



Australian Meat and Live-stock Industry (Sheepmeat and Goatmeat Export to the European Union — Quota Year 2011) Order 2010¹

Australian Meat and Live-stock Industry Act 1997

I, SIMON MURNANE, delegate of the Secretary of the Department of Agriculture, Fisheries and Forestry, make this Order under section 17 of the *Australian Meat and Live-stock Industry Act 1997*.

Dated 15 November 2010

A handwritten signature in black ink, appearing to read 'Simon Murnane', is written over a horizontal line.

Delegate of the Secretary of the Department of Agriculture, Fisheries and Forestry

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Part 1 Preliminary

1 Name of Order

This Order is the *Australian Meat and Live-stock Industry (Sheepmeat and Goatmeat Export to the European Union — Quota Year 2011) Order 2010*.

2 Commencement

This Order commences on the day after it is registered.

3 Definitions

In this Order:

access amount, for a year, means the total carcase equivalent weight of quota meat that may, under the law of the EU dealing with Community tariff quotas for sheepmeat and goatmeat, be exported from Australia to the EU during the year.

Act means the *Australian Meat and Live-stock Industry Act 1997*.

approval means an approval for an export issued under Part 4.

AQIS means the operating group of the Department known as the Australian Quarantine and Inspection Service.

AUS-MEAT means AUS-MEAT Limited (ACN 082 528 881).

AUS-MEAT handbook cut number, for a cut of meat, means the number for that cut of meat set out in the *AUS-MEAT RFP Cut Code Reference Booklet — 1999*, published by AUS-MEAT, as amended and in force at the commencement of this Order.

AUS-MEAT meat type cipher, for a type of meat, means the cipher for that type of meat set out in the *AUS-MEAT RFP Cut Code Reference Booklet — 1999*, published by AUS-MEAT, as amended and in force at the commencement of this Order.

carcase equivalent weight, for meat, means:

- (a) for bone-in meat — its weight; or
- (b) for boneless mutton — its weight divided by 0.55; or
- (c) for boneless goatmeat — its weight divided by 0.55; or
- (d) for boneless lamb — its weight divided by 0.6.

certificate means the Document of Origin required by the EU for sheepmeat or goatmeat exported to the EU.

Note Part 5 provides for the issue of certificates.

consignment means a single shipment of quota meat (by sea or air) by an exporter to a single consignee.

consignment information, for a consignment, means the information given to the QA Unit by the exporter of the consignment.

Department means the Australian Government Department of Agriculture, Fisheries and Forestry.

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eligible exporter means an exporter to which an EU quota is allocated, or to which all or part of an EU quota is transferred.

establishment means premises that:

- (a) are under the full-time inspection and supervision of AQIS; and
- (b) are registered under the *Export Control Act 1982*; and
- (c) have been accredited by AUS-MEAT and AQIS for the export of meat to the EU.

EU means the European Union.

EU quota means the quantity of quota meat that an eligible exporter is entitled to export to the EU.

EXDOC means the electronic documentation system maintained by AQIS.

exporter means the holder of a meat export licence allowing the holder to export sheepmeat or goatmeat to the EU.

meat does not include edible offal.

performance, for an exporter, means the recorded carcase equivalent weight of the meat exported by the exporter.

Performance Account D, for an exporter, means the recorded carcase equivalent weight of exports, by the exporter through an EU accredited sheepmeat or goatmeat establishment, of sheepmeat and goatmeat to the EU under an EU quota.

Performance Account I, for an exporter, means the recorded carcase equivalent weight of exports by the exporter to all destinations, except those exports of sheepmeat and goatmeat to the EU under an EU quota, of:

- (a) sheepmeat slaughtered, boned or packed in an EU-accredited sheepmeat establishment; and
- (b) goatmeat slaughtered, boned or packed in an EU-accredited goatmeat establishment.

Note The Department keeps accounts for each exporter, called Performance Account D and Performance Account I, to record the exporter's performance.

QA Unit means the section of the Department known as the Quota Administration and Statistics Unit.

Note The address of the Department's QA Unit is given in section 21.

quota meat means fresh, chilled or frozen mutton, lamb or goatmeat, but does not include:

- (a) edible offal; or
- (b) canned or processed meat; or
- (c) product for ships' stores; or
- (d) a product for which a certificate is not required by the EU.

Quotas Act means the *Australian Meat and Live-stock (Quotas) Act 1990*:

shipped weight, for quota meat, means the actual weight of the meat (whether it is bone-in or boneless).

Part 2 Prohibition of certain exports

4 **No export without approval and certificate**

An eligible exporter may export quota meat to a member country of the EU only if the Secretary has issued an approval and a certificate for the export.

Note 1 An eligible exporter may export sheepmeat or goatmeat product, other than quota meat, to the EU without an approval or a EU sheepmeat certificate.

Note 2 An exporter that is not an eligible exporter may export a sheepmeat or goatmeat product to the EU without an approval or a EU sheepmeat certificate. The import of that product into the EU will attract a tariff at the relevant out-of-quota rate.

Note 3 An exporter may export quota meat specified in a limitation notice issued under subsection 5 (1) of the Quotas Act to a country specified in the notice only if the exporter has been granted a quota – see subsection 5 (1) of that Act.

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Part 3 EU quotas**5 What this Part does**

This Part sets out how an EU quota is obtained and how to work out an exporter's EU quota for quota year 2011.

6 How EU quota is obtained

- (1) The Secretary may invite exporters to apply for an EU quota for quota year 2011.

Note The Secretary intends to give exporters a notice, called a notice of limitation, that advises the amount of quota meat that may be exported to the EU during 2011 and, in that notice, may seek applications from exporters for the allocation of quota within this amount — see section 5 of the Quotas Act.

- (2) An application for EU quota must be made in writing to the QA Unit in a form approved by the Secretary.
- (3) The Secretary may allocate EU quota in accordance with section 7.
- (4) An exporter may also receive EU quota by transfer under section 8.

7 How EU quota is worked out

- (1) If an exporter applies, in accordance with subsection 6 (2), for EU quota, the Secretary must allocate to the exporter, as the exporter's EU quota for quota year 2011, an amount determined by the Secretary in accordance with subsection (3).

Note The EU quota is allocated by the Secretary under section 6 of the Quotas Act.

- (2) If the Secretary allocates EU quota to an exporter under section 6, the Secretary must give to the exporter a notice stating the shipped weight of quota meat that the exporter is entitled to export under the quota.

Note 1 The Secretary intends to give an eligible exporter a notice, (a quota document) about its quota — see section 6 of the Quotas Act. It is intended that the quota document will state the amount of quota meat that the eligible exporter may export to the EU in quota year 2011. It is also intended that the quota document will identify any conditions of the grant of quota.

Note 2 The Department maintains an account (a quota account) for each eligible exporter. An eligible exporter's quota is recorded in its quota account and exports of quota meat by the exporter are recorded in the account as debits.

Note 3 The Secretary may at any time vary any of the following:

- (a) the period of effect of a quota;
- (b) the quantity or description of goods covered by a quota;
- (c) the condition applying to a quota.

See section 28 of the Act.

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Note 4 Certain decisions by the Secretary about a quota are reviewable by the Administrative Appeals Tribunal — see section 30 of the Act.

- (3) Subject to subsection (8) an exporter's EU quota for 2011 is the sum of the following amounts:

$$0.8 \times AA \times \frac{ED}{TD}$$

and

$$0.2 \times AA \times \frac{(EPAD + EPAI)}{(TPAD + TPAI)}$$

where:

AA is:

- (a) the access amount, less the recalculation amount; or
- (b) if, when the quota is being worked out, the EU has not published the EU quota for the relevant year — the amount determined by the Secretary under subsection (7), less the recalculation amount.

ED is the recorded carcass equivalent weight of exports for 2010, by the eligible exporter through an EU-accredited sheepmeat or goatmeat establishment, of sheepmeat and goatmeat to the EU under an EU quota.

EPAD is the exporter's Performance Account D for 2010.

EPAI is the exporter's Performance Account I for 2010.

recalculation amount is the amount surrendered by an exporter in 2010 with the agreement of the Secretary.

TD is the recorded carcass equivalent weight of exports for 2010, by all eligible exporters through EU-accredited sheepmeat or goatmeat establishments, of sheepmeat and goatmeat to the EU under an EU quota.

TPAD is the total of all exporters' Performance Accounts D for 2010.

TPAI is the total of all exporters' Performance Accounts I for 2010.

- (4) If the amount of EU quota worked out for an eligible exporter under subsection (3) is less than 12 000 kilograms, the EU quota for the exporter is taken to be nil in respect to the amount calculated under subsection (3).
- (5) The amount of EU quota taken to remain unallocated because of the operation of subsection (4) is to be redistributed among the eligible exporters in proportion to the amount of EU quota allocated to each of them under subsection (3).
- (6) When an exporter's EU quota is worked out under subsection (3) and the fee prescribed by the *Australian Meat and Live-stock (Quotas) Regulations 2000* for allocation of the quota has been paid, the Secretary must credit the exporter's quota account with the amount of the EU quota.

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- (7) If, when quotas are being worked out for a year, the EU has not published the access amount for the year, the Secretary may determine an amount to be the access amount for the year based on the access amount for the previous year and the Secretary's estimate of the amount of quota meat likely to be permitted entry to the EU during the year.
- (8) If, in 2010, an exporter surrenders a recalculation amount, that exporter's EU quota is the amount determined in accordance with subsection (3) plus the recalculation amount.

8 Transfer of EU quota

- (1) Subject to subsection (2) an exporter may transfer all or part of its EU quota for quota year 2011 to another exporter in accordance with this section.
- (2) If an eligible exporter (*transferor*) wishes to transfer all or part of its EU quota to another exporter (*transferee*), it must notify the QA Unit, in writing, of the following information:
 - (a) the name of the transferor; and
 - (b) the name of the transferee; and
 - (c) the carcass equivalent weight, in kilograms, of EU quota to be transferred.

Note The Department's QA Unit maintains an account (a quota account) for each eligible exporter. An eligible exporter's quota is recorded in its quota account and exports by the exporter are recorded in the account as debits.

9 How much quota meat an exporter has exported

- (1) An exporter is taken to have exported the quantity of quota meat shown in approvals given to the exporter under Part 4.
- (2) However:
 - (a) if the quantity of quota meat actually in an export is less than the quantity stated in the approval for the export, the exporter is not taken to have exported the difference if:
 - (i) the identifying number of the approval is shown on the consignment information; and
 - (ii) the exporter gives that information to the QA Unit by 5 pm, on 21 October 2011; and
 - (iii) the weight difference between the actual quantity of the export and the quantity stated in the certificate for the export is no more than 50 kilograms; and
 - (b) if:
 - (i) the quantity of quota meat actually in an export is less than the quantity stated in the certificate for the export; and
 - (ii) but for this subsection, the exporter would be taken to have exported the difference;

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the exporter is not taken to have exported the difference if the exporter gives a copy of the certificate, annotated by the relevant EU authority to show the actual quantity of meat exported, to the QA Unit by 5 pm on 21 October 2011; and

- (c) if an exporter is granted approval for an export but does not make the export, the exporter is not taken to have exported the quantity of quota meat mentioned in the approval if the exporter gives all the copies of the relevant certificate to the QA Unit by 5 pm on 21 October 2011; and
- (d) if an approval lapses before 5 pm on 21 October 2011 and before any export takes place under it, the exporter is not taken to have exported the quantity of quota meat mentioned in the approval; and
- (e) if an export is refused entry to the EU, the exporter is not taken to have made the export if the exporter returns all the copies of the relevant certificate to the QA Unit by the earlier of:
 - (i) 5 pm on 21 October 2011; or
 - (ii) 3 months after the day the export leaves Australia.

10 When unused quota lapses

- (1) An eligible exporter must, before 7 October 2011, give the Secretary a written declaration stating how it intends to deal with any unused EU quota and whether it intends to relinquish any of that quota.

Note Before 7 October 2011, the Department intends to send each eligible exporter a notice asking it to tell the Secretary, in writing, how it intends to deal with any unused EU quota.

- (2) EU quota entitlement not supported by requests for approval to the QA unit under subsection 11 (3) (b) before 24 October 2011 lapses at the beginning of that day.

Note Any eligible exporter may apply for approval to export against lapsed EU quota — see subsection 12 (1).

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Part 4 Approvals**11 How to get approval for exports**

- (1) An exporter must obtain a separate approval for each consignment of quota meat to be exported.
- (2) An application must set out the following information for the consignment:
 - (a) the applicant's name;
 - (b) exporter license number;
 - (c) for the meat to be exported:
 - (i) its type; and
 - (ii) its AUS-MEAT meat type cipher; and
 - (iii) its AUS-MEAT handbook cut number; and
 - (iv) whether it is chilled or frozen; and
 - (v) whether it is bone-in or boneless, and the quantity of it in each form; and
 - (vi) the establishment number of the establishment that prepared the meat;
 - (d) the name of the importer;
 - (e) the shipped weight (in kilograms);
 - (f) the carcass equivalent weight (in kilograms);
 - (g) the name of the ship and the voyage, or the air freight carrier and flight number, to be used;
 - (h) the intended port of loading and the expected date of loading;
 - (i) the name of the final destination country;
 - (j) the intended port of discharge;
 - (k) the Department's regional office at which the AQIS notice of intention to export is to be lodged;
 - (l) the Department's regional office at which the AQIS health certificate is to be taken out.
- (3) An application for approval:
 - (a) must not be made to the Secretary before the exporter receives a notice under subsection 7 (2) about its EU quota; and
 - (b) must be made to the QA Unit by 5 pm on 21 October 2011.

12 Approval to export from the uncommitted amount

- (1) An eligible exporter may apply, after 21 October 2011, for approval to export a consignment up to the access amount if:
 - (a) an amount of EU quota lapses under section 10; and

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- (b) the total of all exports approved under this Part is less than the access amount.
- (2) Section 11 (except paragraph 11 (3) (b)) applies to an application under this section.
- (3) The Secretary must give to the eligible exporter an approval to export a consignment if:
 - (i) the exporter lodges an application for the approval in accordance with this section; and
 - (ii) the total amount of the consignment and quota meat already approved for export by all eligible exporters in quota year 2011 under section 11 is not more than the access amount.

13 Approvals for exports unlikely to be accepted into EU

An eligible exporter that is issued with an approval on or before 21 October 2011 must tell the QA Unit in writing before 25 November 2011 if it is likely that an export will not be accepted for entry into a member country of the EU before 1 January 2012.

14 Duration of approvals

- (1) An approval (other than an approval granted under subsection 12 (1)) lapses if the exporter to which it is given does not obtain a certificate for the proposed export before the earlier of the following:
 - (a) 5 pm on 21 October 2011;
 - (b) 3 months after the issue of the approval.
- (2) An approval under subsection 12 (1) lapses if the exporter to which it is given does not obtain a certificate for the approved consignment within 4 weeks after the approval is given.
- (3) An approval under subsection 12 (1) lapses at the end of 31 December 2011 if the approved export is not accepted into a member country of the EU on or before that day.

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Part 5 Certificates**15 How to obtain certificates**

- (1) An eligible exporter may apply for a certificate for a consignment for which the Secretary has issued an approval.
- (2) An application under subsection (1) must be lodged with the QA Unit.
- (3) The application must include:
 - (a) an appropriate entry in the EXDOC system; or
 - (b) the original and 3 copies of a completed certificate for the export in the form required by the Secretary, and copies of the health certificate or certificates issued by AQIS for the proposed export.

16 Grant of EU quota certificate

The Secretary must issue an EU quota certificate to an eligible exporter if the exporter:

- (a) has an approval; and
- (b) makes an entry or applies under section 15.

Note An EU quota certificate that is issued to an eligible exporter on or before 31 December 2010 for a consignment that is intended for entry to a member country of the EU after 1 January 2011 will not be able to be used until on or after 1 January 2011.

17 When certificates lapse

A certificate lapses if the meat to which it applies is not accepted for entry into a member of the EU before 1 January 2012.

Part 6 Performance

18 What counts as performance

- (1) For performance recording, an exporter's performance includes only:
 - (a) recorded exports by it during the period from 1 November 2009 to 31 October 2010 (inclusive); and
 - (b) performance transferred to it under section 19.
- (2) However, an exporter's performance does not include:
 - (a) an export of meat that has been authorised as a gift pack; or
 - (b) an export without approval of meat for which approval was required; or
 - (c) an export of meat for which the exporter does not lodge consignment information with the QA Unit before 5 pm on 11 November 2011.

Note The Department keeps an account for each exporter showing the recorded exports by the exporter to all destinations from EU-accredited establishments, except those exports of sheepmeat and goatmeat under an EU quota. The account is called Performance Account I. The Department relies on consignment information to make entries in these accounts.

19 Transfer of performance

- (1) An exporter (the *transferor*) may transfer all or part of its performance under Performance Account I to another exporter (the *transferee*) in accordance with this section.
- (2) The transferor must, before 5 pm on 11 November 2011, give to the QA Unit, in writing or electronically, a notice setting out:
 - (a) the transferor's name; and
 - (b) the transferee's name; and
 - (c) the kind of performance to be transferred; and
 - (d) the carcass equivalent weight, in kilograms, of performance to be transferred.
- (3) A transfer under this section takes effect when the QA Unit receives a notice under subsection (2) for the transfer.

20 Errors in recording performance

- (1) If an exporter thinks that an account statement sent to it by the Secretary about the exporter's performance contains an error, the exporter must tell the QA Unit in writing about it within 30 days after receiving the statement.
- (2) A notice of a possible error that is not given to the QA Unit within the time allowed by subsection (1) is of no effect.

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Part 7 Miscellaneous**21 Where to send notices and documents**

- (1) The address of the QA Unit is:
Quota Administration & Statistics Unit
Department of Agriculture, Fisheries and Forestry
GPO Box 858
CANBERRA ACT 2601
Fax: 02 6272 4585
Email: quota.admin@daff.gov.au
- (2) If a provision of this Order requires a document, notice or information to be lodged with or given to the QA Unit, giving the document or notice to AQIS does not satisfy the requirement.

22 Cessation

This Order ceases to have effect at the end of 31 December 2011.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.