

EXPLANATORY STATEMENT

Australian Meat and Live-stock Industry Act 1997

Australian Meat and Live-stock Industry Legislation Amendment (Australian Standards for the Export of Livestock) Order 2020

Legislative Authority

This instrument is made under paragraph 17(1)(a) of the *Australian Meat and Live-stock Industry Act 1997* (the Act).

Paragraph 17(1)(a) of 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.

This instrument relies on subsection 33(3) of the *Acts Interpretation Act 1901* (Interpretation Act). Under subsection 33(3) of the Interpretation Act, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

Purpose

The *Australian Meat and Live-stock Industry Legislation Amendment (Australian Standards for the Export of Livestock) Order 2020* (Amendment Order) amends the *Australian Meat and Live-stock Industry (Standards) Order 2005* (the Order) to replace the definition of Australian Standards for the Export of Livestock. This will mean that, before 1 November, the holder of a live-stock export licence must not export live-stock except in accordance with the *Australian Standards for the Export of Livestock (Version 2.3)*. This will also mean that, on or after 1 November 2020, the holder of a live-stock export licence must not export live-stock except in accordance with the *Australian Standards for the Export of Livestock 3.0*.

The order also amends the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East – Northern Winter) Order 2018*, the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East) Order 2018*, and the *Australian Meat and Live-stock Industry (Prohibition of Export of Sheep by Sea to Middle East—Northern Summer) Order 2020* to replace the definition of Australian Standards for the Export of Livestock. This will mean that, from 1 November 2020, for exports covered by these orders, the holders of live-stock export licences must not export live-stock except in accordance with the *Australian Standards for the Export of Livestock 3.0*.

These amendments, in conjunction with an amendment to the *Export Control (Animals) Order 2004*, will allow the Department of Agriculture, Water and the Environment to implement the *Australian Standards for the Export of Livestock 3.0* from 1 November 2020. This will ensure that the holder of a livestock export licence cannot export livestock except in accordance with the *Australian Standards for the Export of Livestock 3.0* from 1 November 2020.

Background

The Department of Agriculture, Water and the Environment has updated the Australian Standards for the Export of Livestock (ASEL) to the *Australian Standards for the Export of Livestock 3.0* from the *Australian Standards for the Export of Livestock (Version 2.3) 2011*.

The ASEL sets requirements to ensure animals are fit to export from Australia, and their health and welfare is managed throughout the export supply chain. The current standards, Version 2.3, have been in place since 2011.

The Department of Agriculture, Water and the Environment appointed a Technical Advisory Committee to review ASEL, which included an independent chair, experts in animal health and welfare, regulatory design, and the livestock industry. The purpose of the review was to ensure the standards remained fit-for-purpose and reflected the latest science. The review was finalised in 2019.

The *Australian Standards for the Export of Livestock 3.0* incorporates recommendations made by the Technical Advisory Committee and feedback from stakeholders. The recommendations address different parts of the standards; from sourcing and preparation, through to on-board management of livestock and reporting. Key recommendations for livestock exports by sea include an allometric approach to stocking densities with more space required for most live export voyages. Key recommendations for livestock exports by air include more detailed welfare monitoring and reporting and management plans for classes of livestock that require specialised care.

Impact and Effect

The Amendment Order will amend the definition of ASEL in a number of orders made under the Act to mean *Australian Standards for the Export of Livestock 3.0* from 1 November 2020. This will have the effect that, from 1 November 2020, the holder of a livestock export licence cannot export livestock except in accordance with the *Australian Standards for the Export of Livestock 3.0*.

Consultation

ASEL 3.0 has been developed based on the recommendations made by an independent review process undertaken by the Technical Advisory Committee. As part of the review, the committee considered scientific literature, advice from a Stakeholder Reference Group, submissions provided through five rounds of public consultation, reports from independent observers on recent voyages, and other relevant information.

The department also sought feedback in 2019 on the format of ASEL from a wide range of ASEL users. Feedback from this process also informed the development of ASEL 3.0

Additional information can be viewed on the department's website (<https://www.agriculture.gov.au/animal/welfare/export-trade/review-asel>).

Incorporation by reference

Both the Australian Standards for the Export of Livestock version 2.3 and 3.0 as referred to in Schedule 1 and Schedule 2 of the Amendment Order are incorporated into the orders in the form in which they exist at the date of commencement, and not in the form in which they may exist from time to time.

ASEL Version 2.3 and Version 3.0 can be viewed on the department's website free of charge (<http://www.agriculture.gov.au>).

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 (Australian Standards for the Export of Livestock) 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 (Australian Standards for the Export of Livestock) Order 2020* (Amendment Order).

Section 2 Commencement

Section 2 provides that Sections 1 to 4 and Schedule 1 commence on the day after the instrument is registered and that Schedule 2 commences on 1 November 2020.

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, and any other item in a Schedule has effect according to its terms.

Schedule 1 - Amendments

Item 1 repeals subsection 3(1) of the Order and substitutes a new subsection 3(1). The new subsection 3(1) provides that the holder of a live-stock export licence must not export live-stock except in accordance with the *Australian Standards for the Export of Livestock (Version 2.3)* prior to 1 November 2020 and in accordance with the *Australian Standards for the Export of Livestock 3.0* on or after 1 November 2020. This will ensure that the export conditions of version 3.0 can be enforced from 1 November 2020.

Schedule 2 - Amendments

Item 1 repeals the definition of Australian Standards for the Export of Livestock in section 4 of the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East—Northern Winter) Order 2018* and substitutes a new definition. The new definition in section 4 provides that *Australian Standards for the Export of Livestock* means the *Australian Standards for the Export of Livestock 3.0*. This will ensure that the export conditions of version 3.0 can be enforced from 1 November 2020.

Item 2 repeals the definition of Australian Standards for the Export of Livestock in section 5 of the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East) Order 2018* and substitutes a new definition. The new definition in section 5 provides that

Australian Standards for the Export of Livestock means the *Australian Standards for the Export of Livestock 3.0*. This will ensure that the export conditions of version 3.0 can be enforced from 1 November 2020.

Item 3 repeals the definition of Australian Standards for the Export of Livestock in section 4 of the *Australian Meat and Live-stock Industry (Prohibition of Export of Sheep by Sea to Middle East—Northern Summer) Order 2020* and substitutes a new definition. The new definition in section 4 provides that *Australian Standards for the Export of Livestock* means the *Australian Standards for the Export of Livestock 3.0*. This will ensure that the export conditions of version 3.0 can be enforced from 1 November 2020.

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 (Australian Standards for the Export of Livestock) 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 (Australian Standards for the Export of Livestock) Order 2020* (Amendment Order) amends the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East – Northern Winter) Order 2018* and the *Australian Meat and Live-stock Industry (Standards) Order 2005* to amend the definition of Australian Standards for the Export of Livestock to mean *Australian Standards for the Export of Livestock 3.0* from 1 November 2020. This will have the effect that, from 1 November 2020, the holder of a livestock export licence cannot export livestock except in accordance with the *Australian Standards for the Export of Livestock 3.0*.

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