



Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East) Order 2018

I, Daryl Quinlivan, Secretary of the Department of Agriculture and Water Resources,
make the following order.

Dated 6 July 2018

Daryl Quinlivan
Secretary of the Department of Agriculture and Water Resources

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<i>Australian Meat and Live-stock Industry (Export of Live-stock to Saudi Arabia)</i> <i>Order 2005</i>	9

Part 1—Preliminary

1 Name

This instrument is the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East) Order 2018*.

2 Commencement

- (1) Each provision of this instrument 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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	7 July 2018

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under section 17 of the *Australian Meat and Live-stock Industry Act 1997*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

In this instrument:

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

Australian Standards for the Export of Livestock means the Australian Standards for the Export of Livestock (Version 2.3) 2011.

Note: The Australian Standards for the Export of Livestock (Version 2.3) 2011 could in June 2018 be viewed on the Department's website (<http://www.agriculture.gov.au>).

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heat stress management plan for a voyage by a vessel transporting sheep means a document that contains detailed plans and actions to be implemented during the voyage to manage heat stress in relation to the sheep.

Heat Stress Risk Assessment Model for a voyage by a vessel transporting sheep means a computer software program that predicts the risk of heat stress mortality of the sheep occurring during the voyage and during unloading from the vessel, taking into account the most recent verified pen air turnover for the vessel.

independent qualified mechanical engineer means a person who:

- (a) has relevant qualifications in relation to the operation of ventilation systems; and
- (b) is not an employee of the holder of a live-stock export licence or the Department; and
- (c) is accredited by the National Association of Testing Authorities or an equivalent or similar organisation.

live-stock export licence has the meaning given by section 7 of the Act.

pen air turnover for a vessel means the ventilation rate measured in cubic metres per hour for each square metre of pen space on the vessel, calculated using an industry standard, or equivalent, method.

registered premises has the meaning given by section 7 of the Act.

sheep export licence means a live-stock export licence granted under Part 2 of the Act to export sheep from Australia.

verified pen air turnover for a vessel means the pen air turnover for the vessel, as verified by an independent qualified mechanical engineer using an industry standard, or equivalent, method.

6 Application of this instrument

- (1) This instrument applies in relation to sheep that are to be exported, or that are exported, from Australia by sea between the months of May and October in a year, if the vessel transporting the sheep:
 - (a) leaves Australia after the commencement of this instrument; and
 - (b) will travel, or travels, through waters in the Arabian Sea north of latitude 11°N at any time during the voyage.
- (2) To avoid doubt, this instrument applies whether or not the vessel is transporting other kinds of live-stock in addition to sheep.

Part 2—Export conditions

7 Prohibition of export of sheep

- (1) The holder of a sheep export licence must not export a consignment of sheep in relation to which this instrument applies unless the holder complies with the conditions in this instrument.

Note 1: A sheep export licence is subject to the condition that the holder of the licence must comply with this instrument (see paragraph 17(5)(a) of the Act) (unless a relevant exemption is in force under Part 3 of this instrument).

Note 2: The holder of a sheep export licence may commit an offence if the holder contravenes a condition of the licence either intentionally or being reckless as to the condition (see subsection 54(3) of the Act).

- (2) Nothing in this instrument is intended to limit a condition or restriction in the Australian Standards for the Export of Livestock to which the export of sheep is subject but, to the extent of any inconsistency between such a condition or restriction and a condition in this instrument, this instrument prevails.

8 General conditions

Before the holder of a sheep export licence exports a consignment of sheep in relation to which this instrument applies, the holder must ensure:

- (a) that:
- (i) the vessel on which the sheep are to be transported is equipped with automatic live-stock watering systems that have water receptacles at a height suitable for the sheep; and
 - (ii) details of those watering systems are set out in the record of equipment and arrangements attached to the Australian certificate for the carriage of livestock for the vessel issued by the Australian Maritime Safety Authority under *Marine Order 43 (Cargo and cargo handling—livestock) 2018*; and
- (b) that a heat stress management plan for the voyage is in place; and
- (c) that bedding (such as straw, shavings or sawdust) of at least 1 tonne for every 10,000 sheep will be provided on the vessel.

8A Conditions relating to approved whistleblower hotline posters

Before the holder of a sheep export licence exports a consignment of sheep in relation to which this instrument applies, the holder must be reasonably satisfied that posters approved by the Secretary (***approved whistleblower hotline posters***):

- (a) were displayed, in accordance with requirements approved in writing by the Secretary, on or at all premises (including registered premises and ports) where the sheep were prepared or held after being transported from the farm where they were sourced and before being loaded onto the vessel on which they are to be transported; and

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- (b) were displayed, in accordance with requirements approved in writing by the Secretary, on the vessel on which the sheep are to be transported before they were loaded onto the vessel; and
- (c) continue to be displayed, in accordance with requirements approved in writing by the Secretary, on the vessel transporting the sheep until they are unloaded from the vessel.

Note: The approved whistleblower hotline poster and the approved requirements for its display are published on the Department's website (<http://www.agriculture.gov.au>).

9 Conditions relating to pen air turnover

- (1) Before the holder of a sheep export licence exports a consignment of sheep in relation to which this instrument applies, the holder must:
 - (a) ensure that the pen air turnover for the vessel on which the sheep are to be transported has been verified by an independent qualified mechanical engineer within the 5 year period ending on the day before the sheep are to be exported; and
 - (b) if changes to the vessel have been made since the pen air turnover referred to in paragraph (a) was verified and the changes may have affected the pen air turnover for the vessel—ensure that the pen air turnover for the vessel has been verified by an independent qualified mechanical engineer after the changes to the vessel were made; and
 - (c) take reasonable steps to satisfy himself or herself that the most recent verified pen air turnover for the vessel is correct; and
 - (d) make a record stating the following:
 - (i) the name of the vessel;
 - (ii) that the pen air turnover for the vessel has been verified by an independent qualified mechanical engineer within the 5 year period ending on the day before the sheep are to be exported;
 - (iii) the name and qualifications of the independent qualified mechanical engineer who carried out the most recent verification of the pen air turnover for the vessel;
 - (iv) the method used to carry out the verification referred to in subparagraph (iii);
 - (v) the date the verification referred to in subparagraph (iii) was carried out;
 - (vi) the results of the verification referred to in subparagraph (iii).
- (2) The holder of the sheep export licence must:
 - (a) give the Secretary a written notice stating the most recent verified pen air turnover for the vessel and the method used to carry out the verification; and
 - (b) give the Australian Livestock Export Corporation Ltd (LiveCorp) a written notice stating the most recent verified pen air turnover for the vessel.
- (3) The notices required by subsection (2) must be given as soon as practicable after the most recent verification of the pen air turnover for the vessel has been carried out.

10 Conditions relating to pen space area for each sheep

- (1) Before the holder of a sheep export licence exports a consignment of sheep in relation to which this instrument applies, the holder must ensure that the pen space on the vessel on which the sheep are to be transported, for each sheep (the **relevant sheep**) in the consignment, is, subject to subsection (4), an area in square metres of at least the greater of the following:
- the value for the relevant sheep calculated under subsection (2);
 - the value for the relevant sheep produced by the Heat Stress Risk Assessment Model for the voyage.

- (2) For the purposes of paragraph (1)(a), the value for the relevant sheep is calculated in accordance with the following formula:

$$k(W + C + (G \times D))^{0.66}$$

where:

C is the applicable curfew factor for the relevant sheep, which is:

- if the sheep was not provided with food or water for 3 or more hours before it was transported from the registered premises where it was prepared for export—12% of **W**; or
- in any other case—0.

D is the number of expected days of the voyage before the vessel reaches the first port where some, or all, of the sheep in the consignment are to be unloaded from the vessel.

G is the daily weight gain factor of 0.04 kilograms.

k is 0.033.

W is the weight, in kilograms, of the relevant sheep measured after, or at the time, the sheep was transported from the registered premises where it was prepared for export and before it was loaded onto the vessel.

- (3) For the purposes of paragraph (1)(b), in producing the value for the relevant sheep using the Heat Stress Risk Assessment Model for the voyage:
- the weight, in kilograms, of the relevant sheep must be the same as the factor **W** used in the calculation of the value for the relevant sheep under subsection (2); and
 - the applicable curfew factor for the relevant sheep must be the same as the factor **C** used in the calculation of the value for the relevant sheep under subsection (2).
- (4) If the relevant sheep is a horned ram, the holder of the sheep export licence must ensure that the pen space on the vessel for the horned ram is an area in square metres of at least the greater of the following:
- the value calculated under paragraph (1)(a) for the horned ram;
 - the value for the horned ram produced by the Heat Stress Risk Assessment Model for the voyage;
- plus an additional 10% of the greater value.

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11 Conditions relating to exports to State of Kuwait

- (1) This section applies in relation to the holder of a sheep export licence who wishes to export a consignment of sheep in relation to which this instrument applies if the State of Kuwait is one of the destination places of the vessel on which the sheep are to be transported.
- (2) The holder must ensure that the State of Kuwait is the first port of unloading for the vessel.
- (3) This section applies in relation to the holder regardless of whether the holder became aware, before or after the vessel left Australia, that the State of Kuwait would be a destination place for the vessel.

12 Power or requirement to do or cause a thing to be done

For the purposes of this instrument, if the holder of a sheep export licence has the power, or is required, under this instrument to do a thing, the holder is taken to have done the thing if the holder causes another person to do the thing on behalf of the holder.

Note: For example, if the holder of a sheep export licence subcontracts to service providers, the holder is responsible for instructing the service provider to comply with this instrument.

Part 3—Exemptions

13 Application for exemption

- (1) The holder of a sheep export licence may apply to the Secretary at any time for an exemption from one or more provisions of this instrument in relation to a consignment of sheep in relation to which this instrument applies.
- (2) An application for an exemption must:
 - (a) be made in a manner approved by the Secretary; and
 - (b) if the Secretary has approved a form for making an application—include the information required by the form; and
 - (c) set out the basis on which the exemption is sought.

Note: A person may commit an offence if the person makes a false or misleading statement in an application or provides false or misleading information or documents (see sections 136.1, 137.1 and 137.2 of the *Criminal Code*).

- (3) An application is taken not to have been made if the application does not comply with the requirements referred to in subsection (2) for the application.

14 Secretary may decide whether to grant exemption

Secretary may decide whether to grant exemption

- (1) On receiving an application made under section 13 for an exemption, the Secretary may decide:
 - (a) to grant the exemption; or
 - (b) not to grant the exemption.

Note: An application that does not comply with the requirements referred to in subsection 13(2) for the application is taken not to have been made (see subsection 13(3)).

Secretary may request further information or documents

- (2) For the purpose of making a decision in relation to the application, the Secretary may, in writing, request the applicant to give the Secretary further specified information or documents relevant to the application.

Grounds for granting exemption

- (3) The Secretary may grant the exemption if the Secretary is satisfied, having regard to any matter that the Secretary considers relevant, that it is appropriate to grant the exemption.

Exemption may be granted subject to conditions

- (4) The Secretary may grant an exemption under paragraph (1)(a), subject to any conditions that the Secretary considers are necessary.

Note: The exemption may be revoked if conditions are not complied with.

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15 Notice of decision

Instrument of exemption

- (1) If the Secretary decides to grant an exemption under paragraph 14(1)(a), the Secretary must give the applicant an instrument of exemption. The instrument must set out any conditions imposed under subsection 14(4).

Notice of refusal

- (2) If the Secretary decides not to grant an exemption under paragraph 14(1)(b), the Secretary may notify the applicant, in writing, of the decision. The notice must include the reasons for the decision.

16 Effect of exemption

If the holder of a sheep export licence is granted an exemption under paragraph 14(1)(a) from one or more provisions of this instrument (the ***exempted provisions***) in relation to a consignment of sheep, the exempted provisions do not apply in relation to the export of that consignment while the exemption is in force.

Schedule 1—Repeals

Australian Meat and Live-stock Industry (Export of Live-stock to Saudi Arabia) Order 2005

1 The whole of the instrument

Repeal the instrument.