

# **Reconsideration and Review of Decisions – Export Control (Fish and Fish Products) Orders 2005**

If you believe that the decision of an authorised officer to give a direction under Part 8 of the *Export Control (Fish and Fish Products) Orders 2005* (hereinafter referred to as the Orders) is unreasonable, there is a process in place by which you can ask for a review of that decision. See <http://www.daffa.gov.au/aqis/quarantine/legislation/export> for the relevant legislation.

It is your responsibility as an occupier of an AQIS registered establishment or as an exporter to ensure that you have read the relevant parts of the legislation to fully understand your rights in requesting a review of a decision and the circumstances under which you are eligible to seek a review of a decision.

The information below is provided in plain English and must be read in conjunction with the legislation.

If after reading the attached document, you intend to lodge a request for review of a decision and you have difficulty in accessing the legislation from the above link, please contact the local AQIS office as soon as possible and request a hard copy.

## **Reconsideration and review process for decisions to issue directions**

### **Application for reconsideration by senior authorised officer**

In the first instance, if you are a person whose interests are affected by a decision to make a direction, you may make a written application for a reconsideration of the decision by a senior authorised officer at the AQIS office in the State or Territory where the direction was given.

This application must:

- be given to the senior authorised officer within 7 days after the day on which you first receive notice of the authorised officer's decision or such further period as the senior authorised officer allows; and
- set out the reasons for the application.

Since many of these decisions are given when an establishment is being audited and the audit reports are discussed with someone in management or control of the operations, you may first receive notice of the authorised officer's decision on the date of the audit via the written audit report.

Your application for review must be specific about the aspect or aspects of the decision you are asking to be reviewed.

You will be sent written notice of the senior authorised officer's decision, and the reasons for that decision, within 14 days after the date the senior authorised officer receives your application.

### **Application to the Secretary**

If for any reason you are not satisfied with the senior authorised officer's decision you may apply to the Secretary for a review of the senior authorised officer's decision.

This application must:

- be given to the Secretary no later than 7 days after the day on which you first receive notice of the senior authorised officer's decision; and

- set out the reasons for the application. The reasons must clearly specify the aspect or aspects of the decision you are asking to be reviewed.

You will be sent written notice of the Secretary's decision, and the reasons for that decision, within 28 days from the date the Secretary receives your application.

### **No appeal to the Administrative Appeals Tribunal (AAT)**

Under Order 97 there is no right to apply to the AAT for a review of the decisions of the authorised officer, the senior authorised officer or the Secretary. Judicial review may be available under the *Administrative Decisions (Judicial Review) Act 1977* or at common law. Ombudsman review may also be available.

### **Reconsideration and review process for decisions to suspend or revoke registration of a registered establishment, or to suspend or revoke part or all of an approved arrangement**

If your interests are affected by a decision of the Secretary made under:

- Order 4.27 of the *Export Control (Prescribed Goods – General) Order 2005* to suspend the registration of an establishment for non-payment of debt, or
- Order 4.29 of the *Export Control (Prescribed Goods- General) Order 2005* to revoke the registration of a registered establishment; or
- Schedule 2, clause 21.1 of the Orders to suspend or revoke an approved arrangement.

you can apply to the Secretary for a reconsideration of his or her initial decision. The reconsideration right is set out in Part 16 of the *Export Control (Prescribed Goods – General) Order 2005* and is applied to registered establishments and approved arrangements by Part 9 Division IV of the Orders.

### **Application for reconsideration by the Secretary**

Your application for reconsideration by the Secretary of his or her initial decision must:

- be given to the Secretary within 28 days after the date you first receive notice of the Secretary's initial decision or such further period as the Secretary allows;
- be in writing; and
- set out the reasons for the application. In the reasons you must be specific about what aspect or aspects of the Secretary's initial decision you are asking to be reconsidered.

You will be sent written notice of the Secretary's decision, and the reasons for that decision, within 45 days after the date on which the Secretary receives your application for reconsideration.

### **Application to the AAT**

If your interests are affected by the Secretary's decision following reconsideration of his or her initial decision, you may apply to the AAT for a review of the Secretary's decision. This review can only take place after the Secretary has reconsidered his or her initial decision.