

# **Animal Care and Protection Amendment Regulation (No. 1) 2016**

Explanatory notes for SL 2016 No. 167

made under the

*Animal Care and Protection Act 2001*

## **General Outline**

### **Short title**

*Animal Care and Protection Amendment Regulation (No. 1) 2016*

### **Authorising law**

Section 217 of the *Animal Care and Protection Act 2001*

### **Policy objectives and the reasons for them**

The purpose of the subordinate legislation is to modify the substantive amendments contained in part 3 of the *Agriculture and Other Legislation Amendment Regulation (No. 1) 2016* (the amendment regulation) to provide that the amendments do not apply until 20 April 2017.

This will maintain the government's commitment to animal welfare while reflecting the timetable for implementation of the national Model Code of Practice for the Welfare of Animals – Pigs that was agreed with industry.

Part 3 of the amendment regulation contained amendments to the *Animal Care and Protection Regulation 2012* to complete the implementation of the national Model Code of Practice for the Welfare of Animals – Pigs, endorsed by all Australian states and territories on 20 April 2007. The national Model Code of Practice was to be phased in over a period of ten years following its endorsement. Consequently, part 3 of the amendment regulation was intended to commence on 20 April 2017. Unfortunately, a separate commencement clause was not included in the amendment regulation to ensure the delayed commencement of part 3, with the effect that part 3 commenced simultaneously with the remainder of the amendment regulation on 27 May 2016.

### **Achievement of policy objectives**

The subordinate legislation will amend the relevant provisions related to sows and pig stalls so that the substantive provisions do not apply until 20 April 2017. On 20 April 2017, the references to these provisions not applying until 20 April 2017 will be omitted.

## **Alternative ways of achieving policy objectives**

This approach is considered to be the most effective to achieve the policy objectives. An alternative approach would have been to amend the amendment regulation by inserting a commencement provision of 20 April 2017 for part 3. However, this would have had the effect of applying legislation retrospectively and thereby potentially infringing on fundamental legislative principles.

Another alternative approach would have been to omit the provisions from the amendment regulation and then reinsert them later with a commencement provision of 20 April 2017.

## **Consistency with policy objectives of authorising law**

The subordinate legislation is consistent with the main policy objectives of the *Animal Care and Protection Act 2001* which are to promote the responsible care and use of animals.

## **Inconsistency with policy objectives of other legislation**

The subordinate legislation is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The subordinate legislation will impose no additional cost on the government.

Following national endorsement of the Model Code of Practice in 2007, compliance with the intended new requirements for pigs in stalls has steadily increased. There is currently very high industry-led compliance with the new requirements even though they were not intended to be fully implemented until 20 April 2017.

Any producers who were not fully prepared for the implementation of the requirements for the keeping of sows in stalls may not have been aware of the commencement of the requirements since the department was not publicising it as it had overlooked the commencement. Modifying the requirements so that they do not apply until 20 April 2017 will ensure that producers will not have to comply prematurely.

Producers who have already adopted the new requirements for the keeping of sows in stalls are unlikely to revert to previous practices due to the subordinate legislation because the new requirements deliver greater animal welfare outcomes. These elevated animal welfare outcomes will continue to be recognised in the marketplace as a desirable feature of production and will maintain continuity of those producers' position in the supply chain.

## **Consistency with fundamental legislative principles**

The subordinate legislation is consistent with fundamental legislative principles.

## **Consultation**

The Queensland Productivity Commission (QPC) was consulted with regard to the Regulatory Impact Statement (RIS) requirements. QPC advised that the proposed amendment is machinery in nature, and therefore, no further analysis was required under the Treasurer's RIS system guidelines.

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