

EXPLANATORY STATEMENT

Australian Meat and Live-stock Industry Act 1997

Australian Meat and Live-stock Industry (Prohibition of Export of Sheep by Sea to Middle East—Northern Summer) Order 2019

Legislative Authority

Paragraph 17(1)(a) of the *Australian Meat and Live-stock Industry Act 1997* (the Act) provides that the Secretary may, by legislative instrument, make orders, not inconsistent with the regulations, to be complied with by holders of export licences. Paragraph 17(5)(a) of the Act provides that an export licence is subject to the condition that the holder of the licence must comply with orders made under section 17.

Purpose

The purpose of the *Australian Meat and Live-stock Industry (Prohibition of Export of Sheep by Sea to Middle East—Northern Summer) Order 2019* (the Northern Summer Order) is to prohibit the holder of a sheep export licence from exporting a consignment of live sheep from Australia on a vessel travelling by sea during the period of 1 June 2019 and 31 August 2019 inclusive if the intended voyage were to travel through waters in the Arabian Sea north of latitude 11° N at any time during the voyage.

This prohibition is intended to ensure the long term sustainability of the live-export trade by prohibiting the export of live sheep by sea where the protection of the health, condition and welfare of sheep during the hottest months of the northern hemisphere summer cannot be assured.

Background

The Act is part of the regulatory framework that enables the Australian Government to regulate the export of live-stock from Australia and impose requirements on export licence-holders to ensure specific animal welfare outcomes for live-stock exports can be achieved.

In April 2018, footage was released showing live sheep in severe heat stress while being transported to the Middle East during the 2017 northern hemisphere summer. The *Independent Review of Conditions for the Export of Sheep to the Middle East during the Northern Hemisphere Summer* by Dr Michael McCarthy (the McCarthy Review) was announced by the Minister for Agriculture and Water Resources on 10 April 2017 as part of the Government's response to the incident. The report was commissioned to assist in the development of new conditions and requirements relating to the operation of this trade in the northern hemisphere summer. The McCarthy Review was published on 17 May 2018.

The Northern Summer Order is a response to the recommendations of the McCarthy Review, which states that the industry should “*place a much stronger emphasis on animal welfare*”. The Northern Summer Order prohibits trade during the hot months of June to August inclusive in the northern hemisphere summer to ensure the long term sustainability of the live-export trade by ensuring that live sheep are not exported when the protection of the

health, condition and welfare of the sheep cannot be assured, pending the release of the final report and recommendations by the heat stress risk assessment (HSRA) technical reference panel.

Impact and Effect

This instrument will prohibit holders of live-stock export licences from exporting live sheep from Australia from 1 June to 31 August (inclusive) if the intended voyage were to travel through waters in the Arabian Sea north of latitude 11° N at any time.

Consultation

The Department of Agriculture and Water Resources considered the draft report and recommendations by the Heat Stress Risk Assessment (HSRA) review technical reference panel, submissions to the HSRA review public consultation process and reports from independent observers on board vessels during May 2018 and June 2018.

The Department conducted public consultation with stakeholders including industry and animal welfare groups. A range of views were received in submissions which were taken into consideration during drafting.

Details/Operation

Details of the Northern Summer Order are set out in [Attachment A](#).

The Northern Summer Order is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in [Attachment B](#).

The Northern Summer Order is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the *Australian Meat and Live-stock Industry (Prohibition of Export of Sheep by Sea to Middle East—Northern Summer) Order 2019*

Part 1 Preliminary

Section 1 Name

Section 1 provides that the name of the instrument is the *Australian Meat and Live-stock Industry (Prohibition of Export of Sheep by Sea to Middle East—Northern Summer) Order 2019* (the Northern Summer Order).

Section 2 Commencement

Section 2 provides that the Northern Summer Order commences on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 Authority

Section 3 provides that the authority for making the Northern Summer Order is section 17 of the *Australian Meat and Live-stock Industry Act 1997*.

Section 4 Definitions

Section 4 defines a number of terms for the purposes of the Northern Summer Order.

Section 4 provides that “Act” means the *Australian Meat and Live-stock Industry Act 1997*.

Section 4 further provides that “live-stock export licence” has the meaning given by section 7 of the Act. Section 7 of the Act provides that this term means a licence granted under Part 2 of the Act to export live-stock from Australia, and includes such a licence that has been renewed.

Section 4 further provides that “sheep export licence” means a live-stock licence granted under Part 2 of the Act to export sheep from Australia.

Part 2 Export conditions

Section 5 Prohibition of export of sheep during June to August 2019

Subsection 5(1) provides that the holder of a sheep export licence must not export a consignment of sheep from Australia by sea on a vessel that leaves an Australian port during the period starting at the start of 1 June 2019 and ending at the end of 31 August 2019 (paragraph 5(1)(a)) and that will travel, or travels, through waters in the Arabian Sea north of latitude 11°N at any time during its voyage (paragraph 5(1)(b)).

Subsection 5(2) provides that subsection 5(1) applies whether or not the vessel will, or is transporting live-stock other than sheep.

Note 1 after subsection 5(2) provides that the holder of a sheep export licence is subject to the condition that the holder of the sheep export licence must comply with the Northern Summer Order. Paragraph 17(5)(a) of the Act provides that an export licence is subject to the condition that the holder of an export licence must comply with orders made under section 17 of the Act.

Note 2 after subsection 5(2) provides that the holder of a sheep export licence may commit an offence if the holder contravenes a condition of a licence either intentionally or being reckless as to the condition. It also directs the reader to subsection 54(3) of the Act, which provides for this offence and imposes a penalty of imprisonment for 5 years.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Australian Meat and Live-stock Industry (Prohibition of Export of Sheep by Sea to Middle East—Northern Summer) Order 2019

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Australian Meat and Live-stock Industry (Prohibition of Export of Sheep by Sea to Middle East—Northern Summer) Order 2019* (the Legislative Instrument) prohibits the holder of a sheep export licence from exporting a consignment of live sheep from Australia on a vessel travelling by sea during the period 1 June 2019 and 31 August 2019 inclusive if the intended voyage will travel or travels through waters in the Arabian Sea north of latitude 11° N. This prohibition is intended to ensure the long term sustainability of the live-export trade by prohibiting the export of live sheep by sea where the protection of the health and welfare of the sheep during the hot months of June to August (inclusive) of the northern hemisphere summer cannot be assured.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Daryl Quinlivan
Secretary of the Department of Agriculture and Water Resources