order 7.01**

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## **Part 7                      Official marks and marking devices**

### **7.01      Applying official marks**

- (1) A person must not apply an official mark to:
  - (a) poultry meat or poultry meat products or their packaging;  
or
  - (b) anything containing, inserted into or attached to, poultry meat or poultry meat products or their packaging;  
unless the mark is declared by section 13.06, 13.10, 13.11, 13.12 or 13.16 of the *Export Control (Prescribed Goods — General) Order 2005* to be an official mark.
  
- (2) A person must not apply an official mark to:
  - (a) poultry meat or poultry meat products or their packaging;  
or
  - (b) anything containing, inserted into or attached to poultry meat or poultry meat products or their packaging;  
unless:
    - (c) the person is an authorised officer, or is acting in accordance with a direction of an authorised officer; or
    - (d) the person is designated in an approved arrangement as a person who may do the relevant act, and the act is done in accordance with the approved arrangement; or
    - (e) the person has been approved by the Secretary in writing as a person who may do the act in a specified registered establishment, and in relation to specified prescribed goods, and does the act in the specified establishment and in relation to the specified goods.
  
- (3) A person must not apply an official mark to:
  - (a) poultry meat or poultry meat products or their packaging;  
or
  - (b) anything containing, inserted into or attached to, poultry meat or poultry meat products or their packaging;  
if:

**Order 7.02**

- (c) the person suspects or ought reasonably to have suspected that the identification or traceability of the poultry meat or poultry meat products is compromised, or the integrity of the poultry meat or poultry meat products is not assured; or
- (d) the poultry meat or poultry meat products are no longer wholesome or are deteriorated; or
- (e) if the mark is declared by section 13.06 of the *Export Control (Prescribed Goods — General) Order 2005* to be an official mark — the circumstances in which the relevant importing country requirements permit or require that mark to be applied do not exist.

*Note 1* A contravention of this order is an offence: see section 14 of the Act.

*Note 2* Importing country requirements may require that other importing country marks showing eligibility only be applied in specified circumstances.

- (4) Each of suborders (1), (2) and (3) is separate and independent and is not to be read down by reference to any of the others of those suborders.

**7.02 Resemblances and misleading official marks**

- (1) A person must not apply a mark resembling or apparently intended to resemble or pass for, an official mark, to:
  - (a) poultry meat or poultry meat products or their packaging; or
  - (b) anything containing, inserted into or attached to, poultry meat or poultry meat products or their packaging;unless:
  - (c) the person is designated in a relevant approved arrangement as a person who may apply the mark; and
  - (d) the mark is applied in accordance with the arrangement.

*Note 1* A contravention of this suborder is an offence: see section 14 of the Act.

*Note 2* Importing country requirements for applying the resemblance need to be set out in the approved arrangement: clause 11 of Schedule 2.

**Order 7.03**

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- (2) A person must not engage in conduct if the result is that an official mark in relation to:
- (a) poultry meat or poultry meat products or their packaging;  
or
  - (b) anything containing, inserted into or attached to poultry meat or poultry meat products or their packaging;  
is altered so that it is misleading or deceptive.
- Note* A contravention of this suborder is an offence: see section 14 of the Act.
- (3) Each of suborders (1) and (2) is separate and independent and is not to be read down by reference to the other.

**7.03 Altering or interfering with official marks**

A person must not alter or interfere with an official mark applied to:

- (a) poultry meat or poultry meat products or their packaging;  
or
  - (b) anything containing, inserted into or attached to, poultry meat or poultry meat products or their packaging;
- unless:
- (c) the alteration or interference is authorised or required by these Orders; or
  - (d) the person is an authorised officer or is acting in accordance with a direction of an authorised officer; or
  - (e) the person is designated in the applicable approved arrangement as a person who may do the relevant act and the act is done in accordance with the approved arrangement.

*Note 1* A contravention of this suborder is an offence: section 14 of the Act.

*Note 2* For paragraph (c), see clause 13 of Schedule 6.

**7.04 Manufacture etc of official marks and official marking devices**

A person must not:

- (a) manufacture an official mark; or



**Order 7.06**

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- (b) manufacture an official marking device; or
- (c) have in his or her possession an official marking device;  
for use in connection with:
- (d) poultry meat or poultry meat products or their packaging;  
or
- (e) anything containing, inserted into or attached to poultry  
meat or poultry meat products or their packaging;  
unless:
- (f) the Secretary has given the person approval in writing to  
do so; or
- (g) the person is an authorised officer or is acting in  
accordance with a directions of an authorised officer; or
- (h) the person is:
  - (i) designated in an approved arrangement; or
  - (ii) approved by the Secretary in writing;as a person who may do the relevant act, and is complying  
with all relevant conditions under the approved  
arrangement or the approval.

*Note* A contravention of this suborder is an offence: section 14 of the Act.

**7.05 Damaged official marking devices**

If:

- (a) an official marking device is in the possession or under the  
control of the occupier of an establishment engaged in the  
preparation of poultry meat or poultry meat products; and
- (b) the device is damaged, worn or otherwise not fit for  
applying an official mark;

the occupier must ensure that the device is given to an  
authorised officer as soon as practicable after the occupier  
becomes aware that it is damaged, worn or otherwise unfit.

**7.06 Security of official marks and marking devices**

The occupier of an establishment engaged in the preparation of  
poultry meat or poultry meat products must keep all official  
marks and marking devices under its control under conditions  
of security when not in use.

**Order 7.07**

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*Level 5 penal provision*

*Note* Breach of a level 5 penal provision is punishable by a fine of up to 50 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

**7.07 Record keeping for official marks and official marking devices**

The occupier of an establishment engaged in the preparation of poultry meat or poultry meat products must make a written record of:

- (a) the receipt, use and return of official marking devices; and
- (b) the receipt and manufacture of official marks; and
- (c) the use, removal and defacement of official marks; at the establishment.

## **Part 8                      Functions and directions    powers of authorised officers**

### **Division 8.1              Functions of authorised officers**

#### **8.01              Functions in Australian Poultry Meat Standard**

An authorised officer who is a meat safety inspector may, in relation to poultry meat and poultry meat products, perform all the functions and exercise all the powers of a meat safety inspector specified in the Australian Poultry Meat Standard.

#### **8.02              Inspections, dispositions and additional functions**

- (1) In addition to the functions of an authorised officer under the Act and these Orders, an authorised officer may, for the purpose of ensuring that 1 or more of the objectives in suborders 1.03 (1) and (2) are met:
  - (a) conduct inspections of poultry, carcasses, carcase parts, poultry meat and poultry meat products; and
  - (b) apply to poultry a decision about admission to an establishment or a disposition, in each case of a kind referred to in the Australian Poultry Meat Standard or these Orders; and
  - (c) apply a disposition of a kind referred to in clause 4 of Schedule 5 or in clause 7 of Schedule 7 to carcasses, carcase parts, poultry meat or poultry meat products; and
  - (d) attach conditions or other requirements to a disposition applied by the authorised officer; and
  - (e) vary a decision made by, a disposition applied by or a condition or requirement imposed by the authorised officer; and
  - (f) take any other action that the authorised officer considers is necessary or appropriate.

*Note 1* For decisions and dispositions that may be applied see clauses 16, 17 and Appendix B of the Australian Poultry Meat Standard and clause 4 of Schedule 5.

### Order 8.03

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*Note 2* For example, an authorised officer may vary a disposition if after post mortem inspection poultry meat or poultry meat products deteriorate or further information is obtained about residue levels.

*Note 3* For compliance with decisions and dispositions applied to poultry, carcasses, carcase parts, poultry meat and poultry meat products see clause 2 of Schedule 5.

- (2) An authorised officer's power under suborder (1) extends to stopping the chain temporarily and otherwise controlling the rate of operations for the purposes of the officer conducting an inspection, applying a disposition or performing any other function.

*Note* For the requirement to assist an authorised officer in the performance of the officer's functions see order 8.08.

- (3) In this order, a reference to an *inspection* or *disposition* is not limited to an inspection or disposition performed or applied at the time of admission of poultry or at the time of ante mortem or post mortem inspection.

### 8.03 Compliance with dispositions

The occupier of an establishment must ensure that a disposition, and the conditions and other requirements specified in a disposition, applied by an authorised officer to a carcase, a carcase part, poultry meat or poultry meat products located at the occupier's establishment are complied with.

### 8.04 Retention for purposes of inspection

- (1) An authorised officer may inspect and retain any of the following for the purposes of additional inspection, disposition, disposition compliance or the performance of any other function or the exercise of any other power under the Act or these Orders:
- (a) any thing located at premises used for the preparation, transfer or loading of poultry meat or poultry meat products;
  - (b) any area, including any facilities, and any equipment or services, at premises used for the preparation, transfer or loading of poultry meat or poultry meat products.

**Order 8.05**

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*Note* For powers under the Act see the monitoring and offence related powers to check compliance with the Act and these Orders in Part III of the Act.

- (2) The identification of any thing or area as retained under suborder (1) must be done by using an identification tag, or similar means of identification, approved for the purposes of these Orders by the Secretary in writing.

*Note* It is an offence to obstruct etc Commonwealth public officials: Part 7.8 of the *Criminal Code*.

**8.05 Application and removal of identification**

- (1) If an authorised officer retains, for the purpose of inspection, analysis, treatment, disposition or a similar purpose:
- (a) anything found at premises used or apparently used for the preparation of poultry meat or poultry meat products; or
  - (b) anything found in or on a vehicle used or apparently used for the transport of poultry meat or poultry meat products; or
  - (c) an area (including any facilities, equipment or services installed there) that is part of a registered establishment or other premises used or apparently used for the preparation of poultry meat or poultry meat products; or
  - (d) a vehicle used or apparently used for the transport of poultry meat or poultry meat products;
- he or she may identify the thing, area, premises or vehicle by attaching to it a tag or a similar means of identification.
- (2) A person other than:
- (a) an authorised officer; or
  - (b) a person acting under the direction of an authorised officer;

must not remove such a tag or means of identification attached by an authorised officer.

*Level 1 penal provision*

*Note* Breach of a level 1 penal provision is punishable by a fine of up to 10 penalty units: paragraph 4(1)(b) of the *Export Control (Orders) Regulations 1982*.

**Order 8.06**

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**8.06 Handling of goods etc identified at registered establishment etc**

- (1) If an authorised officer has identified a thing, area, premises or vehicle in accordance with order 8.05, the thing, area, premises or vehicle must not be interfered with, used, moved or further processed until an authorised officer has given approval.

*Level 1 penal provision*

*Note* Breach of a level 1 penal provision is punishable by a fine of up to 10 penalty units: paragraph 4 (1) (b) of the *Export Control (Orders) Regulations 1982*.

- (2) An approval under suborder (1) need not be in writing.

**8.07 Certificates of condemnation**

An authorised officer may give a certificate of condemnation for poultry, a carcase or a carcase part if:

- (a) within 1 month after the poultry, carcase or carcase part is condemned, the occupier of the establishment where it was condemned gives the authorised officer a written request for a certificate of condemnation; and
- (b) the authorised officer is satisfied that the occupier has a system of records that enables the authorised officer to verify the ownership of the poultry, carcase or carcase part.

**8.08 Assistance to authorised officers**

The occupier of an establishment must, if requested by an authorised officer, provide reasonable assistance to the authorised officer for the purposes of the performance of a function or the exercise of a power by the authorised officer.

*Note* For the requirement to provide assistance to an authorised officer when exercising powers under Part III of the Act see section 13 of the Act.

**8.09 Production not to commence if authorised officer not present**

If, under these Orders, the applicable approved arrangement or a condition of approval of the applicable approved

**Order 8.10**

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arrangement, the presence of an authorised officer is required at an establishment before a particular operation may be carried out:

- (a) the occupier must apply for the provision of the services of authorised officers in accordance with Schedule 10; and
- (b) the operation must not commence until an authorised officer is present.

*Note* For the Secretary's decision on the provision of the services of authorised officers see Schedule 10.

## **Division 8.2            Directions to exporters**

### **8.10        Directions given to exporter**

- (1) This Division does not apply to poultry meat or poultry meat products that are located at an establishment engaged in the preparation of poultry meat or poultry meat products for export for food.
- (2) If an authorised officer has reasonable grounds to believe that:
  - (a) poultry meat or poultry meat products for export for food are not wholesome, have deteriorated, or are not eligible for export to the market for which they are intended; or
  - (b) the integrity of poultry meat or poultry meat products for export for food is otherwise not assured;the authorised officer may give the exporter of the poultry meat or poultry meat products concerned a direction to take action that, in the opinion of the authorised officer giving the direction, is necessary or appropriate to ensure that 1 or more of the objectives specified in suborders 1.03 (1) and (2) are met.
- (3) Without limiting suborder (2), a direction may require any of the following:
  - (a) the movement of poultry meat or poultry meat products (including movement to specified premises);
  - (b) retention, securing, identification, segregation, treatment, inspection, examination, sampling, condemnation,

**Order 8.11**

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- destruction, denaturing or disposal of poultry meat or poultry meat products;
- (c) that poultry meat or poultry meat products not be loaded onto a ship or aircraft;
  - (d) that specified action be taken in relation to premises, equipment and vehicles used for poultry meat or poultry meat products.
- (4) A direction may be given orally or in writing. If the direction is in writing, it must state that:
- (a) non-compliance with the direction is a criminal offence; and
  - (b) the maximum penalty for the offence is a fine of 50 penalty units.
- (5) An authorised officer may amend or revoke a direction. If the direction is in writing, the amendment must be made by giving a further written notice to the person to whom the direction was given

*Note 1* For when a direction is taken to be given to the exporter see order 10.12.

*Note 2* For when an export permit that is inconsistent with a direction is of no effect see clause 12 of Schedule 8.

**8.11 Obligation to comply with direction**

An exporter to whom an authorised officer gives a written a direction under this Division must comply with the direction.

*Level 5 penal provision*

*Note 1* Breach of a level 5 penal provision is punishable by a fine of up to 50 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

*Note 2* For when a notice is taken to be given to an exporter see order 10.12.

*Note 3* For when an export permit that is inconsistent with a notice of a direction is of no effect see clause 12 of Schedule 8.



## Part 9                      Alternative regulatory arrangements

### 9.01      **Approved arrangement provides alternative procedures**

- (1) The occupier of a registered establishment may make a written application to the Secretary for a notice stating that an alternative procedure, standard or other requirement specified in the application achieves the purposes of a requirement of these Orders that is specified in the application.
- (2) If the Secretary is satisfied that the specified alternative procedure, standard or other requirement achieves the purposes of the specified requirement of these Orders, the Secretary may, at the Secretary's discretion, give the occupier a written notice to that effect.
- (3) The Secretary may amend or revoke the notice by giving the occupier a further written notice.
- (4) The notice takes effect on the later of:
  - (a) the day specified in the notice as being the day it takes effect; or
  - (b) when the notice is given to the applicant.
- (5) While a notice under suborder (2) has effect, compliance by the occupier with the procedure, standard or other requirement specified in the notice is taken to be compliance with the requirement of these Orders that is specified in the notice in the circumstances specified in the notice.
- (6) Suborder (5) applies only if a variation is made to the occupier's approved arrangement to include the procedure, standard or other requirement.
- (7) In this order:

***requirement of these Orders*** means a requirement under orders 3.04 to 3.06.

**Order 9.02**

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**9.02 Importing country does not require compliance**

- (1) The occupier of a registered establishment may make a written application to the Secretary for a notice stating that a requirement of these Orders specified in the application does not apply to or in relation to poultry meat or poultry meat products of the kind identified in the application to be exported to an importing country identified in the application.
- (2) If the Secretary is satisfied that the relevant importing country authority does not require the requirement of these Orders to be complied with the Secretary may, at the Secretary's discretion, give the occupier a written notice to that effect.
- (3) If the Secretary is satisfied that all of the following circumstances exist:
  - (a) a relevant importing country requirement differs from the requirement of these Orders;
  - (b) compliance with the importing country requirement would result in non-compliance with the requirement of these Orders;
  - (c) the approved arrangement for the establishment contains controls that achieve the importing country requirement;  
the Secretary may, at the Secretary's discretion, give the occupier a written notice to that effect.
- (4) The notice takes effect on the later of:
  - (a) the day the notice is given to the occupier; or
  - (b) if a later day is specified in the notice as the day it takes effect — that day.
- (5) While a notice under suborder (2) or (3) has effect, the requirement of these Orders specified as not applying does not apply to or in relation to the poultry meat and poultry meat products of the kind identified in the notice that are prepared by the occupier for export to the country identified in the notice.
- (6) Suborder (5) applies in relation to a notice under suborder (3) only while the occupier's approved arrangement contains the controls referred to in paragraph (3) (c).

**Order 9.02**

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(7) The Secretary may amend or revoke the notice by giving the occupier a further written notice.

(8) In this order:

*requirement of these Orders* means a requirement under orders 3.04 to 3.06.

*Note* For when importing country requirements must be specified in the approved arrangement see clause 11 of Schedule 2. Clause 11 applies to those importing country requirements where compliance with these Orders would not be sufficient to result in compliance with the importing country requirements.

**Order 10.01**

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## **Part 10                      Miscellaneous**

### **Division 10.1              Reconsideration and review of Secretary's decisions**

#### **10.01      Definitions**

In this Part:

*decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

*initial decision* means a decision under these Orders by the Secretary, or a delegate of the Secretary, but does not include a decision under Division 2.5, Part 9, order 10.03, Division 1.3 of Schedule 8 or Part 2 of Schedule 8.

*Note* Division 2.5 provides for exemptions. Part 9 provides for alternative regulatory arrangements. Order 10.03 refers to the reconsideration of decisions. Division 1.3 of Schedule 8 provides for export permits. Part 2 of Schedule 8 provides for government certificates.

#### **10.02      Applications for reconsideration**

- (1) A person whose interests are affected by an initial decision may make a written application to the Secretary to reconsider the decision.
- (2) The application must:
  - (a) set out the reasons for the application; and
  - (b) be given to the Secretary within:
    - (i) 28 days after the applicant receives notice of the initial decision; or
    - (ii) such further period as the Secretary allows.

#### **10.03      Reconsideration by Secretary**

- (1) On receiving an application made under order 10.02, the Secretary must reconsider the initial decision and make any decision that the Secretary may have made in the first instance.

**Order 10.06**

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- (2) If, within 30 days after an application under order 10.02 is made, the Secretary has not reconsidered the initial decision, the Secretary is taken to have decided at the end of the 30 days to re-make the initial decision.

**10.04 Initial decision ceases to have effect**

If the Secretary makes a decision under order 10.03, the initial decision ceases to have effect.

**10.05 Secretary must advise of decision and give reasons**

- (1) The Secretary must give the applicant written notice of the Secretary's decision under order 10.03 (except a decision under suborder 10.03 (2)) within 30 days after the day when the application is received.
- (2) The notice must:
- (a) state the reasons for the decision; and
  - (b) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal by or on behalf of a person whose interests are affected by the decision for review of the decision.

*Note* Under section 27A of the *Administrative Appeals Tribunal Act 1975*, the decision-maker must give to any person whose interests are affected by the decision notice, in writing or otherwise, of the making of the decision and of the person's right to have the decision reviewed. In giving that notice, the decision-maker must have regard to the Code of Practice determined under section 27B of that Act (Gazette No. S 432, 7 December 1994). At the commencement of these Orders, this Code of Practice was accessible on the Internet at

<http://www.comlaw.gov.au/comlaw/Legislation/LegislativeInstrument1.nsf/0/A6B3CB78664F368FCA2570B400708584?OpenDocument>.

**10.06 Application to Administrative Appeals Tribunal**

An application may be made to the Administrative Appeals Tribunal for review of a decision of the Secretary under order 10.03.

*Note* These Orders do not provide for review of other decisions that are excluded from the definition of *initial decision* in order 10.01.

**Order 10.07**

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## **Division 10.2              Documentary requirements**

### **10.07      Master copies of approved arrangements**

- (1) The occupier of a registered establishment must at all times (including while the registration is suspended) maintain a complete copy of the approved arrangement for the establishment and all variations to that arrangement.

*Level 5 penalty provision*

*Note* Breach of a level 5 penal provision is punishable by a fine of up to 50 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

- (2) The occupier must ensure that the copy and the variations are authenticated as specified by the Secretary.

*Level 5 penalty provision*

*Note* Breach of a level 5 penal provision is punishable by a fine of up to 50 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

- (3) The occupier must ensure that the copy and the variations are held in conditions of security approved by an authorised officer that ensure that the copy and the variations cannot be altered.

*Level 5 penalty provision*

*Note* Breach of a level 5 penal provision is punishable by a fine of up to 50 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

- (4) For all purposes, the copy and the variations, authenticated and held as required by this clause, are *prima facie* evidence of the content of the approved arrangement.

### **10.08      Accuracy, legibility etc of records**

A record required to be made under these Orders must:

- (a) be accurate, legible, auditable, dated the date it was made and in English; and
- (b) be signed by the maker of the record.

*Note* For electronic records (including electronic signatures) see sections 9 and 10 of the *Electronic Transactions Act 1999*.

### **10.09 When a copy will suffice**

If:

- (a) a person is required under these Orders to keep a document (the *original*); and
- (b) the person is required under a law of the Commonwealth or of a State or Territory or in accordance with ordinary commercial practice to give the original to another person; the requirement under these Orders is taken to be satisfied if the person:
  - (c) gives the original to the other person as required; and
  - (d) keeps a copy of the original, made with a device used for copying documents, and keeps the copy until the end of the period for which the person was required to keep the original.

### **10.10 Alterations must be kept**

- (1) A document that, under these Orders, must be kept (including a copy referred to in order 10.09) must not be altered or defaced.
- (2) Suborder (1) does not prohibit the notation or marking of a document in accordance with ordinary commercial practice.
- (3) If, during the period a document (the *original*) must be kept under these Orders, it is altered or defaced, the person who, under these Orders, must keep the original must also keep each document:
  - (a) that the person creates or that comes into the person's possession; and
  - (b) that tends to show how the original was altered or defaced.
- (4) A document that shows how the original was altered or defaced must be kept until the end of the period for which the person was required to keep the original.

### **10.11 Requirement for translations**

- (1) If any part of the trade description or other information applied to poultry meat or poultry meat products for export for food is in a language other than English:

**Order 10.11**

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- (a) the occupier of the establishment at which the information is applied; and
  - (b) the occupier of the establishment at which the poultry meat or poultry meat products are located; and
  - (c) the exporter of the poultry meat or poultry meat products; must each ensure that there is available a translation into English of that part of the trade description or information.
- (2) The translation must be prepared by a person who:
- (a) has appropriate qualifications to make the translation; and
  - (b) is independent of, and not engaged in operations to prepare or export poultry meat or poultry meat products by any of, the persons referred to in suborder (1).
- (3) For the purposes of this order, a trade description is taken to be applied to poultry meat or poultry meat products if any of the circumstances specified in paragraphs 15 (2) (a) to (c) of the Act exist.
- (4) An authorised officer may give any of the persons mentioned in suborder (1) a written notice requiring the person to provide the translation to an authorised officer.
- (5) The notice must state:
- (a) that non-compliance with the requirement in the notice is a criminal offence;
  - (b) that the maximum penalty for the offence is a fine of 10 penalty units; and
  - (c) the then current value of a penalty unit.

*Note* The value of a penalty unit is fixed by the *Crimes Act 1914* section 4AA. At the commencement of these Orders, the value was \$110.

- (6) A person who is given a notice under suborder (4) must comply with the requirement.

*Level 1 penal provision*

*Note* Breach of a level 1 penal provision is punishable by a fine of up to 10 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.



## **Division 10.3 Giving notices**

### **10.12 Notices etc given to occupier and exporter**

- (1) For the purpose of these Orders, a notice or other document is taken to be given to the occupier of an establishment or an exporter if it is given to:
  - (a) the occupier or the exporter; or
  - (b) a person who is in charge or apparently in charge at the occupier's establishment or the exporter's business premises.

*Note* For when requirements to give notices in writing can be complied with by an electronic communication see section 9 of the *Electronic Transactions Act 1999*.

- (2) Suborder (1) does not limit the ways in which a notice may be served on a person.

## **Division 10.4 Transitional and consequential provisions**

### **10.13 Transitional arrangements — registration and undertakings**

- (1) A registration of an establishment to which these Orders apply that:
  - (a) was made by the Secretary under section 4.04 of the *Export Control (Prescribed Goods — General) Order 2005* (including a registration that was renewed under section 4.12 or varied under section 4.23 of that Order); and
  - (b) had effect immediately before the commencement of these Orders;

continues to have effect for the purposes of these Orders as if it had been made under Schedule 1.

*Note* For when a registration that is given under Schedule 1 ceases to have effect see clause 26 of Schedule 1.

- (2) If the registration was suspended under Division 4.7 of the *Export Control (Prescribed Goods — General) Order 2005*

**Order 10.14**

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immediately before the commencement of these Orders, it continues to be suspended for the purposes of these Orders for the unexpired period for which, at the date of commencement of these Orders, the suspension had effect as if it had been suspended under Schedule 1.

(3) An undertaking that:

- (a) the Secretary had considered appropriate to accept under paragraph 4.06 (2) (b) of the *Export Control (Prescribed Goods — General) Order 2005*; and
- (b) had effect immediately prior to the commencement of these Orders;

continues to have effect for the purposes of these Orders as if it had been accepted by the Secretary under paragraph 32.2 (b) of Schedule 1.

**10.14 Transitional arrangements — export permits**

An export permit that:

- (a) was issued under section 6.02 of the *Export Control (Prescribed Goods — General) Order 2005*; and
- (b) had effect immediately prior to the commencement of these Orders;

continues to have effect for the purposes of these Orders for whichever is the shorter of:

- (c) the unexpired period for which, at the date of commencement of these Orders, the permit was valid under section 6.04 of the *Export Control (Prescribed Goods — General) Order 2005*; and
- (d) the period until the day the permit ceases to have effect under these Orders;

as if it had been given under clause 6 or 7 of Schedule 8.

*Note* For when an export permit does not have effect see clauses 11 and 12 of Schedule 8.

**10.15 Transitional arrangements — provision of services of authorised officers**

A determination, recommendation or revised allocation that:

**Order 10.15**

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- (a) was made by the Secretary in relation to the services of authorised officers at a poultry meat establishment or a poultry meat product establishment; and
- (b) had effect immediately prior to the commencement of these Orders;

continues to have effect for the purposes of these Orders as if it had been made under the applicable provision of Schedule 10.

**Clause 1**

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**Schedule 1 Registration and approved arrangements**

(orders 3.01, 3.02, 4.06, 4.07)

**Part 1 Registration and approval of arrangement**

**Division 1.1 Application and Secretary's decision**

**1 Application for registration**

1.1 The person who:

- (a) is to be the occupier of an establishment to be used for operations to prepare poultry meat or poultry meat products for export for food; or
- (b) is the occupier of an establishment used for operations to prepare poultry meat or poultry meat products otherwise than for export for food but that proposes to use the establishment for operations to prepare poultry meat or poultry meat products for export for food;

may apply to the Secretary for registration of the establishment and approval of an arrangement in respect of the operations.

1.2 The application must:

- (a) be made by completing the form approved for the purposes of this provision by the Secretary; and
- (b) contain the information specified in subclause 2.1; and
- (c) contain such other information as is specified in the form.

1.3 The application must be given to the Secretary.

**2 Information to be contained in application**

2.1 The information is:

- (a) the name and business address in Australia of the applicant; and

**Clause 3**

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- (b) if the applicant is a partnership — the names and addresses in Australia of the partners; and
  - (c) the name and addresses in Australia of each person who is to manage or control the operations to be carried on at the establishment; and
  - (d) if the applicant is an individual — subject to Part VIIC of the *Crimes Act 1914*, particulars of any serious offence of which he or she has been convicted; and
  - (e) if the applicant is a corporation — subject to Part VIIC of the *Crimes Act 1914*, particulars of any serious offence of which any of the corporation has been convicted; and
  - (f) if the applicant is a partnership — subject to Part VIIC of the *Crimes Act 1914*, particulars of any serious offence of which any of the partners has been convicted; and
  - (g) subject to Part VIIC of the *Crimes Act 1914*, particulars of any serious offence of which any person who is to manage or control the operations to be carried on at the establishment has been convicted; and
  - (h) the location and address of the establishment; and
  - (i) the external boundaries of the establishment; and
  - (j) if the establishment is a ship – its name, home port and the place in Australia where it can be inspected; and
  - (k) particulars of the:
    - (i) export operations; and
    - (ii) other operations likely to affect the export operations;to be carried on at the establishment.

2.2 An arrangement for the preparation of poultry meat and poultry meat products to be undertaken at the establishment must:

- (a) accompany the application; or
- (b) be made available for evaluation by the Secretary.

### **3 Assessment of application**

3.1 For the purposes of assessing the application the Secretary may:

- (a) evaluate the arrangement in a desk audit; and

**Clause 4**

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(b) take into account any guidelines to assist in the development of approved arrangements that are issued by the Secretary.

3.2 The Secretary may request the applicant to provide any of the following that the Secretary reasonably requires in order to decide the application:

- (a) further information or documents of the kind specified in the notice;
- (b) the applicant's consent to an inspection and evaluation of the premises, facilities, equipment, poultry meat transport vehicles and essential services to be used in the operations;
- (c) a demonstration of the operations and the procedures to be followed at the establishment;
- (d) the applicant's consent to the use (at the applicant's expense) of an appropriately qualified person nominated by the Secretary in an inspection, evaluation or demonstration.

**4 Secretary's decision**

4.1 The Secretary must decide the application within 60 days after the Secretary receives the application (not including the period between the Secretary's giving the applicant a notice in writing making a request under subclause 3.2 and the applicant's meeting the request).

4.2 If, within 60 days after an application is made, the Secretary has not decided the application, the Secretary is taken to have decided at the end of the 60 days not to register the establishment and approve the arrangement.

**5 Secretary may register establishment and approve arrangement**

5.1 If the Secretary is satisfied that the conditions in subclause 5.2 are met, the Secretary must:

- (a) by giving the applicant a certificate of registration, register, in the name of the applicant, the establishment as an establishment where operations for the preparation of

**Clause 5**

poultry meat and poultry meat products of the kind specified in the certificate may be conducted by the occupier; and

- (b) approve the arrangement, by giving the applicant written notice.

5.2 The conditions are:

- (a) that operations at the establishment will be conducted in a way that ensures that the requirements of the Act and these Orders are met; and
- (b) that the following persons are fit and proper persons having regard to the matters specified in section 4.05 of the *Export Control (Prescribed Goods — General) Order 2005*:
  - (i) the person in whose name the establishment is to be registered;
  - (ii) each person who is to manage or control the operations to be carried on in the establishment;
  - (iii) each person who is to be a member of a partnership in the name of which the establishment is to be registered; and
- (c) that all amounts payable to the Department in respect of the establishment have been paid (whether or not the amount was payable by the applicant); and
- (d) that the arrangement for the preparation of poultry meat and poultry meat products to be undertaken at the establishment meets the requirements of clauses 11 and 12 of Schedule 2; and
- (e) that compliance with the controls specified in the arrangement will ensure that:
  - (i) the applicable requirements of the Act and orders 3.04 to 3.06 will be complied with at the establishment; and
  - (ii) there is a sound basis for giving export permits and issuing government certificates for poultry meat and poultry meat products prepared at the establishment.

*Note 1* For when an amount that is payable to the Department is taken to have been paid see subclause 32.2.

## Clause 6

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*Note 2* It is a requirement that importing country requirements are complied with: order 3.06.

### **6 Notice of decision not to register establishment and approve arrangement**

6.1 If, on an application under clause 1, the Secretary decides not to register the establishment and approve the arrangement (except because of subclause 4.2), the Secretary must give the applicant written notice of that decision.

6.2 The notice must state:

- (a) the reasons for the decision; and
- (b) that a person whose interests are affected by the decision may apply for reconsideration of the decision.

*Note* For reconsideration and review of the Secretary's decision see Division 10.1.

### **7 Registration number**

On registration the Secretary must give the applicant a registration number for the establishment.

### **8 Copy of registration certificate to be displayed**

The occupier of a registered establishment must prominently display at the establishment a copy of the current certificate of registration for the establishment.

*Level 1 penal provision*

*Note* Breach of a level 1 penal provision is punishable by a fine of up to 10 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

## **Division 1.2 Conditions and notification**

### **9 Registration may be subject to conditions**

9.1 The Secretary may:

- (a) register an establishment subject to conditions specified in the certificate of registration; and



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**Clause 11**

(b) by written notice given to the occupier of the establishment, impose new conditions or vary or revoke the conditions of the registration of the establishment.

9.2 Conditions of registration for an establishment must be for the purposes of ensuring that 1 or more of the objectives specified in suborders 1.03 (1) and (2) are met in relation to the establishment.

*Note* If there is a failure to comply with the conditions the Secretary may suspend or revoke the registration: paragraph 18.1 (b).

**10 Compliance with undertaking is a condition of registration**

Without limiting subclause 9.1, it is a condition of registration of an establishment that an undertaking described in clause 32 (including any variation of the undertaking) given by the occupier of the establishment is complied with.

*Note 1* Clause 32 relates to undertakings to pay amounts payable to the Department.

*Note 2* For suspension or revocation if this condition is not complied with see clause 19.

**11 Secretary may approve arrangement subject to conditions**

11.1 The Secretary may:

- (a) approve an arrangement subject to conditions specified in the notice of approval; and
- (b) by written notice given to the occupier of the relevant registered establishment, impose new conditions or vary or revoke a condition of approval of the arrangement.

11.2 A condition must be, in the opinion of the Secretary, necessary or appropriate for the purpose of ensuring that 1 or more of the objectives specified in suborders 1.03 (1) and (2) are met.

*Note* For when a failure to comply with the arrangement or its conditions may result in the suspension or revocation of the approval of the arrangement see paragraph 20.1 (a).

**Clause 12**

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**12 Changes of which Secretary must be notified**

- 12.1 The occupier of a registered establishment must ensure that the requirements of sections 4.14, 4.16, 4.18 and 4.19 of the *Export Control (Prescribed Goods — General) Order 2005* are complied with.

*Note* Sections 4.14, 4.16, 4.18 and 4.19 of the *Export Control (Prescribed Goods — General) Order 2005* require notification when there is a change in the occupancy of, or the management and control of operations at, a registered establishment.

- 12.2 If:

- (a) the occupier of a registered establishment is an individual or a partnership; and
- (b) there is a change in the identity of any person who manages or controls operations carried on at the establishment;

the occupier must, within 7 days after the change occurs, notify the Secretary of the matters specified in paragraphs 4.16 (1) (a) and (b) of the *Export Control (Prescribed Goods — General) Order 2005*.

- 12.3 If:

- (a) the Secretary is notified of a change under:
  - (i) subsection 4.16 (1) or (2) of the *Export Control (Prescribed Goods — General) Order 2005*; or
  - (ii) subclause 12.2; and
- (b) the Secretary is satisfied that the person who has commenced to manage or control the operations carried on at the establishment is a fit and proper person having regard to the matters specified in section 4.05 of the *Export Control (Prescribed Goods — General) Order 2005*;

the registration of the establishment continues to have effect.

- 12.4 If a person who manages or controls the operations carried on at a registered establishment is convicted of a serious offence, the person must give the Secretary written notice of the conviction:

- (a) if the person has not been sentenced to a term of imprisonment or has been sentenced to a term of

**Clause 12**

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imprisonment that is to be served only on failure to comply with another order of the court—within 7 days after the date of the conviction; or

- (b) if the person has been sentenced to a term of imprisonment (other than a term of imprisonment that is to be served only on failure to comply with another order of the court) — as soon as practicable after the date of the conviction.

*Level 1 penal provision*

*Note 1* **Serious offence** means one for which the maximum penalty is a fine of 10 penalty units or more, or a term of imprisonment.

*Note 2* Breach of a level 1 penal provision is punishable by a fine of up to 10 penalty units.

- 12.5 The occupier of a registered establishment must give to a person who manages or controls the operations carried out at the establishment a written notice that complies with subclause 12.6, and must do so as soon as practicable after the commencement of these Orders or the appointment of the person to manage or control the operations, whichever later happens.

*Note 1* If the Secretary has reasonable grounds to believe that the occupier of an establishment has failed to comply with a requirement of these Orders, the Secretary may suspend or revoke the approval of an arrangement for the establishment: subclause 20.1.

*Note 2* The Secretary may suspend or revoke the registration of an establishment if a person who manages or controls the establishment is convicted of a serious offence: subclause 18.2.

- 12.6 The notice must set out the terms of, or have attached to it a copy of, subclause 12.4, including the penalty provision and the notes to that subclause and must state the then current value of a penalty unit.

*Note* The value of a penalty unit is fixed by the *Crimes Act 1914* section 4AA. At the commencement of these Orders, the value was \$110.

**Clause 13**

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**Part 2      Variation of registration and approved arrangements****Division 2.1   Variation of registration****13      Occupier may request variation**

13.1 The occupier of a registered establishment may apply to the Secretary for approval of a variation of the registration as it applies to 1 or more of following at the establishment:

- (a) operations for the preparation of poultry meat or poultry meat products for export;
- (b) the poultry meat or poultry meat products to be prepared.

*Note* The occupier may also request that registration be terminated: clause 24.

13.2 If, on an application under subclause 13.1, the Secretary approves the variation, the Secretary must give the occupier a new certificate of registration.

13.3 If, within 30 days after an application under subclause 13.1 is made, the Secretary has not made a decision whether to approve the variation, the Secretary is taken to have decided at the end of the 30 days not to have approved the variation.

13.4 If, on an application under subclause 13.1, the Secretary decides not to approve the variation (except because of subclause 13.3), the Secretary must give the occupier written notice of that decision.

13.5 The notice must state:

- (a) the reasons for the decision; and
- (b) that a person whose interests are affected by the decision may apply for reconsideration of the decision.

*Note* For reconsideration and review of the Secretary's decision see Division 10.1.

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**Clause 15****Division 2.2 Variation of approved arrangements****14 Approved arrangements may be varied**

- 14.1 The occupier of a registered establishment may, at any time but subject to these Orders, vary the approved arrangement for the establishment.
- 14.2 The occupier must ensure that a record is made of each variation. The record must include a statement of the reasons for the variation.

*Level 2 penal provision*

*Note 1* Breach of a level 2 penal provision is punishable by a fine of up to 20 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

*Note 2* For requirements to keep documents see clause 7 of Schedule 2.

**15 Variations requiring approval before implementation**

- 15.1 The occupier of a registered establishment must ensure that a variation to the approved arrangement that, by itself or in conjunction with other variations, has the potential to affect adversely:
- (a) the likelihood of compliance with the requirements of the Act and these Orders; or
  - (b) the wholesomeness or assurance of integrity of poultry meat and poultry meat products at the establishment; or
  - (c) the ability to make an accurate assessment whether:
    - (i) there is compliance with requirements of the Act and these Orders; or
    - (ii) poultry meat or poultry meat products at the establishment are wholesome and their integrity assured;
- does not come into effect unless:
- (d) the occupier applies in writing to the Secretary for approval to vary the arrangement; and
  - (e) the Secretary gives the occupier a written notice approving the variation; and

**Clause 15**

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- (f) if 1 or more conditions apply to the approval of the variation – the conditions are complied with.

*Level 5 penal provision*

*Note 1* Breach of a level 5 penal provision is punishable by a fine of up to 50 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

*Note 2* Variations (including variations not covered by clause 15) need to be recorded (see clause 14). Variations not covered by clause 15 are to be considered by the auditor at the time of audit.

*Note 3* For the purposes of assessing variations, any guidelines issued by the Secretary may be taken into account.

- 15.2 Without limiting subclause 15.1, that subclause applies to a variation that, by itself or in conjunction with other variations:
- (a) identifies a person who manages or controls the operations or the person's functions (including as it designates a person who may make declarations or manufacture, possess, alter, interfere with or apply an official mark) under these Orders; or
  - (b) relates to any of the following:
    - (i) a procedure, standard or other requirement referred to in order 9.01;
    - (ii) a control referred to in paragraph 9.02 (3) (c).
- 15.3 If, within 30 days after an application under paragraph 15.1 (d) is made, the Secretary has not made a decision whether to give a written notice, the Secretary is taken to have decided at the end of the 30 days not to give a notice.
- 15.4 If the Secretary decides not to give the occupier a written notice approving the variation (except because of subclause 15.3), the Secretary must give the occupier written notice of that decision.
- 15.5 The notice must state:
- (a) the reasons for the decision; and
  - (b) that a person whose interests are affected by the decision may apply for reconsideration of the decision.

*Note* For reconsideration and review of the Secretary's decision see Division 10.1.

**Clause 16**

- 15.6 The Secretary may approve a variation subject to conditions that must be complied with before the variation comes into effect.
- 15.7 Conditions must be for the purposes of ensuring that 1 or more of the objectives specified in suborders 1.03 (1) and (2) are met in relation to the establishment.

**16 Variations required by Secretary**

- 16.1 The Secretary may give a written notice to the occupier of a registered establishment requiring the occupier to submit a variation to the approved arrangement for the establishment if:
- (a) the Secretary considers that circumstances relating to the preparation of poultry meat or poultry meat products at the establishment have changed; or
  - (b) the Secretary considers that an importing country requirement has changed; or
  - (c) the Secretary is not satisfied that compliance with the controls specified in the approved arrangement will ensure that:
    - (i) the applicable requirements of the Act and orders 3.04 to 3.06 will be complied with at the establishment; and
    - (ii) there will be a sound basis for giving an export permit and issuing a government certificate for poultry meat and poultry meat products prepared at the establishment.
- 16.2 The notice must describe:
- (a) the variation required; and
  - (b) the time by which the variation must be submitted to the Secretary.
- 16.3 An occupier who is given a notice under subclause 16.1 must comply with it.
- Note* If the notice is not complied with, the Secretary may suspend or revoke the approval of the approved arrangement: subclause 20.1.
- 16.4 Subclause 15.1 applies to a variation required under this clause.

## Clause 17

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*Note* This means that the variation must be approved before it is implemented. It will be approved under clause 15.

### 17 When an arrangement includes a variation

- 17.1 Subject to subclause 17.2, an approved arrangement includes a variation to the arrangement.
- 17.2 An approved arrangement includes a variation of a kind referred to in clause 15 or 16 only if the Secretary gives the occupier a notice approving the variation under clause 15.

## Part 3 Suspension and revocation

### Division 3.1 Suspension and revocation of registration

#### 18 When Secretary may suspend or revoke

- 18.1 The Secretary may, by written notice to the occupier of a registered establishment, suspend or revoke the registration of the establishment, in whole or in part, if the Secretary has reasonable grounds to believe that:
- (a) any of the following persons is not a fit and proper person having regard to the matters specified in section 4.05 of the *Export Control (Prescribed Goods — General) Order 2005*:
    - (i) if the occupier is an individual — the individual;
    - (ii) if the occupier is a corporation — the corporation;
    - (iii) if the occupier is a partnership — a member of the partnership;
    - (iv) a person who manages or controls the operations carried out at the establishment; or
  - (b) a condition of the registration (other than a condition referred to in clause 10) has not been complied with; or
  - (c) a person referred to in paragraph (a) has made a statement:
    - (i) that is false, misleading, or incomplete; or
    - (ii) for which there is no sound basis;



**Clause 19**

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- in the application for registration or other document or information given to the Secretary in relation to the registration or a condition of the registration; or
- (d) the occupier has failed to comply with a request by an authorised officer to make available to an authorised officer a document that, under these Orders, the occupier is required to keep.
- 18.2 The Secretary may, by written notice to the occupier of a registered establishment, suspend or revoke the registration of the establishment if:
- (a) the occupier; or
- (b) a person who manages or controls operations at the establishment;
- is convicted of a serious offence.
- 18.3 A notice under subclause 18.1 or 18.2 must state that the approval of the approved arrangement for the establishment is also suspended or revoked in whole or to the extent specified in the notice.
- 18.4 The revocation or suspension of the registration and approval of an approved arrangement under this clause has effect on:
- (a) the day when the notice is given to the occupier; or
- (b) if a later day is specified in the notice as the day it has effect — that day.
- 18.5 The Secretary may revoke a registration that is suspended (including one suspended in part).

**19 Non-payment of debts**

- 19.1 If at the end of 8 days after a notice of payment due (under clause 31) is served on the occupier of a registered establishment:
- (a) the amount payable has not been paid; and
- (b) the occupier has not entered into an arrangement with the Secretary to pay it;
- the Secretary may, by written notice to the occupier, suspend the registration of the establishment.

**Clause 20**

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19.2 If the amount has not been paid at the end of 90 days after the notice under subclause 19.1 is given to the occupier, the Secretary may, by written notice to the occupier, revoke the registration of the establishment.

*Note* For when the amount is taken to have been paid see subclause 32.2.

19.3 For the purposes of subclause 19.2, if the notice is served by posting it to the occupier of the establishment, the notice is taken to be served on the 3rd working day after it was posted.

19.4 A notice under subclause 19.1 or 19.2 must state that the approval of the approved arrangement for the establishment is also suspended or revoked (as the case may be).

19.5 Revocation or suspension of a registration and approval under this clause takes effect:

- (a) the day when the notice is given to the occupier; or
- (b) if a later day is specified in the notice as the day it has effect — that day.

19.6 This clause applies separately, and in addition, to clause 18.

**Division 3.2 Suspension and revocation of approved arrangements**

**20 When Secretary may suspend or revoke approval**

20.1 The Secretary may, by written notice to the occupier of a registered establishment, suspend or revoke the approval of the approved arrangement for the establishment if the Secretary has reasonable grounds to believe that:

- (a) the occupier has failed to comply with a requirement of the Act, these Orders, the approved arrangement for the establishment or a condition of approval of that arrangement; or
- (b) compliance with the controls specified in the approved arrangement is unreliable or not effective to ensure that the matters specified in subparagraphs 5 (e) (i) and (ii) are met; or

**Clause 20**

- (c) the occupier ceases operations to prepare poultry meat or poultry meat products for export for food for a period of 12 months; or
- (d) a person referred to in paragraph 18.1 (a) makes a statement:
  - (i) that is false, misleading, or incomplete; or
  - (ii) for which there is no sound basis;in an application or other document or information given to the Secretary or required to be given under the Act, these Orders, the approved arrangement for the establishment, or a condition of approval of that approved arrangement; or
- (e) the occupier failed to comply with a requirement to make available to an authorised officer a document that, under the Act, these Orders, the approved arrangement for the establishment, or a condition of approval of that approved arrangement, the occupier is required to keep; or
- (f) the occupier has failed to:
  - (i) consent to access to the establishment for the purposes of the performance of audit or another function of an authorised officer under these Orders; or
  - (ii) provide assistance required as mentioned in order 6.06 or 8.08; or
- (g) an authorised officer is prevented, by use of force, obstruction or intimidation, from exercising his or her powers or functions under the Act or these Orders at the establishment

*Note 1* Importing country requirements must be complied with: see order 3.06.

*Note 2* It is an offence not to give information or documents to an authorised officer or the Secretary when required: Division 7 of Part III of the Act.

- 20.2 The Secretary may revoke the approval of an arrangement that is suspended (including one suspended in part).
- 20.3 The revocation or suspension takes effect on:
- (a) the day when the written notice is given to the occupier.

**Clause 21**

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- (b) if a later day is specified in the notice of the revocation or suspension as the day it has effect — that day.

20.4 A period of suspension must not exceed 12 months. It may be extended, but only if the total period does not exceed 12 months.

**Division 3.3 General rules applying to suspensions and revocations****21 Suspension and revocation in full or in part**

The suspension or revocation of registration or an approval of an arrangement may be:

- (a) in full; or
- (b) in respect of only 1 or more of the following, as specified in the notice of suspension or revocation:
- (i) specified poultry meat or poultry meat products prepared at the establishment;
  - (ii) a specified stage of preparation of poultry meat or poultry meat products at the establishment.

**22 Notice of reasons, reconsideration and period of suspension**

22.1 If the Secretary suspends or revokes the registration of an establishment or the approval of an arrangement, the Secretary must give the occupier written notice of the suspension or revocation.

22.2 The notice must state:

- (a) the reasons for the suspension or revocation; and
- (b) in the case of suspension — the period of the suspension; and
- (c) that a person whose interests are affected by the suspension or revocation may apply for reconsideration of the decision to revoke or suspend.

*Note* For reconsideration of the Secretary's decision see Division 10.1.

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**Clause 25**

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**23 If grounds for suspension no longer exist**

If the grounds for which registration of an establishment or the approval of an arrangement is suspended no longer exist, the Secretary may, at the Secretary's discretion, by written notice to the occupier, revoke the suspension.

*Note* For reinstatement of registration and approval of an arrangement see clause 29.

**24 Termination at occupier's request**

- 24.1 The occupier of a registered establishment may terminate the registration of the establishment by giving the Secretary written notice of the termination.
- 24.2 If the registration is terminated under subclause 24.1, the occupier's approved arrangement is also terminated.
- 24.3 The occupier of a registered establishment may terminate the approval of the approved arrangement for the establishment by giving the Secretary written notice of the termination.
- 24.4 The termination of the registration or approved arrangement may be:
- (a) in full; or
  - (b) in respect only of 1 or more of the following, as specified in the notice:
    - (i) specified poultry meat or poultry meat products prepared at the establishment;
    - (ii) a specified stage of preparation of the poultry meat or poultry meat products at the establishment.
- 24.5 The termination takes effect:
- (a) 7 days after the notice is given to the Secretary; or
  - (b) if a later day is specified in the notice as the day it has effect — that day.

**25 When registration and approved arrangement lapse**

If the person in whose name an establishment is registered ceases to be the person who carries on the operations to prepare poultry meat or poultry meat products for export for food at the

**Clause 26**

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establishment and for which the establishment is registered, the registration and the approval of the arrangement for the establishment lapses:

- (a) at the end of 7 days after the person so ceases; or
- (b) if the person gives the Secretary earlier written notice of ceasing — the day the notice is given.

**26 When registration ceases to have effect**

26.1 The registration of an establishment ceases to have effect on the earliest of:

- (a) the end of 12 months after the approval of the approved arrangement for the establishment ceases to have effect;
- (b) the day when the revocation or termination of the registration takes effect;
- (c) the day when the registration lapses.

*Note* For when revocation or suspension of registration has effect see subclauses 18.4 and 19.5. For when revocation or suspension of an approved arrangement has effect see subclause 20.3. See also subclauses 18.3 and 19.4.

26.2 The registration of an establishment ceases to have effect in part if a circumstance referred to in paragraph 26.1 (a) or (b) occurs in respect of that part.

*Note* Operations to prepare poultry meat and poultry meat products for export for food may not take place if the registration ceases to have effect. For the requirement to be registered see orders 3.01 and 4.05.

26.3 If registration of an establishment is suspended (including in part), the registration is of no effect to the extent of the suspension but the occupier of the establishment must nevertheless comply with the obligations under these Orders that would apply if the registration were not suspended.

**27 When approval of arrangement ceases to have effect**

27.1 The approval of an arrangement at an establishment ceases to have effect if the approval is revoked, lapses or is terminated.

**Clause 29**

27.2 The approval of an arrangement ceases to have effect in part if a circumstance referred to in subclause 27.1 occurs in respect of that part.

*Note* For when revocation or suspension of an approved arrangement has effect see subclauses 18.4 and 19.5.

27.3 If the approval of an approved arrangement for an establishment is suspended (including in part), the approval is of no effect to the extent of the suspension but the occupier of the establishment must nevertheless comply with the obligations under these Orders that would apply if the approval were not suspended.

27.4 The approval of the arrangement for an establishment ceases to have effect for the period of the suspension of registration of the establishment.

**28 When the Secretary must provide new certificate of registration**

The Secretary must give the occupier of a registered establishment a new certificate of registration if:

- (a) the Secretary revokes the registration in part; or
- (b) the registration is terminated in part; or
- (c) the registration ceases to have effect in part; or
- (d) the Secretary reinstates the registration in full or in part.

**29 Reinstatement**

29.1 If the grounds on which the registration of an establishment is revoked in full or in part no longer exist, the Secretary may, at the Secretary's discretion, by written notice to the occupier, reinstate the registration.

29.2 If the grounds on which the approval of an arrangement is revoked no longer exist, the Secretary may, at the Secretary's discretion, by written notice to the occupier, reinstate the approval of the arrangement.

**Clause 30**

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**30 Secretary may require occupier to take action**

- 30.1 If the registration of an establishment or the approval of an arrangement for an establishment ceases to have effect, the Secretary may, by written notice to the occupier of the establishment, require the occupier to take action within the period specified in the notice in respect of any of the following:
- (a) carcasses, carcase parts, poultry meat or poultry meat products at the establishment;
  - (b) anything used in, or in relation to, the preparation at the establishment of poultry meat to poultry meat products;
  - (c) the recall of carcasses, carcase parts, poultry meat or poultry meat products prepared at the establishment;
  - (d) any official marks that are in the possession or under the control of the occupier;
  - (e) any export permits or government certificates given or issued to the occupier and that are in the possession or under the control of the occupier.
- 30.2 The action specified in the notice must be action that the Secretary considers necessary or appropriate to ensure that 1 or more of the objectives specified in suborders 1.03 (1) and (2) are met.
- 30.3 The notice must state:
- (a) that non-compliance with the direction is a criminal offence; and
  - (b) the maximum penalty for the offence.
- 30.4 An occupier who is given a notice under subclause 30.1 must comply with the notice.

*Level 5 penal provision*

*Note* Breach of a level 5 penal provision is punishable by a fine of up to 50 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.



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## Part 4 Payment of debts

### 31 Notice of non-payment of debts

If an amount that is payable to the Department in respect of a registered establishment is not paid within 30 days after it was due for payment, the Secretary may give the occupier of the establishment a notice stating that the amount is due for payment (*notice of payment due*).

*Note* For when registration may be suspended or revoked if an amount that is payable to the Department is not paid: see clause 19.

### 32 Undertaking for payment of debts

32.1 This clause applies if:

- (a) an application is made for the registration of an establishment; and
- (b) an amount that is payable to the Department in respect of the establishment (whether or not the amount was incurred by the applicant) has not been paid (the *amount outstanding*).

32.2 For the purposes only of dealing with the application, the amount outstanding is taken to have been paid if:

- (a) the applicant gives a written undertaking to the Secretary to pay the amount outstanding to the Department on terms agreed with the Secretary; and
- (b) the Secretary accepts an undertaking.

*Note* Compliance with this undertaking is a condition of registration: clause 10.

32.3 The undertaking must include a term that the amount outstanding is to be reduced by all amounts paid by or on behalf of the person who incurred the fee, charge, levy or penalty to which the amount outstanding relates (the *original debtor*).

32.4 In considering whether to accept an undertaking, the Secretary must take into account:

- (a) the financial position of the proposed occupier, so far as it is known to the Secretary; and

**Clause 33**

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- (b) the nature and likely cost of the operations proposed to be carried on at the establishment, so far as they are known to the Secretary; and
- (c) whether the proposed occupier will be able to comply with the undertaking and meet the cost of the operations, so far as that is known to the Secretary; and
- (d) any other relevant considerations.

32.5 An undertaking may be varied at any time by agreement between the Secretary and the applicant.

32.6 The Secretary may agree to a variation of an undertaking if:

- (a) taking into account the matters mentioned in subclause 32.4, the Secretary considers that it is appropriate to do so; and
- (b) the variation does not reduce the applicant's liability to pay the amount outstanding.

**33 Recovery of amount payable**

An amount payable under an undertaking under clause 32 (including as varied) in respect of the period during which the establishment to which the undertaking relates is registered in the name of the person giving the undertaking:

- (a) is a debt due to the Commonwealth; and
- (b) may be recovered in a court of summary jurisdiction.

**34 How payments must be applied**

34.1 A payment under an undertaking under clause 32 reduces the amount outstanding to the extent of the payment.

34.2 If:

- (a) an undertaking under clause 32 relates to 2 or more amounts outstanding; or
- (b) a person bound by 2 or more undertakings under clause 32 makes a payment in respect of any of the undertakings;

the Secretary may determine the order in which payments are to be applied to reduce the amounts outstanding.

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**Clause 36****35 Refund of excess amounts paid**

If the sum of payments made under an undertaking under clause 32 in respect of an amount outstanding, being payments made by or on behalf of the original debtor, exceeds the amount outstanding, the excess must be refunded to the person giving the undertaking.

**36 Liability of original debtor**

Except as provided for by subclause 34.1, the liability of the original debtor to pay the amount outstanding is not affected by an undertaking under clause 32 or by payments made under such an undertaking.

Clause 1

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**Schedule 2 Management of the preparation of poultry meat and poultry meat products**

(order 3.03)

**Part 1 Management**

**Division 1.1 General requirements**

**1 Occupier's commitment**

The occupier's commitment to:

- (a) the objectives set out in suborders 1.03 (1) and (2); and
- (b) compliance with the applicable requirements of the Act and these Orders;

must be documented.

*Note* The occupier must ensure that the requirements of this Schedule are complied with: order 3.03.

**2 Management practices, organisational structure, resources and skills**

The management practices, organisational structure, provision of resources and the provision of personnel and their training must:

- (a) be documented; and
- (b) be appropriate to ensure each of the applicable requirements of the Act and these Orders is complied with.

*Note* For making electronic records see subsection 12 (1) of the *Electronic Transactions Act 1999*.

**Clause 5**

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**Division 1.2 Verification, corrective action, review and record keeping**

**3 Verification**

Whether the applicable requirements of the Act and orders 3.03 to 3.06 are complied with must be verified and a written record made of:

- (a) the methods, procedures, tests, monitoring and other evaluations used to verify compliance; and
- (b) the results of the verification.

*Note* Verification could, for example, include sampling procedures.

**4 Corrective action**

4.1 If an applicable requirement of the Act or of orders 3.03 to 3.06 is not complied with:

- (a) action must be taken:
  - (i) to address the fact the requirement is not complied with; and
  - (ii) to ensure that the failure to comply with the requirement does not recur; and
- (b) the effectiveness of the action taken must be assessed.

4.2 If it is likely that an applicable requirement of the Act or of orders 3.03 to 3.06 will not be complied with:

- (a) action must be taken to address, as far as reasonably practicable, the risk of the requirement not being complied with; and
- (b) the effectiveness of the action taken must be assessed.

4.3 A written record must be made of any action referred to in paragraph 4.1 (a) or 4.2 (a) that is taken and the assessment of the effectiveness of the action.

**5 Internal audit and management review**

5.1 Internal audits and management reviews of the effectiveness of the management practices in meeting the applicable

## Clause 6

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requirements of the Act and orders 3.03 to 3.06 must be conducted.

*Note* For external audits see Part 6.

- 5.2 A record must be made of the following:
- (a) the internal audits and management reviews conducted (including the dates on which the internal audits and management reviews are conducted);
  - (b) the results of the audits and reviews;
  - (c) any decision to take action as a result of an audit or review;
  - (d) the action taken;
  - (e) the outcome of the action taken.
- 5.3 For an establishment employing fewer than 3 people, subclause 5.1 is satisfied if management reviews are conducted.

## 6 Inventory controls

- 6.1 Comprehensive, auditable and documented inventory controls necessary to verify compliance with orders 3.03 to 3.06 must be maintained.

*Note* Verification could, for example, include sampling procedures.

- 6.2 Without limiting subclause 6.1, inventory controls include:
- (a) records of:
    - (i) the numbers of poultry of different species slaughtered at the establishment, their origin and lot; and
    - (ii) the poultry meat and poultry meat products received at the establishment (including their description and the quantities received of each description), their origin and their location within the establishment; and
    - (iii) the poultry meat and poultry meat products prepared at the establishment (including their description and the quantities prepared of each description) their

**Clause 7**

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- lots, origins and location within the establishment; and
- (iv) the poultry meat and poultry meat products transferred from the establishment (including their description and the quantities removed of each description), their production details and their destinations; and
  - (b) a reconciliation of poultry, poultry meat and poultry meat products and records referred to in paragraph (a).

**7 Requirement to keep documents**

7.1 Each document that:

- (a) is made by the occupier of the establishment or that comes into the occupier's possession; and
- (b) is relevant to whether there is compliance with the applicable requirements of the Act, these Orders, the approved arrangement and the conditions of the approved arrangement;

must be retained for at least 2 years after the document concerned is made by the occupier or comes into the occupier's possession.

*Note 1* For retaining records electronically see subsection 12 (2) of the *Electronic Transactions Act 1999*.

*Note 2* For general requirements for keeping records see Division 10.2.

7.2 If a document is not retained as required by subclause 7.1, the occupier of the establishment is guilty of an offence.

*Level 5 penal provision*

*Note 1* Breach of a level 5 penal provision is punishable by a fine of up to 50 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

*Note 2* For suspension or revocation of the approval of an approved arrangement if the occupier fails to make available, to an authorised officer, a document that the occupier is required to keep see paragraph 20.1 (e) of Schedule 1.

**Clause 8**

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**Division 1.3 Surveillance, sampling and monitoring programs and notifiable diseases**

**8 Surveillance, sampling and monitoring**

The requirements for surveillance, sampling and monitoring set out in the Australian Poultry Meat Standard must be complied with.

*Note* See, for example, clause 15 of the Australian Poultry Meat Standard.

**9 Notifiable diseases**

The requirements set out in clause 16 of the Australian Poultry Meat Standard to advise the relevant controlling authority of a notifiable disease, and for controlling the spread of a notifiable disease, must be complied with.

**Division 1.4 Notification**

**10 Requirement to notify**

The occupier of an establishment must notify an authorised officer as soon as practicable if the occupier has reasonable grounds to believe that:

- (a) poultry meat or poultry meat products at the establishment are unwholesome or have deteriorated, their identification or traceability is compromised or their integrity is not assured; or
- (b) there has been a failure of a procedure, or another circumstance has occurred, at the establishment that has affected, or could affect, the wholesomeness or integrity of poultry meat or poultry meat products (including poultry meat or poultry meat products derived from poultry for slaughter at the establishment) or has caused, or could cause, them to deteriorate; or
- (c) poultry meat or poultry meat products have been received by the occupier but the relevant information required by clause 8 of Schedule 7:



**Clause 11**

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- (i) was not received or did not accompany the poultry meat or poultry meat products; or
- (ii) is inaccurate or incomplete; or
- (d) poultry meat or poultry meat products at the establishment do not meet applicable importing country requirements.

## **Part 2 Approved arrangements**

### **11 Minimum requirements for approved arrangements**

- 11.1 An arrangement for the preparation of poultry meat or poultry meat products at an establishment must:
- (a) make provision for each stage of the production of poultry meat and poultry meat products undertaken at the establishment; and
  - (b) document the system of controls used to ensure that the requirements of orders 3.04 to 3.06 are complied with at the establishment; and
  - (c) identify the applicable importing country requirements for which a government certificate is to be or may be sought; and
  - (d) document the system of controls used to ensure compliance with the importing country requirements referred to in paragraph (c); and
  - (e) document any other controls necessary to ensure there is a sound basis for giving export permits and issuing government certificates for poultry meat or poultry meat products prepared at the establishment.

*Note* For the issue of a government certificate where importing country requirements are specified see Part 2 of Schedule 8.

- 11.2 Paragraphs 11.1 (c) and (d) apply only to an importing country requirement if compliance with the Act and these Orders (disregarding the importing country requirement) would not result in compliance with the importing country requirement.

*Note 1* For example subclause 11.2 refers to importing country requirements that are in addition to or more stringent than the requirements of the Act and these Orders.

**Clause 12**

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*Note 2* For where compliance with an importing country requirement would not result in compliance with these Orders see order 9.02.

*Note 3* For approval, variation, suspension and revocation of an approved arrangement see Schedule 1.

**12 HACCP requirements**

- 12.1 An arrangement for the preparation of poultry meat and poultry meat products at an establishment must provide for the implementation of a HACCP plan for each stage of the production of poultry meat and poultry meat products at the establishment.
- 12.2 The HACCP plan must meet the requirements for HACCP plans set out in the Australian Poultry Meat Standard.

## Schedule 3      Structural requirements

(orders 3.05, 4.07)

### Part 1      Premises, equipment, facilities and essential services

#### 1      Provision of premises, equipment, facilities and essential services

The premises, equipment, facilities and essential services that are necessary to ensure that operations for the preparation of the poultry meat are conducted in accordance with the requirements of these Orders must be provided at the establishment.

*Note* For importing country requirements that are additional to those required in these Orders see clause 11 of Schedule 2.

#### 2      Measuring devices

Measuring devices must be provided and used to assess accurately whether the requirements of these Orders are complied with.

*Note* For guidance on Australian legal units of measurements and tolerances, reference may be had to the *National Measurement Act 1960*. For the application of the *National Measurement Act 1960* in relation to contracts, dealings or transactions made or entered into in connection with the exportation of goods: see section 13 of that Act.

### Part 2      Facilities for authorised officers

#### 3      Amenities where authorised officers are permanently located

3.1 If 1 or more authorised officers are permanently located at the establishment, they must be provided with the following amenities:

- (a) an office;

**Clause 4**

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- (b) a dining room;
- (c) a change room;
- (d) a shower room;
- (e) a toilet room;
- (f) a rest room where amenities are provided for female authorised officers.

## 3.2 The amenities must be:

- (a) separate from, but may be in the same building as, amenities provided for employees; and
- (b) suitable, and suitably and conveniently located; and
- (c) for the exclusive use of authorised officers.

**4 Office accommodation**

An office referred to in subclause 3.1 must be equipped with:

- (a) a telephone, a connection to a computer terminal and a lockable metal cabinet; and
- (b) for each authorised officer requiring the use of the office — a desk, chair and locker; and
- (c) hand washing and drying facilities (if these are not conveniently located nearby).

**5 Work areas**

The area within which an authorised officer performs a post mortem inspection must not be encroached upon by equipment or personnel.

**6 Poultry meat examination facility**

## 6.1 Access must be provided to a poultry meat examination facility that:

- (a) is located within a refrigerated area; and
- (b) is maintained at a temperature of not warmer than 10°C during operations.

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**Clause 7**

- 6.2 The poultry meat examination facility need not be for the exclusive use of authorised officers, provided they can perform their functions unimpeded while in the facility.

**7 Secure storage area**

- 7.1 If poultry meat is loaded for export at the establishment, the establishment must have a separate and secure storage area for the storage of all poultry meat required to be retained or held under security.
- 7.2 The construction and use of the secure storage area must not jeopardise the integrity or security of poultry meat held in the area.

Clause 1

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## Schedule 4 Operational hygiene

(orders 3.05, 4.09)

### Part 1 Requirements for water

#### 1 Requirements for potable water

The approved arrangement for an establishment must specify the treatment and testing regime used to verify that water is free from suspended matter, harmful substances and pathogenic organisms.

*Note 1* For verification requirements see clause 3 of Schedule 2. See also the HACCP requirements of the Australian Poultry Meat Standard that are mandated in subclause 12.2 of Schedule 2.

*Note 2* For guidance see the *Australian Drinking Water Guidelines 2004* developed by the National Health and Medical Research Council in collaboration with the National Resource Management Ministerial Council. At the commencement of these Orders, this document was accessible on the Internet at <http://www.nhmrc.gov.au/>.

#### 2 Protection of the potable water supply

The water supply (including storage tanks) for water that under the Australian Poultry Meat Standard is required to be potable must be protected from contamination.

### Part 2 Animal food

#### 3 Animal food

- 3.1 The applicable requirements of the Australian Poultry Meat Standard for animal food must be complied with.
- 3.2 Animal food must be packaged, stored, handled and loaded in a way (included segregated if necessary) that ensures that poultry meat and poultry meat products for export for food are not contaminated.

**Clause 3**

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*Note* For integrity and transfer requirements for poultry meat and poultry meat products for animal food see paragraph 2.1 (f) and subclause 8.2 of Schedule 7.

Clause 1

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## Schedule 5 Preparation and transport

(orders 3.05, 4.10, 4.11)

### Part 1 Preparation and transport

#### 1 Dressing

Poultry must be unconscious and primary bleeding completed before dressing commences.

#### 2 Aggregation of carcasses parts

If a poultry carcass part is aggregated with a part derived from another poultry carcass, the disposition applied to all the aggregated parts must be the most restrictive of the dispositions applied to:

- (a) any of the carcasses from which the aggregated parts are derived; and
- (b) any of the carcass parts forming part of the aggregation.

#### 3 Records of ante and post mortem inspections

3.1 Records must be kept of all ante-mortem and post-mortem inspections of poultry animals and carcasses carried out by the occupier of a registered establishment.

3.2 The occupier must, on request by an authorised officer, produce a record kept as required by subclause 3.1 for inspection by an authorised officer.

*Note* The Australian Poultry Meat Standard requires that animals and carcasses be inspected by suitably qualified company employees: see clause 14 (c) of the Standard.

#### 4 Dispositions applied at post mortem inspection

One of the following dispositions must be applied at post mortem inspection:

- (a) for carcasses and carcass parts:



**Clause 6**

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- (i) passed for human consumption;
  - (ii) passed for human consumption and unsuitable for export;
  - (iii) passed for human consumption unsuitable for export to a specified country;
  - (iv) retained for final disposition;
  - (v) unfit for human consumption and may be recovered for animal food;
  - (vi) unfit for human consumption and may be recovered for pharmaceutical material;
  - (vii) condemned; and
- (b) for carcase parts — derived from poultry the carcase of which is passed for human consumption and the carcase parts require further treatment to be fit for human consumption.

*Note 1* For dispositions that may be applied to poultry see Appendix B of the Australian Poultry Meat Standard.

*Note 2* In addition to dispositions applied at ante mortem inspection and at post mortem inspection an authorised officer may apply a disposition to carcasses, carcase parts, poultry meat and poultry meat products at any other time: suborder 8.02 (1). An authorised officer may vary a disposition (see paragraph 8.02 (1) (e)) for example if after post mortem inspection poultry meat and poultry meat products deteriorate or further information is obtained about residue levels.

**5 Poultry fat for human consumption**

Edible poultry fat for food must be derived only from carcasses and carcase parts passed for human consumption.

**6 Refrigeration**

The refrigeration for chilling, freezing, thawing, further processing, storage and handling of poultry meat and poultry meat products must comply with the requirements as to refrigeration set out in the Australian Poultry Meat Standard.

**Clause 7**

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**7 Transport of poultry meat and poultry meat products**

Poultry meat and poultry meat products for export must not be received from, or loaded into, a poultry meat transport vehicle unless the poultry meat transport vehicle:

- (a) is not a source of contamination of the poultry meat and poultry meat products; and
- (b) is clean; and
- (c) is free of odours and materials that are capable of contaminating poultry meat or poultry meat products or their packaging; and
- (d) where necessary, is equipped or provided with an appropriate and adequate means of refrigeration; and
- (e) has an accurate measuring device to assess whether the requirements of these Orders are complied with during transport and loading; and
- (f) is maintained in a good state of repair and working order having regard to its use; and
- (g) is capable of being secured by seal that is an official mark the design of which is specified in section 13.11 of the *Export Control (Prescribed Goods — General) Order 2005*.

**Part 2 Loading for export****8 Inspection prior to loading for export**

8.1 Loading for export of poultry meat and poultry meat products for export for food must be under the supervision or direction of:

- (a) an authorised officer; or
- (b) a person designated in the approved arrangement as a person who may supervise and direct the loading for export of the poultry meat or poultry meat products.

8.2 Paragraph 8.1 (b) applies only if the approved arrangement for the relevant establishment provides for export inspection procedures at loading for export to be performed by persons engaged by the occupier of the establishment.

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**Clause 10**

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*Note* If it is an importing country requirement that inspection arrangements be undertaken by authorised officers this needs to be specified in the approved arrangement: clause 11 of Schedule 2.

**9 Prohibitions on loading for export**

- 9.1 Poultry meat and poultry meat products must not be loaded for export unless, at the time of loading for export, the poultry meat or poultry meat products are packaged to protect the poultry meat or poultry meat products effectively from contamination and deterioration in the conditions under which the poultry meat or poultry meat products are loaded, stored and transported from Australia.
- 9.2 Poultry meat or poultry meat products that are not wholesome must not be loaded for export.

**10 Container system units and equipment for loading ships and aircraft**

- 10.1 Poultry meat and poultry meat products must not be loaded for export unless the container system unit, or the area on the ship or aircraft, into which the poultry meat or poultry meat products are to be loaded:
- (a) is not a source of contamination of the poultry meat or poultry meat products; and
  - (b) is clean; and
  - (c) is free of odours and materials that are capable of contaminating poultry meat or poultry meat products or their packaging; and
  - (d) where necessary, is equipped or provided with an appropriate and adequate means of refrigeration; and
  - (e) has an accurate measuring device to assess whether the requirements of these Orders are complied with during transport and loading; and
  - (f) is maintained in a good state of repair and working order having regard to its use; and
  - (g) for container system units intended for sea freight and the area into which the poultry meat or poultry meat products are to be loaded on a ship — is capable of being secured by seal that is an official mark the design of which is

**Clause 11**

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specified in section 13.11 of the *Export Control (Prescribed Goods — General) Order 2005*.

- 10.2 Poultry meat and poultry meat products must not be loaded for export unless the equipment used for loading meets the requirements for such equipment set out in the Australian Poultry Meat Standard.

**11 Stowage**

Poultry meat and poultry meat products must be stowed in a container system unit or the area on the ship or aircraft in a manner that ensures that their condition and packaging is not likely to be adversely affected during the course of the voyage or flight.

**12 When official seal must be applied**

- 12.1 Where the poultry meat or poultry meat products that are eligible for export to a particular market are loaded for export in a container system unit (other than a unit intended for transport by air), a seal that is an official mark the design of which is specified in section 13.11 of the *Export Control (Prescribed Goods—General) Order 2005* must be applied to the container system unit.

*Note* It is an offence to interfere with etc or remove an official seal: section 14 of the Act. See further Part 7.

- 12.2 Subclause 12.1 is not taken to be complied with unless the seal is applied by a person who may, under suborder 7.01 (2), apply an official mark of that kind.

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## Schedule 6 Trade descriptions and official marks

(orders 3.05. 4.12. 4.13)

### Part 1 Trade descriptions

#### Division 1.1 Requirement to have trade description

##### 1 Content of trade description

- 1.1 Poultry meat and poultry meat products for export for food must have a trade description containing the information specified in subclause 1.2 applied to them no later than the date of packaging.

*Note 1* For dispositions that an authorised officer may apply to poultry meat and poultry meat products that do not meet the requirements of this Schedule see order 8.02.

*Note 2* For alternative requirements for meat for further processing see clause 4.

- 1.2 Subject to clause 4, the trade description must contain:

- (a) a full description of the poultry meat or poultry meat products; and
- (b) the species of poultry from which the poultry meat or poultry meat products are derived; and
- (c) the net weight of the poultry meat and poultry meat products; and
- (d) the country of origin of the poultry meat or poultry meat products; and
- (e) the registration number of the establishment at which the poultry meat or poultry meat products are last packed before export; and
- (f) the name and address of:
  - (i) the occupier of the establishment referred to in paragraph (e), or

**Clause 1**

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- (ii) the exporter or consignee of the poultry meat or poultry meat products; and
- (g) the date or dates of packaging, in the format day (in 2 numerals), month (abbreviation) and year (all 4 numerals); and
- (h) for poultry meat and poultry meat products containing more than 1 ingredient — a list of ingredients (excluding any processing aids) in descending order of ingoing weight; and
- (i) the identity of the batch; and
- (j) except for shelf stable poultry meat products — a statement indicating whether the poultry meat or poultry meat products should be kept chilled or frozen; and
- (k) for cans containing poultry meat or poultry meat products:
  - (i) the registration number of the registered establishment preceded by the letters ‘EX’; and
  - (ii) in code or in clear — the date or dates on which the can is closed; and
  - (iii) in code or in clear — the description of the contents in the can.

*Note 1* For the requirement for the trade description to be accurate see clause 5. See also section 15 of the Act for offences in relation to false trade descriptions.

*Note 2* The *Trade Practices Act 1974* contains prohibitions on engaging in conduct that is misleading or deceptive or is likely to mislead or deceive (for example, see section 52 of that Act) and prohibitions on making false or misleading representations, including about the country of origin (for example, see sections 53 and 75AZC of that Act).

*Note 3* Part V, Division 1AA of the *Trade Practices Act 1974* provides defences that certain country of origin representations do not contravene section 52, paragraph 53 (a) or (eb) or subparagraph 75AZC (1) (a) (i) of the *Trade Practices Act 1974*. See further sections 65AA to 65AN of the *Trade Practices Act 1974*. For further guidance on correctly describing the country of origin see the ACCC website, <http://www.accc.gov.au/>.

*Note 4* If the importing country authority specifies that it does not require a trade description requirement to be met, the Secretary may give the occupier a notice specifying that the trade description requirement does not apply: order 9.02.

- 1.3 If poultry meat or poultry meat products are packaged on behalf of a person who is not the occupier of the registered

**Clause 4**

establishment at which the poultry meat or poultry meat products are prepared, the trade description must contain the identity of:

- (a) the person who packed the poultry meat or poultry meat products; and
- (b) the person on whose behalf the poultry meat and poultry meat products were packed.

- 1.4 Poultry meat products for export for food must comply with each of the applicable requirements specified in Standard 1.2.4 of the Food Standards Code for labelling and naming ingredients and compound ingredients.

*Note 1* If the importing country authority specifies that it does not require a trade description requirement of this Schedule to be complied with (or specifies a less stringent requirement), the Secretary may give the occupier a notice specifying that the requirement of this Schedule does not apply: order 9.02.

*Note 2* At the date of commencement of these Orders, the Food Standards Code was accessible on the Internet at

<http://www.foodstandards.gov.au/thecode>.

**2 Applying trade description to cartons**

For cartons containing poultry meat or poultry meat products, the trade description must be applied to any 1 end panel of the carton.

**3 Applying trade description to cans**

The information specified in paragraph 1.2 (k) must be embossed on the can or indelibly applied directly to the can.

**4 Poultry meat for further processing**

- 4.1 Despite subclause 1.2, the occupier of the establishment at which poultry meat or poultry meat products for export for food are originally prepared may elect to apply to poultry meat or poultry meat products being transported between registered establishments a trade description containing only the following information:

**Clause 5**

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- (a) the species of poultry from which the poultry meat or poultry meat products were derived;
- (b) for packaged poultry meat and poultry meat products — the date of packaging;
- (c) the words “FOR FURTHER PROCESSING BEFORE EXPORT”.

4.2 If an election under subclause 4.1 is made, then, before the poultry meat or poultry meat products are loaded for export:

- (a) a trade description containing all the information required by subclause 1.2 must be applied to the poultry meat or poultry meat products; and
- (b) the words “FOR FURTHER PROCESSING BEFORE EXPORT” must not appear.

*Note* For the requirement to apply an official mark to these poultry meat and poultry meat products see, for example, clause 11.

**Division 1.2 General requirements****5 Trade descriptions must be accurate**

Information applied to poultry meat or poultry meat products for export for food (being information required, under clause 1, to be contained in the trade description) must be accurate.

*Note* Non-compliance with this requirement may preclude the giving of an export permit and the issue of a government certificate: Division 1.3 and Part 2 of Schedule 8. See also section 15 of the Act for offences in relation to false trade descriptions.

**6 Additional information**

Additional information or pictures applied to poultry meat or poultry meat products must not be inconsistent with information required, under clause 1, to be contained in the trade description.

**7 Trade descriptions not in English**

Any part of a trade description applied to poultry meat or poultry meat products that is in a language other than English



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**Clause 9**

must not be inconsistent with any part of the trade description in the English language.

*Note* For requirements to provide a translation see order 10.11.

**8 Trade description must be legible, conspicuous and secure**

Information required, under clause 1, to be contained in a trade description must be applied to the poultry meat or poultry meat products so that it is:

- (a) legible; and
- (b) prominent, conspicuous and not obscured in any way; and
- (c) securely applied; and
- (d) to the extent practicable, tamper evident.

**9 Trade description must not be altered or interfered with**

Information applied to poultry meat or poultry meat products or to a carton containing poultry meat or poultry meat products (being information required, under clause 1, to be contained in a trade description) must not be altered or interfered with by a person unless:

- (a) the Secretary gives the person written approval for the alteration or interference; or
- (b) the approved arrangement provides for the alteration and interference in the circumstances in which the alteration or interference is made.

**10 Meaning of *applied to***

For this Part, unless the contrary intention appears, a trade description is taken to be applied to poultry meat or poultry meat products if it is:

- (a) applied directly to the poultry meat or poultry meat products; or
- (b) applied to any label, tag or seal attached to the poultry meat or poultry meat products; or

**Clause 11**

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- (c) applied to the covering or packaging of the poultry meat or poultry meat products; or
- (d) inserted into any thing in which the poultry meat or poultry meat products are packaged.

**Part 2 Official marks**

*Note* This Part sets out those requirements to apply an official mark that are conditions and restrictions on the export of poultry meat and poultry meat products. For the conditions and restrictions relating to official seals see paragraphs 7 (g) and 10.1 (g) of Schedule 5. For other requirements relating to official marks and marking devices see Part 7.

**Division 2.1 Requirement to apply official mark****11 Requirement to apply official mark to cartons**

- 11.1 An official mark must be applied to the carton in which poultry meat or poultry meat products passed for human consumption are packed as soon as practicable after the carton is packed and before it is removed from the establishment at which it is packed.

*Note* This requirement only applies to poultry meat and poultry meat products for export for food: order 2.01.

11.2 If:

- (a) the carcasses and carcase parts have been inspected and passed for human consumption by an employee of the occupier who is suitably trained or holds recognised qualifications relevant to the inspection; and
- (b) subclause 11.3 does not apply;

the design of the official mark required by subclause 11.1 is the design specified in section 13.12 of the *Export Control (Prescribed Goods — General) Order 2005*.

- 11.3 If the carcasses and carcase parts have been inspected and passed for human consumption by an authorised officer or a person under the supervision of an authorised officer, the design of the official mark required by subclause 11.1 is the design specified in section 13.02 of the *Export Control (Prescribed Goods — General) Order 2005*.

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**Clause 13**

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## 11.4 The mark must:

- (a) be applied to the same end panel of the carton as the trade description required to be applied under clause 2; and
- (b) be conspicuous during handling.

*Note* A government certificate may not be given for poultry meat or poultry meat products prepared under State or Territory inspection and audit arrangements unless the importing country specifies that it will accept the relevant goods prepared under such arrangements: see subclause 15.2 of Schedule 8.

**Division 2.2 General requirements****12 Official marks must be legible and secure**

An official mark applied to poultry meat, poultry meat products, cartons containing poultry meat or poultry meat products or their covering must be:

- (a) legible; and
- (b) securely applied.

**13 When official marks must be removed or defaced**

## 13.1 An official mark applied to poultry meat or poultry meat products must be removed or defaced if:

- (a) the poultry meat or poultry meat products are no longer wholesome or have deteriorated; or
- (b) for an official mark the design of which is specified in section 13.06 of the *Export Control (Prescribed Goods — General) Order 2005* — the circumstances in which the importing country authority specifies that a mark of that kind may be applied no longer exist.

*Note* Paragraph (b) is in addition to any importing country requirements to deface an official mark. For guidance see the *Export Meat Manual Volume 2, Importing Country Requirements* published by the Department. At the date of commencement of these Orders, this document was accessible on the Internet at <http://www.daff.gov.au/aqis/export/meat/elmer-3>.

13.2 An official mark of a design specified in section 13.02 of the *Export Control (Prescribed Goods — General) Order 2005* applied to a carton containing poultry meat or poultry meat products must be removed or defaced if:

**Clause 14**

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- (a) the intention to export the poultry meat or poultry meat products is abandoned; or
- (b) the carton is no longer to be used for the export of the poultry meat or poultry meat products.

**14 Use of State or Territory classification marks prohibited**

Poultry meat and poultry meat products must not bear a mark indicating a classification of the poultry meat or poultry meat products in accordance with a law of a State or Territory.

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## Schedule 7 Integrity and transfer

(orders 3.05, 4.14)

### Part 1 Integrity

#### 1 Segregation, identification and security

To the extent necessary to ensure that the objectives specified in suborders 1.03 (1) and (2) are met:

- (a) poultry, poultry meat and poultry meat products meeting a particular description must:
  - (i) be identified and segregated during preparation and transport from poultry, poultry meat and poultry meat products not meeting that description; and
  - (ii) not be confused with other poultry, poultry meat and poultry meat products not meeting that description; and
  - (iii) be prepared and transported under conditions of security; and
- (b) inventory controls and tracing systems must be maintained.

*Note 1* For example, the separate identification and segregation of inedible product would be required.

*Note 2* For requirements for inventory controls see clause 6 of Schedule 2.

*Note 3* For tracing systems for recall purposes see clause 15 of the Australian Poultry Meat Standard.

*Note 4* For segregation, identification and security requirements for poultry meat and poultry meat products for animal food see clause 15 of the Australian Poultry Meat Standard.

*Note 5* For dispositions that an authorised officer may apply to poultry meat and poultry meat products that do not meet the requirements of this Schedule see order 8.02.

**Clause 2**

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**2 Integrity**

- 2.1 The assurance of integrity of poultry meat and poultry meat products for export for food must not be compromised by the presence of the following:
- (a) poultry meat or poultry meat products that were not prepared at a registered establishment (including imported poultry meat and poultry meat products);
  - (b) poultry meat or poultry meat products that are not for export for food (including because an intention to export has been abandoned);
  - (c) inedible material;
  - (d) poultry meat or poultry meat products that are brought onto an establishment but are not removed or unloaded at the establishment from the means of transport on which they were conveyed to the establishment;
  - (e) poultry, poultry meat or poultry meat products that are retained for further inspection, tests or treatment;
  - (f) poultry meat or poultry meat products for animal food;
  - (g) poultry meat or poultry meat products for pharmaceutical use.
- 2.2 During concurrent boning, poultry meat and poultry meat products referred to in paragraphs 2.1 (a) and (b) must be readily distinguishable from poultry meat for export.
- 2.3 Poultry meat and poultry meat products referred to in paragraphs 2.1 (a) and (b) must at all times be segregated from poultry meat and poultry meat products for export.

**3 Specified conditions or restrictions on export**

The identity of poultry meat and poultry meat products as complying with a condition or restriction on export specified in orders 4.05 to 4.14 must:

- (a) be readily ascertainable; and
- (b) not be lost or confused with that of any other poultry meat or poultry meat products that do not comply with the condition or restriction.

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**Clause 7****4 Species identification**

- 4.1 Poultry meat and poultry meat products for export for food must be derived from the species of poultry they are purported to be derived from.
- 4.2 Without limiting subclause 4.1, poultry meat and poultry meat products are not of the species they are purported to be derived from if poultry meat or poultry meat products derived from another species are substituted wholly or partly for them.

**5 Eligibility for export**

- 5.1 The eligibility of poultry meat and poultry meat products for export to a relevant market must be maintained.
- 5.2 Poultry meat and poultry meat products that are not eligible for export to all markets must be:
- (a) segregated from poultry meat and poultry meat products that are eligible for export to particular markets only; and
  - (b) identified so that it is clear to which markets they are eligible for export.

**6 Action if integrity not assured**

If the occupier of a registered establishment suspects that the integrity of poultry meat or poultry meat products is not assured, the poultry meat or poultry meat products must be identified and held separately under conditions of security until an authorised officer applies a disposition to them.

*Note* For the requirement to notify an authorised officer if it is suspected that integrity is compromised see clause 10 of Schedule 2.

**7 Dispositions applied if integrity not assured**

If an authorised officer suspects that the integrity of poultry meat or poultry meat products is not assured, the officer may apply 1 of the following dispositions to the poultry meat or poultry meat products concerned:

- (a) unsuitable for export as food;
- (b) unsuitable for export as food to a specified country;

**Clause 8**

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- (c) retained for further inspection and disposition.

*Note* The integrity of poultry meat or poultry meat products may be considered not to be assured if:

- (a) an official mark applied to poultry meat, poultry meat products or to any other thing referred to in Division 2.1 of Schedule 6 has been applied, altered or interfered with contrary to the requirements of orders 7.01 to 7.03; or
- (b) a requirement of Schedule 6 or 7 is not met in relation to poultry meat or poultry meat products.

**Part 2 Transfer**

**8 Information to be given on despatch**

- 8.1 For each consignment of poultry meat or poultry meat products despatched from an establishment the following information must be given, in the form approved by the Secretary, to the consignee:
  - (a) a full description of the poultry meat or poultry meat products, including storage conditions (ie whether they are chilled, frozen or shelf stable);
  - (b) the name, address and registration number of the despatching establishment;
  - (c) the date or dates on which the poultry meat or poultry meat products were last prepared (other than stored, handled or loaded) before despatch;
  - (d) the quantity of poultry meat or poultry meat products in the consignment and number and kind of packages (if any) in which the poultry meat or poultry meat products are packed;
  - (e) the name, address and registration number of the establishment to which the poultry meat or poultry meat products are despatched;
  - (f) if the poultry meat or poultry meat products have been prepared to meet the importing country requirements of 1 or more identified countries — the names of those countries;
  - (g) a declaration stating that the following are complied with:



**Clause 9**

- (i) the conditions and restrictions on export specified in orders 4.05 to 4.14 that must be complied with before the poultry meat or poultry meat products may be exported from Australia;
- (ii) the relevant importing country requirements for the poultry meat and poultry meat products;
- (h) a declaration stating that all the information given is true and complete.

8.2 For each consignment of poultry meat or poultry meat products for use for animal food despatched from an establishment engaged in the preparation of poultry meat or poultry meat products for export for food the following must be given to the consignee:

- (a) a full description of the poultry meat or poultry meat products for use for animal food;
- (b) the information specified in paragraphs 8.1 (b) to (h) for the poultry meat or poultry meat products.

*Note 1* For action that must be taken if poultry meat or poultry meat products are received by the consignee and this information is not received or is inaccurate or incomplete see clause 11. See also paragraph 10 (c) of Schedule 2

*Note 2* Electronic message format should be UNEDIFACT compliant.

## **9 Who may make declarations**

A person may make a declaration under paragraph 8.1 (g) or (h) for poultry meat or poultry meat products only if:

- (a) the person manages or controls operations to prepare poultry meat or poultry meat products at the establishment; and
- (b) the approved arrangement for the establishment:
  - (i) provides for export inspection procedures that include the making of the declaration for the poultry meat or poultry meat products; and
  - (ii) designates the person as a person who may make such a declaration.

*Note* If importing country authorities require alternative inspection arrangements by authorised officers this needs to be set out in the approved arrangement: clause 11 of Schedule 2. See also order 9.02.

**Clause 10**

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**10 Requirements for declarations**

- 10.1 A declaration under paragraph 8.1 (g) or (h) must be signed by the maker of the declaration and dated the day it is made.
- 10.2 A declaration under paragraph 8.1 (g) or (h) must not:
- (a) be false or misleading; or
  - (b) be made if there is no sound basis for making the declaration.

*Note 1* For suspension or revocation of the approval of the approved arrangement if this requirement is not complied with see paragraphs 20.1 (a) and (d) of Schedule 1.

*Note 2* It is an offence to make a false or misleading statement to a person in compliance or purported compliance with a Commonwealth law: see section 137 of the *Criminal Code*.

**11 Receipt of poultry meat and poultry meat products**

If the occupier of a registered establishment receives poultry meat or poultry meat products and:

- (a) information required by clause 8 is not given to the occupier; or
  - (b) the information referred to in clause 8 given to the occupier is inaccurate or incomplete;
- the poultry meat or poultry meat products must:
- (c) be held at the establishment under conditions of security and not dealt with further for export for food unless an authorised officer applies a disposition to them that allows them to be so dealt with; or
  - (d) be identified as not for export for food and segregated so that they do not contaminate poultry meat and poultry meat products for export for food.

*Note* See also paragraph 10 (c) of Schedule 2.

**12 Giving information to consignee**

For the purposes of clauses 8 and 11, information is taken to be given to a person if it:

- (a) is in writing; and

**Clause 12**

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- (b) is given to the consignee at the time of despatch or accompanies the poultry meat or poultry meat products during despatch.

*Note* For when requirements to give information (including a declaration) in writing can be met by an electronic communication see section 9 of the *Electronic Transactions Act 1999*.

Clause 1

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## Schedule 8 Export documentation

(Act sections 23, 24A; order 4.02)

### Part 1 Export permits

#### Division 1.1 Application for export permit

##### 1 Application

- 1.1 An application for an export permit for poultry meat or poultry meat products must be:
- (a) made by or on behalf of the person who intends to export the poultry meat or poultry meat products; and
  - (b) in the form approved by the Secretary for making applications for export permits; and
  - (c) given to the Secretary.

*Note* For how applications are given electronically see Part 3 of this Schedule.

- 1.2 The application must contain the following information:
- (a) the name and address in Australia of the person who intends to export the poultry meat or poultry meat products;
  - (b) the registration numbers of the establishments at which the poultry meat or poultry meat products were prepared (other than merely handled or loaded);
  - (c) the dates on which the poultry meat or poultry meat products were prepared (other than merely stored, handled or loaded);
  - (d) the country of origin of the poultry meat or poultry meat products;
  - (e) the name and address of the consignee, or the words 'to order';
  - (f) the intended port of loading of the poultry meat or poultry meat products;

**Clause 3**

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- (g) the intended date of departure of the ship or aircraft onto which the poultry meat or poultry meat products are to be loaded;
- (h) the airline flight number or the name of the ship and the voyage number;
- (i) the intended port of discharge of the poultry meat or poultry meat products;
- (j) the country that is the intended final destination of the poultry meat or poultry meat products;
- (k) the net contents of the poultry meat or poultry meat products and number and type of packages (if any) in which the poultry meat or poultry meat products are packed;
- (l) a full description of the poultry meat or poultry meat products including storage conditions (that is, whether they are chilled, frozen or shelf stable);
- (m) any other information required by the Secretary.

**2 Exporter's declaration**

An application for an export permit must contain a declaration that all information given in the application is true and complete.

*Note* It is an offence to make false or misleading statements to a Commonwealth entity: *Criminal Code* Part 7.4.

**Division 1.2 Verification of compliance****3 Verification performed by authorised officer**

If:

- (a) a notice of intention and an application for an export permit are given to the Secretary; and
- (b) an authorised officer has reasonable grounds to believe that:
  - (i) the conditions and restrictions on export in orders 4.05 to 4.14 are complied with; and
  - (ii) the relevant importing country requirements are complied with;

**Clause 4**

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the officer may make a written verification of the matters referred to in subparagraphs (b) (i) and (ii).

*Note 1* See also sections 6 and 15 of the Act.

*Note 2* For suspension or revocation of the approval of the approved arrangement if the matters specified in subparagraphs (b) (i) and (ii) are not complied with see paragraph 20.1 (a) of Schedule 1. For dispositions applied by an authorised officer if, for example, poultry meat or poultry meat products are found to have deteriorated see order 8.02. For dispositions where integrity is not assured see clause 7 of Schedule 7.

**4 Inspections, examinations and sampling**

An authorised officer may conduct such inspections, and examinations and take such samples as are necessary for the purposes of verifying compliance with the conditions, restrictions and requirements referred to in paragraph 3 (b).

**5 Verification under approved arrangement**

5.1 If a person who manages or controls operations at the establishment at which poultry meat or poultry meat products are last prepared before export:

- (a) inspects the poultry meat or poultry meat products; and
- (b) has reasonable grounds to believe that the conditions, restrictions and requirements referred to in paragraph 3 (b) are complied with in relation to the poultry meat or poultry meat products;

the person may, for the purposes of an application for an export permit for the poultry meat or poultry meat products, give the Secretary a written verification to this effect.

5.2 Subclause 5.1 applies only if the approved arrangement:

- (a) provides for procedures for inspection of the poultry meat or poultry meat products and for verification of compliance for the purposes of applications for export permits; and
- (b) designates the person as a person who may make such a verification.

*Note* If it is an importing country requirement that inspection and verification arrangements be conducted only by authorised officers this needs to be set out in the approved arrangement: clause 11 of Schedule 2.

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**Clause 6**

5.3 The verification must:

- (a) be signed by the maker and dated; and
- (b) state that all the information given is true and complete.

5.4 The verification must not:

- (a) be false or misleading; or
- (b) be given if there is no sound basis for the verification.

*Note 1* For suspension or revocation of the approved arrangement if these requirements are not complied with see paragraph 20.1 (a) of Schedule 1.

*Note 2* It is an offence to make false or misleading statements to a Commonwealth entity: *Criminal Code* Part 7.4.

*Note 3* For how the verification is to be given electronically see Part 3 of this Schedule.

### **Division 1.3 Permission to export**

## **6 Export permits given by Secretary**

6.1 The Secretary may give the person named as the exporter in an application for an export permit for poultry meat or poultry meat products an export permit for the poultry meat or poultry meat products if all of the following circumstances exist:

- (a) a notice of intention to export the poultry meat or poultry meat products is given to the Secretary;
- (b) an authorised officer has had an opportunity to inspect the poultry meat or poultry meat products, if required;
- (c) the application given contains the information required by subclause 1.2;
- (d) a verification referred to in clause 3 or 5 is made or given to the Secretary;
- (e) the Secretary is satisfied that the conditions and restrictions in orders 4.05 to 4.14 are complied with;
- (f) the Secretary is satisfied that the information given to the Secretary in, or in connection with the application is accurate and complete and that there is a sound basis for the information.

*Note 1* For the prohibition on granting an export permit if certain amounts required to be paid under the *Export Inspection and Meat Charges Act 1985* are outstanding, see section 12 of that Act.

**Clause 7**

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*Note 2* For when an export permit may not be given and when there may be revocation of an export permit (including revocation if importing country requirements are not met or if trade could be adversely affected) see clauses 8 and 10.

*Note 3* For how an export permit is given electronically see Part 3 of this Schedule.

- 6.2 Subclause 6.1 does not apply to a permit generated as described in subclause 7.1.

**7 Automated export permits**

- 7.1 This clause applies to an export permit that is an electronic notice generated as a result of the operation of a computer operating system specified in paragraph 16.1 (a).
- 7.2 An export permit for poultry meat or poultry meat products may be given to the person named in an application for an export permit as the exporter of the poultry meat or poultry meat products.
- 7.3 The Secretary must take all reasonable steps to ensure that the computer operating system does not result in the giving of export permits for poultry meat or poultry meat products unless there are reasonable grounds to believe that:
- (a) a notice of intention to export the poultry meat or poultry meat products has been given to the Secretary; and
  - (b) an authorised officer has had an opportunity to inspect the poultry meat or poultry meat products, if required; and
  - (c) the application for an export permit for the poultry meat or poultry meat products contains the information required by subclause 1.2; and
  - (d) a verification referred to in clause 3 or 5 for the poultry meat or poultry meat products is made or given to the Secretary; and
  - (e) the conditions and restrictions specified in orders 4.05 to 4.14 are complied with; and
  - (f) the information given to the Secretary in, or in connection with, the application for the export permit is accurate and complete and there is a sound basis for the information.



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**Clause 8**

*Note 1* For the prohibition on granting an export permit if certain amounts required to be paid under the *Export Inspection and Meat Charges Act 1985* are outstanding, see section 12 of that Act.

*Note 2* For when an export permit may not be granted and for revocation of an export permit (including revocation if importing country requirements are not met or if trade could be adversely affected) see clauses 8 and 10.

- 7.4 An export permit given under this clause is taken to be given by the Secretary.

*Note* For how an export permit is given electronically see Part 3 of this Schedule.

**8 Restrictions on giving export permit**

- 8.1 An export permit must not be given for poultry meat or poultry meat products if the Secretary has reasonable grounds to believe that:

- (a) a condition or disease that could affect the acceptability of poultry meat or poultry meat products to the importing country is present in Australia; or
- (b) the export of the poultry meat or poultry meat products could result in trade in the export from Australia of goods being adversely affected; or
- (c) information given to the Secretary in relation to the poultry meat or poultry meat products is inaccurate or incomplete or does not have a sound basis.

- 8.2 An export permit need not be given for poultry meat or poultry meat products if the Secretary has reasonable grounds to believe that:

- (a) a relevant importing country requirement for the poultry meat and poultry meat products is not complied with; or
- (b) the exporter has failed to consent to the access to the exporter's business premises for the purposes of audit or has failed to provide assistance required by order 6.06; or
- (c) the exporter has failed to comply with the requirements of Part 5 or a written notice under order 8.11.

**Clause 9**

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**9 Allocation of permit number**

The Secretary must take all reasonable steps to ensure that an export permit is allocated a unique identifying number at the time it is given (including generated).

**10 Variation and revocation of export permit**

10.1 The Secretary may, at the written request of the person named in the application for the export permit as the exporter, vary an export permit to:

- (a) correct any error; or
- (b) update the information;  
on the face of the permit.

*Note* For how a notice is to be given see Part 3 of this Schedule.

10.2 The Secretary may revoke an export permit by written notice to the person named as the exporter in the application for the export permit.

10.3 A notice of revocation may be given if the Secretary has reasonable grounds to believe that:

- (a) a condition or restriction specified in Part 4 is not complied with; or
- (b) a relevant importing country requirement for the poultry meat or poultry meat products is not complied with; or
- (c) there is a risk that the poultry meat or poultry meat products have deteriorated or are likely to deteriorate or are, or are likely to be, unwholesome; or
- (d) the intention to export the poultry meat or poultry meat products is abandoned; or
- (e) information given to the Secretary in relation to the poultry meat or poultry meat products is inaccurate or incomplete or does not have a sound basis; or
- (f) a condition or disease that could affect the acceptability of poultry meat or poultry meat products to the importing country is present in Australia; or
- (g) the export of the poultry meat or poultry meat products could result in trade in the export from Australia of goods being adversely affected.

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**Clause 13**

*Note* For how a notice of revocation is to be given electronically see Part 3 of this Schedule.

**11 When an export permit ceases to have effect**

An export permit ceases to have effect:

- (a) at the end of 28 days after the day it is issued; or
- (b) if it is earlier revoked – when it is revoked.

**12 Notice to comply given by authorised officer prevails**

If an export permit is inconsistent with:

- (a) a direction under order 8.10; or
- (b) a disposition applied by an authorised officer in accordance with these Orders;

the permit is, to the extent of the inconsistency, of no effect.

*Note* For dispositions see orders 8.02 and 8.03 and Part 1 of Schedule 5.

**Part 2 Government certificates****13 Application for government certificate**

An application for the issue of a government certificate must:

- (a) be given to the Secretary; and
- (b) be in a form approved by the Secretary; and
- (c) specify the importing country requirements for which a government certificate is required; and
- (d) contain any other information required by the Secretary.

*Note 1* The need to make an application may be satisfied in many cases by satisfying the requirement to give the information in subclause 1.2. Section 23 of the Act anticipates an application is to be made.

*Note 2* It is an offence to make false or misleading statements to a Commonwealth entity: *Criminal Code* Part 7.4.

*Note 3* For when the approved arrangement must identify the importing country requirements for which a government certificate is required see clause 11 of Schedule 2.

**Clause 15**

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**14 Issue of government certificate**

The Secretary may issue a government certificate for poultry meat or poultry meat products to be imported to a country if the Secretary is satisfied that the following are complied with:

- (a) the conditions and restrictions on export specified in Part 4;
- (b) relevant importing country requirements for the poultry meat or poultry meat products;
- (c) any matters specified in the certificate concerning poultry meat and poultry meat products of the kind that are to be exported.

*Note* For how the certificate may be given electronically by the Secretary see Part 3 of this Schedule.

**15 Restrictions on issuing government certificates**

15.1 A government certificate for poultry meat or poultry meat products must not be issued if it appears to the Secretary that:

- (a) an export permit has not been given for the poultry meat or poultry meat products or the permit has ceased to have effect; or
- (b) information given to the Secretary in, or in connection with the application for the certificate is inaccurate or incomplete or does not have a sound basis; or
- (c) a condition or disease that is likely to affect the acceptability of poultry meat or poultry meat products to the importing country is present in Australia; or
- (d) the export of the poultry meat or poultry meat products could result in trade in the export from Australia of goods being adversely affected.

*Note* For cancellation of a government certificate by the Secretary see subsection 23 (3) of the Act.

15.2 A government certificate for poultry meat or poultry meat products prepared for export under State or Territory inspection and audit arrangements must not be issued unless the Secretary is satisfied that:

- (a) the approved arrangement for the poultry meat or poultry meat products provides for the preparation of poultry meat

**Clause 16**

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- or poultry meat products of that kind under State or Territory inspection and audit arrangements; and
- (b) the importing country authority specifies in writing that it will accept the importation of the relevant goods that have been prepared under State or Territory inspection and audit arrangements.
- 15.3 A government certificate need not be issued for poultry meat or poultry meat products if the Secretary is satisfied that:
- (a) the exporter has failed to consent to the access to the exporter's business premises for the purposes of audit or has failed to provide assistance required by order 6.06; or
- (b) the exporter has failed to comply with Part 5 or a direction under order 8.10.

## **Part 3 Giving information or documents about exports**

### **16 Specifications for systems used in transmissions**

- 16.1 For the purposes of section 24A of the Act:
- (a) the computer operating system under the control of the Secretary and known as the EXDOC Operating System is the computer operating system for use for giving documents or information in relation to the export of poultry meat or poultry meat products; and
- (b) the software system under the control of the Secretary and known as the EXDOC Exporter Software Interface System is the software interface system for use for giving documents or information in relation to the export of poultry meat or poultry meat products; and
- (c) a software operating system listed in the document entitled Approved EXDOC Interface Software Suppliers for use for giving documents or information in relation to the export of poultry meat or poultry meat products is a software operating system for that purpose.

*Note* At the commencement of these Orders the document EXDOC Software Suppliers – Contact Details was accessible on the Internet at

<http://www.daff.gov.au/aqis/export/exdoc/software-contact>.

**Clause 17**

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- 16.2 The following are only valid if they are given electronically by being transmitted using the systems specified in subclause 16.1 or, if clause 17 applies, they are given in the manner specified by the Secretary:
- (a) a notice of intention;
  - (b) an application for an export permit;
  - (c) an amendment of an application for an export permit;
  - (d) an application for a government certificate;
  - (e) a verification referred to in clause 3 or 5;
  - (f) an export permit;
  - (g) a revocation of an export permit;
  - (h) a government certificate.
- 16.3 If a person has a disability, or a particular disability, the Secretary must take reasonable steps to ensure:
- (a) the person has equal opportunity to a person who has no disability in relation to giving or issuing of documents referred to in subclause 16.2; and
  - (b) the special needs the person may have in relation to giving the documents are met.

*Note* For when a document or information that is transmitted in accordance with the specifications outlined in this clause is taken to be given see section 24A of the Act.

**17 If the system is inoperative**

If a system described in subclause 16.1 is inoperative, the information must be given in the manner specified by the Secretary in writing.

**18 Specifications for transmissions to person other than Secretary**

An electronic transmission made to a person (other than the Secretary) must be transmitted to the person using the identifying code given to the person under clause 21.

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**Clause 21****19 Authentication specifications for other transmissions**

An electronic transmission made to the Secretary by a person must be authenticated by transmitting the identifying code given to the person under clause 21.

**20 Requirements are specifications for purposes of Act**

The requirements specified in clauses 16 to 19 (inclusive) are prescribed for the purposes of section 24A of the Act.

**21 Allocation of user identifying code**

The Secretary must take all reasonable steps to ensure that a person who wishes to access the EXDOC system for the purposes of subclause 16.2 is given an identifying code for use in electronic transmissions under this Schedule.

**Clause 1**

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**Schedule 9      Approval of auditors**  
(order 6.02)**Part 1      Register of approved auditors****1      Secretary must keep register**

- 1.1 The Secretary must keep a register of approved auditors.
- 1.2 The register must contain the following information about each approved auditor:
  - (a) the auditor's name;
  - (b) whether the approval is for approval as an approved auditor of:
    - (i) operations for the preparation of poultry meat and poultry meat products; or
    - (ii) operations for the export of poultry meat and poultry meat products; or
    - (iii) operations for the certification of poultry meat and poultry meat products;
  - (c) if the approval is for approval as an approved auditor of operations for the preparation of poultry meat and poultry meat products — any limitations of the kind specified in paragraph 5.3 (b).
- 1.3 The Secretary must ensure that the register can be readily accessed by members of the public.



## Part 2 Approval of auditors

### 2 Application for approval

- 2.1 An individual may make a written application for approval as an approved auditor of:
- (a) operations for the preparation of poultry meat or poultry meat products; or
  - (b) operations for the export of poultry meat or poultry meat.
- 2.2 The application must be given to the Secretary and must be accompanied by:
- (a) evidence of the applicant's qualifications; and
  - (b) details of the applicant's experience relevant to the work of an auditor; and
  - (c) documented procedures for the conduct of audits by the applicant.
- 2.3 The application for approval as an approved auditor of operations for the preparation of poultry meat or poultry meat products:
- (a) must specify that approval of the applicant is sought for the audit of compliance with all of the following:
    - (i) all the applicable requirements of the Act and these Orders;
    - (ii) all requirements of approved arrangements and their conditions;
    - (iii) all importing country requirements;for all aspects of the preparation of all poultry meat and poultry meat products at all establishments preparing poultry meat and poultry meat products for export for food; or
  - (b) must specify:
    - (i) the requirements; and
    - (ii) the aspects of preparation; and
    - (iii) the poultry meat and poultry meat products; and

**Clause 3**

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- (iv) the establishments (including industries or industry sectors) of a particular kind;  
in relation to which the approval is sought.

**3 Requests for information, documents or assessment**

The Secretary may, by giving the applicant written notice, ask the applicant to do any of the following that the Secretary reasonably requires in order to decide the application:

- (a) provide further specified information or documents;
- (b) submit to assessment (including by interview, audit or written examination, or any combination of these ways).

**4 Secretary's decision**

- 4.1 The Secretary must decide the application within 30 days after the Secretary receives the application (not including the period between the Secretary's giving the applicant a written notice with a request and the applicant's complying with the request).
- 4.2 If, within 30 days after an application is made, the Secretary has not made a decision whether to approve the applicant as an auditor, the Secretary is taken to have decided at the end of the 30 days not to approve the applicant as an auditor.

**5 Approval**

- 5.1 The Secretary may, by written notice given to an applicant, approve the applicant as an auditor if the Secretary is satisfied that:
  - (a) the applicant is a fit and proper person having regard to the matters specified in section 4.05 of the *Export Control (Prescribed Goods — General) Order 2005*; and
  - (b) the applicant has the necessary knowledge, training, skills and experience to competently carry out audits of the kind for which approval is sought; and
  - (c) audits conducted by the applicant will be objective, independent, fair and accurate and, unless stated otherwise in the audit report, will be complete; and

**Clause 6**

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- (d) the applicant will comply with the requirements of Division 6.2; and
  - (e) the applicant will comply with documented procedures for the conduct of audits that are necessary to ensure that:
    - (i) the matters specified in paragraphs (c) and (d) are met; and
    - (ii) an accurate assessment can be made whether the matters specified in paragraphs (c) and (d) are met.
- 5.2 Without limiting the matters that the Secretary may take into account for the purposes of subclause 5.1, the Secretary may take into account any real or perceived conflict of interest that could arise if the applicant were to be approved.
- 5.3 A notice of approval of an approved auditor of operations for the preparation of poultry meat and poultry meat products:
- (a) must specify that the approval is for the audit of compliance with all of the requirements referred to in paragraph 2.3 (a) for all aspects of the preparation of all poultry meat and poultry meat products at all establishments preparing poultry meat and poultry meat products for export for food; or
  - (b) must specify:
    - (i) the requirements; and
    - (ii) the aspects of preparation; and
    - (iii) the poultry meat and poultry meat products; and
    - (iv) the establishments (including industries or industry sectors) of a particular kind;in relation to which the approval is given.

**6 Identity cards**

- 6.1 The Secretary must cause an identity card, in a form approved by the Secretary, to be issued to an approved auditor.
- 6.2 If a person in possession of an identity card issued to the person under subclause 6.1 ceases to be an approved auditor, the person must forthwith return the identity card to the Secretary or a person nominated by the Secretary.

*Level 1 penal provision*

**Clause 7**

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*Note* Breach of a level 1 penal provision is punishable by a fine of up to 10 penalty units: regulation 4 of the *Export Control (Orders) Regulations 1982*.

**7 When Secretary need not approve auditor**

The Secretary need not approve the applicant as an auditor if:

- (a) the applicant (either alone or jointly with another person) owes an amount payable to the Department; or
- (b) it appears to the Secretary that the applicant has, in an application or other document given to the Secretary, or in a document or information required to be made or given under the Act or these Orders, made a statement:
  - (i) that is false, misleading, or incomplete; or
  - (ii) for which there was no sound basis.

**8 Notice of decision**

8.1 If the Secretary decides not to approve the applicant as an approved auditor (except because of subclause 4.2), the Secretary must give the applicant written notice of the decision.

8.2 The notice must state:

- (a) the reasons for the decision; and
- (b) that a person whose interests are affected by the decision may apply for reconsideration of the decision.

*Note* For reconsideration and review of decisions see Division 10.1.

**9 Approvals may be subject to conditions**

9.1 The Secretary may:

- (a) approve a person as an approved auditor subject to conditions specified in the notice of approval; and
- (b) by written notice to the approved auditor, impose new conditions or vary or revoke a condition.

9.2 The Secretary may only impose conditions that the Secretary considers are relevant for the purposes of ensuring that the matters specified in paragraphs 5.1 (b) to (e) are met.

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**Clause 11**

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**10 How long approval lasts**

- 10.1 The approval of a person as an auditor has effect on and from:
- (a) the day when the notice of approval is given to the person; or
  - (b) if a later day is stated in the notice of approval as the day the approval takes effect – that day.
- 10.2 However, if the auditor must pay a fee under the *Export Control (Fees) Orders 2001*, the approval does not have effect until the fee is paid.
- 10.3 The approval of a person as an auditor ceases to have effect:
- (a) at the end of 12 months after the day on which it takes effect; or
  - (b) if it is revoked before then — when the revocation takes effect.

*Note* For revocation see clause 12.

**11 Assessing competence of approved auditor**

- 11.1 The Secretary may assess the competence of an approved auditor, as often as the Secretary thinks necessary.
- 11.2 Without limiting subclause 11.1, the assessment may include:
- (a) the examination of reports made by the auditor in the course of auditing operations under these Orders; and
  - (b) the audit of at least 1 operation that the auditor has conducted under these Orders within the previous 6 months; and
  - (c) observing the auditor while he or she is conducting an audit.

**Clause 12**

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**Part 3 Revocation of approval of auditor****12 Revocation**

12.1 The Secretary may, by written notice to an auditor, revoke his or her approval as an approved auditor if the Secretary has reasonable grounds to believe that:

- (a) the auditor is not a fit and proper person having regard to the matters specified in section 4.05 of the *Export Control (Prescribed Goods — General) Order 2005*; or
- (b) the auditor does not have the necessary knowledge, training, skills and experience to competently carry out audits of the kind for which approval was given or has failed to show reasonable competence in audit work; or
- (c) an audit conducted or an audit report prepared by the auditor is not objective, independent, fair or accurate, or is incomplete (and the audit report fails to give reasons why the audit is incomplete); or
- (d) the auditor has failed to comply with a requirement of Division 6.2 or a condition of the auditor's approval; or
- (e) the auditor has, in the application or other document given to the Secretary or in a document or information required to be made or given under the Act or these Orders, made a statement:
  - (i) that is false, misleading, or incomplete; or
  - (ii) for which there is no sound basis.

12.2 Without limiting the matters that the Secretary may take into account for the purposes of subclause 12.1, the Secretary may take into account any real or perceived conflict of interest.

12.3 A notice of revocation must state:

- (a) the reasons for the revocation; and
- (b) that a person whose interests are affected by the decision to revoke may apply for reconsideration of the decision.

Note For reconsideration and review of decisions see Division 10.1.

12.4 A revocation has effect on and from:

**Clause 12**

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- (a) the day when written notice of the revocation is given to the auditor; or
- (b) if a later day is day specified in the notice of revocation as the day it has effect — that day.

Clause 1

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## Schedule 10 Provision of services of authorised officers

(order 8.09)

### Part 1 Application and allocation

#### 1 Application

1.1 The occupier of a registered establishment must, at least 1 month before commencing or recommencing export operations in connection with the preparation of poultry meat and poultry meat products at the establishment, in the form approved by the Secretary:

- (a) notify the Secretary of the intended operations of the establishment including details of months, weeks, days and hours of operation, number of chains and chain speeds for each species of animals; and
- (b) apply for inspection services.

1.2 If an occupier of a registered establishment does not comply with subclause 1.1, no inspection services are to be allocated to that establishment.

*Note* If the presence of an authorised officer is required, production must not commence until an authorised officer is present: order 8.09.

#### 2 Allocation

2.1 The Secretary must determine the preliminary allocation of inspection services for a particular registered establishment having had regard to the following:

- (a) the overall requirements of the industry for inspection services;
- (b) Australia's international obligations;
- (c) the matters referred to in subsections 17.03 (3) and (4) of the *Export Control (Prescribed Goods — General) Order 2005*;
- (d) the construction of the particular registered establishment;



**Clause 5**

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(e) the intended operations of the particular registered establishment.

- 2.2 Subject to this clause, inspection services may be allocated on an annual basis, on a monthly basis, on a weekly basis, on a daily basis, on an hourly basis or on any combination of these bases.
- 2.3 For the purposes of these Orders, an annual allocation can only be made to a registered establishment which operates for 10 months in the 12 month period 1 July in any year to 30 June in the following year.

**3 Notification of preliminary determination**

The Secretary must give the occupier of the registered establishment written notice of the Secretary's preliminary determination of the allocation of inspection services and, as appropriate and necessary, must advise the occupier of ways in which the occupier could reduce his or her requirement for inspection services.

**4 Agreed preliminary determination**

If the occupier accepts the Secretary's preliminary determination, the Secretary and the occupier must complete a memorandum of agreed intent in the form approved by the Secretary.

**5 Disputed preliminary determination**

- 5.1 If the occupier does not accept the Secretary's preliminary determination, the occupier may, within the period of 7 days after the day when the occupier receives the Secretary's determination, apply to the Secretary for the establishment of a Committee to review the Secretary's determination.
- 5.2 If within the period of 7 days after the day when the occupier receives the Secretary's determination:
- (a) the occupier does not apply for a review of the Secretary's determination; or

**Clause 6**

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- (b) the occupier and the Secretary do not complete a memorandum of agreed intent;  
the Secretary's determination is deemed to be a memorandum of agreed intent.

**6 Revised determination**

If both of the following circumstances exist:

- (a) the occupier decides to implement suggestions contained in the Secretary's advice to the occupier;  
(b) this will alter the occupier's requirement for inspection services and necessitate the calculation of a new determination by the Secretary on the allocation of inspection services;

the Secretary must make a revised determination and give the occupier written notice of the revised determination.

**7 Agreed revised determination**

If the occupier accepts the Secretary's revised determination, the Secretary and occupier must complete a memorandum of agreed intent in the form approved by the Secretary.

**8 Disputed revised determination**

- 8.1 If the occupier does not accept the Secretary's revised determination, the occupier may, within the period of 7 days after the day when the occupier receives the Secretary's revised determination, apply to the Secretary for the establishment of a Committee to review the Secretary's revised determination.
- 8.2 If within the period of 7 days after the day when the occupier receives the Secretary's revised determination:
- (a) the occupier does not apply for a review of the Secretary's revised determination; and  
(b) the occupier and the Secretary do not complete a memorandum of agreed intent;
- the Secretary's revised determination is deemed to be a memorandum of agreed intent.

**Clause 11**

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**9 Review Committee**

- 9.1 If the Secretary receives an application from an occupier in accordance with subclause 5.1 or 8.1, the Secretary must establish a Committee comprising the following:
- (a) the occupier or a representative of the occupier;
  - (b) the Executive Director of the Australian Quarantine and Inspection Service or the Executive Director's delegate being an authorised officer who is formally appointed under section 20 of the Act to a position within the Department at the level of Senior Executive Service;
  - (c) a representative of the relevant union or unions of authorised officers if the dispute is over a staffing issue;
  - (d) a poultry meat industry representative nominated by the occupier.
- 9.2 The Secretary must convene the first meeting of the Committee.

**10 Committee to review determination**

- 10.1 The Committee must review the occupier's application and the Secretary's advice and determination.
- 10.2 The Committee must as soon as practicable and not later than 14 days after the day when it first meets, make a recommendation to the Secretary on the appropriate level of inspection services.

**11 Secretary to reconsider determination**

- 11.1 The Secretary, having had regard to the Committee's recommendation and to the matters listed in paragraphs 2.1 (a) to (e) must determine the allocation of inspection services for the occupier's registered establishment.
- 11.2 The Secretary's determination under this clause is deemed to be a memorandum of agreed intent and is substituted for any previous determination.

**Clause 12**

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**12 Secretary to advise of decision**

The Secretary must, by written notice as soon as practicable and not later than 30 days after the day when the Secretary receives an application in accordance with subclause 5.1 or 8.1, inform the applicant of the decision made under subclause 11.1 in respect of the application and of the reasons for the decision.

**13 Application to Administrative Appeals Tribunal**

Application may be made to the Administrative Appeals Tribunal for review of a decision of the Secretary under subclause 11.1.

**14 Statement in notice**

A notice referred to in clause 12 must include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal by or on behalf of a person whose interests are affected by the decision for review of the decision to which the notice relates.

*Note* Under section 27A of the *Administrative Appeals Tribunal Act 1975*, the decision-maker must give to any person whose interests are affected by the decision notice, in writing or otherwise, of the making of the decision and of the person's right to have the decision reviewed. In giving that notice, the decision-maker must have regard to the Code of Practice determined under section 27B of that Act (Gazette No. S 432, 7 December 1994). At the commencement of these Orders, this Code of Practice was accessible on the Internet at

<http://www.comlaw.gov.au/comlaw/Legislation/LegislativeInstrument1.nsf/0/A6B3CB78664F368FCA2570B400708584?OpenDocument>.

**15 Decision not affected**

A failure to comply with clause 14 in relation to a decision is not taken to affect the validity of the decision.

**16 Clauses to apply in lieu of Division 10.1**

Clause 5 and clauses 8 to 15 inclusive are to be read, as applicable, in lieu of Division 10.1.

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**Clause 20**

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**17 Meaning of *decision***

For the purposes of clauses 12 to 15:

*decision* means a determination made under subclause 11.1.

**Part 2 Alteration of allocation of inspection services****18 Notification of proposed changes**

The occupier must notify the Secretary of any proposed changes to the construction of the registered establishment or to the occupier's operations which may affect the allocation of inspection services.

**19 Application to alter allocation of inspection services**

- 19.1 An occupier may apply in writing to the Secretary within 1 months written notice, to alter the occupier's allocation of inspection services.
- 19.2 Notwithstanding subclause 19.1, if inspection services are allocated on an hourly basis, an occupier may, with 1 weeks written notice, apply to alter the occupier's allocation of inspection services.
- 19.3 For the purposes of this clause, alter the occupier's allocation of inspection service does not include:
- (a) applying for additional inspection services under clause 20; or
  - (b) advising that no inspection services are required during a period of shutdown under clause 22.

**20 Additional inspection services**

- 20.1 An occupier may apply in writing to the Secretary for inspection services in addition to the occupier's allocation of inspection services which additional services may be provided, subject to this clause, on a monthly, weekly, daily or hourly basis.

**Clause 21**

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- 20.2 If inspection services are allocated on an annual basis, an occupier may, with 2 weeks written notice, apply for additional inspection services on a monthly or weekly basis.
- 20.3 If inspection services are allocated on a monthly basis, an occupier may, with 2 weeks written notice, apply for additional inspection services on a weekly basis.
- 20.4 If all inspection services are allocated on a weekly basis an occupier may:
- (a) with 2 weeks written notice, apply for additional inspection services on a weekly basis; or
  - (b) with 1 weeks written notice, apply for additional inspection services on a daily basis.
- 20.5 If inspection services are provided on a daily basis, an occupier may, with 1 weeks written notice, apply for additional services on a daily basis.
- 20.6 If inspection services are provided on an hourly basis, an occupier may, with 1 weeks written notice, apply for additional inspection services on an hourly basis.
- 20.7 If an occupier applies for additional inspection services but does not give the required notice, subject to cost efficiency considerations, the Secretary must attempt to provide additional inspection services at the earliest possible time.

**21 Termination of additional inspection services**

If no period is specified in the application for additional inspection services, an occupier may terminate the additional inspection services or any part thereof by giving 2 weeks' written notice to the Secretary.

**22 Shutdown**

- 22.1 An occupier may, by giving written notice to the Secretary advise that inspection services are not required for a period of shutdown specified in the notice.
- 22.2 For the purposes of this clause, a period of shutdown must be a continuous period of 14 days or more.

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**Clause 26**

- 22.3 The clause applies only to registered establishments which have inspection services allocated on an annual basis or on a combination basis which includes annual.

**23 Change in allocation**

If any of the circumstances listed in paragraphs 2.1 (a) to (e) change and, as a consequence, it is necessary for the Secretary to vary the allocation of inspection services, the Secretary must advise the occupier of the revised allocation of inspection services.

**24 Disputed allocation**

- 24.1 If the occupier does not agree with the revised allocation made under clause 23, the occupier may apply to the Secretary for a reconsideration of that allocation and the Secretary must enter into negotiations with the occupier.
- 24.2 If agreement between the occupier and the Secretary cannot be reached, the Secretary must seek to reach agreement with a representative of the relevant industry organisation nominated by the occupier.
- 24.3 If agreement is still not reached, the Secretary, having considered the views put to the Secretary and the matters in paragraphs 2.1 (a) to (e), must determine the allocation of inspection services.

**25 Initial allocation ceases to have effect**

If the Secretary makes a decision under subclause 24.3, the allocation made under clause 23 ceases to have effect.

**26 Secretary to advise of decision**

The Secretary must, by giving the applicant written notice, as soon as practicable and not later than 30 days after the day when the Secretary receives an application in accordance with subclause 24.1, inform the applicant of the decision made under subclause 24.3 in respect of the application and of the reasons for the decision.

**Clause 27**

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**27 Application to Administrative Appeals Tribunal**

Application may be made to the Administrative Appeals Tribunal for review of a decision of the Secretary under subclause 24.3.

**28 Statement in notice**

A notice referred to in clause 26 must include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal by or on behalf of a person whose interests are affected by the decision for review of the decision to which the notice relates.

*Note* Under section 27A of the *Administrative Appeals Tribunal Act 1975*, the decision-maker must give to any person whose interests are affected by the decision notice, in writing or otherwise, of the making of the decision and of the person's right to have the decision reviewed. In giving that notice, the decision-maker must have regard to the Code of Practice determined under section 27B of that Act (Gazette No. S 432, 7 December 1994). At the commencement of these Orders, this Code of Practice was accessible on the Internet at

<http://www.comlaw.gov.au/comlaw/Legislation/LegislativeInstrument1.nsf/0/A6B3CB78664F368FCA2570B400708584?OpenDocument>.

**29 Decision not affected**

A failure to comply with clause 28 in relation to a decision does not affect the validity of the decision.

**30 Clauses to apply in lieu of Division 10.1**

Clauses 24 to 29 inclusive are to be read, as applicable, in lieu of Division 10.1.

**31 Meaning of decision**

For the purposes of clauses 25 to 29:

*decision* means a determination made under subclause 24.3.



**32 Withdrawal of inspection services**

The Secretary may withdraw inspection services if fees payable for inspection services remain unpaid 14 days after the due date for payment.

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**Notes**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).
2. The *Export Control (Wild Game Meat and Wild Game Meat Products) Orders 2010* are to commence on 1 December 2010 (or if they have not been registered by 1 December 2010, the day after they are registered).