

## **EXPLANATORY STATEMENT**

Issued by Authority of the Minister for Agriculture, Fisheries and Forestry

*Australian Meat and Live-stock Industry Act 1997*

*Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997*

*Australian Meat and Live-stock Industry Regulations 2023*

### **Legislative Authority**

The *Australian Meat and Live-stock Industry Act 1997* (the Industry Act) and the *Australian Meat and Live-stock (Repeals and Consequential Provisions) Act 1997* (the Consequential Act) give effect to the Government's decision of 18 March 1997 to reform the structures of the red meat industry. Section 74 of the Industry Act and section 51 of the Consequential Act provide that the Governor-General may make regulations prescribing matters required or permitted to be prescribed by those Acts, or necessary or convenient to be prescribed for carrying out or giving effect to those Acts.

### **Purpose**

The purpose of the *Australian Meat and Live-stock Industry Regulations 2023* (the Regulations) is to remake the *Australian Meat and Live-stock Industry Regulations 1998* (the AMLI Regulations) to clarify its effectiveness from 1 April 2020.

The Regulations also include updated references to the prescribed industry bodies whose broad policy the Minister must have regard to in exercising his powers under Part 3 of the Industry Act whose names have changed or will change. An update is also included to the name of the body that provides figures showing the Gross Value of Production (GVP) of the livestock industry for a financial year for the purposes of determining amounts under section 66 of the Industry Act.

### **Background**

The levies modernisation project in the Department of Agriculture, Fisheries and Forestry seeks to streamline and modernise the agricultural levies and charges legislation (levies legislation). A review of the levies legislative framework found that it is still required but that it should be streamlined and modernised to meet the needs of industry. The levies legislation includes the AMLI Regulations, which support the disbursement of certain levies for the meat industry. The Regulations have been re-made with most provisions having retrospective effect from 1 April 2020 to address any uncertainty around their operation due to technical issues that may arise from their inclusion in the *Legislation (Agricultural Levies Instruments) Sunset-altering Declaration 2016* and maintain the clear intent that the matters prescribed by regulations under the AMLI Act continue in effect until such time as the levies reforms are implemented as part of the levies modernisation project.

The Legislation Act limits the effect of retrospective instruments to the extent that an instrument would adversely impact on persons (other than the Commonwealth) by imposing

liabilities or disadvantageously affecting rights. In this instance, the effect of the Regulations operating retrospectively is to support the disbursement of funds to the meat industry. The retrospective application of the Regulations will not have a disadvantageous impact on individuals.

### **Impact and Effect**

The Regulations ensure the AMLI Regulations have remained continuously in effect from 1 April 2020. The Regulations also ensure that the names of prescribed industry bodies, the body that provides figures showing the Gross Value of Production of the livestock industry for a financial year for the purposes of section 59 of the Industry Act, and certain definitions for the purposes of the Industry Act are up to date.

### **Consultation**

Relevant meat industry bodies were consulted on the Regulations and were supportive of the changes. Extensive consultation has been conducted on the proposed reforms to the levies legislation over a number of years.

The former Office of Best Practice Regulation (OBPR) (now the Office of Impact Analysis) was consulted on the need for a Regulatory Impact Statement (RIS). The OBPR has advised that a RIS is not required (OBPR Ref: 23-04389).

### **Details/ Operation**

Details of the Regulations are set out in Attachment A.

### **Other**

The Regulations are 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 Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

**Details of the *Australian Meat and Live-stock Industry Regulations 2023***

**Section 1 – Name**

This section provides that the name of the instrument is the *Australian Meat and Live-stock Industry Regulations 2023* (the Regulations).

**Section 2 – Commencement**

This section provides for Part 1, section 6 and Parts 3 and 4 of the Regulations to commence on 1 April 2020. This ensures that the equivalent provisions of the AMLI Regulations have continuously remained in effect from that date.

This section also provides for section 5 of the Regulations to commence at the same time as section 3 of the Export Control Act commenced. Section 5 of the Regulations replaced regulation 3A of the AMLI Regulations. As regulation 3A of the AMLI Regulations commenced at the same time as the Export Control Act (at 3am (A.C.T) on 28 March 2021) section 5 of the Regulations also needed to commence at that time.

This section also provides for section 7 of the Regulations to commence on 1 April 2023. Section 7 of the Regulations prescribes Cattle Australia Limited for the purposes of section 59 of the Industry Act. The commencement of this provision recognises that the name of the prescribed industry body for cattle is changing from Cattle Council of Australia Inc. to Cattle Australia Limited.

The note following subsection 2(1) highlights that the table only relates to the provisions of this instrument as originally made. The table will not be amended to deal with any later amendments of this instrument.

Subsection 2(2) provides that 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. Column 3 contains relevant dates and details.

**Section 3 – Authority**

This section provides that the Regulations are made under the *Australian Meat and Live-stock Industry Act 1997* (the Industry Act) and the *Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997* (the Consequential Act).

**Section 4 – Definitions**

This section provides that in this instrument, **Act** means the *Australian Meat and Live-stock Industry Act 1997*.

## **Part 2 – Prescribed live-stock and prescribed industry bodies**

### Section 5 – Prescribed live-stock

Section 3 of the Industry Act relevantly defines **live-stock** to mean cattle, calves, sheep, lambs goats or other animals prescribed for the purposes of this definition.

The purpose of section 3A of the AMLI Regulations is to prescribe buffalo, camelids and deer for the purposes of section 3 of the Industry Act. Regulation 3A was inserted into the AMLI Regulations by the *Export Control Legislation (Repeals and Consequential Amendments) Regulations 2021*, which were made under the Export Control Act and commenced at the same time as that Act at 3am (A.C.T) on 28 March 2021.

New section 5 of the Regulations replicates section 3A of the AMLI Regulations and ensures that buffalo, camelids and deer are prescribed for the purposes of the definition of **live-stock** in section 3 of the Industry Act from 3am (A.C.T) on 28 March 2021.

### Section 6 – Prescribed industry bodies – stage 1 commencement

Section 59 of the Industry Act requires the Minister, in exercising the powers of the Minister under Part 3 of the Act, to have regard to any broad policies formulated by prescribed industry bodies. Section 6 of the Regulations prescribes the industry bodies for the purposes of this provision and mirrors the industry bodies in section 4 of the AMLI Regulations.

Section 6 of the Regulations updates the name of ‘the Sheepmeat Council of Australia Inc.’ to ‘Sheep Producers Australia Limited’. Sheep Producers Australia Limited is the peak national body representing and promoting the interests of sheepmeat producers in Australia and succeeded the Sheepmeat Council of Australia Inc. in this role in November 2017. Section 6 therefore reflects the correct name of this industry body on 1 April 2020 (when this section commenced).

The retrospective application of this section confirms those industry bodies whose joint policies must be considered by the Minister, as has occurred in practice since 1 April 2020.

Section 6 also clarifies that paragraph 6(1)(b), which prescribes the Cattle Council of Australia Inc. as one of the industry bodies for the purposes of section 59 of the Industry Act, ceases to have effect on 1 April 2023. This is a consequential change in relation to the commencement of section 7 below which updates the name of this body to Cattle Australia Limited on 1 April 2023.

### Section 7 – Prescribed industry bodies – stage 2 commencement

Section 7 of the Regulations updates the name of ‘the Cattle Council of Australia Inc.’ to ‘Cattle Australia Limited’. The Cattle Council of Australia Inc. is the peak producer organisation representing Australia’s grassfed beef cattle producers and will be succeeded by Cattle Australia Limited in this role.

## **Part 3 – Gross value of production of the industry and payments by the marketing body**

### Section 8 – Gross value of production of the industry

Section 66 of the Industry Act provides for the Commonwealth's matching payments to the industry research body. Subsection 66(1) provides for payments from the Commonwealth to the industry research body. Payments under subsection 66(1) are subject to the condition in subsection 66(3), which involves consideration of the gross value of production of the meat and live-stock industry in determining the amount of excess (if any) the industry research body will pay to the Commonwealth. Subsection 66(4) provides that the regulations may provide for the way in which the Secretary is to determine the amount of the gross value of production of the industry for a financial year.

The purpose of regulation 5 of the AMLI Regulations is to provide, for the purposes of subsection 66(4) of the Industry Act, the way in which the Secretary must determine the amount of the gross value of production of the industry for a financial year.

Section 8 of the Regulations replicates section 5 of the AMLI Regulations in accordance with modern drafting practices. Retrospective application of this provision from 1 April 2020 continues in effect the methodology for the calculation of GVP upon which any excess amounts have been worked out. No debts or overpayments will arise from continuing this in effect.

Section 8 of the Regulations also updates the references to ABARE in that provision with references to ABARES.

The Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) is the research arm of the Department of Agriculture, Fisheries and Forestry. ABARES was formerly known as the Australian Bureau of Agricultural and Resource Economics before it was merged with the Bureau of Rural Sciences in 2010. As this change had already occurred by the time of the commencement of the Regulations on 1 April 2020, the provision commenced on that date.

### Section 9 – Payments that may be made by industry bodies

Section 67 of the Industry Act sets out the purposes for which amounts paid to an industry marketing body under section 63 of the Industry Act and amounts paid to an industry research body under sections 64 and 66 may be applied by those bodies. These include in making such other payments (if any) subject to such conditions (if any) as are prescribed (paragraphs 67(1)(c), 67(2)(c) and 67(3)(b) of the Industry Act).

The purpose of section 6 of the AMLI Regulations is to prescribe additional payments of monies by the industry marketing body for the purposes of paragraph 67(1)(c) of the Industry Act and to the industry research body for the purposes of paragraphs 67(2)(c) and 67(3)(b) of the Industry Act. These are for the purposes of setting standards of meat classification and meat classification language standards for the meat industry and payments for the purposes of managing an industry wide grading system and meat safety and hygiene.

Section 9 of the Regulations replicates section 6 of the AMLI Regulations with effect from 1 April 2020. Retrospective application of this provision ensures expenditure by industry bodies is consistent with the permitted purposes under the Industry Act.

#### **Part 4 – Other matters**

##### Section 10 – Industry bodies that may receive payments, assets and liabilities, or to which staff have transferred

Parts 3 and 4 of Schedule 5 to the Consequential Act deal with matters relating to the transfer of assets and liabilities, and other consequential and transitional provisions and the staff of statutory authorities.

The purpose of section 7 of the AMLI Regulations is to prescribe industry bodies for the purposes of those Parts of the Consequential Act that may be recipients of payments, assets and liabilities, or in relation to staff that have transferred. The industry bodies prescribed include Meat & Livestock Australia Limited, Australian Meat Processor Corporation Limited, Australian Livestock Export Corporation Limited, AUS-MEAT Limited and Red Meat Advisory Council Limited.

Section 10 of the Regulations replicates section 7 of the AMLI Regulations with effect from 1 April 2020. Retrospective application of this provision would support bodies listed to receive payments, assets and liabilities under the Consequential Act with effect from that date. Retrospective application of this provision also ensures that provisions of the Consequential Act relating to staff who have transferred to those bodies continue to apply from that date.

## **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 Regulations 2023*

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 Regulations 2023* (the Regulations) re-make the *Australian Meat and Live-stock Industry Regulations 1998* (the AMLI Regulations) mostly with effect from 1 April 2020.

The Regulations also include updated references to the prescribed industry bodies whose broad policy the Minister must have regard to in exercising his powers under Part 3 of the *Australian Meat and Live-stock Industry Act 1997* whose names have recently changed or will change in future and an update to the name of the body that provides figures showing the Gross Value of Production (GVP) of the livestock industry for a financial year for the purposes of determining amounts under section 66 of the *Australian Meat and Live-stock Industry Act 1997*.

The levies modernisation project in the Department of Agriculture, Fisheries and Forestry seeks to streamline and modernise the agricultural levies and charges legislation (levies legislation). A review of the levies legislative framework found that it is still required but that it should be streamlined and modernised to meet the needs of industry. The levies legislation includes the AMLI Regulations, which supports the disbursement of certain levies. The Regulations address any technical issues that may relate to the operation of the AMLI Regulations from 1 April 2020 while maintaining the clear intent that the AMLI Regulations continue in effect until such time as they can be re-made as part of the levies modernisation project.

The *Legislation Act 2003* limits the effect of retrospective instruments to the extent that an instrument would adversely impact on persons (other than the Commonwealth) by imposing liabilities or disadvantageously affecting rights. In this instance, the effect of the Regulations operating retrospectively is to support the disbursement of funds to the meat industry. The retrospective application of the Regulations will not have a disadvantageous impact on individuals.

### **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.

**Senator the Hon. Murray Watt**  
**Minister for Agriculture, Fisheries and Forestry**