

EXPLANATORY STATEMENT

Export Control Act 1982

Export Control (Orders) Regulations 1982

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

Legislative Authority

This instrument is made under regulation 3 of the *Export Control (Orders) Regulations 1982* (the Regulations).

Subsection 25(1) of the *Export Control Act 1982* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act or necessary or convenient to be prescribed for the carrying out or giving effect to the Act.

Paragraph 25(2)(g) of the Act provides that the Governor-General may make regulations empowering the Minister to make orders, not inconsistent with the regulations, with respect to any matter for or in relation to which provision may be made by the regulations.

Under regulation 3 of the *Export Control (Orders) Regulations 1982* (the Regulations), the Minister may make orders, not inconsistent with regulations made under the Act.

Under subsection 33(3) of the *Acts Interpretation Act 1901* (Interpretation Act), where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), 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. Subsection 33(3) of the Interpretation Act applies to the Regulations by operation of paragraph 13(1)(a) of the *Legislation Act 2003*.

Purpose

The purpose of the *Export Control (Animals) Amendment (Australian Standards for the Export of Livestock) Order 2020* is to amend *Export Control (Animals) Order 2004* (the Order) to replace the definition of Australian Standards for the Export of Livestock (ASEL). The new definition is the standards that section 3 of the *Australian Meat and Live-stock Industry (Standards) Order 2005* requires the holder of a live-stock export licence to export live-stock in accordance with.

This new definition picks up amendments that will be made to section 3 of the *Australian Meat and Live-stock Industry (Standards) Order 2005* by the *Australian Meat and Live-stock Industry Legislation Amendment (Australian Standards for the Export of Livestock) Order 2020*. As a result, the definition of ASEL in the Order will be consistent with the *Australian Standards for the Export of Livestock Version 3.0* from 1 November 2020. This will allow the Department of Agriculture, Water and the Environment to implement the new standards, ensuring that the holder of a livestock export licence cannot export livestock except in

accordance with the *Australian Standards for the Export of Livestock (Version 3.0)* from 1 November 2020.

The Amendment Order also repeals paragraph 1A.10(1)(f) of the Order. Paragraph 1A.10(1)(f) gives the Secretary of the Department of Agriculture, Water and the Environment the power to request that a live animal exporter vary its approved arrangement with the department if that arrangement is not meeting the Australian Standards for the Export of Livestock. Paragraph 1A.10(1)(f) is superfluous, as the Secretary can request a variation of an approved arrangement to ensure compliance with the Australian Standards for the Export of Livestock under paragraph 1A.10(b).

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 (Version 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 (Version 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 effect of the Amendment Order is to amend the definition of ASEL so that, from 1 November 2020, the Order will refer to the standards that section 3 of the *Australian Meat and Live-stock Industry (Standards) Order 2005* requires the holder of a live-stock export licence to export live-stock in accordance with. This will mean that, from 1 November, exporters will be required to comply with the *Australian Standards for the Export of Livestock (Version 3.0)*.

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

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>).

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 Export Control (Animals) 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 *Error! Use the Home tab to apply ShortT to the text that you want to appear here.*

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 *Error! Use the Home tab to apply ShortT to the text that you want to appear here.* is regulation 3 of the *Export Control (Orders) Regulations 1982*.

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

Item 1 repeals the definition of ASEL in subsection 1.05(1) (definition of Australian Standards for the Export of Live-stock) of the Order and substitutes a new definition. The new definition is the standards that section 3 of the Australian Meat and Live-stock Industry (Standards) Order 2005 requires the holder of a live-stock export licence to export live-stock in accordance with.

Item 2 amends paragraph 1A.10(1)(e) of the Order by omitting “changes; or” from the paragraph and substituting that with “changes.”. These amendments are consequential to the amendments to the Order made by item 3.

Item 3 repeals paragraph 1A.10(1)(f) of the Order. Paragraph 1A.10(1)(f) gives the Secretary the power to require an exporter to submit a variation of an approved arrangement for the preparation of live-stock for export by the exporter if the ASEL change because of an amendment of the *Australian Meat and Live-stock Industry (Standards) Order 2005*. Paragraph 1A.10(1)(f) is superfluous, as the Secretary may require an exporter to vary the arrangement for this reason under paragraph 1A.10(b).

Statement of Compatibility with Human Rights

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

Export Control (Animals) 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 purpose of the *Export Control (Animals) Amendment (Australian Standards for the Export of Livestock) Order 2020* is to amend *Export Control (Animals) Order 2004* to amend the definition of Australian Standards for the Export of Livestock to mean the standards that section 3 of the Australian Meat and Live-stock Industry (Standards) Order 2005 requires the holder of a live-stock export licence to export live-stock in accordance with.

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.

The Hon David Littleproud MP
Minister for Agriculture, Drought and Emergency Management