



Australian Government
Department of Agriculture

Compliance Statement for export of livestock

November 2019



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Foreword

The Department of Agriculture regulates the export of live animals under the *Export Control Act 1982*, the *Australian Meat and Live-stock Industry Act 1997* and associated orders, regulations and standards. This includes the Australian Standards for the Export of Livestock (ASEL) and the Exporter Supply Chain Assurance System (ESCAS).

The *Compliance Statement for export of livestock* outlines the department's regulatory approach in ensuring compliance with Commonwealth legislation, animal welfare standards and importing country requirements for the export of livestock.

The Australian Government requires the department to exercise the necessary powers, regulatory capabilities and investigative capacity to ensure that animal welfare standards are met and export markets remain open.

We work to ensure that participants of the trade understand and comply with their regulatory obligations and that appropriate and proportionate action can be taken when non-compliance is suspected or detected. This work helps ensure the ongoing integrity of the livestock animal export regulatory system.

Recent reviews into the live animal trade have recommended changes that would improve the health and welfare of exported livestock. These include revised export conditions and animal welfare standards, and a more transparent and consistent regulatory approach.

Mr Philip Moss AM was commissioned to review the department's regulatory approach and its capabilities, powers, practices and culture in relation to livestock animal exports. The report was released on 31 October 2018.

We are committed to ensuring animal health and welfare standards are appropriately managed through the regulation of the livestock export industry. We encourage voluntary compliance within the livestock export industry and this is addressed as part of this document.

In resetting the regulation of the livestock export trade, the department is becoming a more modern, trusted and mature regulator and one that will help foster a strong compliance culture within the livestock export industry.

Malcolm Thompson

Deputy Secretary

Department of Agriculture

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Introduction

The department is responsible for regulating the livestock export industry including Australian Government livestock export legislation, animal welfare standards, control and traceability requirements, and importing country requirements.

Recent reviews into the live animal trade have recommended changes that would improve the health and welfare of exported livestock. This includes revised export conditions, revised animal welfare standards and a more transparent and consistent regulatory approach.

According to the [Moss review 2018](#), 'the department as a regulator needs to respond appropriately to non-compliance. The industry overall needs to comply with the required standards and support the regulator to ensure long-term sustainability of the industry'.

The department is legally empowered to impose a range of compliance measures on industry entities that do not comply with [Australian Government livestock export legislation](#), animal welfare standards and importing country requirements. Measures include sanctions and, where deliberate breaches of livestock export legislation occur, referral to the Commonwealth Director of Public Prosecutions for consideration of criminal prosecution. This may result in fines or imprisonment.

Under Australian Government livestock export legislation, we regulate:

- licensed livestock exporters
- operators of registered premises
- Australian Government Accredited Veterinarians.

1 Livestock export regulatory framework



The department regulates the export of livestock under the *Export Control Act 1982*, the *Australian Meat and Live-stock Industry Act 1997* (AMLI Act) and associated orders, regulations and standards. Livestock is defined as cattle, calves, buffalo, sheep, lambs, goats, camelids and deer.

The Australian Standards for the Export of Livestock (ASEL) provides the conditions for the export of livestock. It details standards for:

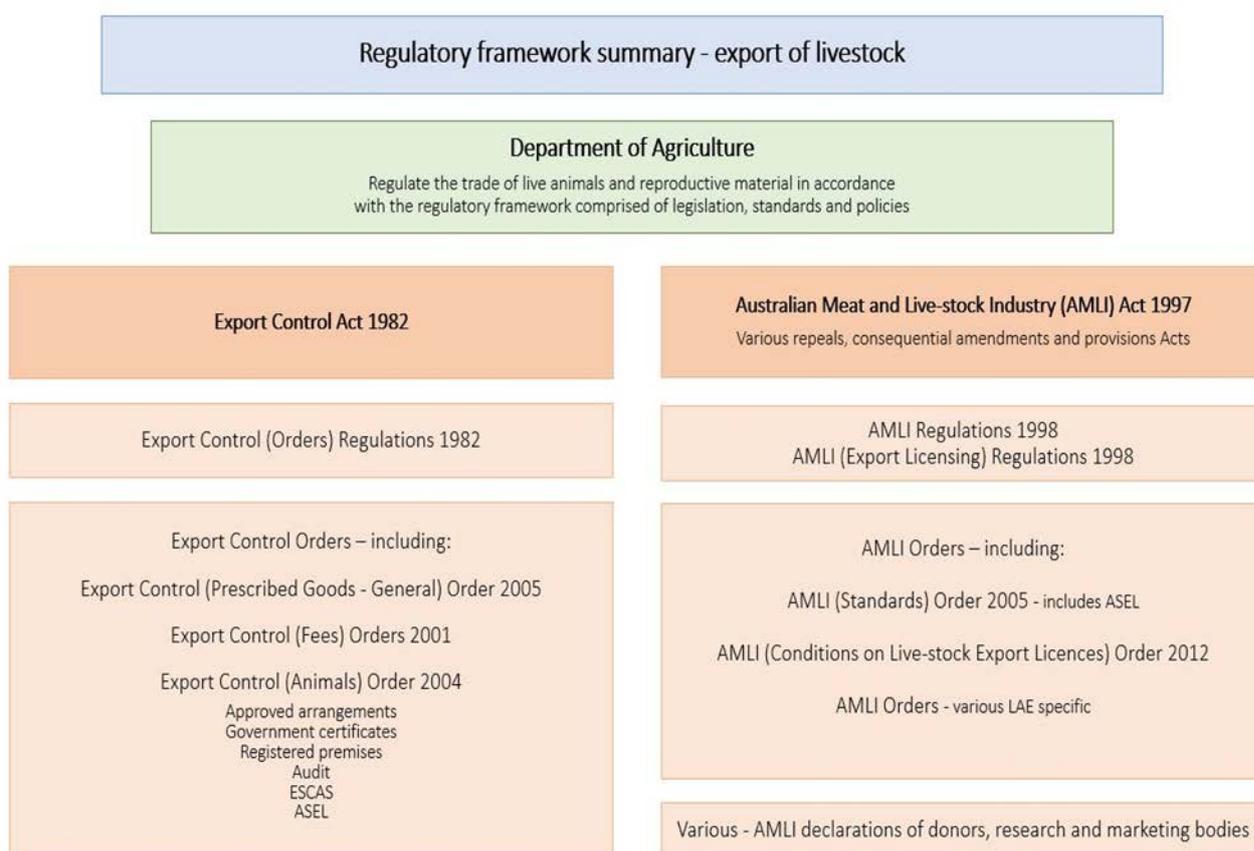
- sourcing and on-farm preparation of livestock for export
- land transport of livestock
- management of livestock in registered premises
- vessel preparation and loading
- onboard management of livestock
- air transport of livestock.

ASEL requires compliance with Australian Government livestock export legislation, state and territory legislation (including animal welfare legislation) and animal codes of practice.

The Exporter Supply Chain Assurance System (ESCAS) operates under the Export Control (Animals Order) 2004. ESCAS is an assurance system based on 4 key principles, including:

- 1) **Animal welfare**— animal handling and slaughter in the importing country conforms to World Organisation for Animal Health (OIE) animal welfare recommendations.
- 2) **Control through the supply chain**—the exporter has control of all supply chain arrangements for livestock transport, management and slaughter. All livestock remain in the supply chain.
- 3) **Traceability through the supply chain**—the exporter can trace all livestock through the supply chain.
- 4) **Independent audit**—the supply chain in the importing country is independently audited.

Figure 1 Regulatory framework summary



2 Objectives and guiding principles

One of our key objectives is to strengthen our regulatory approach for the export of livestock and encourage compliance within the livestock export industry to ensure:

- support for the long term sustainability of the live export trade
- animal welfare is at the centre of export activities
- exporters adhere to OIE animal welfare standards
- importing country requirements are met.

We are committed to strengthening our livestock export regulatory framework and implementing changes to our compliance approach in order to ensure improvement. We will achieve this by:

- **Encouraging voluntary compliance within the livestock export industry**—we will help livestock export entities understand their obligations.
- **Demonstrating governance and transparency**—our decisions will be underpinned by clear governance processes that are regularly reviewed, transparent, robust and defensible.
- **Undertaking proportionate measures**—our compliance measures will be proportionate to the conduct and the resulting harm or potential harm to:
 - animal welfare
 - trading relationships
 - Australia’s reputation as a reliable trading partner.
- **Being fair**—including balancing voluntary compliance with enforcement measures
- **Undertaking investigations in a timely manner**—our investigations and the resolution of compliance and enforcement measures are undertaken efficiently.
- **Maintaining confidentiality**—we conduct investigations on the principle of balancing confidentiality and the need for transparency. We do not comment on matters that are subject to a current investigation. However, we may disclose the outcomes of compliance investigations and the compliance measures undertaken where deemed important to public confidence in the trade and / or to promote wider compliance in the industry. We will publish Independent Observer summary reports, reportable mortalities and ESCAS breach investigation reports when these investigations are complete.

Under the Australian Government’s Regulator Performance Framework, Commonwealth entities with a regulatory function must undertake an annual self-assessment of their regulatory performance.

3 Industry responsibilities

In order to export livestock, a range of legislative requirements have to be met. These include managing, monitoring and reporting on the sourcing, preparation, handling, loading and transport of livestock for export.

Members of the livestock export industry are responsible for adhering to the appropriate standards of animal health and welfare, control and traceability requirements under ESCAS and importing country requirements. Understanding legal obligations and proactively seeking to comply with Australian Government livestock export legislation will help ensure the long-term sustainability of the industry.

The department regulates the following livestock export entities:

- licensed livestock exporters
 - approved arrangements form part of our compliance program
 - ESCAS forms part of our compliance program
- operators of registered premises
- Australian Government Accredited Veterinarians (AAVs).

Visit the department's website for more information on:

- [exporter requirements](#)
- [registered premises](#)
- [veterinary work required to be undertaken by an AAV](#)
- [approved arrangements.](#)

4 Compliance statement

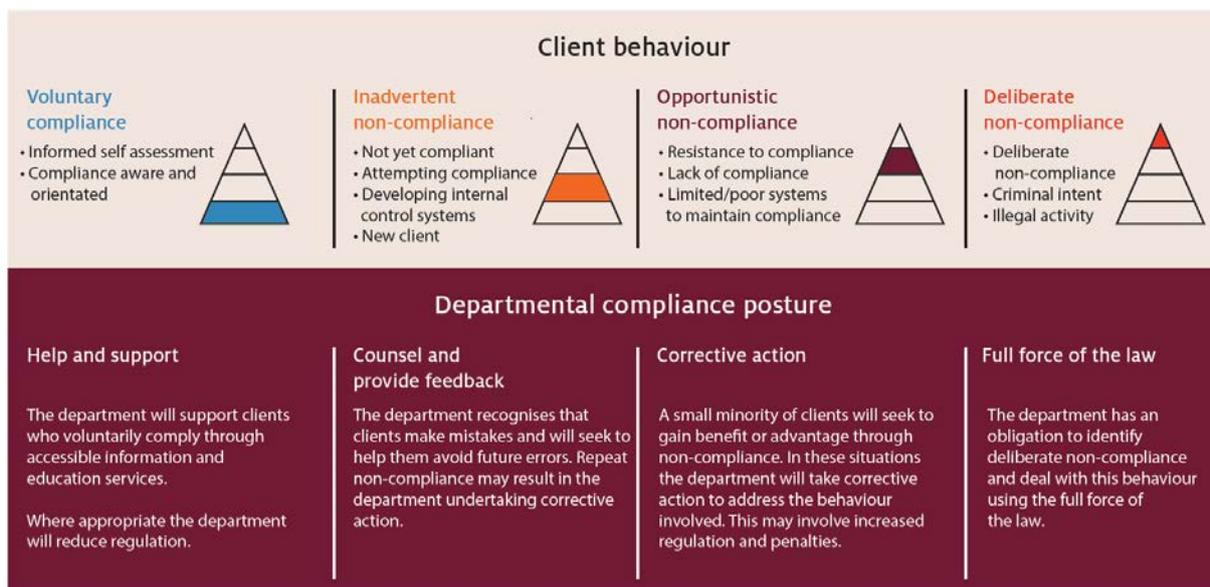
The purpose of this statement is to:

- help livestock export entities understand their obligations
- help livestock export entities meet their regulatory obligations
- support livestock export entities who comply with requirements
- provide clarity on the actions we take to address non-compliance.

Our approach will focus on encouraging and promoting voluntary compliance. We will respond to non-compliance in a way that is proportionate to the behaviours of those involved and the compliance risk.

The department’s compliance posture is dependent on client behaviours.

Figure 2 Our compliance posture



5 Compliance education

We are committed to educating livestock export entities on their compliance obligations and supporting them in their efforts to comply. To help livestock export entities achieve voluntary compliance, we:

- provide Export Advisory Notices that outline changes to legislative and operational requirements
- provide easy-to-understand technical guidelines that explain requirements and legislation
- address queries and concerns via email, phone, teleconference and face-to-face
- encourage involvement in industry teleconferences and meetings
- maintain and update importing country requirements on the [Manual of Importing Country Requirements](#) (MICO R)
- provide approval documents that outline the requirements and conditions for exporters in relation to export licences
- give targeted feedback from consignment inspections and audits
- provide targeted feedback through the Independent Observer program
- consult industry on changes to reporting standards and settings.

6 Compliance monitoring

Compliance monitoring is an essential part of the livestock export trade. It enables us to determine the level of compliance within the industry.

As soon as they become aware of issues or non-compliance, operators of regulated entities must contact us and outline corrective actions. Some non-compliance incidents have a regulated time frame for reporting. For example, entities must report ESCAS incidents within 5 days and ASEL notifiable incidents such as mortality events greater than the specified rate within 12 hours.

If required, we work with the regulated entity to determine an appropriate course of action. We consider legislative requirements, animal welfare standards, control and traceability under ESCAS, and importing country requirements.

We also consider compliance information from sources, including:

- Regional Veterinary Officer livestock consignment report prepared prior to export
- independent audit reports (ESCAS)
- departmental audits of the regulated entity
- reports from third parties such as industry bodies, animal welfare organisations and the media
- reports from importing countries.

The department expects direct and timely notification of any potential non-compliances by non-regulated entities operating within or with an interest in the live animal export supply chain.

6.1 Inspection and audit

We undertake assurance activities to determine compliance levels within the livestock export industry. These measures aim to provide an efficient and effective means of determining compliance levels within the livestock export industry.

Our assurance activities include:

- physical inspection of livestock to ensure health and welfare requirements are observed (may include a sample of animals or all the animals in the consignment)
- physical on-site audits of an exporter's approved arrangement to ensure suitable controls are in place, the approved arrangement is effective and all requirements are complied with
- audits of registered premises for the purposes of registration and renewal of registration
- audits of Australian Government Accredited Veterinarians (AAVs)
- audits of the licensed exporter's ESCAS arrangements
- reviews of core export documents or all export documents, depending on the licenced exporter's performance

- risk-based, targeted audits of AAVs, approved arrangements, registered premises and ESCAS in response to identified issues or other incidents as appropriate
- increased frequency and complexity of audits in response to non-compliance or where a risk of non-compliance has been detected.



6.2 Independent Observers

We have introduced an Independent Observer program for livestock exports by sea. The role of the independent observer is to monitor and review livestock management practices during export voyages to ensure animal welfare standards are being met. The independent observer provides regular reporting to assess compliance against Australian Standards for the Export of Livestock and the exporter's or Secretary's approved export plans.

The primary purpose of the program is to provide assurance to the department that the welfare of animals being transported on ships is being appropriately and humanely managed in accordance with the relevant standards and requirements. We recognise the high level of interest in conditions onboard livestock vessels. We publish [summaries of Independent Observer reports](#) to provide transparency about the industry to interested parties such as the livestock export industry, interest groups and the public.

7 Compliance performance

When we determine compliance measures for livestock export entities, we consider the performance of the individual entity. This includes adherence to legislative requirements and importing country requirements.

Indicators that can affect an entity's compliance performance include:

- importing country rejections
- reportable mortality incidents
- mortality rates
- previous responses to identified non-compliance.

Some livestock export entities inadvertently fail to meet their obligations. In such cases, we may increase compliance monitoring measures until the entity demonstrates acceptable compliance performance.

8 Responding to non-compliance

Non-compliance is defined as exporters, operators of registered premises and Australian Government Accredited Veterinarians not conforming or adhering to the requirements of Australian Government livestock export legislation, animal welfare standards, control and traceability requirements under ESCAS and/or importing country requirements.

Enforcement action is defined as the actions the department takes when the law is not followed. These actions are intended to ensure a return to compliance with the law.

If we detect non-compliance, we will take enforcement action. We will use a graduated response that appropriately responds to the nature and gravity of the non-compliant behaviour.

8.1 Graduated response

Where appropriate, we will adopt a graduated approach to non-compliance (Figure 2). This involves the initial use of informal, non-legislative options such as requesting further information from the regulated entity and providing technical information via guidelines. If these measures do not achieve compliance, we may pursue more significant enforcement options.

Decisions about a graduated response will be balanced against the severity of the alleged non-compliance. A graduated response may not be appropriate in circumstances where non-compliance is considered serious, the risk to animal welfare is high, when importing country requirements have not been met or if an importing country rejection has occurred.

In these circumstances, the department may take immediate action against those who are responsible for the non-compliance.

When determining the level of response required under the graduated response approach, we consider:

- the nature of the non-compliance such as animal welfare issue, market access issue, administrative issue
- the nature or level of the harm caused by the non-compliance, to livestock and trade
- degree of co-operation and proactivity of the regulated entity in undertaking measures to become compliant
- whether or not the contravention was intentional, reckless, negligent or a mistake
- history of previous non-compliance and level of non-compliance or fraud
- the level of previous compliance sanctions applied and the effectiveness of that response to ensure that the entity complies with the law
- suitability, level, degree and timeliness of corrective action initiated and implemented in response to a suspected or confirmed non-compliance
- likelihood that the problem will reoccur

- aggravating or mitigating circumstances such as the degree of control over the incident leading to non-compliance
- standard of evidence collected
- need to deter entity from committing further offences.

8.2 Enforcement options

Australian Government livestock export legislation provides for several enforcement options.

8.2.1 Administrative measures

We use administrative measures to respond in a manner that is flexible, proportionate and appropriate for the non-compliance. Administrative measures often enable earlier resolution of non-compliance. Administrative measures often achieve sound and timely outcomes.

We may use administrative measures for non-compliance following completion of an investigation. In some circumstances, we use these measures during an investigation.

Standard administrative measures include:

- seeking additional information about a livestock export consignment
- issuing directions with additional conditions to be complied with for specific livestock export consignments and the market (supply chain)
- issuing a show cause notice
- refusing to approve a notice of intent to export
- refusing to grant an export permit or revoking an existing export permit.

We can also apply additional administrative measures in the following areas:

- licensing
- approved arrangements
- registered premises
- ESCAS.

Licensing

Additional administrative measures for licensing non-compliance include:

- applying conditions to an exporter's licence
- suspending an export licence for a period specified in the show cause notice
- cancelling an export licence.

Approved arrangements

Additional administrative measures for non-compliance by approved arrangements (AA) include:

- auditing the licensed exporter to validate governance, operations and quality assurance systems, processes and procedures that match those stipulated in the AA

- applying corrective action to part of an AA
- suspending or revoking part of an approved arrangement (for example, Standard Export Plan)
- reducing intervention when exporters demonstrate they are capable of operating under the AA process.

Registered premises

Additional administrative measures for non-compliance by registered premises include:

- requiring changes to race or pen design to improve handling of animals.

ESCAS

ESCAS breaches are classified in our [Biosecurity guideline for management of non-compliance](#).

Additional administrative measures for non-compliance with ESCAS include:

- requiring exporters to work with supply chain partners to address non-compliance
- requiring exporters to train workers and directly supervise ESCAS facilities
- ceasing supply or removing livestock from affected facilities
- varying or revoking ESCAS approval
- refusing approval of ESCAS supply-chain facilities.

8.2.2 Civil and criminal measures

Legislation governing the export of livestock provides a range of civil and criminal penalty provisions for certain non-compliant activities. Civil penalties do not result in imprisonment or criminal conviction. However, fines issued by the court may be sizeable.

Criminal prosecutions are the most severe compliance measure available to the department. We generally resort to prosecution where a regulated livestock export entity has deliberately taken an action they know to be in breach of Australian Government livestock export legislation. A person found guilty of committing a criminal offence may receive a criminal record, a fine and/or imprisonment.

For more information on our approach to non-compliance see:

- [management of non-compliance](#)
- [investigations](#)
- [Performance management compliance guidelines](#).

9 Communicating non-compliance

Informing industry and community

We publish information about our approach to regulating the export of live animals. This information includes:

- regulatory compliance investigations
- findings collected by Independent Observers
- ESCAS quarterly regulatory performance reports and mortality investigations.

Learn more about [compliance and investigations](#).

Contact details

Phone the Live Animal Exports Hotline 1800 808 869 or write to us:

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References

Moss, P 2018 [Review of the Regulatory Capability and Culture of the Department of Agriculture and Water Resources in the Regulation of Live Animal Exports](#), Canberra.