

# **Animal Care and Protection (Codes of Practice) Amendment Regulation 2021**

Explanatory notes for SL 2021 No. 57

made under the

*Animal Care and Protection Act 2001*

## **General Outline**

### **Short title**

*Animal Care and Protection (Codes of Practice) Amendment Regulation 2021*

### **Authorising law**

Sections 13, 15 and 217 of the *Animal Care and Protection Act 2001*.

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

The welfare of livestock has become increasingly important to industry, the government, and consumers, with the community demanding better treatment of animals and more effective regulation of the welfare of livestock.

The welfare of livestock has been supported by a series of Model Codes of Practice for the Welfare of Animals (Model Codes) since the 1980s. A review of the Model Codes in 2005 recommended that they be converted into Australian Animal Welfare Standards and Guidelines framework.

The Australian Animal Welfare Standards and Guidelines aim to harmonise and streamline livestock welfare legislation in Australia to ensure there is consistency across jurisdictions. They were developed by the former national Animal Welfare Committee (AWC), which previously reported to the former Standing Council on Primary Industries. Membership of AWC, at that time, comprised representatives from each of the State and Territory departments with responsibility for animal welfare, CSIRO, and the Australian Government Department of Agriculture.

The standards are intended to be adopted by all Australian jurisdictions to provide clear compulsory requirements for industry stakeholders operating across different states and territories. Such compulsory requirements will help ensure market access and consumer confidence as they will demonstrate to the community, industry, and international trading partners that minimum standards for animal welfare have been implemented.

All States and Territories, through the Agricultural Ministers Forum, agreed to the implementation of nationally consistent standards and guidelines to replace the Model Codes for cattle and sheep in January 2016 and for livestock held at saleyards and depots in February 2018.

The policy objective of the *Animal Care and Protection (Codes of Practice) Amendment Regulation 2021* (Amendment Regulation) is to implement compulsory nationally agreed standards for the welfare of cattle, sheep, and livestock held in depots and saleyards.

## **Achievement of policy objectives**

The Amendment Regulation will achieve its objectives by prescribing three compulsory codes of practice - new schedules 2A (Code of practice about sheep), 2B (Code of practice about cattle), and 3AA (Code of practice for livestock at depots and saleyards) and amending schedule 3 (Code of practice for transport of livestock) to implement nationally developed and agreed compulsory standards for the care and handling of cattle, sheep, and livestock held in depots and saleyards.

The Codes of Practice will provide clear minimum standards of care including veterinary care and adequate provision of food, water and shelter which achieve a reasonable balance between the welfare of animals and the interests of persons whose livelihood is dependent on animals. They will address painful husbandry procedures such as castration, spaying, dehorning, tail docking and mulesing, as well as regulate practices such as tethering animals and the use of dogs to manage livestock.

The Amendment Regulation will repeal the following voluntary Model Codes:

*Australian Code of Practice of the Welfare of Cattle in Beef feedlots, in section 2.2, appendix 2.2A of the 'National guidelines for beef cattle feedlots in Australia', 2<sup>nd</sup> edition, SCARM report 47, CSIRO Publishing, 1997.*

*Model Code of Practice for the Welfare of Animals—Animals at Saleyards, SCA Technical Report Series No 31, CSIRO Publishing, 1991.*

*Model Code of Practice for the Welfare of Animals—Cattle, 2<sup>nd</sup> edition, PISC Report 85, CSIRO Publishing, 2004.*

*Model Code of Practice for the Welfare of Animals—The Sheep, PISC Report 89, CSIRO Publishing, 2006.*

The Amendment Regulation also makes minor consequential amendments including renumbering the current provisions.

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

The Amendment Regulation is consistent with the purposes of the *Animal Care and Protection Act 2001* (the Act) which include the following:

- (b) provide standards for the care and use of animals that—
  - (i) achieve a reasonable balance between the welfare of animals and the interests of persons whose livelihood is dependent on animals; and
  - (ii) allow for the effect of advancements in scientific knowledge about animal biology and changes in community expectations about practices involving animals; and

(c) protect animals from unjustifiable, unnecessary, or unreasonable pain.

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

The Amendment Regulation is consistent with the policy objectives of other legislation.

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

The Amendment Regulation is considered the only way to implement compulsory national-agreed standards for the welfare of cattle, sheep, and livestock held in depots and saleyards.

Alternatives to the Amendment Regulation include not reflecting the national standards as codes of practice and relying on voluntary compliance with the guidelines to ensure people provide minimum standards for the welfare of the animals in their care. Similarly, the standards could be prescribed as codes of practice which are not compulsory codes. However, being unable to enforce the nationally agreed standards and/or relying on voluntary compliance would not achieve national consistency.

Not implementing the standards as compulsory codes may also not meet community expectations. There has been a significant shift in recent years in community expectations about the way all animals are kept and treated. The greatest shift has been towards the care of livestock. The public consultation on the draft standards confirmed that the Australian public considers there should be more effective regulation of the welfare of livestock, and greater transparency in how that regulation is applied.

## **Benefits and costs of implementation**

The Codes of Practice reflect the available knowledge, current practice, and community expectations to protect the welfare of livestock.

A main benefit of prescribing the Codes of Practice in the Amendment Regulation is to ensure that livestock is provided with a minimum standard of care and treatment including adequate housing, handling, sanitation, nutrition, water, veterinary care, and protection from extreme weather conditions. Another benefit of the Amendment Regulation is that the Codes of Practice will prescribe minimum requirements for the care of livestock with respect to painful husbandry procedures.

Another benefit of the codes is that they provide confidence that livestock industries are meeting community and consumer expectations. Livestock industries are becoming increasingly dependent on community confidence in the appropriate regulation of animal welfare. Domestic and international markets and retailers have increasingly focused on animal welfare as an important consideration for market access, consumer confidence and of product quality.

Clear consistent standards demonstrate to our trading partners that the risks to animal welfare resulting from painful husbandry procedures such as castration, tail docking and mulesing, and confinement issues are being minimised by legislation.

Overall, it is expected that there will be minimal negative impact on stakeholders from implementing the national standards.

It is likely that there is already general adherence to most aspects of the national standards with minimal change required to current livestock management practices. The use of analgesics for painful husbandry practices has gained widespread acceptance in the cattle and sheep industries in recent years.

Currently, non-veterinarians are spaying cattle using the Willis dropped ovary technique without accreditation. Spaying cattle is an invasive procedure which has the potential to cause significant pain to an animal. It is considered appropriate that the welfare of the animals that are subject to this procedure will be protected through some form of competency testing for the person performing the procedure. The introduction of the requirements for accreditation in the Code of Practice will impose a burden on those who need to obtain accreditation. However, it is not expected that the impact will be significant as the requirements are not considered burdensome.

AgForce, which represents producers, has advised that currently there are no persons accredited to spay cattle. Consequently, the requirement for a person other than a veterinarian to have completed the unit of nationally recognised training *AHCLSK335 - Conduct dropped ovary technique procedures for spaying cattle* will commence six months after the commencement of the Amendment Regulation. The staged commencement will provide spayers sufficient time to obtain accreditation.

It is considered that any potential costs to individuals in imposing this requirement are far outweighed by the benefits of increasing the public's confidence that risks to animal welfare are being minimised.

Costs to the State government will be minimal in the implementation of the Amendment Regulation as it is proposed that compliance activities will be imbedded in existing regulatory activities and enforcement will generally be undertaken via the existing animal welfare complaints process.

## **Consistency with fundamental legislative principles**

The subordinate legislation has been drafted with regard to, and is consistent with, the fundamental legislative principles (FLPs) as defined in section 4 of the *Legislative Standards Act 1992* (LSA).

### ***Legislation should not, without sufficient justification, unduly restrict ordinary activity including the right to conduct business without interference***

The Codes of Practice impose obligations on persons responsible for the care of livestock, by prescribing minimum standards for their welfare.

A potential breach of FLPs arises because the Codes of Practice have the potential to unduly restrict the right to conduct business without interference. The Act already prescribes a duty of care on persons in charge of an animal and various animal welfare offences including a cruelty offence. Making these specific codes of practice provides more certainty about standards of care and handling which reflect community values and expectations about how livestock should be cared for and handled. They will also

demonstrate to international partners that animal welfare risks are being appropriately managed.

## Consultation

A national public consultation process was undertaken during the development of the Australian animal welfare standards and guidelines. They were developed by the former Animal Welfare Committee (AWC), which previously reported to the former Standing Council on Primary Industries. Membership of AWC, at that time, comprised representatives from each of the State and Territory departments with responsibility for animal welfare, CSIRO, and the Australian Government Department of Agriculture.

The Council of Australian Governments (COAG) approved the release of three national Regulatory Impact Statements (RIS) on proposed Australian animal welfare standards and guidelines for Cattle, Sheep and Livestock at Saleyards and Depots.

Sixty substantial submissions relating to the draft cattle standards and guidelines and the RIS were made. These were analysed and reported on in a public consultation response Action Plan (May 2014). A further 1,566 on-line surveys were completed with results reported against relevant topics. In addition, approximately 20,250 email letters were received, of which the vast majority supported notions of better welfare standards.

Fifty-four substantial submissions were received relating to the draft sheep standards and guidelines and the RIS. These were analysed and reported on in a public consultation response Action Plan (May 2014). A further 965 on-line questionnaires were completed with results reported against relevant topics. In addition, approximately 13,850 email letters were received, of which the vast majority supported notions of better welfare standards.

A consultant was contracted to independently examine and summarise written and on-line survey submissions to the national public consultation process. As a result of the consultant's report, minor amendments were made to the standards to clarify obligations by rewording the obligations or relocating matters to other chapters.

Substantive submissions relating to the draft saleyards and depots standards and guidelines and the RIS were received from 17 industry representative organisations, seven animal welfare and lawyer organisations, one state government agriculture department and 40 community members. An additional 2000 campaign emails based on Animals Australia and RSPCA campaign material were received. Industry organisations mostly were supportive of the national approach to the Australian Animal Welfare Standards and Guidelines – Livestock at Saleyards and Depots replacing existing Model Codes of Practice, on the proviso that, once endorsed, the standards were implemented in legislation in all jurisdictions without change to ensure national consistency.

As a result of the public consultation process, and having regard to the decision-making principles used, minor changes were made to the proposed saleyards and depots standards to clarify obligations, such as stating that a dog cannot be used on an animal that is unable to stand and relocating requirements to other chapters more appropriate to that standard.

A state-wide Communication Plan will be undertaken to raise awareness and inform affected groups of changes to animal welfare requirements for cattle, sheep and animals at saleyards and depots in Queensland.

The objectives of the Communication Plan will be to inform audiences and stakeholders about the mandatory changes to animal welfare requirements in Queensland with respect to the Codes of Practice; to raise awareness of how affected stakeholders can meet the new requirements; to ensure a coordinated approach with relevant stakeholders; and to leverage existing networks to promote widespread awareness in a timely manner.

Key messages will be used to disseminate information for each of the relevant Codes of Practice through a variety of mainstream, social media and internet content platforms. All stakeholders, producer groups, livestock associations and peak industry bodies will be requested to use their own networks to distribute information. Webinars will be offered to industry organisations to promote discussion and inform members.

The Department of Agriculture and Fisheries consulted the Office of Best Practice Regulation (OBPR), within the Queensland Productivity Commission, on whether the amendments are excluded from further analysis under the *Queensland Government Guide to Better Regulation*.

The OBPR assessed that the amendment is excluded from further analysis on the basis that, while the proposal may result in some adverse impacts for industry stakeholders in Queensland, the impacts do not appear significant. The consultation conducted through the national RIS processes meets regulatory impact analysis requirements in terms of analysis and consultation and has taken into account the impacts on Queensland stakeholders.