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Outline of the Export Control (Plants and Plant Products) Rules 2021

Improved agricultural export legislation



Introduction

Australia's new agricultural export legislation began on 28 March 2021. It comprises the *Export Control Act 2020* (the Act), and the *Export Control Rules 2021* (the Rules) which set out the operational requirements that must be met to export specific goods from Australia (e.g. vegetables).

The *Export Control (Plants and Plant Products) Rules 2021* (the Plant Rules) specify how plants and plant products prepared for export are regulated. The Plant Rules must be read in conjunction with the Act. They set out:

- which plants and plant products are regulated
- how they will be regulated
- high-level operational requirements for people and entities in the export supply chain.

At the commencement of the new legislation, the Plant Rules replaced the previous plant export legislation, including:

- *Export Control (Plants and Plant Products) Order 2011*
- *Export Control (Plants and Plant Products—Norfolk Island) Order 2016*
- the relevant parts of the *Export Control (Prescribed Goods—General) Order 2005*.

The regulatory controls and oversight in the previous legislation has been maintained.

Structure and content

Chapter 1 – Preliminary

This chapter outlines the Plant Rules and defines key terms.

Chapter 2 – Exporting goods

This chapter sets out which plants and plant products are prescribed goods. These are the goods that will be regulated under the new export legislation.

It specifies conditions for the export of prescribed plants and plant products.

In some cases, exporters can apply for an exemption from certain provisions in the Act and the Plant Rules. Chapter 2 details what is required for an exemption, as well as:

- applications for an exemption
- conditions of exemption
- the period of effect of an exemption
- matters the Secretary of the Department of Agriculture, Water and the Environment must consider when granting or revoking the exemption.

Chapter 2 also covers the application and issue of government certificates such as phytosanitary certificates.

Chapter 3 – Accredited properties

This chapter sets out the:

- requirements for accreditation of a property
- conditions and obligations of accreditation
- process for varying, suspending and revoking accreditation.

Chapter 4 – Registered establishments

This chapter sets out the:

- requirements for registration of an establishment
- conditions and obligations of registration
- process for varying, suspending and revoking registration.

Chapter 5 – Approved arrangements

This chapter does not apply to plants and plant products.

Chapter 6 – Export licences

This chapter does not apply to plants and plant products.

Chapter 7 – Export permits

This chapter specifies the validity periods for export permits. It also sets out:

- conditions of permits and permit holder's obligations
- circumstances in addition to those listed in the Act when an export permit may be varied, suspended and revoked
- other matters, including when an export permit is no longer in force.

Chapter 8 – Other matters relating to export

When an exporter gives notice of intention to export, they must meet certain requirements. Chapter 8 sets out these requirements, which include:

- giving notice as soon as possible
- who the notice must be submitted to
- providing additional or corrected information when it becomes known.

This chapter also sets out:

- the requirements for trade descriptions
- the use, manufacture and possession of official marks and official marking devices. The Plant Rules mention several official marks. Only 2 of these are currently relevant for plant exports:
 - the Australian Government logo, which is applied to a government certificate when it is granted
 - the bolt seal, where Japan have an importing country requirement for the application of the bolt seal to containers.

Chapter 9 – Powers and officials

This chapter covers audits, including:

- how an audit is to be conducted
- what the audit report must include
- the process for dealing with any non-compliance found during an audit.

Chapter 9 also sets out that the Secretary may require or allow an assessment of goods. This applies to all plants and plant products, except fresh fruit and vegetables being exported to a country that does not require phytosanitary certification. This is consistent with current export practices.

Chapter 9 also sets out the requirements that must be met for goods to pass an assessment.

The chapter outlines powers and functions of authorised officers including:

- assessment of goods (previously known as an export compliance inspection)
- container and bulk vessel inspection and approval
- the assessment or supervision of treatments.

Chapter 10 – Compliance and enforcement

There are no additional requirements in the Plant Rules. All the compliance and enforcement provisions are in the Act.

Chapter 11 – Miscellaneous

This chapter sets out:

- requirements for records management
- storage requirements for samples of plants and plant products
- determining compensation for damaged or destroyed plants or plant products
- matters relating to Commonwealth liabilities
- the qualifications for marine surveyors who survey bulk vessels for plant exports.

Further information

Email: exportlegislation@agriculture.gov.au

Web: agriculture.gov.au/market-access-trade/export-regulation-review