

EXPLANATORY STATEMENT

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

Export Control Act 2020

*Export Control (Transition Assistance—Phase Out of Live Sheep Exports by Sea Programs)
Amendment Instrument 2025*

Legislative Authority

The *Export Control Act 2020* (the Act) prohibits the export of live sheep by sea from Australia from 1 May 2028 and provides authority for Commonwealth spending activities related to preparing for, or adapting or responding to, the phasing out of export of live sheep by sea.

Section 424E of the Act provides for the Minister to prescribe one or more programs, by disallowable legislative instrument, in relation to preparing for, or adapting or responding to, the phasing out of the export of live sheep by sea, including in relation to the expenditure of Commonwealth money under such programs.

Subsection 424F(1) allows the Minister to make, vary or administer arrangements in relation to the carrying out of activities by a person under a program prescribed by legislative instrument under subsection 424E(1). Arrangements may include contracts, agreements, deed or understanding, and may provide for money to be payable by the Commonwealth to a person under the program.

The power conferred on the Minister by subsection 424F(1) may be delegated to the Secretary, an SES employee, or acting SES employee, in the Department or in a Department of State of the Commonwealth other than the Department (under section 424H).

Purpose

The purpose of the *Export Control (Transition Assistance—Phase Out of Live Sheep Exports by Sea Programs) Amendment Instrument 2025* (the Legislative Instrument) is to amend the *Export Control (Transition Assistance—Phase Out of Live Sheep Exports by Sea Programs) Instrument 2025* (the Principal Export Control Instrument) to prescribe the Farm Business Transition Program and the Livestock Transport Industry Transition Program (the Programs). The Programs form part of a broader package to assist industry in preparing for, adapting to and responding to the phasing out of the export of live sheep by sea (the Transition Assistance Package).

Impact and Effect

The effect of the Legislative Instrument is to amend the Principal Export Control Instrument to prescribe an additional two programs which will assist industry to prepare for, or adapt or respond to, the phasing out of the export of live sheep by sea.

Farm Business Transition Program

The Farm Business Transition Program provides grant funding to support sheep producers impacted by the phase out by enabling a range of planning, professional and technical advice, application of research and development innovations and extension activities, and investment in on-farm infrastructure and improvements to increase the uptake of alternative farming systems and practices. The focus for implementation will be industry participants most affected by the phase out of live sheep exports by sea.

Livestock Transport Industry Transition Program

The Livestock Transport Industry Transition Program provides grant funding to support livestock transport businesses (including those transporting goods related to, or for use in, the export of live sheep by sea) impacted by the phase out by enabling a range of planning, professional and technical advice, training and co-funded investment in asset modification and acquisition assisting them to make changes to their business operations. The focus for implementation will be industry participants most affected by the phase out of live sheep exports by sea.

Program details and operation

The Programs are open competitive processes which will be administered by the Community Grants Hub on behalf of the Department of Agriculture, Fisheries and Forestry. The Programs will be administered according to the *Commonwealth Grants Rules and Principles 2024* (CGRPs).

Spending decisions for the Programs will be made by the Minister or an appropriate delegate within the Department at the SES1 level or above, in accordance with each Program's guidelines. Any delegate will have relevant expertise in, and understanding of, the Programs forming part of the Transition Assistance Package to assist industry in preparing for, adapting to and responding to, the phasing out of the export of live sheep by sea and will be able to perform relevant functions in accordance with the Commonwealth resource framework.

Reasons for not providing merits review for grant related decision-making

These Programs support the implementation of policy decisions made by the Government and will not be subject to merits review. Merits review of decisions made in connection with the Programs would not be appropriate because these decisions relate to the allocation of finite resources between competing applicants and any funding that has already been allocated to an applicant would be affected if the original decision was overturned.

The Administrative Review Council has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see items 4.16 to 4.19 of *What decisions should be subject to merits review?*). Further, the right to review under section 75(v) of the Constitution and review under section 39B of the *Judiciary Act 1903* may be available. In addition, the review and audit process undertaken by the Australian National Audit Office also provides a mechanism to review Australian Government spending decisions and report any concerns to the Parliament. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

Persons who are otherwise affected by decisions or who have complaints about the Programs will be able to provide feedback to the Department. The Department investigates any complaints about the Programs in accordance with its complaints policy and procedures. If a person is not satisfied with the way the Department handles the complaint, they may lodge a complaint with the Commonwealth Ombudsman.

Background

The funding for the Transition Assistance Package is largely derived from Program 1.9 Meat and Livestock Industry, Outcome 1, as set out in the *Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.1, Agriculture, Fisheries and Forestry Portfolio Budget Statements 2024-25* at page 34 and the Portfolio Additional Estimates Statement 2024-25, *Budget Related Paper No 2. Agriculture, Fisheries and Forestry* at page 29.

The Australian Government announced funding out of the Transition Assistance Package on 15 July 2025 for the Programs: \$30.0 million over 3 years from 2025-26 for the Farm Business Transition Program and \$1.5 million for Livestock Transport Industry Transition Program over 2 years from 2025-26.

Statement of the Relevance and Operation of Constitutional Heads of Power

The Principal Export Control Instrument specifies that the legislative power in respect of which it is made is the trade and commerce power in section 51(i) of the Constitution. The Principal Export Control Instrument will continue to rely on the trade and commerce power after its amendment by the Legislative Instrument.

Section 51(i) of the Constitution empowers the Parliament to make laws with respect to ‘trade and commerce with other countries, and among the States’.

The Programs aim to support businesses and individuals affected by the prohibition of live sheep exports by assisting them to obtain advice and make changes to their businesses operations to facilitate their transition to other commercial activities, during the period when the effects of the prohibition will be most apparent (that is, between now and the year following the commencement of the prohibition).

Consultation

In February 2025, the Department undertook a co-design process with Western Australian sheep producers and the broader supply chain. Based on the input of more than 300 people across the industry supply chain through 16 workshops in Western Australia, the co-design process identified and prioritised areas where assistance will make the most difference.

The Department consulted with industry groups and Research and Development Corporations (RDCs) ahead of the co-design process to identify suitable participants for the workshops. These industry groups and RDCs included the Australian Meat Industry Council, Australian Veterinary Association, Grain Producers Australia, Meat and Livestock Australia, National Farmers’ Federation, Sheep Producers Australia, Stud Merino Breeders Association of WA, WA Farmers Federation, WA Livestock Research Council, WA Rural Health, WA Shearing Industry Association and Wool Producers Australia.

Co-design participants represented producers, farming organisations, livestock transport operators, cartage/ship loaders, consultants, advisors, rural financial counselling, shearers, feed suppliers, processor/exporters, veterinarians and research organisations.

The Department has consulted across government with the departments of Health and Aged Care; Foreign Affairs and Trade; Home Affairs; Infrastructure, Transport, Regional Development, Communications, Sport and the Arts; Australian Maritime Safety Authority; Austrade; Industry, Science and Resources; Australian Competition and Consumer Commission; Employment and Workplace Relations; Prime Minister and Cabinet, Treasury, Finance, National Indigenous Australians Agency; within the Department of Agriculture, Fisheries and Forestry and with the Western Australian Department Primary Industries and Regional Development.

Stakeholder feedback informed how best to allocate funding for the Programs which are prescribed by the Legislative Instrument.

In accordance with section 17 of the *Legislation Act 2003*, the Attorney-General's Department has been consulted on the development of this Legislative Instrument.

Details/ Operation

Details of the Legislative Instrument are set out in Attachment A.

The Legislative Instrument 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.

ATTACHMENT A

Details of the *Export Control (Transition Assistance—Phase Out of Live Sheep Exports by Sea Programs) Amendment Instrument 2025*

Section 1 – Name

This section specifies the name of the instrument as the *Export Control (Transition Assistance—Phase Out of Live Sheep Exports by Sea Programs) Amendment Instrument 2025* (the Legislative Instrument).

Section 2 – Commencement

This section provides that the Legislative Instrument commences on the day after registration on the Federal Register of Legislation.

Section 3 – Authority

This section specifies the provision of the *Export Control Act 2020* (the Act) under which the Legislative Instrument is made.

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Export Control (Transition Assistance – Phase Out of Live Sheep Exports by Sea Programs) Instrument 2025

Item 1 – Section 4

This item inserts new definitions of ***livestock transport business*** and ***livestock transport related business*** in section 4 of the *Export Control (Transition Assistance – Phase Out of Live Sheep Exports by Sea Programs) Instrument 2025* (the Principal Export Control Instrument).

Item 2 – Section 5 (at the end of the table)

This item adds two new items at the end of the table in section 5 of the Principal Export Control Instrument. These new items are two new programs for the purposes of section 424E of the Act.

Table item 3 prescribes the Farm Business Transition Program.

Column 2 of that item sets out the description of this program. The program will provide funding to enable sheep producers who are, are likely to be, or will be negatively affected by the phasing out of the export of live sheep by sea to: (a) access advice on and to apply research and development innovations and extension activities; and (b) invest in on-farm infrastructure and alternative farming systems and practices.

Column 3 of that item sets out the purpose of the program. The purpose of the program is to support sheep producers to prepare for, adapt and respond to the phasing out of the export of live sheep by sea by enhancing their ability to make changes to their business operations to meet the requirements of the domestic supply chain.

Table item 4 prescribes the Livestock Transport Industry Transition Program.

Column 2 of that item sets out the description of this program. The program will provide funding to enable livestock transport businesses and livestock transport related businesses who are, are likely to be, or will be negatively affected by the phasing out of the export of live sheep by sea to: (a) access advice and training relating to other transport related activities; and (b) invest on a co-funded basis in asset modification or acquisition to enable their engagement in other transport-related activities.

Column 3 of that item sets out the purpose of the program. The purpose of the program is to support livestock transport businesses and livestock transport related businesses to prepare for, adapt and response to the phasing out of the export of live sheep by sea by enhancing their ability to make changes to their business operations to transition to other transport-related activities.

Statement of Compatibility with Human Rights

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

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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 (Transition Assistance—Phase Out of Live Sheep Exports by Sea Programs) Amendment Instrument 2025* (the Legislative Instrument) provides legislative authority to enter into arrangements to commit Commonwealth funds for two programs: Farm Business Transition Program and the Livestock Transport Industry Transition Program (the Programs). The Programs form part of the Transition Assistance Package to assist industry in preparing for, adapting to and responding to the phasing out of the export of live sheep by sea.

Human rights implications

This Legislative Instrument engages the following right:

- Right to work in Article 6(1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).

Article 6(1) of the ICESCR recognises the right of everyone to the opportunity to gain a living by work which he or she freely chooses or accepts.

The Programs engage and promote the right to work under Article 6(1) of the ICESCR. This is because they will provide funding to assist sheep producers and livestock transport businesses to prepare for, adapt and respond to, the phasing out of the export of live sheep by sea. The right is also furthered because the Programs will broadly support industry to implement business changes to pivot away from the export of live sheep by sea. The Livestock Transport Industry Transition Program also safeguards the right to work by facilitating access to advice and training related to transport-related activities in areas impacted by the phase out of live sheep exports by sea.

Conclusion

This Legislative Instrument is compatible with human rights as it positively impacts human rights issues.

**The Hon. Julie Collins
Minister for Agriculture, Fisheries and Forestry**