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Agriculture and Food
Department of Primary Industries and Regional Development
3 Baron-Hay Court
South Perth WA 6151

Submitted by email: livestock.regulations@dpird.wa.gov.au

Animals Australia submission on the Consultation on Animal Welfare (Livestock) Regulations 2019

Animals Australia welcomes the opportunity to provide input to the Department of Primary Industries and Regional Development (“**DPIRD**”) in response to the Consultation on the *Animal Welfare (Livestock) Regulations 2019* (“**Livestock Regulations**”).

We note that the aim of the Consultation is to consider how the ‘**Land Transport Standards and the Standards on Saleyards and Depots**’, will be implemented in Western Australia (including the new scheme for the use of infringement notices). That is, the Consultation is not seeking comment on the technical requirements set out in these Standards and Guidelines (“**S&G**”), as these have already been endorsed by all jurisdictions.

However – as will be particularised in this submission – the submergence of these S&G into the Livestock Regulations has not preserved the technical requirements set out in the S&G as stated. There are changes and omissions in the Livestock Regulations, and we have indicated where explanations of such by DPIRD are sought. In doing so, we take DPIRD’s discretionary variances of the S&G as precedence to call for some **critical** amendments to the status quo.

1. Limitation in Scope, Lack of Consultation & Regression to *archaic* Codes of Practice

While we commend DPIRD progressing enshrining the Land Transport Standards (“**LTS**”) into legislation, we are disappointed and concerned that this has been limited to apply to only cattle and sheep. Especially in light of the fact that these Standards were set to apply to:

‘...the major commercial livestock industries in Australia: alpacas, buffalo, camels, cattle, deer, emu, goats, horses, ostrich, pigs, poultry (meat chickens, layers, turkeys, ducks, geese, pheasants, guinea fowl, partridge, quail and pigeons) and sheep’ (LTS, Scope, p1).

The LTS were largely formulated in 2008 and finalised in 2012. Now we are seeing a further delay in the application of the full scope of the LTS.

Further, the decision by DPIRD to implement the LTS as a Code of Practice (“**CoP**”) under the *Animal Welfare Act 2002* (WA) (“**AWA**”) without consultation is another serious concern. This means that compliance with the LTS will be a defence to a charge of cruelty under the AWA. This is a regressive step and is at odds with the policy behind the nationally agreed S&G. That is, the CoP ‘system’ was to be replaced by S&G throughout Australian jurisdictions. We query, therefore, why this wasn’t done in 2012 as an interim measure to at least modernise the dated CoP that applied to land transport? That is, to now regress the S&G to a CoP would not have required an amendment to the AWA.

A further note of concern is that the Saleyards and Depot Standards (“**SS**”) were also combined into the Livestock Regulations without consultation. As with the LTS adoption, this application is also limited to cattle and sheep, despite the SS applying to:

‘...the main commercial livestock species: cattle, goats, horses, pigs and sheep that are handled through Australian saleyards and depots’ (SS, Scope, p5).

By combining the LTS and SS, and removing reference to major livestock species, the Livestock Regulations no longer reflect the intent of the S&G process agreed to nationally. It would have been far more effective and appropriate to *not* combine these S&G as it would have been quite easy to allow the SS to apply to all species.

2. Definition of ‘Depot’ and Exclusion of Live Export ‘Registered Premises’

We note that regulation 3 of the Livestock Regulations defines the term ‘**depot**’. This no longer includes ‘*registered or approved premises*’ per the pre-existing nexus to the Australian Standards for the Export of Livestock (“**ASEL**”). This is contrary to the LTS, which did *not* exclude ASEL premises. The SS do not apply to live animal export pre-assembly depots (i.e. registered premises). This, therefore, creates a concerning gap.

It is clear from the Position Statement of ASEL, and from the ASEL itself, that the intention of the Australian Government is to ensure that the treatment of all animals in the live export chain complies with all relevant State and Territory legislation (and arguably especially so to the land transport component of the chain).

If ‘registered premises’ are excluded from the Livestock Regulations, then we hold grave concerns. As such, we request that DPIRD point us to where – instead – this coverage exists. If no such coverage exists, then we request that the Livestock Regulations are amended to include ‘registered premises’ under the definition of ‘depot’.

3. General: Changes to Definitions & Prescribed Conditions

We flag concerns about the differences in definitions of terms between the LTS/SS and the Livestock Regulations, and the operative consequences. As these terms have been changed without consultation, we seek clarity and explanations on the operative differences in the application of these changes. For example:

In the Livestock Regulations, a ‘**consignor**, in relation to a livestock animal, means a person who consigned the livestock animal to undertake a journey’, whereas in the LTS & SS, a consignor is:

‘The person who consigns and/or the person in charge of livestock at the commencement of the transport process. Consignors of livestock are usually the owners of the livestock but may also include livestock agents, drivers and transport companies, and personnel from properties, saleyards, feedlots, depots and livestock-processing plants, who handle livestock to be transported’.

Other changes that we seek explanatory clarification on, include:

- ‘**Emaciated**’, and particularly why industry guides have been used in the body scoring definition under the Livestock Regulations, as opposed to the scoring systems used in the ASEL (which had scientific and welfare stakeholder input)?
- ‘**Heat stress**’, and particularly why there has been removal of references to ‘*thermo-neutral*’ and ‘*behavioural*’ coping mechanisms (as they are included in the LTS and SS)?
- Regulation 7 of the Livestock Regulations prescribes when livestock can and cannot be dragged. Regulation 7 provides that a standing animal can be dragged if this is necessary in an emergency. This is contrary to the LTS and SS. That is, there are no emergency conditions in

the SS to justify dragging a standing animal, and the LTS allows dragging a standing animal with conditions.

Further, regulation 11 of the Livestock Regulations provides an extensive list of prescribed conditions. However, regulations 9 and 10 list other conditions such as '*blind in both eyes*'. It is unclear as to why the regulation 11 conditions are singled out for the purpose of Infringement Notices? If so, this would be a retrograde step in terms of the seriousness of these conditions (for example, a broken leg).

4. Undermining Cruelty Provisions under the AWA & Infringement Notices

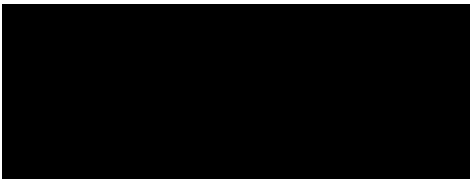
Regulation 6 of the Livestock Regulations provides for '*General mishandling and mistreatment of livestock*' provisions. This includes *kicking, punching, striking and dropping animals*'. To bring these provisions under the Livestock Regulations in this prescriptive manner lessens the penalties that would otherwise apply under section 19 of the AWA. This presents a strong overall concern we hold. That is, the cruelty provisions under the AWA are therefore undermined. Not only are the penalties in the Livestock Regulations too low as compared to the AWA, but there are no minimum penalties.

Infringement Notices under the Livestock Regulations should therefore only apply to non-direct harm-related offences; for example, omissions in record related duties, and not for offences that otherwise come under the ambit of section 19 of the AWA.

Regulation 10 of the Livestock Regulations provides for '*records relating to journeys*'. Under the LTS, journey records for journeys under 24 hours are not required – and these are the majority of journeys in Australia. This means that when animals are unloaded at a saleyard or abattoir, no information regarding: when they were loaded/last watered/spelled and any welfare issues along the way is required to be handed over. Sub-regulation 1 of Regulation 10 (that is, a requirement to keep such a record) must be amended to apply to all journeys. We acknowledge that this is a technical requirement (and theoretically out of scope), however, this submission has shown that many technical requirements have already been amended by DPIRD in the formulation of the Livestock Regulations. This is a **critical requirement that requires little effort for enormous welfare benefits, and thereby warrants absolute attention by DPIRD.**

We commend this submission to DPIRD. Please contact me if further clarification or specific examples are required.

Yours sincerely,



Glenys Oogjes
Chief Executive Officer