



# **Export Control Amendment (Ending Live Sheep Exports by Sea) Act 2024**

**No. 68, 2024**

**An Act to amend the *Export Control Act 2020*, and  
for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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# Export Control Amendment (Ending Live Sheep Exports by Sea) Act 2024

No. 68, 2024

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## An Act to amend the *Export Control Act 2020*, and for related purposes

[Assented to 9 July 2024]

The Parliament of Australia enacts:

### 1 Short title

This Act is the *Export Control Amendment (Ending Live Sheep Exports by Sea) Act 2024*.

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No. 68, 2024

*Export Control Amendment (Ending Live Sheep Exports by Sea) Act*  
2024

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after this Act receives the Royal Assent.	10 July 2024

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Schedule 1—Amendments

### *Export Control Act 2020*

#### **1 Section 4 (paragraph beginning “Certain goods”)**

Repeal the paragraph, substitute:

Certain goods are prohibited from being exported from Australian territory, either absolutely or by sea.

#### **2 Section 12**

Insert:

*permanently prohibited export* means an export that is prohibited by section 23A.

#### **3 Section 12 (definition of *permanently prohibited goods*)**

Omit “Subdivision A of Division 2 of Part 1 of Chapter 2”, substitute “section 23”.

#### **4 Part 1 of Chapter 2 (heading)**

After “Goods”, insert “and exports”.

#### **5 Section 22 (after the paragraph beginning “Certain goods”)**

Insert:

On and after 1 May 2028, sheep are prohibited from being exported from Australian territory by sea. Such exports are called permanently prohibited exports.

#### **6 Section 22 (after paragraph (a) of the paragraph beginning “A person may”)**

Insert:

(aa) goods are exported, and the export is a permanently prohibited export; or

**7 Division 2 of Part 1 of Chapter 2 (heading)**

After “goods”, insert “and exports”.

**8 Subdivision A of Division 2 of Part 1 of Chapter 2 (heading)**

After “goods”, insert “and exports”.

**9 At the end of Subdivision A of Division 2 of Part 1 of Chapter 2**

Add:

**23A Goods that are prohibited from export by sea**

On and after 1 May 2028, the export from Australian territory of sheep (including the young of that animal) by sea is prohibited.

Note 1: For *Australian territory*, see section 14.

Note 2: Division 4 sets out offences and civil penalty provisions for exporting sheep in contravention of this section.

**10 Section 30 (heading)**

Omit “absolute”.

**11 Paragraph 30(1)(b)**

Repeal the paragraph, substitute:

- (b) any of the following applies:
  - (i) the goods are permanently prohibited goods;
  - (ii) the export is a permanently prohibited export;
  - (iii) the export of the goods is prohibited absolutely by a temporary prohibition determination.

**12 Section 31 (heading)**

Omit “absolute”.

**13 Paragraph 31(1)(b)**

Repeal the paragraph, substitute:

- (b) any of the following applies:
  - (i) the goods are permanently prohibited goods;
  - (ii) the export is a permanently prohibited export;



- (iii) the export of the goods is prohibited absolutely by a temporary prohibition determination; and

**14 Section 32 (heading)**

Omit “**absolute**”.

**15 Paragraph 32(1)(b)**

Repeal the paragraph, substitute:

- (b) any of the following applies:
  - (i) the goods are permanently prohibited goods;
  - (ii) the export is a permanently prohibited export;
  - (iii) the export of the goods is prohibited absolutely by a temporary prohibition determination; and

**16 Section 33 (heading)**

Omit “**absolute**”.

**17 Paragraph 33(1)(c)**

Repeal the paragraph, substitute:

- (c) any of the following applies:
  - (i) the goods are permanently prohibited goods;
  - (ii) the export is a permanently prohibited export;
  - (iii) the export of the goods is prohibited absolutely by a temporary prohibition determination.

**18 Paragraph 33(5)(c)**

Repeal the paragraph, substitute:

- (c) any of the following applies:
  - (i) the goods are permanently prohibited goods;
  - (ii) the export is a permanently prohibited export;
  - (iii) the export of the goods is prohibited absolutely by a temporary prohibition determination.

**19 Subsection 53(2)**

Repeal the subsection, substitute:

- (2) However, an application for an exemption must not be made:
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- (a) in relation to goods that are permanently prohibited goods; or
- (b) if the application is for an exemption from section 23A; or
- (c) in relation to goods the export of which is prohibited by a temporary prohibition determination.

**20 Section 409 (after paragraph (e) of the paragraph beginning “This Part sets out”)**

Insert:

- (ea) arrangements, grants and programs in relation to the phasing out of the export of live sheep by sea;

**21 After Division 6 of Part 6 of Chapter 11**

Insert:

**Division 6A—Assistance in relation to the phasing out of the export of live sheep by sea**

**Subdivision A—Arrangements and grants**

**424A Arrangements and grants in relation to the phasing out of the export of live sheep by sea**

- (1) The Minister may, on behalf of the Commonwealth:
  - (a) make, vary or administer an arrangement for the making of payments by the Commonwealth; or
  - (b) make, vary or administer a grant of financial assistance; in relation to activities covered by subsection (2).
- (2) This subsection covers the following activities, so far as they relate to preparing for, or adapting or responding to, the phasing out of the export of live sheep by sea:
  - (a) activities to assist sheep producers and sheep supply chain businesses to prepare for, or adapt or respond to, that phasing out by taking up interstate or international market opportunities for Australian sheep products;
  - (b) activities to assist businesses to prepare for, or adapt or respond to, that phasing out by developing greater sheep processing capacity in Australia for the purposes of taking up

- interstate or international market opportunities for Australian sheep products;
- (c) activities to enhance demand in interstate or international markets for Australian sheep products and to explore opportunities to support the maintenance and development of those markets;
  - (d) activities to explore or develop opportunities to diversify markets for Australian agriculture and food in the Middle East and North African region.
- (3) An arrangement under subsection (1) may provide for the Commonwealth to reimburse, or partly reimburse, costs or expenses.
- (4) A grant under subsection (1) may be made by way of the reimbursement, or partial reimbursement, of costs or expenses.
- (5) Subsections (3) and (4) do not limit subsection (1).

*Definitions*

- (6) In this section:

***administer*** an arrangement includes give effect to.

***arrangement*** includes a contract, agreement, deed or understanding.

***interstate*** includes:

- (a) between a State and a Territory; and
- (b) between 2 Territories; and
- (c) within a Territory.

***make*** an arrangement includes enter into.

#### **424B Executive power of the Commonwealth**

This Subdivision does not, by implication, limit the executive power of the Commonwealth.

#### **424C Inclusion of information in annual reports**

The Secretary, when preparing the Department's annual report under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period, must include the following information in that report:

- (a) the total of the amounts paid in that period under arrangements or grants made under section 424A of this Act;
- (b) the total number of such arrangements or grants that were made in that period.

#### **424D Delegation**

- (1) The Minister may, by writing, delegate any or all of the Minister's powers under section 424A to:
  - (a) the Secretary; or
  - (b) an SES employee, or acting SES employee, in the Department; or
  - (c) an SES employee, or acting SES employee, in a Department of State of the Commonwealth other than the Department.
- (2) In exercising any powers under a delegation under this section, the delegate must comply with any directions of the Minister.

### **Subdivision B—Programs**

#### **424E Programs in relation to the phasing out of the export of live sheep by sea**

- (1) The Minister may, by legislative instrument, prescribe one or more programs in relation to preparing for, or adapting or responding to, the phasing out of the export of live sheep by sea, including in relation to the expenditure of Commonwealth money under such programs.
- (2) A program may only be prescribed under subsection (1) to the extent that it is with respect to one or more legislative powers of the Parliament.

- (3) The legislative instrument must specify the legislative power or powers of the Parliament in respect of which the instrument is made.
- (4) The legislative instrument may make provision in relation to:
  - (a) a description of the program; or
  - (b) the purpose of the program; or
  - (c) eligibility criteria relating to the program; or
  - (d) a process for making applications in relation to the program; or
  - (e) whether application fees are payable in relation to the program.
- (5) Subsections (3) and (4) do not limit subsection (1).
- (6) The Minister's power to prescribe a program under subsection (1) includes the power to prescribe a program under which activities covered by subsection 424A(2) may be carried out.

#### **424F Arrangements in relation to prescribed programs**

- (1) The Minister may, on behalf of the Commonwealth, make, vary or administer an arrangement:
  - (a) in relation to the carrying out of activities by a person under a program prescribed by legislative instrument under subsection 424E(1); and
  - (b) for money to be payable by the Commonwealth to the person for that purpose.

- (2) In this section:

**administer** an arrangement includes give effect to.

**arrangement** includes a contract, agreement, deed or understanding.

**make** an arrangement includes enter into.

**424G Terms and conditions for arrangements in relation to prescribed programs**

- (1) If a party to an arrangement under section 424F is a corporation to which paragraph 51(xx) of the Constitution applies:
  - (a) the terms and conditions on which money may be payable by the Commonwealth under the arrangement must be set out in a written agreement between the Commonwealth and the corporation; and
  - (b) the corporation must comply with the terms and conditions.
- (2) Without limiting subsection (1), the terms and conditions must provide for the circumstances in which the corporation must repay amounts to the Commonwealth.
- (3) An agreement under subsection (1) may be entered into on behalf of the Commonwealth by the Minister.
- (4) This section does not, by implication, prevent an arrangement under section 424F between the Commonwealth and a person other than a corporation to which paragraph 51(xx) of the Constitution applies from being made subject to terms and conditions.

**424H Delegation**

- (1) The Minister may, by writing, delegate any or all of the Minister's powers under sections 424F and 424G to:
  - (a) the Secretary; or
  - (b) an SES employee, or acting SES employee, in the Department; or
  - (c) an SES employee, or acting SES employee, in a Department of State of the Commonwealth other than the Department.
- (2) In exercising any powers under a delegation under this section, the delegate must comply with any directions of the Minister.

**424J Inclusion of information in annual reports**

The Secretary, when preparing the Department's annual report under section 46 of the *Public Governance, Performance and*

*Accountability Act 2013* for a period, must include the following information in that report:

- (a) the total of the amounts paid in that period under arrangements made under section 424F of this Act;
- (b) the total number of such arrangements that were made in that period.

#### **424K Executive power of the Commonwealth**

This Subdivision does not, by implication, limit the executive power of the Commonwealth.

#### **424L Relationship of this Subdivision with the *Public Governance, Performance and Accountability Act 2013***

Section 23 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the power of accountable authorities in relation to arrangements and commitments) does not authorise the accountable authority of a non-corporate Commonwealth entity to exercise, on behalf of the Commonwealth, a power conferred on the Minister by section 424F of this Act.

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[*Minister's second reading speech made in—  
House of Representatives on 30 May 2024  
Senate on 1 July 2024*]

(67/24)

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