

20 January 2023

Ms Jess Rummery
Director (a/g)
Live Animal Export Branch
Department of Agriculture, Fisheries and Forestry

Via: [Have Your Say website](#)

Dear Jess

Submission on the proposed amendments to the Export Control (Animals) Rules 2021

We appreciate the opportunity to provide feedback on the amendments to the Export Control (Animals) Rules 2021 (the Rules) as proposed by Department of Agriculture, Fisheries and Forestry (the Department).

The RSPCA advocates for an end to live animal export because of the inherent animal welfare issues on long and short haul voyages. While live export continues, we remain committed to engaging with the Department, governments, industry, and other non-government organisations to ensure regulatory settings are improved, better monitored, and enforced for greater transparency and accountability for animal welfare. Our feedback on the proposed amendments to the Rules and related recommendations are provided in this context.

Recognising that there have been multiple amendments to the Rules since inception, our feedback is structured in several parts. Section 1 outlines the RSPCA's position on general improvements required to the Rules. Sections 2 onward address each proposed amendment as outlined in the Department's *Information Sheet: Proposed improvements to the Export Control (Animals) Rules 2021*. In summary, our recommendations are:

Recommendation 1: The *Export Control (Animals) Rules 2021* need to be fortified with a revised enforcement policy.

Recommendation 2: That the prohibition dates for live sheep exports to Qatar, specified under Section 6-13, be reverted to 22 May in a year to 22 September (from 01 June in a year to 21 September).

Recommendation 3: That the prohibition dates for live sheep exports to Red Sea destinations, specified under Section 6-14A, be reverted to 01 June through to 14 September (from 15 June through to 14 September).

Recommendation 4: That the Department publicly report on the number and nature of any contraventions to the conditions for approved arrangements to meet all requirements of importing countries and of the Australian Standards for the Export of Livestock.

Recommendation 5: That the Rules specifically prescribe that exporter personnel must have animal welfare credentials under the Department's ESCAO requirements.

Recommendation 6: That the proposed change to extend the period for ESCAS holders to respond to show cause notices should not be added to the Rules. Rather, show cause notices that relate to animal welfare should be addressed as highest priority.

Recommendation 7: That the Rules require evidence of contingency plans for the management of animals in the event of a suspected exotic disease case from approved arrangements holders.

Recommendation 8: That the Rules must stipulate the process required to manage animal welfare should an exotic disease be identified on board a live export vessel.

Recommendation 9: That the proposed change to extend the period for accredited veterinarians to respond to show cause notices should not be added to the Rules.

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We look forward to continuing to work constructively with the Department on generating meaningful and measurable regulatory changes that better protect the welfare of animals used for live export. We would be happy to meet to address any questions and provide further consultation on the matters discussed in this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read "Suzanne Fowler". The signature is written in a cursive, flowing style.

Dr Suzie Fowler
Chief Science Officer
RSPCA Australia

RSPCA Australia's submission regarding the proposed amendments to the Export Control (Animals) Rules 2021

1. General feedback

The Rules should be fortified with a revised enforcement policy

We are pleased that the Department is actively seeking to improve the Rules. The RSPCA supports improvements that will better protect animal welfare in Australia's live export trade. As rules are only as good as their enforcement, we would like to see these improvements reinforced with a revised enforcement policy. We note that the *2012 Guideline for the Management of Non-compliance* is under review and would be happy to be consulted on this matter. We would like to see that proportionate and escalating penalties are applied and account for any cumulative non-compliance records of exporters, so the objectives of the Rules in ensuring animal health and welfare can be achieved.

Recommendation 1: The *Export Control (Animals) Rules 2021* need to be fortified with a revised enforcement policy.

Past amendments reducing the prohibition period for exporting sheep to and through the Middle East should be reversed

The Rules currently expose sheep to an increased risk of extremely poor conditions as well as heat stress and death, by allowing sheep to be exported during the Northern Hemisphere Summer (NHS) amidst increasingly hot, extreme, and unpredictable weather. Given the Federal Government's commitment to improve animal welfare in Australia and the community's continued preference to end live sheep export¹, the Department should optimise this opportunity to better protect animal welfare in the trade, with additional changes to the Rules.

The RSPCA has long advocated that Australia's prohibition on exporting sheep to and through the Middle East should span the entire NHS period from 01 May to 31 October inclusive. In lieu of this, we would like to see the two amendments that reduced the prohibition period for exporting sheep to Qatar and Red Sea destinations reversed². Implemented in April 2022, these amendments permit sheep to be exported in extremely hot and high-risk conditions that are known to exceed the species' heat stress threshold.

The April 2022 amendments to the Rules were based on the recommendations contained in the Department's draft report on the review of the export of sheep to and through the Middle East during the NHS³. We note that the Federal Minister for Agriculture, Fisheries and Forestry (the Minister) did not adopt all the prohibition date change recommendations contained in the final report⁴. We also note that the Federal Government did not support the Disallowance Motion to reverse the amendments, which was raised in the Senate in September 2022, because the government supported the additional conditions (also introduced in April 2022) for a 10-day period to some Persian Gulf destinations. Therefore, there is an opportunity for the Department to implement improvements to the Rules to better protect animal welfare, and better reflect the government's commitments and community expectations.

Recommendation 2: That the prohibition dates for live sheep exports to Qatar, specified under Section 6-13, be reverted to 22 May in a year to 22 September (from 01 June in a year to 21 September).

Recommendation 3: That the prohibition dates for live sheep exports to Red Sea destinations, specified under Section 6-14A, be reverted to 01 June through to 14 September (from 15 June through to 14 September).

¹ Digital Edge independent poll public sentiment towards live export (2022). Commissioned by RSPCA Australia, Canberra, Australia.

² *Export Control (Animals) Amendment (Northern Hemisphere Summer Prohibition) Rules 2022*.

³ Australian Government, Department of Agriculture, Water and the Environment (2021). *Review of live sheep exports by sea to, or through the Middle East during the Northern Hemisphere summer, draft report*. Canberra, Australia.

⁴ Australian Government, Department of Agriculture, Water and the Environment (2022). *Review of live sheep exports by sea to, or through the Middle East during the Northern Hemisphere summer, final report*. Canberra, Australia.

2. Conditions of approved arrangements

It is proposed that the Animals Rules be improved to include a condition of an approved arrangement that all importing country requirements and requirements of the Australian Standards for the Export of Livestock (ASEL) are met.

The RSPCA supports this amendment as it has capacity to mitigate the risk of animals being delayed along the supply chain and extending their exposure to poor conditions onboard and in feedlots. There are multiple examples where vessels have been turned away or delayed from destination ports and exposed animals to extended periods of insufficient food and water, insufficient space, poor ventilation, increased exposure to hot/cold climates, extended lack of veterinary care, and increased risks of infection and injury.

While the proposed conditions have the capacity to mitigate such risk, Australia's current lack of effective monitoring and enforcement would be a barrier to the Department's intention to improve the Rules. Therefore, we reaffirm the recommendation to update Australia's monitoring and enforcement regime, as outlined in Recommendation 1 above.

We would like more information on how such conditions will be monitored to enable the Department's Secretary to identify any contraventions by importers. It is also important that the number and nature of contraventions be publicly reported, including any suspensions or revocations to approved arrangements resulting from contraventions. Reporting on these conditions would increase accountability within the trade and increase the transparency of the Department's regulatory controls.

Recommendation 4: That the Department publicly report on the number and nature of any contraventions to the conditions for approved arrangements to meet all requirements of importing countries and of the Australian Standards for the Export of Livestock.

3. Request for suspension of approved arrangement for Export Supply Chain Assurance Operations (ESCAO) by holder

It is proposed that the circumstances when the holder of an approved arrangement for ESCAO may request a suspension, include where:

- *The holder considers some or all ESCAO covered by the approved arrangement will not be carried out for a continuous period of 12 months or more; or*
- *The holder does not have personnel with appropriate qualifications or expertise to carry out some or all ESCAO in accordance with the approved arrangement.*

It is also proposed that a request by the holder must include:

- *A plan for how each entity will be transitioned to alternative mechanisms to ensure animal welfare is maintained up until, and including, the point of slaughter (this may include for the entity to seek assurance from a different holder of another approved arrangement for ESCAO or for the entity to comply with an approved exporter supply chain assurance system (ESCAS)); and*
- *A written declaration that there are no feeder livestock or slaughter livestock in the export operations carried out at or by the entity.*

The RSPCA supports these proposed amendments. However, would like to highlight that animal welfare credentials should be specifically included as a requirement for exporter personnel under ESCAO. As animals are sentient beings, the treatment and handling of livestock requires more expertise and sensitivity than inanimate stock. Therefore, the requirement for animal welfare credentials for personal who work directly with animals is a crucial component for the welfare of the animals, and efficient and effective operations. Research substantiates that training and periodical competency assessment of people who work with animals has a significant impact on animal welfare outcomes, and that underestimating the role and impact of the stockperson, for example, will seriously risk the welfare and productivity of livestock⁵.

⁵ Coleman GJ, Hemsworth PH. (2014). Training to improve stockperson beliefs and behaviour towards livestock enhances welfare and productivity. *Rev Sci Tech*.

Recommendation 5: That the Rules specifically prescribe that exporter personnel must have animal welfare credentials under the Department's ESCAO requirements.

4. Revocation of approval of notice of intention to export - prescribed livestock and prescribed live animals

It is proposed the Animals Rules be amended to expand the circumstances where the Secretary may revoke the approval of a notice of intention to export, to include circumstances where the exporter has not supplied true or accurate information.

The RSPCA supports this proposed amendment. We commend the Department on its intention to mitigate and penalise the provision of false, misleading, or incomplete statements, information, or documentation from exporters.

5. Revocation of an ESCAS - period of response to show cause notice

It is proposed the Animals Rules be amended to provide greater flexibility for determining the timeframe by which the holder of an approved ESCAS is required to provide a written statement...It is proposed the written statement by the holder of the ESCAS may be given either within:

- 14 days after the day the show cause notice is given (unless the grounds for the proposed revocation are serious and urgent); or
- a longer period specified in the show cause notice.

The RSPCA strongly opposes this proposed amendment. Extending the current 14-day period for holders of an approved ESCAS to provide written statements in response to show cause notices will further delay the swift and appropriate processes required to address animal welfare breaches. We are concerned that additional and unspecified response times will further exacerbate unacceptable time delays on the Department's responsibilities in responding to, investigating, and reporting on animal welfare breaches with the ESCAS.

We note that fifteen ESCAS-related complaints or reports have been raised since 2020. Two of these remain under investigation, and the remainder were only reported on in December 2022 via the *ESCAS Regulatory Performance Report 1 July to 30 September 2022*⁶. Furthermore, no ESCAS non-compliance assessments were completed between 01 April to 30 June 2021⁷. No rationale nor reason has been provided. The RSPCA believes greater priority, timeliness and accountability is required in the Department's management of ESCAS breaches, particularly animal welfare breaches, because of the inherent risks to animals and the opportunities for regulatory improvements.

Implementing this amendment would further unfairly preference ESCAS holders over whistleblowers and complainants. The Department's *Guideline for Management of Non-compliance - Exporter supply chain assurance system (ESCAS) for feeder and slaughter livestock 2012* (the Guideline) states that:

...Substantiated information provided from other sources such as... animal welfare organisations... may also be considered...

Given the inherent risks to animal welfare and the level of public interest in live export, the RSPCA believes potential causes for revocation of an ESCAS should be addressed with highest priority.

Recommendation 6: That the proposed change to extend the period for ESCAS holders to respond to show cause notices should not be added to the Rules. Rather, show cause notices that relate to animal welfare should be addressed as highest priority.

⁶ Australian Government, Department of Agriculture, Water and the Environment website, '[ESCAS Investigations' page](#). Accessed 10/01/23.

⁷ Australian Government, Department of Agriculture, Water and the Environment (2021). *Exporter Supply Chain Assurance System Regulatory Performance Report, 1 April to 30 June 2021*.

6. Revocation of an ECSAS - notice of revocation

It is proposed the Animals Rules be improved to outline the requirements for a notice of revocation and when the revocation is to take effect.

The RSPCA supports this amendment.

7. Revocation and reissue of government certificates

It is proposed the Animals Rules be improved to include a provision for the revocation of a government certificate in circumstances where the exporter has requested it be revoked.

The RSPCA supports this amendment.

8. Approved export programs

It is proposed the Animals Rules be improved to require an exporter to ensure a copy of the relevant parts of the approved export program is provided to the accredited veterinarian. This would be the parts of the approved export program that are relevant for the particular consignment and relating to the program of export operations to be undertaken by that accredited veterinarian. The exporter will also be required to record the fact that they have done so, and to retain these records for at least 2 years.

Furthermore, it is intended that accredited veterinarians will be required to record that they have received this and to retain these records for at least 2 years.

The RSPCA supports this amendment.

9. Conditions of livestock export licences - significant exotic diseases

While there are existing arrangements in place to respond to a detection of LSD or FMD in Australia, it is proposed the Animals Rules be improved to manage potential risks relating to the detection of a suspected case of an exotic disease. This would include restricting the movement of livestock for export, either to a port and/or loading onto a vessel or aircraft during a suspected case to prevent the consignment being loaded and potentially rejected by the importing country.

The RSPCA generally supports these amendments as biosecurity and animal health are vital to animal welfare. We understand the need for the proposed amendment to the Rules and that it could be applied to “suspected” cases of exotic disease to mitigate the risk of a disease incursion occurring. However, we would like more information about the Department’s biosecurity management plan in relation to animal welfare in the event of restricted movement. As transport is inherently stressful for animals, we are concerned that periods of extended restrictions will cause poor animal welfare without concerted management. We would specifically like to ensure that animal welfare is a considered and well-managed priority.

The RSPCA is happy to consult with the Department on the animal welfare considerations required. As a national federation, the RSPCA also has state and territory branches, and could therefore assist in managing animal welfare as part of a planned response to suspected cases of exotic diseases. We have had preliminary discussions with the Federal Minister’s office on this and will continue to do so. Discussions have included the importance of ensuring adequate food / water, stocking density, protection from the elements and appropriately qualified personnel (such as veterinarians and stock persons qualified in low-stress animal handling) in the event of a suspected or actual incursion.

The AUSVETPLAN provides strategic responses for a common nationally agreed response to emergency animal disease events once a disease breaks. However, animal welfare is at risk if not considered and planned for in suspected disease responses.

Recommendation 7: That the Rules require evidence of contingency plans for the management of animals in the event of a suspected exotic disease case from approved arrangements holders.

Furthermore, Australia currently lacks clear requirements on the response that exporters should take if an exotic disease is identified on board a vessel while at sea. A response plan is crucial to protect animal welfare in such events because shipments would be turned away from importing destinations and cannot return to Australia. Therefore, animals would be stranded at sea in unacceptable conditions with dwindling supplies of food and water.

Recommendation 8: That the Rules must stipulate the process required to manage animal welfare should an exotic disease be identified on board a live export vessel.

10. Amendments relating to accredited veterinarians

False, misleading or incomplete information from accredited veterinarians

It is proposed the Animals Rules be improved to expand the grounds of suspension and revocation to include circumstances where false, misleading or incomplete information or documents were previously provided to the Secretary or the department under the Australian Meat and Live-stock Industry Act 1997 or the Export Control Act 1982.

The RSPCA supports this amendment. Increasing accountability for the provision of true and complete information, including retrospectively, is a positive change to the Rules.

Period of response to show cause notice – variation, suspension and revocation of accreditation

It is proposed that the Animals Rules be improved to provide greater flexibility for determining the timeframe in which the accredited veterinarian is required to provide a written statement... It is proposed that the written statement by the accredited veterinarian may be given either:

- *within 14 days after the day the show cause notice is given*
- *within a longer period specified in the show cause notice.*

The RSPCA objects to this amendment. Extending the current 14-day timeframe for accredited veterinarians to provide written statements in response to show cause notices will further delay the swift and appropriate processes required within the live export trade regulatory framework. We are concerned that additional and unspecified response times will further exacerbate unacceptable time delays on the Department's responsibilities.

Recommendation 9: That the proposed change to extend the period for accredited veterinarians to respond to show cause notices should not be added to the Rules.

Records by shipboard accredited veterinarians and Records of invoices

The RSPCA supports these amendments.