



Australian Horticultural Corporation (Dried Fruits Export Control) Regulations 1991

Statutory Rules 1991 No. 199 as amended

made under the

Australian Horticultural Corporation Act 1987

This compilation was prepared on 5 April 2002
taking into account amendments up to SR 2002 No. 60

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Contents

	Page
1 Name of Regulations [see Note 1]	3
2 Commencement	3
3 Interpretation	3
4 Authorised persons	4
5 Regulation of export	4
6 Grant of licences	4
7 Criteria for granting licences	4
8 Form of licence	5
9 Conditions and restrictions	5
10 Suspension or cancellation of licence	7
11 Certificate of authority to export	7
12 Determination of minimum prices	7
13 Authorised person may take samples	8
14 Application for review of decisions	8
15 Notices	9
16 False or misleading information	9
17 Transitional	9
Schedule	10
Notes	15

1 Name of Regulations [see Note 1]

These Regulations are the *Australian Horticultural Corporation (Dried Fruits Export Control) Regulations 1991*.

2 Commencement

These Regulations commence on 1 July 1991.

3 Interpretation

- (1) In these Regulations, unless the contrary intention appears:

Act means the *Australian Horticultural Corporation Act 1987*.

authorised person means a person appointed under regulation 4.

authorised price, in relation to a sale of dried fruits, means:

- (a) the minimum price for the sale calculated in accordance with the determination under regulation 12 that is applicable to the sale; or
- (b) if the price is expressed in a currency other than the currency in which the sale is made — the equivalent price in the currency in which the sale is made according to the rate of exchange applicable at the time of sale.

Board means the Australian Dried Fruits Board referred to in subsection 25 (1) of the *Australian Horticultural Corporation Amendment Act 1991*.

certificate means a certificate of authority to export granted under subregulation 11 (2).

dried fruits means currants, raisins or sultanas.

export means export from Australia.

licence means a licence granted under regulation 6.

licensee means the holder of a licence.

overseas means in a place outside the Commonwealth.

- (2) In these Regulations, a reference to a Form is a reference to the Form with that number in the Schedule.

4 Authorised persons

The Board may, in writing, appoint a person to be an authorised person for the purposes of a provision of these Regulations in which the expression “authorised person” occurs.

5 Regulation of export

- (1) Subject to subregulation (2), the export of dried fruits by anyone except the Board is prohibited.
- (2) Subregulation (1) does not apply to the export of dried fruits by a licensee.

6 Grant of licences

- (1) After consultation with the Board, the Corporation, or a person authorised in writing by the Corporation to grant licences under these Regulations, may grant a licence to export dried fruits.
- (2) A licence is in force for the period specified in the licence.
- (3) A licence must not be granted for a period longer than 3 years.

7 Criteria for granting licences

When deciding whether to grant a licence, the Corporation must have regard to the following matters:

- (a) the soundness of the financial position of the applicant for the licence including the ability of the applicant to provide to the Corporation, in respect of the export of dried fruits, financial guarantees that the Corporation considers satisfactory;
- (b) the applicant’s integrity and reputation in the Australian horticultural industry, or another industry, for reliability in business dealings;
- (c) the knowledge, skill and experience of the applicant, or of the managerial employees directing the applicant’s export business, in the export of dried fruits;
- (d) the adequacy of the packing, storage and distribution arrangements available to the applicant to satisfy the

- requirements of importers in relation to dried fruits exported;
- (e) the previous participation of the applicant, or the commitment of the applicant to participate, in export co-ordination activities sponsored by the Corporation or the Board, and undertaken to further the interests of the dried fruits industry;
 - (f) whether a licence granted to the applicant has been suspended or cancelled by the Corporation, or whether a certificate granted to the applicant has been revoked by the Board, within the period of three years before the application for the licence is lodged with the Corporation;
 - (g) whether the applicant has been convicted within the period referred to in paragraph (f) of an offence against the Act or regulations 13 or 16;
 - (h) any other matters relevant to the export of dried fruits.

8 Form of licence

A licence must be in accordance with Form 1 in the Schedule.

9 Conditions and restrictions

- (1) A licensee must not export dried fruits unless:
 - (a) the purchaser, agent or representative to or through whom the dried fruits are shipped is approved by the Board; and
 - (b) the dried fruits are insured with a person approved by the Board; and
 - (c) the dried fruits have been sold before export, or are consigned, upon terms and conditions approved by the Board; and
 - (d) the export of the dried fruits is in accordance with any directions of the Board about the quantities of each kind and grade of dried fruits which the licensee is licensed to export either generally or to particular places; and
 - (e) if required by the Board or an authorised person — the licensee has given an undertaking to the satisfaction of the Board that he or she will not, without the consent of the Board:

- (i) sell any of the dried fruits overseas at a price lower than the authorised price; or
 - (ii) enter into a contract or agreement or a variation of a contract or agreement which enables, authorises or permits a person to sell any of the dried fruits overseas at a price lower than the authorised price; or
 - (iii) give an authority, licence, consent or approval to a person to sell any of the dried fruits overseas at a price lower than the authorised price; or
 - (iv) facilitate, counsel, procure or encourage the sale overseas of any of the dried fruits at a price lower than the authorised price; or
 - (v) give or allow, or promise or agree to give or allow, in relation to the sale of any of the dried fruits, any brokerage, rebate, discount, commission, allowance, option or benefit, whether in money, money's worth, credit, goods or otherwise, that is not provided for in the approved terms and conditions on which the dried fruits have been sold before export, or are consigned; or
 - (vi) fail or omit to take all reasonable and proper steps to ensure that any agent, representative or consignee of the licensee does not sell any of the dried fruits overseas at a price less than the authorised price; and
 - (f) the licensee holds a current certificate in relation to the dried fruits; and
 - (g) the export is in accordance with the particulars shown in the certificate.
- (2) A licensee must not export dried fruits on consignment unless he or she has given an undertaking to the satisfaction of the Board that:
- (a) the sale or other disposal of the dried fruits will not be completed until the terms of the sale or other disposal are approved by the Board or an authorised person; and
 - (b) the licensee will comply, or cause the consignee to comply, with any order of the Corporation for the treatment of the dried fruits by fumigation, re-cleaning or otherwise; and

- (c) the dried fruits will, while they are under the control of the consignee, be stored in a place, or places, approved by the Board.

Note See section 118 of the Act for the offence of contravening a prohibition in this regulation.

10 Suspension or cancellation of licence

If a licensee contravenes:

- (a) a provision of these Regulations; or
- (b) an undertaking given for the purposes of these Regulations;

the Corporation may:

- (c) suspend the licence for any period that the Corporation thinks fit; or
- (d) cancel the licence.

11 Certificate of authority to export

- (1) An application by a licensee for a certificate of authority to export dried fruits must:
 - (a) be in accordance with Form 2 in the Schedule; and
 - (b) be lodged, in duplicate, with the Board or an authorised person not less than 14 days before the date of export.
- (2) If an application is made, the Board or an authorised person must grant a certificate for the export of the dried fruits unless the export would be inconsistent with these Regulations or with any direction or determination of the Board.
- (3) A certificate must be in accordance with Form 3 in the Schedule.
- (4) A certificate may be revoked by the Board or an authorised person by notice in writing to the licensee at any time before the export of the dried fruits to which it relates.

12 Determination of minimum prices

- (1) The Board or an authorised person may:
 - (a) determine; or

(b) determine the manner of calculation of;
minimum prices for the sale of dried fruits to be exported or for
the sale overseas of exported dried fruits.

- (2) A determination may relate to:
- (a) different varieties of dried fruits; and
 - (b) different grades of varieties of dried fruits;
exported, or to be exported, to different countries.

13 Authorised person may take samples

If requested to do so by the Board or an authorised person, a licensee must permit an authorised person to take samples of dried fruits produced in Australia and owned by, or in the custody, possession, or control of, the licensee, whether the dried fruits are in Australia or are overseas.

Penalty: 10 penalty units.

14 Application for review of decisions

- (1) An application may be made to the Administrative Appeals Tribunal for the review of:
- (a) a decision by the Corporation, or a person authorised to grant licences, not to grant a licence; and
 - (b) a decision by the Corporation to cancel or suspend a licence under paragraphs 10 (c) or 10 (d); and
 - (c) a decision by the Board or an authorised person not to grant a certificate under subregulation 11 (2) for the export of dried fruits; and
 - (d) a decision by the Board or an authorised person under subregulation 11 (4) to revoke a certificate.
- (2) If the Corporation, the Board or a person authorised by either makes a decision mentioned in subregulation (1), the notice of the decision must:
- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and

- (b) include a statement to the effect that a person whose interests are affected by the decision may request a statement under section 28 of that Act.
- (3) A failure to comply with subregulation (2) in relation to a decision does not affect the validity of the decision.

15 Notices

A notice or other document for the purposes of these Regulations may be served on a licensee by prepaid post at the address of the licensee specified in the licence.

16 False or misleading information

- (1) A person must not, for the purposes of these Regulations, make a statement, or furnish information, that is false or misleading.

Penalty: 10 penalty units.

- (2) For subregulation (1), strict liability applies to whether a statement was made, or information supplied, for the purposes of these Regulations.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

17 Transitional

A licence to export dried fruits granted under the Dried Fruits Export Control (Licences) Regulations which was in effect immediately before the commencement of these Regulations continues to have effect after the commencement of these Regulations for the period specified in the licence as if the licence had been granted under regulation 6.

Schedule

(regulation 8)

Form 1

Licence to export dried fruits

No.

Commonwealth of Australia

Australian Horticultural Corporation (Dried Fruits Export Control)
Regulations

LICENCE TO EXPORT DRIED FRUITS

Under regulation 6 of the Australian Horticultural Corporation (Dried Fruits Export Control) Regulations, I, *(insert full name)*, a person authorised by the Australian Horticultural Corporation to grant licences under those Regulations, grant to *(insert full name of licensee)* of *(insert full address of licensee)*

a licence to export dried fruits from the Commonwealth, during the period commencing on _____, 19____ and ending on _____, 19____.

Dated _____ 19____.

.....
(Signature)

**Form 2 Application for authority to export
dried fruits**

(regulation 11)

Commonwealth of Australia

Australian Horticultural Corporation (Dried Fruits Export Control)
Regulations

APPLICATION FOR AUTHORITY TO EXPORT DRIED FRUITS

To:

The Australian Dried Fruits Board

*I/*We

of

being holder(s) of licence No. to export dried fruits, granted
for the period commencing on , 19 and ending on 19 , apply for a
certificate of authority to export the following dried fruits:

Class of fruit	Number of boxes or other containers and net weight of each	Grade	Shipping Marks	Total Net weight
Currants				
Sultanas				
Raisins				

It is proposed to ship the dried fruit in (*insert name of vessel*)
leaving on or about ,19

The port to which the dried fruits will be shipped is:

The fruits are to be shipped ^(a) to ^(b) .

The full name and address of the packer of the dried fruits is

The owner of the dried fruits at the time of shipment from Australia is

The price paid to the packer of the dried fruit is as follows:

Gross price:

- Deductions: Discount:
- Commission:
- Brokerage:
- Rebate:
- Any other allowances:

Net price:

(c)The price at which the fruits have been sold to the overseas purchaser is as follows:

Gross price c.i.f or f.o.b.:

- Deductions: Discount:
- Commission:
- Brokerage:
- Rebate:
- Any other allowances:

Net price c.i.f or f.o.b:

(d)The f.o.b price Australian port of shipment which is the equivalent of the gross price specified in the previous paragraph is

*I/*We, (insert name of licensee)

declare that the information given in this application is true and correct in every particular.

Dated 19 .

.....
(Signature)

- (a) State whether “on consignment” or “under a sale actually made to overseas purchaser, namely” (as the case may be)
- (b) State full name and address of consignee or purchaser
- (c) Omit if fruits are to be shipped on consignment
- (d) [to be advised]

**Omit if not applicable*

Form 3**Certificate of authority to export
dried fruits**

(regulation 11)

No.

Commonwealth of Australia

Australian Horticultural Corporation (Dried Fruits Export Control)
Regulations

CERTIFICATE OF AUTHORITY TO EXPORT DRIED FRUITS

This is to certify that (insert name of licensee)

of (insert address of licensee)

to whom Licence No. dated 19 ,

has been granted to export dried fruits is authorised by the Australian
Dried Fruits Board to export from the Commonwealth the following
dried fruits:

Class of fruit	Number of boxes or other containers and net weight of each	Grade	Shipping Marks	Total Net weight
Currants				
Sultanas				
Raisins				

The dried fruits are to be shipped from

to by ,

leaving on or about 19 .

Dated 19 .

.....
(Signature of person granting certificate)

Table of Statutory Rules

Notes to the *Australian Horticultural Corporation (Dried Fruits Export Control) Regulations 1991*

Note 1

The *Australian Horticultural Corporation (Dried Fruits Export Control) Regulations 1991* (in force under the *Australian Horticultural Corporation Act 1987*) as shown in this compilation comprise Statutory Rules 1991 No. 199 amended as indicated in the Tables below.

Table of Statutory Rules

Year and number	Date of notification in Gazette	Date of commencement	Application, saving or transitional provisions
1991 No. 199	28 June 1991	1 July 1991	
1992 No. 377	30 Nov 1992	30 Nov 1992	—
2002 No. 60	5 Apr 2002	5 Apr 2002	—

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1	rs. 2002 No. 60
Note to r. 9	rs. 2002 No. 60
R. 13	am. 2002 No. 60
R. 14	am. 1992 No. 377
R. 16	rs. 2002 No. 60
R. 17	am. 1992 No. 377
Schedule.....	am. 1992 No. 377
Forms 1–3.....	1991 No. 199
	am. 1992 No. 377
