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## **Agriculture, Fisheries and Forestry Legislation Amendment (Export Control) Bill 2004**

Changes..to live trade. 2.6.2004

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### **Bills Digest No. 165 2003-04**

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### **WARNING:**

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## **Passage History**

### **Agriculture, Fisheries and Forestry Legislation Amendment (Export Control) Bill 2004**

**Date Introduced:** 2 June 2004

**House:** Representatives

**Portfolio:** Agriculture, Fisheries and Forestry

**Commencement:** The operative sections of the Bill (Schedule 1) commence on Proclamation, or if this does not occur within six months of Royal Assent, on the first day after that period.

## Purpose

The purpose of this Bill is to give effect to the Government's response to the Livestock Export Review (Keniry Report), announced on 30 March 2004 by the Minister for Agriculture, Fisheries and Forestry, by amending the *Australian Meat and Live-stock Industry Act 1997* and the *Export Control Act 1982*.

## Background

### Live animal exports

Exports of live animals from Australia have reached record levels in recent years. In 2002 shipments were worth over \$1 billion and included approximately 6 million sheep, 1 million cattle, and 0.1 million goats. In value terms live cattle account for more than half of the trade. Export activity eased considerably in 2003 – 0.7 million cattle and 4.3 million sheep - due in part to post-drought (in some areas), herd rebuilding limiting the availability of export animals in Australia and the suspension of live sheep exports to Saudi Arabia.

Summary statistics for live sheep and cattle exports are provided in Table 1. In 2002-03 livestock exports represented about 3% of the gross value of agricultural production and in gross value terms the industry was similar to sugar cane and worth slightly more than the cotton and poultry industries.

**Table 1: Exports of live sheep and cattle: volume and value<sup>a</sup>**

	1999-00	2000-01	2001-02	2002-03	2003-04 f	2004-05 f
<b>Sheep</b>						
No. (million)	4.86	5.94	6.44	5.84	4.15	4.10
Value (\$m)	0.18	0.26	0.39	0.41	0.25	0.22
<b>Cattle</b>						
No. (million)	0.85	0.85	0.80	0.97	0.75	0.82
Value (\$m)	0.43	0.48	0.53	0.56	0.42	0.43
Total value (\$m)	0.61	0.74	0.92	0.97	0.67	0.65

a Excludes breeding stock.

Source: Australian Bureau of Agricultural and Resource Economics *Australian Commodities* vol. 11 no. 1, March Quarter 2004

There are several features about the live animal export industry which distinguish it from other agricultural industries.

- *Markets are regionally concentrated*
  - in 2001 and 2002 Kuwait and Saudi Arabia accounted for well over half the live sheep exports and, in fact, ten Middle Eastern countries account for nearly all the live sheep exports.
  - just four countries account for the large bulk of live cattle exports with Indonesia easily the most important destination. Egypt, the Philippines and

- Malaysia are the other main markets.
- the regional concentration of markets means that nearly all sheep exports involve long haul voyages (16-20 days) while the bulk of cattle exports are short haul voyages (less than 5 days).
- *Supplies are regionally concentrated*
  - about half of the turn off of sheep in Western Australia (WA) goes to live exports resulting in over half of all live sheep exports being loaded at the port of Fremantle. Port Adelaide and Portland account for almost all the balance of loadings which means that live exports are also important in South Australia and Victoria.
  - live cattle exports are sourced primarily from the cattle regions of Northern Australia. Between 40 and 50% of WA's cattle turnoff are exported live, mostly through the northern WA ports of Broome and Wyndham. However around one third of all live cattle exports in 2002 were loaded through Darwin. Townsville and Fremantle were the next most important ports.
- *Exports are seasonal*
  - sheep exports generally peak around December/January just prior to the Haj festival in the Middle East.
  - cattle exports reflect seasonal conditions in Northern Australia and hence peak in the drier, winter months.
- *Additional distinguishing features*
  - unlike for Australia's other agricultural commodity exports, the Middle East is not an environment where trading systems operate under the World Trade Organisation agreements and rules.
  - the live export trade generally operates on a 'free-on-board' basis which means that the role of Australian companies and authorities is fairly limited once the animals are loaded and an export permit issued.
  - unlike virtually all other rural industries, (eg meat, grains and horticulture) industries, there is no domestic component to the industry
  - also unlike most other rural industries the live export industry is subject to close attention and pressure from groups whose interest does not derive from being an economic stake holder in the production or consumption process. Nor is their wellbeing affected in any other way by industry operations.

## **The Cormo Express 'saga'**

The trigger for the Keniry Report was the events surrounding the voyage of the Cormo Express and its cargo of 54,000 sheep which departed Fremantle on 5 August 2003 for Saudi Arabia. A Saudi businessman owned the shipment<sup>(1)</sup> and had chartered the ship, which sailed under a Philippines flag, from its Dutch owners. No inkling of the saga which was to unfold was evident prior to the arrival of the vessel in Jeddah. The voyage was unexceptional with mortalities at 0.94% being within normality.

On arrival in Jeddah, however, an official from the Saudi Ministry of Agriculture rejected the shipment having estimated that 6% of the animals were infected with the disease 'scabby mouth'. Although this disease poses no health risks to humans, under a previously agreed protocol with Saudi Arabia 5% was the agreed tolerance limit for this disease and hence the Cormo Express was not permitted to unload.

The Australian vet travelling with the shipment estimated the incidence of scabby mouth at

0.35%<sup>(2)</sup>. Endeavours to persuade the Saudi authorities to immediately have the sheep reinspected were unsuccessful. Effort was then directed to finding an alternate destination however, due to a provision in an agreement between members of the Gulf Cooperation Council whereby goods rejected by one member will not be accepted by others, no other country in the region was prepared to accept the shipment.

Eventually, and after a protracted and prominent public airing of the issue, including debate over the possibility of the animals being returned to Australia or slaughtered at sea, negotiations were concluded which saw Eritrea accept the consignment. Unloading began in Massawa on 24 October 2003 by which time the sheep had been on the Cormo Express for 80 days – about five times longer than usual – and mortalities had risen to just under 10%. The sheep were provided to Eritrea as a gift along with 3000 tonnes of pelletised feed, technical expertise and \$A1 million in financial assistance to the Eritrean Ministry of Agriculture, to defray the expense to Eritrea of handling such a large consignment and meeting animal welfare requirements.

About a month after the Cormo Express departed Jeddah the Australian Government purchased the sheep from their Saudi owner on behalf of the Australian livestock industry for \$4.5 million. While there was no legal obligation on the Government to do this it was considered necessary to facilitate the offloading of the sheep at another port once an accepting destination was found.

At the time the sheep were unloaded in Eritrea the Government indicated it expected the total cost of the exercise would be about \$10 million and that this would be recovered from the live export industry. A charge levied on exporters for animals destined for slaughter was implemented with effect from 1 March 2004. The rates, on a per head basis are \$1.50 for cattle, 60¢ for sheep and lambs and 40¢ for goats. The ‘Cormo levy’ will remain in place until all the costs associated with the incident have been recovered.

Another measure implemented by the Government was the suspension of shipments of livestock to Saudi Arabia. In its announcement of 28 August 2003 the government said this action had been taken pending the negotiation of an effective mechanism to ensure the safe entry of livestock to the country<sup>(3)</sup>. Part of the Government’s response to the Keniry Report was to continue the suspension which will not be renewed without a Government-to-Government Memorandum of Understanding to ensure there can be no repeat of the Cormo Express rejection.<sup>(4)</sup>

This is not the first suspension of live sheep exports to Saudi Arabia. In 1990 exports were suspended due to concerns over scabby mouth and did not resume until 2000. As a result of this earlier suspension the Saudi Live Export Protocol (SLEP) was developed to meet the Saudi Government’s requirements for imported Australian sheep. A joint Australian Government/Industry delegation agreed the protocol with Saudi officials at a meeting in Riyadh on 17 October 1998 and included a 5 per cent tolerance for scabby mouth on arrival in Saudi Arabia. SLEPP addressed the Saudi requirements for the trade.

### **Why the rejection?**

Officially the question as to why the consignment on the Cormo Express was rejected remains unanswered. Some two months after the shipment was rejected by Saudi Arabia the Minister for Agriculture, Fisheries and Forestry commented that the Australian

Government still did not know the real reason why the sheep were rejected.<sup>(5)</sup>

The Keniry Report noted that the submissions presented to it contained divergence in opinion and speculation on the reasons for the rejection of the shipment at Jeddah and concluded:

In the absence at the date of writing of a response from the Saudi Arabian authorities to an invitation from the Review to provide advice on this issue, there was insufficient substantiation of any opinion to lead the Review to any firm conclusion on the reasons for the rejection.<sup>(6)</sup>

However, if media reports are to be believed, the rejection was the result of a political/commercial dispute between Saudi business figures and had nothing to do with the health of the sheep.<sup>(7)</sup> Indeed the Keniry Report actually offers some support for the view that the health claims of the Saudi agriculture officials were questionable.

Review of the documentation relating to the consignment indicates that the Saudi Arabian claims of significant levels of disease among the sheep had little substance. However, in the absence of any information from the Saudi Arabian authorities, it is unlikely that more light will be shed on the matter. There was evidence that the consignment did not otherwise comply with the requirements of the SLEP program, but this did not appear to the Review to play a part in the rejection.<sup>(8)</sup>

## **The Keniry Report**

A review of the livestock export industry (the Review) was announced on 10 October 2003 by the Minister for Agriculture Fisheries and Forestry.

The Terms of Reference of the Review were to examine:

- (i) the adequacy of welfare model codes of practice as they apply to the preparation and export of livestock;
- (ii) the adequacy of current regulatory arrangements for the live export trade from farm of origin to ultimate destination;
- (iii) the types of livestock suitable for export, especially ewes;
- (iv) the need for supervision of each export voyage, in a manner that ensures accurate and transparent reporting of the condition of the livestock; and
- (v) the specific factors that contributed to the excess mortalities on the MV Corno Express V93 with particular reference to compliance with the requirements of the Saudi Livestock Export Program and associated arrangements for the Saudi market.

The Review was asked to take into account the recommendations of the Independent Reference Group in 2002 and implementation of the Action Plan for the Livestock Export Industry (APLEI) announced in October 2002, which was being progressed through the Livestock Export Industry Consultative Committee (LEICC), and in particular the adequacy of:

- the legislative and administrative arrangements being developed, including industry arrangements for developing and enforcing appropriate standards for livestock exports; and
- risk management strategies necessary to address the health and welfare of animals during an export journey, including measures to ensure the live export industry is able to manage unforeseen events associated with the trade.

Dr John Keniry was appointed as Chairman of the Review. Other members were Mr Murray Rogers, Professor Ivan Caple, Dr Michael Bond and Mr Lachlan Gosse. The Review was asked to report by the end of December 2003 and the [report](#) was released on 8 January 2004.

## Conclusions and recommendations

The Review identified five principles to inform its conclusions and recommendations:

1. Animal welfare is a primary consideration in all areas of the industry and all stages of the livestock export chain must be able to demonstrate that it has been addressed in their operation.
2. Government is responsible for protecting the broader community interests by setting and administering clear standards for the export of livestock, and for ensuring governance and reporting arrangements in relation to animal welfare during export are transparent. Consignments must reliably meet international criteria, importing country requirements and Australian animal health and welfare standards.
3. Industry is responsible for its development by establishing and managing systems that support the adoption of best practice animal husbandry and commercial practices along the export chain. Industry must continue to build its capability so that all participants are competent and demonstrably operating according to best practice standards and translating that to outcomes consistent with best practice.
4. The livestock export industry is part of the wider Australian meat and livestock industry and the way it operates has implications for the industry as a whole. Governance standards and structural arrangements applying to the wider industry must apply to the livestock export industry unless there are clear and objective reasons for varying them.
5. The livestock export industry is uniquely and inherently risky because it deals with sentient animals along an extended production chain, from farm to discharge into the market. The preparation of an export consignment must recognise the risks at each stage of the chain and an exporter must be able to demonstrate that appropriate systems are in place to ensure the risks have been met in accordance with government regulatory requirements and industry quality assurance systems.

The key conclusions reached by the review were:

- The industry's approach to animal welfare issues has been, in the main, reactive and based on incremental improvements to the current arrangements rather than rigorously analysing the underlying cause of the problems and seeking to address them.

- The current legislative and administrative framework for the operation of the livestock export industry is inadequate in that it does not set sufficiently clear and enforceable standards for such a high-risk trade.
- A set of enforceable national standards is needed to address known risks at each stage of the livestock export chain, starting with basic animal husbandry practices on farms of origin right through to arrangements for discharge of the animals in the importing country.
- The current regulatory model whereby key regulatory functions are under the control the industry body, Livecorp, has not served the industry well and should be replaced with a system that ensures equivalence with the outcomes produced by the meat export regulatory systems.
- In addition to other criteria addressing the health and welfare of the animals, the criteria for approval of export licences and export permits should be more closely linked in the legislation and directly administered by AQIS.
- The role of 'third party' veterinarians is so critical to the integrity of the entire process that they should be contracted by, and report directly to, AQIS.
- Given the risks to animal welfare attendant on long haul journeys through different seasonal conditions, it is desirable to have a veterinarian on board the ship to ensure transparency and accuracy in the reporting of morbidity and mortality in the animals.
- Giving AQIS the full regulatory responsibility for ensuring that animals being exported meet the requirements of the national standard and importing country specifications would go a long way to addressing any concerns about the suitability of different types of livestock.
- There must be recognition that the livestock export industry cannot afford more bad outcomes and therefore all higher risk voyages should be eliminated.
- The industry's procedures for enforcing SLEP requirements have not been effective and it is unlikely that this would change given the small number of exporter's involved in this part of the trade, some of whom also hold senior positions in Livecorp.
- There is a need for better analysis of the inherent risks in livestock exports and the need for more specific measures to prevent the particular risks arising, and to effectively manage them if they do.

In summary the recommendations made by the review were:

- A national standard for livestock exports which is consistent with the Model Codes of Practice for the Welfare of Animals as they are updated.
- Government to be solely responsible in legislation for granting export licences and permits and enforcing compliance with the national standard.
- Industry to be responsible for research and development and management of quality assurance systems.
- The criteria for export licences and permits should be more closely linked in the legislation and include specific matters.
- 'Third party' veterinarians responsible for the treatment and preparation of animals for export must be directly contracted and accountable to AQIS in the performance of their duties.
- A registered and suitably qualified and trained veterinarian to be on journeys over 10 days and at least 10% of other voyages with the veterinarian required to report directly to AQIS on specified animal welfare matters.
- A continuation of investment in research and development programs on the

- suitability of different types of livestock for export and, in the meantime, exports banned in circumstances where the risks of adverse outcomes are predictably high.
- Government and industry cooperation to secure agreement for establishment of an operational quarantine holding facility in a Middle Eastern country by the end of December 2004 and if such a facility is not available by that time, trade to the region should be reviewed.
  - Animals not unloaded within 48 hours of the ship berthing must be moved as quickly as possible to the quarantine facility and tested. A robust and transparent dispute resolution mechanism must also be available along with the capacity for quick destruction of the animals if necessary.
  - No resumption of trade with Saudi Arabia until there are robust written conditions determined between the governments which ensure that relevant importing authorities are involved in approving the health status of animals at an early stage.
  - A national response system should be established to plan and manage any future livestock export emergency, possibly modelled on AUSVETPLAN.<sup>(9)</sup>

### **The Government response**

On 30 March 2004 the Minister for Agriculture, Fisheries and Forestry announced that the Government had accepted most of the Keniry Report recommendations and the remainder with modification. It considers that implementing the recommendations should significantly reduce the risk of further rejections or unacceptable on-board mortalities. The key changes agreed to by the Government include:

- a new Australian Livestock Export Code, which will be referenced in the legislation and which exporters will need to meet before shipments can be cleared;
- new annual licensing arrangements for livestock exporters; and
- inspection and registration of export feedlots including increased inspection times in the feedlot before issuing of final export permits.

The main areas where the recommendations have been modified are:

- Third-party vets will be trained and accredited by AQIS, registered with a state board but contracted with the exporters not AQIS.
- An on-board vet will be compulsory for all Middle East voyages and a risk management approach adopted for other voyages. This is because there are unlikely to be sufficient vets available for all recommended voyages.
- Rather than a general ban on all exports from southern ports during winter there will be measures such as upgrading of facilities and improvements in the sourcing, selection and preparation of animals to reduce the risks associated with these shipments. Bans will still be implemented if risks are not reduced to acceptable levels.

The Government also announced it would provide \$4 million over four years in addition to industry funds to help improve animal welfare practices in importing countries and update handling procedures. Funding for this measure was announced in the 2004-05 Budget along with \$3.3 million to station a veterinary counsellor in the Middle East; \$2 million in start-up costs for a new industry regulatory system; and \$2 million for AQIS operations relating to the livestock trade. Of the total spending of \$11.3 million over four years to implement its response to the Keniry Report the Government has allocated \$4.3 million in

2004-05, \$2.4 million in 2005-06 and \$2.3 million in each of the next two years.

Another part of the Government's response to the Keniry Report is that a new compulsory research and development levy will also be introduced<sup>(10)</sup> in consultation with industry. The Government will match the R&D component of the levy dollar for dollar and this is expected to amount to about \$650,000 annually.

As part of an effort to secure agreed formal arrangements with importing countries Minister Truss undertook a mission to six countries in the region in May. He reported good progress and expressed optimism that satisfactory agreements could be finalised over the next couple of months. However the Minister noted that it is likely to be quite some time before livestock exports can be resumed with Saudi Arabia as construction of a quarantine facility will take at least a year. The Saudi and Australian Governments have agreed to continue to work on the development of a Memorandum of Understanding in anticipation that a quarantine facility will become available.<sup>(11)</sup>

## **Views of other parties**

### **Livecorp**

In a press release issued 30 March 2004 Livecorp said the measures announced by the Government "provide a constructive and well-balanced response to the Keniry Report" and the announcement was "broadly consistent with the approach supported by the industry through the Australian Livestock Exporters Council"<sup>(12)</sup>.

### **Livestock producer organisations**

The Victorian Farmer's Federation (VFF) appears to have been the most active producer organisation on this issue. It arranged a public meeting in Portland and lobbied Minister Truss. It argued against the proposed ban on exports from Portland saying there was no scientific evidence for such a measure and noted that since the introduction of a stricter regime in 2002 no reportable mortalities occurred for live sheep exported from Portland during the Northern Hemisphere's summer months.<sup>(13)</sup> The VFF claimed success for its efforts when the Government's announcement on the proposed ban from southern ports reflected its argument and congratulated the Government "for making the most responsible decision".<sup>(14)</sup>

The Sheepmeat Council of Australia (SCA) has not issued any press releases in relating to the Keniry Report or the Government's response. It previously supported the decision to suspend live animal exports to Saudi Arabia and called for the sheep on the Cormo Express not to be returned to Australia.

Meanwhile the Cattle Council of Australia (CCA) welcomed the release of the Keniry Review noting that the key recommendations addressed many of the concerns which were raised by the CCA in its submission.<sup>(15)</sup> It also welcomed the majority of the Federal Government's response to the Keniry Review into live animal exports but would have preferred to have seen the third party veterinarians contracted by AQIS and not individual exporters to avoid any allegations of "interference" which have been raised in the past.<sup>(16)</sup>

The National Farmers Federation (NFF), of which SCA and MCA are both members, welcomed the release of the Keniry Report and noted with pleasure that its key

recommendations had been picked up. The NFF submission to the Review specifically called for the establishment of a national standard for livestock exports. The NFF stated it would seek further information and clarification about the recommendations regarding the closure of ports at certain times of the year and establishment of an operational quarantine holding facility in the Middle East.<sup>(17)</sup>

The NFF, while supportive of the Government's response to the Keniry Report, appears somewhat measured. It commented that the response would "help to secure the long-term future of the industry" and welcomed "moves by the Government and the industry to further improve animal welfare standards". The NFF also expressed its pleasure "that the risk associated with shipments from individual ports will be handled by the use of science based risk management model and that a blanket ban on certain ports at certain times of the year has not been implemented".<sup>(18)</sup>

## **RSPCA**

The RSPCA welcomed the federal government's response to the Keniry report into the live export industry but expressed disappointment that not all the Keniry recommendations were fully accepted. The RSPCA's preferred outcome remains a total ban on live animal export but it noted that "implementation of the report's recommendations would have made substantial improvements to the way the trade was conducted".<sup>(19)</sup>

## **Australian Veterinary Association**

The Australian Veterinary Association (AVA) has been active regarding the Corno Express incident and the Review. It issued several press releases and made a submission to the Review. The AVA endorsed the recommendations from the Keniry Report noting that all key recommendations that the AVA put forward in its submission had been adopted. The AVA also demanded that the Government adopt all of the Review's recommendations and called on it to ensure that the agency responsible for the implementation of the recommendations is given sufficient resources, power and support.<sup>(20)</sup>

The live animal export issue has apparently caused some internal division in the AVA. This is evident from its announcement on 5 May that its members had voted to continue live animal exports by defeating a motion that called on the Commonwealth government to ban the export of livestock by sea for slaughter. The motion was moved by some AVA members opposed to the industry.<sup>(21)</sup>

## **Political parties**

In July 2003 the ALP released its policy on the live export industry in which it accused the Government of "failure to regulate and enforce adequate animal welfare standards" and claimed that "the live export industry's self-regulation regime is not working". It proposed "an expanded role for AQIS in the enforcement of industry standards, including tough action against exporters responsible for poor mortality." The ALP welcomed the Keniry Report describing the recommendations as "far-reaching" and urged Minister Truss "to immediately develop the government's response to the report and timetable for implementation."<sup>(22)</sup>

The ALP generally supports the Government's response to the Keniry Report describing it

as “largely in line with policy announced by Labor last year”. However it called on the Minister to go further and warned that “a future Labor Government will have no hesitation in closing [the industry] down unless it becomes more transparent and accountable and can demonstrate substantial improvements in animal welfare.”<sup>(23)</sup>

The Democrats described the Keniry report as a “damning indictment of industry practices” and said that “live exports of sheep and cattle should be banned until comprehensive and enforceable animal welfare standards are in place”. According to the Democrats’ “the Keniry Report vindicated the tough stance that the Democrats had taken against the ‘self-regulated’ live export trade, but the recommendations still fell short of developing tough, enforceable animal welfare standards.”<sup>(24)</sup>

While the Greens have not specifically responded to the Keniry Report or the Government’s announcement they have previously called for a ban on the export of live sheep and cattle.<sup>(25)</sup>

## **Northern Territory Government**

The Northern Territory Government has taken a somewhat different stand on the issue to its Federal ALP colleagues. Following release of the Keniry report the Primary Industries and Fisheries Minister Tom Vatskalis reaffirmed the Government’s commitment to the continuation of the live export trade and advised the Federal Opposition of “the Martin Government’s unreserved support for the live export industry.” He also called for “the Territory’s live cattle export trade [to] be distinguished from other sectors of Australia’s live export trade and recognised for its success in the management of animal health and welfare.”<sup>(26)</sup>

# **Main Provisions**

## **Schedule 1**

### **Amendments to the Australian Meat and Live-stock Industry Act**

**Item 1** inserts into the Act the new **Part 2A** which provides the regime for the Minister to determine principles relating to the export of live-stock from Australia, to be known as the ‘Australian Code for the Export of Live-stock.’ Any determinations made by the Minister regarding the Code are expressly declared to be disallowable instruments for the purposes of s. 46A of the *Acts Interpretation Act 1901* which means that they will, like regulations, be disallowable on motion by either House of Parliament.

**Item 2** inserts into the Act’s definition section (s. 3) a definition of ‘associate’. The relevance of this will be apparent on considering item 11 below.

**Item 3** amends s. 9 of the Act by applying the requirement for the Secretary of the Department of Agriculture, Fisheries and Forestry, in exercising the powers of that office in relation to licenses and export quotas, to have regard to broad policies formulated jointly by prescribed industry bodies, but only in respect of the export of meat, and not in relation to licenses or quotas for the export of live-stock.

**Item 4** amends s. 12 of the Act to enable the Secretary, in considering applications to

grant an export license, to have regard to the extent to which the applicant has complied with any requirements under the Export Control Act.

**Item 6** amends s. 23 of the Act to enable the Secretary, in considering whether circumstances exist that warrant the issue of a notice to show cause why a license should not be cancelled or should be refused renewal, to have regard to the extent to which the applicant has complied with any requirements under the Export Control Act.

**Item 11** inserts into the Act section 25A, which gives to the Secretary the power to suspend, cancel or refuse to grant, a live-stock export license held or applied for by a person who is an 'associate' of another person whose license has been suspended or cancelled or who has been refused a license. This amendment is directed at closing a loophole identified in the Keniry Report whereby exporters refused a license would simply rely on the license of an associate to facilitate their own export ventures.<sup>(27)</sup>

### **Amendments to the Export Control Act**

**Item 13** amends the definition of 'order' in the Export Control Act to include orders made by the Secretary under the regulations (as well as orders made by the Minister).

**Item 14** amends the Export Control Act to allow for the making of regulations imposing a condition prohibiting the export of live-stock unless the exporter has made a declaration that any license conditions or other requirements under the AMLIA have been complied with.

**Items 17 to 23** amend the Export Control Act to incorporate a regime for the accreditation of veterinarians for purposes of approved animal export programs. Item 22 inserts the main operative provisions. Among those are s. 9A which introduces the concept of 'approved export program', which is defined to be:

A program of activities to be undertaken by an accredited veterinarian, or an authorised officer, for the purpose of ensuring the health and welfare of eligible live animals...in the course of export activities

A definition of 'export activities' is inserted into s. 3 by item 21.

**Item 22** also:

- inserts s.9B, which provides for the making of regulations for the accreditation of veterinarians for the purposes of undertaking approved export programs.
- inserts provisions allowing the Secretary to direct an authorised officer to undertake some or all of the activities in an approved export program, or to monitor the veterinarians involvement in the process.
- provides for a number of offences in relation to the approved export program regime. It is an offence for veterinarians to undertake an approved export program without accreditation; to contravene a direction to keep records; or to fail to remedy a deficiency notified by an approved officer. All such offences are punishable by a fine of up to 50 penalty units (a penalty unit is currently \$110). Exporters commit an offence where they fail to ensure that an accredited veterinarian is engaged to undertake the activities in the program (punishable by up to 12 months imprisonment); contravene a requirement to allow a veterinarian to accompany live

animals during transport; obstruct or hinder a veterinarian in the undertaking of activities in an approved program; or contravene a requirement to provide a veterinarian or authorised officer with reasonable facilities (punishable by a fine of up to 50 penalty units).

- inserts s. 9M, which applies s 15.2 of the Criminal Code to the offences mentioned above. That section provides details about the geographical jurisdiction in relation to the offences – readers should refer to s 15.2 of the Code for details.

## Endnotes

1. The live export industry generally operates on a ‘free-on-board’ basis which means that the role of Australian companies and authorities is fairly limited once the animals are loaded and an export permit issued.
2. The overall health of the sheep was subsequently and independently confirmed by the world animal health body the Office Internationale des Epizooties (OIE).
3. Media Release, [Livestock exports to Saudi Arabia suspended](#) Minister for Agriculture, Fisheries and Forestry and Trade Minister, 28 August 2003
4. Media Release, [Action on live export trade review](#) Minister for Agriculture, Fisheries and Forestry and Trade Minister, 30 March 2004.
5. Media Release, [Truss to work with industry on way forward for live exports](#) Minister for Agriculture, Fisheries and Forestry and Trade Minister, 25 October 2003.
6. Keniry J et al *Livestock Export Review* A Report to the Minister for Agriculture, Fisheries and Forestry, 23 December 2003 p. 30
7. Wright, Tony [Sheep of fools](#) Bulletin with Newsweek 28 October 2003 p. 26
8. Keniry J et al *Livestock Export Review* A Report to the Minister for Agriculture, Fisheries and Forestry, 23 December p. 43
9. AUSVETPLAN is the agreed national emergency management plan for responding to exotic animal disease incursions.
10. This will be in addition to the levy exporters are paying to recoup the cost of resolving the MV Cormo Express incident.
11. Media Release [Progress in livestock export talks](#) Minister for Agriculture, Fisheries and Forestry, DAFF04/109WT, 10 May 2004
12. Press Release [Exporters Positive on Livestock Plan](#) Livecorp 30 March 2004
13. Press Release [VFF Livestock lobbies Federal Ag Minister on Portland ban](#) Victorian Farmers Federation 1 February 2004
14. Media Release [Producers continue exporting out of Portland](#) Victorian Farmers Federation 30 March 2004
15. Media Release [Cattle Council Welcomes Live Export Recommendations](#) Cattle Council of Australia, MR04/01, 8th January 2004
16. Media Release [Cattle Producers Strongly Support Majority of Government Response to Keniry Report](#) Cattle Council of Australia, MR09/04, 30 March 2004
17. News Release [Release of Live Export Report Welcome](#) National Farmers Federation, NR 02/04, 8 January 2004
18. News Release [Government's Keniry response helps secure \\$1 billion trade](#) National Farmers Federation, NR 29/04, 30 March 2004
19. Media Release [Government response to Keniry welcomed - with reservations](#) RSPCA, 30 March 2004
20. Media Release [AVA welcomes recommendations from Keniry Report](#) Australian Veterinary Association, 8 January 2004
21. Media Release [AVA members vote to continue the live animal exports](#) Australian Veterinary Association, 5 May 2004

22. Press Release [Keniry report exposes truss failure](#) Gavan O'Connor MP, Shadow Minister For Agriculture And Fisheries, 8 January 2004
23. Press Release [Government response on live exports needs to go further](#) Gavan O'Connor MP, Shadow Minister For Agriculture And Fisheries, 30 March 2004
24. Media Release [Ban live exports until enforceable standards in place](#) Senator John Cherry Australian Democrats Agriculture Spokesperson, 8th January 2004
25. Media Release [Live Exports Must be Banned](#) Bob Brown Senator for Tasmania, 24 September 2003
26. Media Release [Northern Territory stands firm on live cattle exports](#) Northern Territory Government, 31 March 2004
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