

## **EXPLANATORY STATEMENT**

### *Australian Meat and Live-stock Industry Act 1997*

### *Australian Meat and Live-stock Industry Legislation Amendment (Export of Sheep by Sea to Middle East) Order 2020*

#### **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 Amendment (Export of Sheep by Sea to Middle East) Order 2020* (Amendment Order) is to amend the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East) Order 2018* (Middle East Order) to provide that the Middle East Order does not permit the export of a consignment of live sheep if the export is prohibited by the *Australian Meat and Live-stock Industry (Prohibition of Export of Sheep by Sea to Middle East – Northern Summer) Order 2020* (2020 Northern Summer Order).

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

#### **Background**

The 2019 Northern Summer Order was made after a regulation impact statement process conducted by the Department of Agriculture, Water and the Environment, and in response to the report provided by Dr Michael McCarthy following the *Independent Review of Conditions for the Export of Sheep to the Middle East during the Northern Hemisphere Summer* (McCarthy Review). The 2019 Northern Summer Order applied between specified dates in 2019. As such, it no longer has an operative effect and can be repealed. The 2020 Northern Summer Order prohibits live sheep exports between 1 June and 14 September (inclusive) with extended periods of prohibition for Oman from 8 May to 14 September and Qatar from 22 May to 22 September, as well as additional conditions to manage heat stress risk in exported sheep. The 2020 Northern Summer Order implements the outcome of a Regulation Impact Statement process and replaces the 2019 Northern Summer Order. This resulted in the need to amend the Middle East Order.

#### **Impact and Effect**

The effect of the Amendment Order is that it clarifies, for holders of sheep export licences, that if an export of sheep is prohibited by the 2020 Northern Summer Order then the Middle East Order does not permit that export. The Amendment Order further repeals the 2019 Northern Summer Order.

## Consultation

The Amendment Order is part of a broader regulatory action concerning live animal exports which has been consulted on broadly. The department considered recommendations from the McCarthy Review, the Heat Stress Risk Assessment review technical reference panel, public submissions to the draft RIS and policy options discussion paper. Scientific analysis was considered including climatological analysis by the Bureau of Meteorology, data provided by the Australian Bureau of Agricultural and Resource Economics and Sciences, and voyage reports from Australian Government Accredited Veterinarians and Independent Observers on board vessels during 2018 and 2019 Northern Hemisphere summer months.

Feedback on the policy options was received by formal submissions and during meetings with industry stakeholders. Sheep farmers and the live export industry could be affected by the limited period sheep can be turned off to live exports each year. Farmers, particularly those in Western Australia, will have reduced flexibility in their farming practices and marketing options. There is also a risk that a further animal welfare incident (comparable to the incidents in 2017 on board the Awassi Express) will cause significant harm to the sustainability of live animal exports. Welfare based non-government organisations primarily supported managing heat stress in sheep by prohibiting exports to the Middle East for the whole six months of the Northern Hemisphere summer or by ceasing the trade altogether.

## Details/Operation

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

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

**Details of the *Australian Meat and Live-stock Industry Legislation Amendment (Export of Sheep by Sea to Middle East) Order 2020***

**Part 1 - Preliminary**

**Section 1 Name**

Section 1 provides that the name of the instrument is the *Australian Meat and Live-stock Industry Legislation Amendment (Export of Sheep by Sea to Middle East) Order 2020* (Amendment Order).

**Section 2 Commencement**

Section 2 provides that the Amendment Order commences on the day after it is registered.

**Section 3 Authority**

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

**Section 4 Schedules**

Section 4 provides that each instrument that is specified in the Schedule to the Amendment Order is amended or repealed as set out in the applicable items in the Schedule concerned.

**Schedule 1 - Amendments**

**Part 1—Amendments**

Item 1 repeals subsection 6(3) of the Middle East Order and substitutes a new subsection 6(3). New subsection 6(3) provides that, to avoid doubt, this instrument does not permit the export of a consignment of sheep if the export is prohibited by the *Australian Meat and Live-stock Industry (Prohibition of Export of Sheep by Sea to Middle East—Northern Summer) Order 2020*.

**Part 2—Repeals**

Item 2 repeals the *Australian Meat and Live-Stock Industry (Prohibition of Export of Sheep by Sea to Middle East—Northern Summer) Order 2019*.

**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 Legislation Amendment (Export of Sheep by Sea to Middle East) Order 2020.*

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 Legislation Amendment (Export of Sheep by Sea to Middle East) Order 2020* (the legislative instrument) amends the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East) Order 2018* (Middle East Order) to provide that the Middle East Order does not permit the export of a consignment of sheep if the export is prohibited by the *Australian Meat and Live-Stock Industry (Prohibition of Export of Sheep by Sea to Middle East – Northern Summer) Order 2020*.

The legislative instrument also repeals the *Australian Meat and Live-Stock Industry (Prohibition of Export of Sheep by Sea to Middle East—Northern Summer) Order 2019*.

**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.

**Andrew Metcalfe AO**  
**Secretary of the Department of Agriculture, Water and the Environment**