

## **EXPLANATORY STATEMENT**

Issued by Authority of the Secretary of the Department of Agriculture, Fisheries and Forestry

*Export Control Act 2020*

*Export Control (Animals) Amendment (Northern Hemisphere Summer Conditions) Rules  
2023*

### **Legislative Authority**

The *Export Control (Animals) Amendment (Northern Hemisphere Summer Conditions) Rules 2023* (the Amendment Rules) are made by the Secretary of the Department of Agriculture, Fisheries and Forestry (the department) under section 432 of the *Export Control Act 2020* (the Act).

Section 432 of the Act relevantly provides that the Secretary of the department (the Secretary) may, by legislative instrument, make rules prescribing matters required or permitted by the Act to be prescribed by the rules, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Paragraph 192(1)(b) of the Act provides that an export licence is subject to the conditions prescribed by the rules. Subsection 192(3) relevantly provides, without limiting paragraph 192(1)(b) or (c), that the rules may prescribe conditions that are required to be complied with before or after the export of the goods to which the conditions relate.

Under section 289 of the Act, the Minister may give directions to the Secretary in relation to the performance of the Secretary's functions or the exercise of the Secretary's powers in making rules under section 432 of the Act. Directions given by the Minister to the Secretary are legislative instruments but are not subject to disallowance or sunset. At the time of commencement, a Ministerial direction has not been made under section 289 of the Act for the purposes of the making of rules relating to the export of livestock.

### **Purpose**

The purpose of the Amendment Rules is to amend the *Export Control (Animals) Rules 2021* (the Animals Rules) to implement several recommendations of the Final Report of the 'Review of live sheep exports by sea to, or through, the Middle East during the Northern Hemisphere Summer' (Final Report) prepared by the department.

The Final Report makes recommendations to improve and maintain animal welfare on board vessels travelling to, or through, the Middle East during the Northern Hemisphere summer.

The Amendment Rules implement the following recommendations made in the Final Report to improve conditions for sheep:

- That sheep must be fed a minimum of 3% of their liveweight daily while on vessels travelling to, or through, the Middle East during the Northern Hemisphere summer, to support better welfare outcomes for sheep onboard vessels by reducing competition for fodder;

- That each vessel exporting sheep must deploy a minimum of 1 data logger on the bridge of a vessel to record the ambient wet bulb temperature, to provide a baseline comparison to wet bulb temperatures recorded by data loggers on decks where sheep are held;
- That where Oman is one of multiple Persian Gulf destination ports, exporters may discharge sheep in Oman first, en route to other destinations, provided the prohibition dates for Oman are met, which will result in less travel time for sheep being exported to Oman; and
- That voyages departing from ports other than Fremantle should comply with prohibition date recommendations and be required to be west of a longitude of 116° east, no later than 31 May if travelling to the Persian Gulf or no later than 14 June if travelling to the Red Sea. This amendment will prevent sheep arriving in the Middle East when conditions are hotter and more humid, even if the voyage departs from a port other than Fremantle (such as Portland or Port Adelaide).

The Amendment Rules also make minor amendments in relation to the definition of “pen air turnover” and associated rules, to clarify that this is calculated in relation to each deck of a vessel. These amendments will make clear that the pen air turnover is calculated on each deck of a vessel where sheep are held and not for the entire vessel, as the pen air turnover may vary on each deck.

## **Background**

Part 2 of Chapter 6 of the Animals Rules prescribes conditions of a livestock export licence for the purposes of paragraph 192(1)(b) of the Act. Division 4 of Part 2 of Chapter 6 of the Animals Rules prescribes conditions of a sheep export licence that cover the export of sheep by sea to the Middle East. Division 4 relevantly includes Subdivision C, which applies in relation to sheep that are to be exported, or that are exported, by sea between 1 May in a year and 31 October in that year, in certain circumstances.

The purpose of Subdivision C is to improve animal welfare outcomes by prohibiting the export of sheep from Australia to the Middle East during the hottest, most humid periods of the Northern Hemisphere summer unless certain conditions are met. The central issues relevant to sheep health and welfare during shipping to the Middle East in the months of May to October are stocking density, ventilation and thermoregulation of the sheep.

In October 2021, as part of the department’s review of the regulatory settings for the export of live sheep to, or through, the Middle East during the Northern Hemisphere summer, the Bureau of Meteorology prepared an updated climate analysis based on 42 years of accumulated data. On the basis of this updated analysis, the Animals Rules were amended on 5 April 2022 to revise the absolute prohibition dates for the export of live sheep to, or through, the Middle East and to introduce a conditional prohibition period for the export of sheep to certain countries in the Middle East.

The Amendment Rules seek to make further amendments to implement several recommendations in the Final Report, which are based on the updated climate analysis prepared by the Bureau of Meteorology. In preparing the Final Report, the department considered feedback received during the public consultation process (discussed below). The Amendment Rules are aimed at managing heat stress risks in sheep that are exported to the Middle East during the Northern Hemisphere summer.

## **Impact and Effect**

The Amendment Rules amend the requirements and regulatory settings in the Animals Rules in relation to the export of sheep to certain destinations in the Middle East, or via certain routes, to reflect improved climatology data.

In April 2020, the department prepared a Regulation Impact Statement for the export of sheep to, or through, the Middle East during the Northern Hemisphere summer (OBPR ref: 23822). As part of that process, the department undertook to review the regulatory settings after two Northern Hemisphere summers (2020 and 2021) to see whether the regulatory objective had been achieved and whether there was any new science.

The Amendment Rules have been prepared as part of the department's review into these regulatory settings and reflect the final outcomes of that review. The Office of Impact Analysis (OIA) has advised that an Impact Analysis is not required for these amendments (ref: OBPR23-04374).

## **Consultation**

On 17 December 2021, the department released a draft report titled '*Review of live sheep exports by sea to, or through, the Middle East during the Northern Hemisphere summer*' (the draft report). The draft report was released on the department's Have Your Say website, and public consultation on the draft report concluded on 28 January 2022.

The department received nearly 700 submissions during the public consultation period. The department also met with interested parties to explain the department's findings and recommendations during the consultation period.

Given the high level of interest in the review, the implications for animal welfare and the need to consider the practicalities of any changes to export requirements, the department undertook additional stakeholder engagement during February and March 2022, including with animal welfare organisations, sheep producers, exporters and industry representatives.

The Final Report was released on 16 September 2022 on the department's website and concluded that to maintain the welfare of exported sheep, an absolute prohibition period during the hottest, most humid part of the Northern Hemisphere summer should remain. The Final Report also makes a number of recommendations, including in relation to minimum feed, data measurement, first port of unloading and vessel location requirements.

The Amendment Rules reflect feedback received on the draft report and subsequent stakeholder engagement, and the findings of the Final Report.

## **Details/ Operation**

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

The Amendment Rules commence on the day after registration.

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

## **Other**

The Amendment Rules are compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2022*. A full Statement of Compatibility with Human Rights is set out in Attachment B.

**Details of the *Export Control (Animals) Amendment (Northern Hemisphere Summer Conditions) Rules 2023***

**Section 1 – Name**

This section provides that the name of the instrument is the *Export Control (Animals) Amendment (Northern Hemisphere Summer Conditions) Rules 2023* (the Amendment Rules).

**Section 2 – Commencement**

This section provides that the Amendment Rules commence on the day after the instrument is registered on the Federal Register of Legislation.

The note below the table provides that the table relates only to the provision of the Amendment Rules as originally made. It would not be amended to deal with later amendments of the Amendment Rules. The purpose of this note is to clarify that the commencement of any amendments is not reflected in this table.

**Section 3 – Authority**

This section provides that the Amendment Rules is made under the *Export Control Act 2020*.

**Section 4 – Schedules**

This section provides for the amendment or repeal of instruments as set out in a Schedule to the Amendment Rules. This enables the amendment of the *Export Control (Animals) Rules 2021* (the Animals Rules).

## **Schedule 1 – Amendments**

### *Export Control (Animals) Rules 2021*

#### **Item [1] – Section 1-6 (definition of pen air turnover)**

Section 1-6 of the Animals Rules provides definitions of various terms.

This item repeals the definition of “pen air turnover” and substitutes it with a new definition, which provides that “pen air turnover” for a deck of a vessel means the ventilation rate measured in cubic metres per hour for each square metre of pen space on the deck, calculated using an industry standard, or equivalent method.

The only change from the previous definition, which refers to “pen air turnover” for a vessel, is to refer to pen air turnover for a deck of a vessel, rather than the entire vessel. This amendment clarifies that “pen air turnover” is calculated in relation to each deck on a vessel, rather than for the entire vessel, as the pen air turnover may vary on each deck.

Calculating the “pen air turnover” in relation to each deck on the vessel where sheep are held rather than for the entire vessel reflects the way pen air turnover is calculated by engineers in practice, provides more accurate readings of the ventilation efficiency of the vessel and ensures minimum rates of ventilation are met.

#### **Item [2] – Section 1-6 (definition of verified pen air turnover)**

Section 1-6 of the Animals Rules provides for the definition of various terms.

This item repeals the definition of “verified pen air turnover” and substitutes it with a new definition, which provides that “verified pen air turnover” for a deck of a vessel means the pen air turnover for the deck, as verified by an independent mechanical engineer using an industry standard, or equivalent method.

The only change from the previous definition, which refers to “verified pen air turnover” for a vessel, is to refer to pen air turnover for a deck of a vessel, rather than the entire vessel. The amendment is consequential to the amendment to the definition of “pen air turnover” made by item 1 of this Schedule, specifically the substitution of the concept of “vessel” in the definition with the deck of a vessel.

#### **Item [3] – Paragraph 6-14B(2)(c)**

Section 6-14B of the Animals Rules prohibits the export of a consignment of sheep to certain countries in the Middle East between 22 May and 31 May unless certain conditions in paragraphs 6-14B(2)(a) to (d) are satisfied.

This item repeals paragraph 6-14B(2)(c), which provides that sheep must not be exported unless the daily amount of feed that will be provided to each sheep in a consignment while on a vessel that leaves an Australian port is at least 3% of the sheep’s weight.

This paragraph is now redundant because of the new condition in section 6-16 inserted by item 6 of this Schedule. Section 6-16 sets out general conditions that must be adhered to for a

consignment of sheep being exported by sea between 1 May in a year and 31 October in that year, and that will travel through waters in the Arabian Sea, or the Red Sea, north of latitude 11°N at any time during the voyage.

The new condition in section 6-16 introduces an equivalent requirement that sheep must not be exported unless the daily amount of feed that will be provided to each sheep in a consignment while on a vessel is at least 3% of the sheep's weight. The amendment to section 6-16 applies as a general condition of a sheep export licence for the export of sheep between 1 May in a year and 31 October in that year and has a broader application compared to existing paragraph 6-14B(2)(c), thus making paragraph 6-14B(2)(c) obsolete.

#### **Item [4] – Paragraph 6-14B(2)(d)**

Section 6-14B of the Animals Rules prohibits the export of a consignment of sheep to certain countries in the Middle East between 22 May and 31 May unless certain conditions in paragraphs 6-14B(2)(a) to (d) are satisfied.

Paragraph 6-14B(2)(d) provides for the minimum pen air turnover for a vessel, when the vessel is in port.

This item substitutes the words “for the vessel” in paragraph 6-14B(2)(d) with the words “for each deck of the vessel on which sheep are to be transported”. The purpose of this amendment is to clarify that it is the pen air turnover for the deck of the vessel on which sheep are to be transported that is being calculated when the vessel is in port, rather than the pen air turnover for the entire vessel.

This item is a consequential amendment to the new definition of “pen air turnover” inserted by item 1 of this Schedule.

#### **Item [5] – Subparagraphs 6-14B(2)(d)(i) to (iii)**

Subparagraphs 6-14B(2)(d)(i) to (iii) of the Animals Rules provide three different minimum pen air turnover rates for each deck of the vessel, dependent on the weight and wool length of each sheep, the minimum pen space allocation to each sheep and in any other case.

This item substitutes references to “the vessel” with “the deck” in each of subparagraphs 6-14B(2)(d)(i) to (iii). The effect of these amendments is to refer to pen air turnover calculations in relation to each square metre of pen space on each deck of the vessel, rather than the entire vessel.

This amendment is consequential to the amendment to subparagraph 6-14B(2)(d) made by item 4 of this Schedule, which refers to the pen air turnover for each deck of the vessel in which sheep are to be transported, rather than the pen air turnover for the entire vessel.

#### **Item [6] – At the end of section 6-16**

Section 6-16 of the Animals Rules prohibits the export of a consignment of sheep that will travel through waters in the Arabian Sea, or the Red Sea, north of latitude 11°N during the Northern Hemisphere summer, unless all general conditions in that section are met.

This item inserts new paragraph 6-16(e) to include an additional condition providing that sheep must not be exported by sea between 1 May and 31 October unless the daily amount of feed that will be provided to each sheep in the consignment while on the vessel is at least 3% of the sheep's weight.

This amendment incorporates the minimum feed recommendation in the Final Report of the 'Review of live sheep exports by sea to, or through, the Middle East during the Northern Hemisphere Summer' (Final Report), that sheep should be fed a minimum of 3% of their liveweight daily while on vessels travelling to or through the Middle East during the Northern Hemisphere summer. This recommendation is based on findings in the Final Report that additional feed increases the likelihood of all sheep, including shy feeders, accessing sufficient feed. This will support better welfare outcomes for sheep onboard vessels by reducing competition, as more fodder will be available after aggressive feeders have eaten.

#### **Item [7] – Paragraph 6-17(1)(a)**

Subsection 6-17(1) of the Animals Rules prohibits the export of a consignment of sheep that will travel through waters in the Arabian Sea, or the Red Sea, north of latitude 11°N during the Northern Hemisphere summer unless certain conditions are met.

Paragraph 6-17(1)(a) provides the condition that the pen air turnover for the vessel on which sheep are to be transported must be verified by an independent qualified mechanical engineer within the 5 year period ending on the day before the sheep are to be exported.

This item inserts the words “each deck of” after “turnover for” in paragraph 6-17(1)(a) and has the effect of clarifying that the pen air turnover must be verified for each deck of the vessel on which sheep are to be transported, rather than for the entire vessel on which sheep are to be transported.

This amendment is a consequential amendment to the new definition of “pen air turnover” inserted by item 1 of this Schedule.

#### **Item [8] – Paragraph 6-17(1)(b)**

Section 6-17 of the Animals Rules prohibits the export of a consignment of sheep that will travel through waters in the Arabian Sea, or the Red Sea, north of latitude 11°N during the Northern Hemisphere summer unless certain conditions in subsections 6-17(1) and (2) are met.

This item repeals paragraph 6-17(1)(b) and substitutes a new paragraph which provides, in effect, that if changes to a deck of the vessel on which sheep are to be transported have been made since the pen air turnover referred to in paragraph 6-17(1)(a) was verified and the changes may have affected the pen air turnover for the deck – the pen air turnover for the deck of the vessel has been verified by an independent qualified mechanical engineer after the changes to the deck were made.

New paragraph 6-17(1)(b) is substantively the same as the previous paragraph, but replaces references to the vessel with “the deck of the vessel”. The effect of this amendment is to clarify that the condition applies in relation to the deck of a vessel, rather than the entire



vessel, such that the pen air turnover for a deck of the vessel needs to be re-verified if changes are made to that deck.

This amendment is a consequential amendment to the definition of pen air turnover inserted by item 1 of this Schedule.

**Item [9] – Paragraph 6-17(1)(c)**

Section 6-17 of the Animals Rules prohibits the export of a consignment of sheep that will travel through waters in the Arabian Sea, or the Red Sea, north of latitude 11°N during the Northern Hemisphere summer unless certain conditions in subsections 6-17(1) to (2) are met.

This item inserts the words “each deck of” after “turnover for” in paragraph 6-17(1)(c), which has the effect of clarifying that a consignment of sheep must not be exported unless the holder of the sheep export licence has taken reasonable steps to be satisfied that the most recent verified pen air turnover for each deck of the vessel (rather than the entire vessel) is correct.

This amendment is a consequential amendment to the new definition of pen air turnover inserted by item 1 of this Schedule.

**Item [10] – Subparagraph 6-17(1)(d)(ii)**

Subsection 6-17(1) of the Animals Rules prohibits the export of a consignment of sheep that will travel through waters in the Arabian Sea, or the Red Sea, north of latitude 11°N during the Northern Hemisphere summer unless certain conditions in subsections 6-17(1) and (2) are met. Subparagraph 6-17(1)(d)(ii) requires the holder of a sheep export licence to make a written record stating certain things before a consignment of sheep can be exported.

This item inserts the words “each deck of” after “turnover for” in subparagraph 6-17(1)(d)(ii), which has the effect of requiring the written record to state the name and qualifications of the independent qualified mechanical engineer who carried out the most recent verification of the pen air turnover for each deck of the vessel, rather than the entire vessel.

This amendment is a consequential amendment to the new definition of pen air turnover inserted by item 1 of this Schedule.

**Item [11] – Paragraphs 6-17(2)(a) and (b)**

Subsection 6-17(2) of the Animals Rules requires the holder of a sheep export licence to give the Secretary and Australian Livestock Export Corporation Ltd (LiveCorp) written notice of certain things in exporting a consignment of sheep.

This item inserts the words “each deck of” after “turnover for” in paragraphs 6-17(2)(a) and (b). The effect of these amendments is to refer to a written notice stating the most recent verified pen air turnover for each deck of the vessel, rather than the entire vessel.

This amendment is a consequential amendment to the new definition of pen air turnover inserted by item 1 of this Schedule.

### **Item [12] – Subsection 6-17(3)**

Subsection 6-17(3) of the Animals Rules provides that the written notice referred to in paragraph 6-17(2) must be given as soon as practicable after the most recent verification of the pen air turnover for the vessel was carried out.

This item inserts the words “each deck of” after “turnover for” in subsection 6-17(3) and has the effect that notices required by subsection 6-17(2) must be given as soon as practicable after the most recent verification of the pen air turnover for each deck of the vessel was carried out.

This amendment is a consequential amendment to the new definition of pen air turnover inserted by item 1 of this Schedule.

### **Item [13] – Subsections 6-18(3) and (4)**

Section 6-18 of the Animals Rules prohibits the export of a consignment of sheep that will travel through waters in the Arabian Sea, or the Red Sea, north of latitude 11°N during the Northern Hemisphere summer unless certain prescribed conditions relating to the body condition of the sheep and the measurement of wet bulb temperature are complied with.

This item repeals and substitutes subsections 6-18(3) and (4), which relate to the wet bulb temperature on vessels 140 metres long or less, and the wet bulb temperature on vessels longer than 140 metres, respectively.

The amendments implement recommendations outlined in the Final Report that each vessel exporting sheep must deploy a minimum of 1 data logger on the bridge of each vessel to record the ambient wet bulb temperature, while maintaining existing requirements for wet bulb temperatures to be measured and recorded on each deck or hold of the vessel on which sheep are held. Bridge data loggers record ambient wet bulb temperature which provides a baseline comparison to wet bulb temperatures recorded by data loggers on sheep decks. Wet bulb temperatures on sheep decks are typically higher due to the metabolic heat generated by animals. Being able to determine the difference between the ambient (bridge) wet bulb temperature and deck wet bulb temperatures means a predictable relationship can be determined between the ambient wet bulb temperature and the likely wet bulb temperatures experienced by sheep on decks. This will improve the understanding of conditions experienced by sheep and help to inform policy development to achieve better welfare outcomes for sheep during voyages to the Middle East.

Specifically, new paragraph 6-18(3)(a) provides that if the vessel on which sheep are to be transported is 140 metres long or less, the wet bulb temperature outside of the vessel must be automatically measured and recorded every 20 minutes during the voyage near the bridge of the vessel. New paragraphs 6-18(3)(b) and (c) are substantively the same as previous paragraphs 6-18(3)(a) and (b), and have been re-numbered as a consequence of the addition of new paragraph 6-18(3)(a). Paragraphs 6-18(3)(b) and (c) together provide that the wet bulb temperature in at least 2 representative pens on each deck of the vessel must be automatically measured and recorded every 20 minutes during the voyage, and if a deck of the vessel has more than one hold in which sheep are being held – at least one measurement and recording of the wet bulb temperature in at least 2 representative pens on each deck of the vessel must be taken in each hold of that deck.

New paragraph 6-18(4)(a) provides that if the vessel on which the sheep are to be transported is longer than 140 metres, the wet bulb temperature outside of the vessel must be automatically measured and recorded every 20 minutes during the voyage near the bridge of the vessel. New paragraphs 6-18(4)(b) and (c) are substantively the same as previous paragraphs 6-18(4)(a) and (b), and have been re-numbered as a consequence of the addition of new paragraph 6-18(4)(a). Paragraphs 6-18(4)(b) and (c) together provide that the wet bulb temperature in at least 3 representative pens on each deck of the vessel must be automatically measured and recorded every 20 minutes during the voyage, and if a deck of the vessel has more than one hold in which sheep are being held – at least one measurement and recording of the wet bulb temperature in at least 3 representative pens on each deck of the vessel must be taken in each hold of that deck.

This amendment removes the requirement to measure the relative humidity in representative pens that was previously included in subsection 6-18(3) and (4), because the relative humidity is already measured as part of the wet bulb temperature measurement.

#### **Item [14] – Subsection 6-18(5)**

Subsection 6-18(5) of the Animals Rules provides that a written report made under existing paragraphs 6-18(3)(a) and (b) or 6-18(4)(a) and (b) must be given to the Secretary by electronic means within 5 days after the end of the voyage, and sets out what the written report must contain.

This item omits “paragraphs (3)(a) and (b) or (4)(a) and (b)” and substitutes “subsection (3) or (4)” in subsection 6-18(5). This is a consequential amendment to the introduction of a new condition in each of subsections 6-18(3) and (4), which has necessitated the addition of a new paragraph and re-numbering of existing paragraphs in each of those subsections. To ensure the requirements in subsection 6-18(5) about written reports apply to all three paragraphs in those subsections, the amendment references new subsections 6-18(3) and (4) instead of the specific paragraphs.

The effect of this amendment is that a written report of each record made of the outside wet bulb temperature near the bridge of the vessel must be given to the Secretary by electronic means, within 5 days after the end of the voyage. The report must also state the location of each device used to take measurements and make records, and the time each record was made. This is in addition to the existing requirement to provide such a written report of each record made of the wet bulb temperature in representative pens on each deck or hold of the vessel, as relevant.

#### **Item [15] – Paragraph 6-18(5)(a)**

Paragraph 6-18(5)(a) of the Animals Rules requires written reports provided under subsection 6-18(5) to state the location of each device used to take measurements and make records.

This item replaces the word “paragraphs” with the word “subsections” in paragraph 6-18(5)(a), to ensure that the provision referencing is correct following the amendment made by item 14 to refer to “subsection (3) or (4)” instead of “paragraphs (3)(a) and (b), or (4)(a) and (b)”.

### **Item [16] – Subsection 6-19(1)**

Section 6-19 of the Animals Rules provides requirements for exports to Kuwait during the Northern Hemisphere summer. Subsection 6-19(1) provides that a consignment of sheep must not be exported to Kuwait unless Kuwait will be the first port of unloading for the vessel transporting the sheep.

This item inserts the words “or Oman” after the words “unless Kuwait” in subsection 6-19(1). Previously, a consignment of sheep could only be exported to Kuwait if the first port of unloading was Kuwait. The amendment has the effect of adding Oman as a possible new first port of unloading for a vessel transporting a consignment of sheep to Kuwait.

This amendment implements recommendations in the Final Report in relation to the first port of unloading (Oman). The recommendation notes that where Oman is one of multiple Persian Gulf destination ports, exporters may discharge sheep in Oman first, en route to other destinations, provided the prohibition dates for Oman are met. The reduction in time sheep spend on vessels because of this amendment will help achieve better welfare outcomes for sheep exported to Oman. Prior to this amendment, sheep exported to Oman were required to remain on the vessel while it traversed the Persian Gulf to Kuwait and possibly other destinations, before discharging in Oman. This could result in an additional 5-7 days travel time on the vessel. The prohibition dates for exports to Oman are dealt with in section 6-12 of the Animal Rules.

### **Item [17] – After section 6-19**

This item inserts a new section in Subdivision C of Division 4 of Part 2 of the Animal Rules after section 6-19. Subdivision C deals with exports during the Northern Hemisphere summer and prohibits the export of sheep unless certain conditions are met.

New section 6-19A provides for additional conditions that apply in relation to the export of sheep between 1 May and 14 June on certain voyages. Specifically, for vessels travelling through waters in the Persian Gulf, subsection 6-19A(1) provides that a consignment of sheep must not be exported by sea on a vessel that leaves an Australian port (other than the Port of Fremantle) between 1 May and 14 June unless the vessel is west of longitude 116°E on or before 31 May of that year.

Subsection 6-19A(2) provides that, for vessels travelling through waters in the Red Sea, a consignment of sheep must not be exported by sea on a vessel that leaves an Australian port (other than the Port of Fremantle) between 1 May and 14 June unless the vessel is west of longitude 116°E on or before 14 June of that year.

The purpose of this item is to implement a recommendation in the Final Report in relation to permissible vessel locations. The Final Report recommends that voyages exporting sheep to the Middle East departing from ports other than Fremantle should comply with prohibition date recommendations and be required to be west of a longitude of 116°E no later than 31 May if travelling to the Persian Gulf, or no later than 14 June if travelling to the Red Sea.

The reason for this recommendation is that in the future, sheep may be exported from ports other than Fremantle (such as Portland or Port Adelaide) and voyage lengths may be up to 5 days longer from these departure ports. The amendment prevents sheep arriving in the Middle

East when conditions are hotter and more humid, even if the voyage departs from a port other than Fremantle.

This new provision operates alongside existing absolute prohibition dates set out in Subdivision B of Division 4 of Part 2 of Chapter 6 of the Animals Rules that apply during the hottest, most humid part of the Northern Hemisphere summer. These absolute prohibition dates vary depending on the climate at the destination port, with the earliest prohibition dates beginning on 8 May (for Oman) and the latest prohibition date ending on 21 September (for Qatar). Other prohibition dates for Bahrain, Iran, Iraq, Kingdom of Saudi Arabia, Kuwait and the United Arab Emirates, as well as any vessel exporting sheep that travels through waters in the Red Sea, fall between those two dates as set out in Subdivision B.

#### **Item [18] – Paragraph 6-23(1)(a)**

Section 6-23 of the Animals Rules prohibits the export of a consignment of sheep during the Northern Hemisphere winter unless certain conditions in subsection 6-23(1) relating to pen air turnover are met.

This item inserts the words “each deck of” after the words “turnover for” in paragraph 6-23(1)(a) and has the effect that the pen air turnover for each deck of the vessel on which sheep are to be transported must be verified by an independent qualified mechanical engineer within the 5 year period ending on the day before the sheep are to be exported.

This amendment is a consequential amendment to the new definition of pen air turnover inserted by item 1 of this Schedule.

#### **Item [19] – Paragraph 6-23(1)(b)**

Section 6-23 of the Animals Rules prohibits the export of a consignment of sheep during the Northern Hemisphere winter unless certain conditions in subsection 6-23(1) relating to pen air turnover are met.

This item repeals and substitutes paragraph 6-23(1)(b), which deals with circumstances where there have been changes made to the vessel.

New paragraph 6-23(1)(b) is substantively the same as the previous paragraph, but replaces references to “the vessel” with “the deck of the vessel”. New paragraph 6-23(1)(b) requires that if changes to a deck of the vessel have been made since the pen air turnover referred to in paragraph (a) was verified in relation to the deck and the changes may have affected the pen air turnover for the deck – the pen air turnover for the deck of the vessel has been verified by an independent qualified mechanical engineer after the changes to the deck were made. The effect of this amendment is to clarify that the condition applies in relation to the deck of a vessel, rather than the entire vessel, such that the pen air turnover for a deck of the vessel needs to be re-verified if changes are made to that deck.

This amendment is a consequential amendment to the definition of pen air turnover inserted by item 1 of this Schedule.

#### **Item [20] – Paragraph 6-23(1)(c)**

Section 6-23 of the Animals Rules prohibits the export of a consignment of sheep during the Northern Hemisphere winter unless certain conditions in subsection 6-23(1) relating to pen air turnover are met.

This item inserts the words “each deck of” after the words “turnover for” in paragraph 6-23(1)(c) and has the effect that a consignment of sheep must not be exported unless the holder of the sheep export licence has taken reasonable steps to be satisfied that the most recent verified pen air turnover for each deck of the vessel is correct.

This amendment is a consequential amendment to the new definition of pen air turnover inserted by item 1 of this Schedule.

#### **Item [21] – Subparagraph 6-23(1)(d)(ii)**

Section 6-23 of the Animals Rules prohibits the export of a consignment of sheep during the Northern Hemisphere winter unless certain conditions in subsection 6-23(1) relating to pen air turnover are met.

This item inserts the words “each deck of” after the words “turnover for” in subparagraph 6-23(1)(d)(ii) and has the effect that a written record must state the name and qualifications of the independent qualified mechanical engineer who carried out the most recent verification of the pen air turnover for each deck of the vessel.

This amendment is a consequential amendment to the new definition of pen air turnover inserted by item 1 of this Schedule.

#### **Item [22] – Paragraphs 6-23(2)(a) and (b)**

Subsection 6-23(2) of the Animals Rules requires the holder of a sheep export licence to give the Secretary and Australian Livestock Export Corporation Ltd (LiveCorp) written notice of certain things in exporting a consignment of sheep.

This item inserts the words “each deck of” after “turnover for” in paragraphs 6-23(a) and (b). The effect of these amendments is to refer to a written notice stating the most recent verified pen air turnover for each deck of the vessel, rather than the entire vessel.

This amendment is a consequential amendment to the new definition of pen air turnover inserted by item 1 of this Schedule.

#### **Item [23] – Subsection 6-23(3)**

Subsection 6-23(3) provides that the written notice referred to in paragraph 6-23(2) must be given as soon as practicable after the most recent verification of the pen air turnover for the vessel was carried out.

This item inserts the words “each deck of” after “turnover for” in subsection 6-23(3) and has the effect that notices required by subsection 6-23(2) must be given as soon as practicable after the most recent verification of the pen air turnover for each deck of the vessel was carried out.

This amendment is a consequential amendment to the new definition of pen air turnover inserted by item 1 of this Schedule.

**Item [24] – At the end of Chapter 12**

This item inserts a new Part 7 at the end of Chapter 12 of the Animals Rules, which contains application, saving and transitional provisions. New Part 7 relates to amendments made by the Amendment Rules.

New section 12-33 provides that the amendments of the Animals Rules made by the Amendment Rules apply in relation to a consignment of sheep exported by sea on a vessel that leaves an Australian port on or after the commencement of the Amendment Rules (whether the sheep export licence was granted before, on or after that commencement).

## Statement of Compatibility with Human Rights

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

*Export Control (Animals) Amendment (Northern Hemisphere Summer Conditions)  
Rules 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 *Export Control (Animals) Amendment (Northern Hemisphere Summer Prohibition) Rules 2022* (the Amendment Rules) are made under the *Export Control Act 2020* (the Act). The Amendment Rules amend the *Export Control (Animals) Rules 2021* to implement several recommendations of the Final Report of the ‘Review of live sheep exports by sea to, or through, the Middle East during the Northern Hemisphere Summer’ (Final Report) prepared by the Department of Agriculture, Fisheries and Forestry. These recommendations are aimed at improving and maintaining animal welfare on board vessels travelling to, or through, the Middle East during the Northern Hemisphere summer by providing that:

- sheep in a consignment must be provided with a daily amount of feed of at least 3% of the sheep’s weight while on the vessel;
- the wet bulb temperature outside the vessel must be automatically measured and recorded every 20 minutes during the voyage near the bridge of the vessel;
- Oman can be a first port of unloading for vessels en route to Kuwait; and
- a consignment of sheep leaving an Australian port (other than the Port of Fremantle) between 1 May and 14 June, must be west of longitude 116°E on or before 31 May if it will travel through waters in the Persian Gulf at any time during its voyage, or before 14 June if it will travel through waters in the Red Sea at any time during its voyage.

The Amendment Rules also include a minor clarification to the definition of “pen air turnover”, to reflect operational requirements by referring to measurements in relation to a deck of a vessel (rather than the entire vessel).

### Assessment of Compatibility with Human Rights

The Amendment Rules do not engage any of the applicable rights or freedoms.



## **Conclusion**

The Amendment Rules are compatible with human rights as they do not raise any human rights issues.

**Andrew Edgar Francis Metcalf AO**  
**Secretary of the Department of Agriculture, Fisheries and Forestry**