



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

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

Dated 31 October 2018

Daryl Quinlivan
Secretary of the Department of Agriculture and Water Resources

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Part 1—Preliminary

1 Name

This instrument is the *Australian Meat and Live-stock Industry (Export of Sheep by Sea to Middle East—Northern Winter) 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.	2 November 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Note: This table relates only to the provisions of this instrument as originally made.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 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 October 2018 be viewed on the Department's website (<http://www.agriculture.gov.au>).

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:

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- (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.

5 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 1 November in a year and 30 April in the following 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, or the Red 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

6 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.

7 Conditions relating to watering systems

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:

- (a) 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
- (b) 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*.

8 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
- (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.

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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 (5), an area in square metres of at least the greater of the following:

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- (a) the area for the relevant sheep specified in the table in subsection (2);
 (b) the value for the relevant sheep produced by the Heat Stress Risk Assessment Model for the voyage.

(2) The following table has effect for the purposes of paragraph (1)(a).

Pen space area for each relevant sheep		
Item	Column 1 Relevant sheep weight (kg)	Column 2 Pen space area (m²)
1	28	0.307
2	29	0.309
3	30	0.311
4	31	0.315
5	32	0.317
6	33	0.321
7	34	0.323
8	35	0.327
9	36	0.329
10	37	0.333
11	38	0.335
12	39	0.338
13	40	0.341
14	41	0.344
15	42	0.347
16	43	0.350
17	44	0.353
18	45	0.356
19	46	0.358
20	47	0.362
21	48	0.364
22	49	0.368
23	50	0.370
24	51	0.376
25	52	0.381
26	53	0.387
27	54	0.391
28	55	0.397
29	56	0.402
30	57	0.408
31	58	0.412
32	59	0.418
33	60	0.423
34	61	0.431

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Pen space area for each relevant sheep		
Item	Column 1 Relevant sheep weight (kg)	Column 2 Pen space area (m²)
35	62	0.439
36	63	0.447
37	64	0.455
38	65	0.463
39	66	0.471
40	67	0.479
41	68	0.488
42	69	0.496
43	70	0.504
44	75	0.546
45	80	0.590
46	90	0.676

- (3) For the purposes of paragraph (1)(a) and subsection (2), the weight of the relevant sheep is the weight, in kilograms, of the 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.
- (4) 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 of the relevant sheep must be the same as the weight used for the purposes of paragraph (1)(a) and subsection (2).
- (5) 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 area for the horned ram specified in the table in subsection (2);
 - 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.

11 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

12 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.

13 Secretary may decide whether to grant exemption

Secretary may decide whether to grant exemption

- (1) On receiving an application made under section 12 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 12(2) for the application is taken not to have been made (see subsection 12(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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14 Notice of decision

Instrument of exemption

- (1) If the Secretary decides to grant an exemption under paragraph 13(1)(a), the Secretary must give the applicant an instrument of exemption. The instrument must set out any conditions imposed under subsection 13(4).

Notice of refusal

- (2) If the Secretary decides not to grant an exemption under paragraph 13(1)(b), the Secretary may notify the applicant, in writing, of the decision. The notice must include the reasons for the decision.

15 Effect of exemption

If the holder of a sheep export licence is granted an exemption under paragraph 13(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.