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Outline of the Export Control (Fish and Fish 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. fish).

The Export Control (Fish and Fish Products) Rules 2021 (the Fish Rules) specify how fish and fish products prepared for export are regulated.

At the commencement of the new legislation, the Fish Rules replaced the previous legislation, including the Export Control (Fish and Fish Products) Orders 2005. The regulatory controls and oversight in the previous legislation has been maintained.

The Fish Rules set out the rules for regulating the export of fish and fish products. They specify the operational requirements that must be complied with to export prescribed fish and fish products. The Fish Rules must be read in conjunction with the Act.

Chapter 1 – Preliminary

This chapter contains an outline of the Fish Rules, including definitions of key terms.

Chapter 2 – Prescribed goods

This chapter sets out the fish and fish products that are prescribed goods. These are goods that are regulated under agricultural export legislation. This chapter also identifies when prescribed goods are not considered to be prescribed goods. It specifies conditions for the export of fish and fish products from Australia.

This chapter also sets out what is required to apply for an exemption from provisions in the Act and the Fish Rules. These include goods being exported:

- as a commercial sample
- for experimental purposes
- in exceptional circumstances.

This chapter also covers:

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

This chapter also provides information on government certificates including:

- circumstances in which government certificates may be issued or refused
- information required to apply for a government certificate
- specific circumstances for refusal to issue government certificates.

Chapter 3 – Accredited properties

This chapter does not apply to fish and fish products.

Chapter 4 – Registered establishments

This chapter sets out the:

- requirements for registration of an establishment
- conditions of registration
- the process for suspending and revoking registration.

Chapter 5 – Approved arrangements

This chapter sets out the:

- requirements for a proposed arrangement to be approved
- subsequent conditions of the approval
- process to be followed and information to be provided to apply for an approved arrangement.

This chapter also covers circumstances in which an approved arrangement may be varied, suspended or revoked.

Chapter 6 – Export licences

This chapter does not apply to fish and fish products.

Chapter 7 – Export permits

This chapter specifies that an export permit (or a varied export permit) remains in force for 28 days. This chapter also sets out:

- circumstances in which an export permit may be suspended and revoked
- other matters, including the requirement to return an export permit.

Chapter 8 - Other matters relating to export

This chapter sets out the general requirements for trade descriptions, including the requirement to provide these descriptions in English. This chapter also specifies the use, manufacture and possession of official marks and official marking devices.

Chapter 9 – Powers and officials

This chapter sets out how an audit is to be conducted and what must be included in the audit report, as well as the process for dealing with any non-compliance identified during the audit. This chapter also covers the approval of individuals to conduct an audit.

This chapter provides that the Secretary may require or permit an assessment at any stage of export operations. It sets out:

- the process that must be followed after the completion of an assessment
- requirements for the application and approval of individuals to carry out assessments (approved assessors)
- the information and documents the applicant must provide.

This chapter outlines the powers and functions of authorised officers.

Chapter 10 – Compliance and enforcement

This chapter sets out:

- the process that must be followed if a sample is taken for the purposes of monitoring or investigating compliance with the Act
- the process for dealing with things seized when exercising investigative powers.

Chapter 11 – Miscellaneous

This chapter:

- lists reviewable decisions
- specifies the procedures for taking and sampling fish and fish products
- specifies the general requirements for records management
- covers the division of compensation for damaged or destroyed fish or fish products
- details with matters relating to Commonwealth liabilities and circumstances in which the liabilities are paid.

Further information

Email: exportlegislation@agriculture.gov.au

Web: agriculture.gov.au/market-access-trade/improving-export-legislation