



Australian Government
Department of Agriculture,
Water and the Environment

Improving Agricultural Export Regulation

Consultation draft export control organic goods rules



Export Legislation Taskforce
July 2020

Agenda



1. Background and future state
2. Timeframes
3. Features of the draft legislation
4. Outline of key chapters and key concepts
5. Implementation
6. Next steps

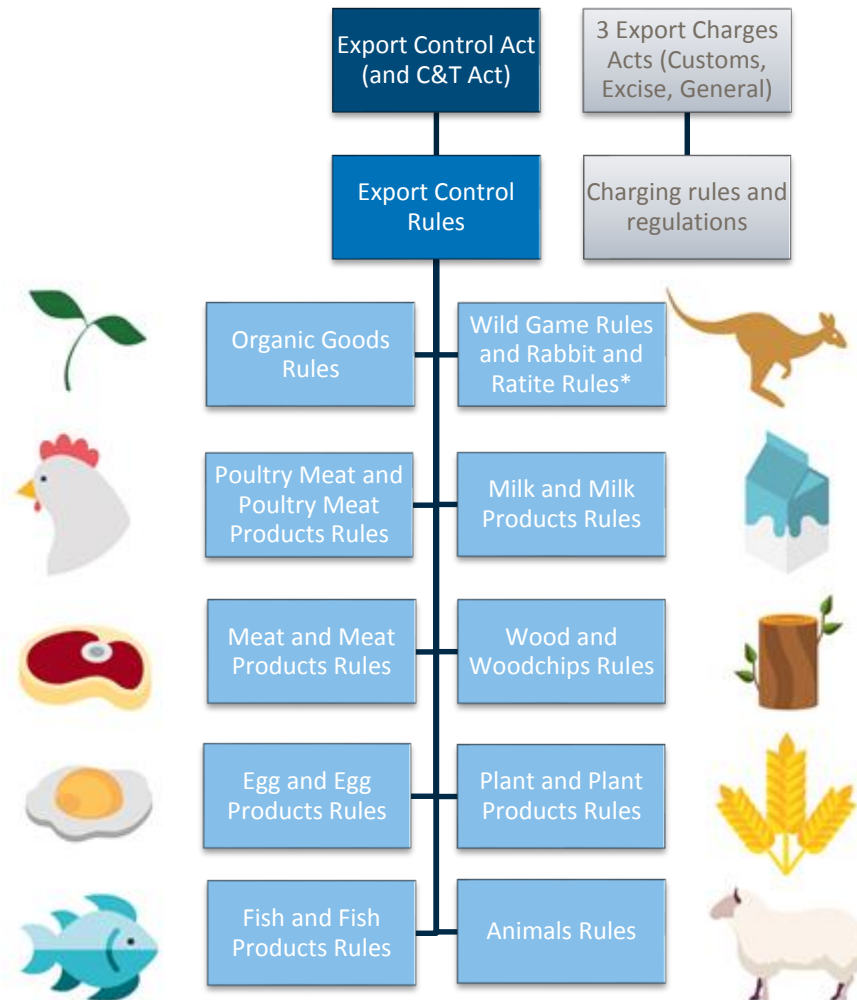


Background: expected outcomes



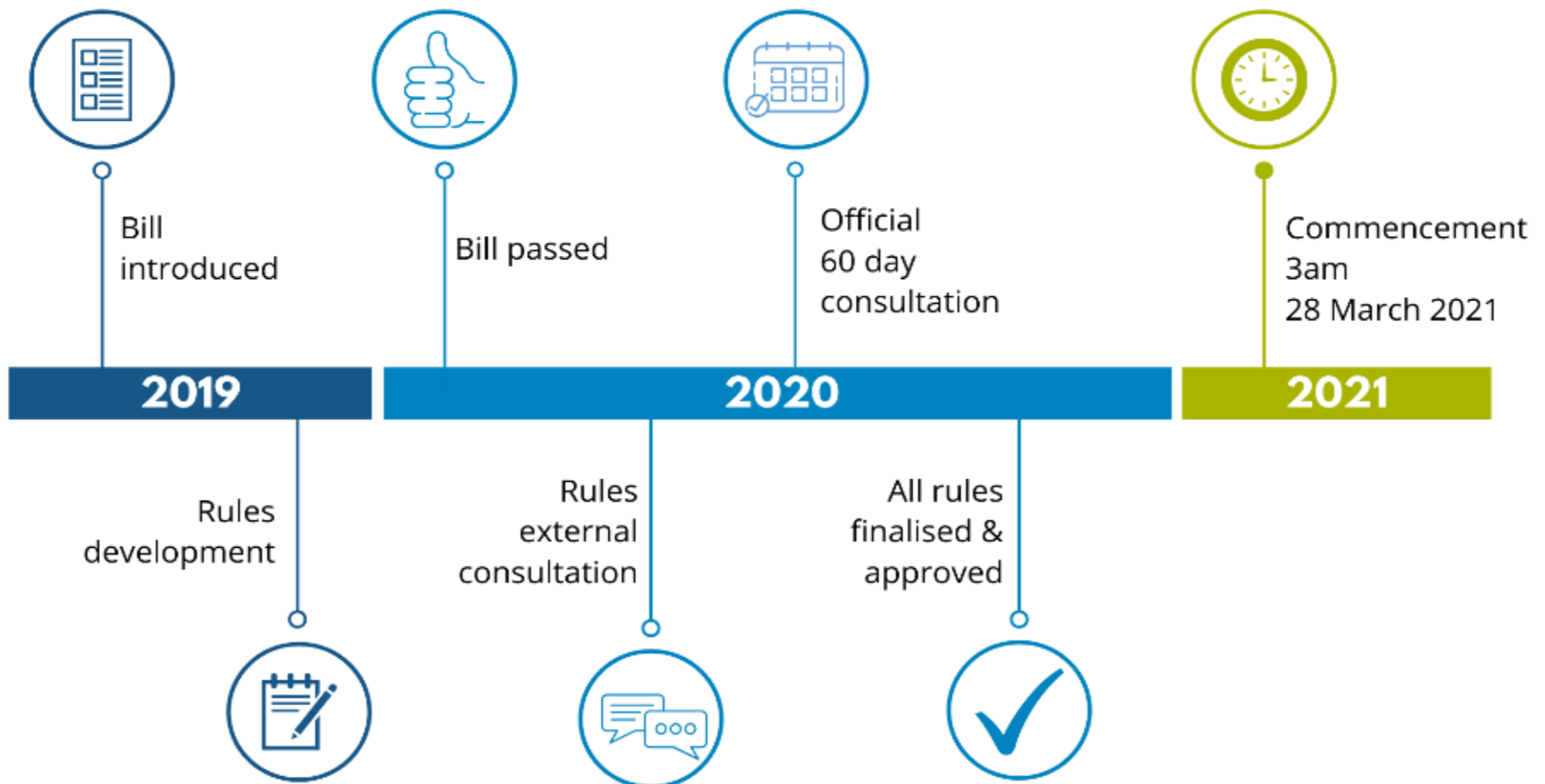
1. Less: complexity, duplication and ambiguity
2. Easier to understand, administer and use
3. Continuing to achieve regulatory outcomes that trading partners expect
4. Swifter Government responses to changes in market conditions
5. Supporting exporters to innovate and pursue opportunities
6. Broader range of compliance and enforcement powers giving a further level of assurance of the integrity of our export system.

Future state of export control legislation



*Note: these are two legislative instruments.

Organic Goods Legislation Timeline



Features of the draft legislation



The Export Control Act and the Export Control Rules must be read together – the rules provide the operational detail to the Act.



Features of the draft legislation



The structure of the draft organic rules mirror that of the Act (where applicable)

CHAPTER 1

Preliminary

CHAPTER 2

Exporting Goods

CHAPTER 3

Accredited Properties
(Not applicable for organic goods)

CHAPTER 4

Registered Establishments
(Not applicable for organic goods)

CHAPTER 5

Approved Arrangements

CHAPTER 6

Export Licences
(Not applicable for organic goods)

CHAPTER 7

Export Permits
(Not applicable for organic goods)

CHAPTER 8

Other matters relating to export

CHAPTER 9

Powers and Officials

CHAPTER 10

Compliance and Enforcement

CHAPTER 11

Miscellaneous

Key changes proposed under the draft organic goods rules



Proposed key changes

- Introduction of Approved Arrangements to replace QM Certificates
- Inclusion of a reference to the National Standard for Organic and Bio-Dynamic Produce in the legislation
- Amending the scope of the regulation to exclude exported organic cosmetic products
 - The department is seeking industry feedback on this or other options, including definition/s.

Chapters 1 & 2 – Interpretation & Exporting Goods



Key provisions in Draft Organic Goods Rules

- Commencement timeframes
- Application of other commodity rules in addition to these rules
- Definitions
- Prescribed goods
- When prescribed goods are taken not to be prescribed
- Conditions for the export of prescribed
- When exemptions from the Act and Rule are available.

Chapter 1 – Definitions



Key definitions in Draft Organic Goods Rules

Organic Goods

Means goods that, for the purpose of marketing, are described as, or described as including ingredients that are, organic, biodynamic, biological, ecological or any other similar description, and includes goods that are described as in conversion to organic or biodynamic.

Cosmetic Goods

- Organic goods that are cosmetic goods will not be prescribed unless the goods are intended to be exported to a country that requires an organic goods certificate
- Examples of cosmetic products include skin care creams, fragrances, colour cosmetics, deodorants, soaps and shampoos

Chapter 2 – Government Certificates



What changed?

- An 'organic produce certificate' will be known as an 'organic goods certificate'

Key provisions in Export Control Act

- Government certificates can be issued for goods that will be, or have been, exported.

Key provisions in Draft Organic Goods Rules

- When and how organic goods certificates for prescribed and non-prescribed goods are issued
- Requirement that must be met before an organic goods certificate may be issued.

Chapter 2 – Government Certificates



Key provisions in Draft Organic Goods Rules

- An organic goods certificate can be issued by an approved certifying body and the Secretary
- Before an organic goods certificate can be issued:
 - the export operations must have been carried out in accordance with the National Organic Standard
 - all applicable requirements must have been complied with
 - all importing country requirements must have been met

Chapter 5 – Approved Arrangements



Key feature

- An approved arrangement will replace approved QM certificates for organisations – Approved Arrangements assist in maintaining the integrity of Australia’s export system and are used currently across a range of regulated export commodities.
- An approved QM certificate for organisations that is in force immediately before the commencement of the Act will automatically transition to an Approved Arrangement as if it was approved under the Act
- An Approved Arrangement must ensure that the requirements of the National Organic Standards are met in relation to organic goods
- The holder of an Approved Arrangement must notify the Secretary of critical non-compliance
- The holder of an Approved Arrangement and a person who manages or controls the organic good certification operations will be required to be a fit and proper person

Chapter 5 – Approved Arrangements



Key provisions in Draft Organic Goods Rules

Requirements for approval

Conditions of approval

Renewal and Variation

Additional grounds for suspension and revocation

Obligations of holder of approved arrangements

Fit and proper person

Matters relating to applications

Chapter 8 – Trade Descriptions



What changed?

- There is no change to these provisions from the current approach

Key provisions in Export Control Act

- A trade description can be “applied” through documents associated with a consignment
- Can be provided through information in:
 - Government certificates.

Key provisions in Draft Organic Goods Rules

- Trade description must be applied
- Trade description must contain certain information
- General requirements for a trade description
- Trade descriptions in a language other than English.

Chapter 9 - Audits



What changed?

- There is no change to these provisions from the current approach

Key provisions in Export Control Act

- When audits can be conducted, and what or who can be audited
- Who may conduct an audit
- How an audit may be conducted
- Relevant person must provide assistance
- Powers of auditors

Key provisions in Draft Organic Goods Rules

- Manner in which an audit must be conducted
- Audit reports
- Requirements for approved auditors



Chapter 10 – Compliance & Enforcement



What changed?

- There is no change to these provisions from the current approach

Key provisions in Export Control Act

- Guidance on the compliance and enforcement of the Act and the Organic Goods Rules
- How the Regulatory Powers Act applies
- Powers in emergency situations
- Civil penalties and infringement notices

Key provisions in Draft Organic Goods Rules

- Dealing with samples and things seized in exercising monitoring and investigation powers

Chapter 11 – Miscellaneous



What changed?

- There is no change to these provisions from the current approach

Key provisions in Draft Organic Goods Rules

- Review of decisions
- Retention of records
- Storage requirements for samples of organic goods
- Damaged and destroyed organic goods
- Relevant Commonwealth liabilities

Implementation – Transitioning to the improved framework



- 1 The department is aiming for a seamless transition from the existing export legislative framework to the new framework.



**28
March
2021**

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- 2 The legislation will transition existing arrangements, wherever possible, into the improved framework when it commences. Including:
 - QM Certificates into Approved Arrangements
 - Existing government certificates

The department will work with stakeholders to ensure a smooth transition.

- 3 As work progresses, we will provide information on implementation, including:
 - Review of training and instructional material
 - Revision of application forms, where needed
 - Identifying opportunities to streamline and standardise processes (including using IT)

Have your say



Have your say on the draft organic goods rules by **7 August 2020**

Submissions can be lodged by completing the online form at:



- ▶ haveyoursay.agriculture.gov.au
- ▶ Email: exportlegislation@awe.gov.au

Submissions will be published on the department's website unless respondents request otherwise.

You can request part or full confidentiality when making a submission.

Thank you



Any questions?



Further information: agriculture.gov.au/improving-export-legislation

Queries: exportlegislation@awe.gov.au