

Stock Route Management Regulation 2023

Explanatory notes for SL 2023 No. 33

made under the

Nature Conservation Act 1992
Stock Route Management Act 2002

General Outline

Short title

Stock Route Management Regulation 2023.

Authorising law

Section 175 of the *Nature Conservation Act 1992*
Section 309 of the *Stock Route Management Act 2002*

Policy objectives and the reasons for them

The *Stock Route Management Act 2002* (the *Stock Route Management Act*) is the primary statute for managing Queensland's stock route network. The *Stock Route Management Act* sets out the principles and responsibilities for managing the network, a planning process, and a system for issuing permits for stock to travel or agist on the network. The operational arrangements for managing the stock route network are set out in subordinate legislation.

The *Stock Route Management Regulation 2023* replaces the expiring *Stock Route Management Regulation 2003*. The *Stock Route Management Regulation 2023* commences on the day of commencement of section 64 of the *Land and Other Legislation Amendment Act 2023* (the *LOLA Act*) which has amended the *Stock Route Management Act*.

The *Stock Route Management Regulation 2023* contains many of the provisions in the *Stock Route Management Regulation 2003* that have been refined in close consultation with government, industry, and other stakeholders. For local governments, the refinements reduce the regulatory burden and enable greater cost recovery for the on-ground administration and management of the stock route network.

The objectives of the *Stock Route Management Regulation 2023* are to:

1. List the local governments required to have a stock route management plan in place (Act, s 104).

2. Prescribe the interest on amounts payable by landowners or permit holders for specific instances of non-compliance (Act, ss 153 and 159).
3. Prescribe the market value of seized stock (Act, s 170).
4. Set the amounts for fees that are payable (Act, s 309).

Declaring stock routes by regulation is no longer an objective of subordinate legislation. This reflects the replacement of the long-standing declaration process with an administrative procedure under the Stock Route Management Act as amended by section 55 of the LOLA Act. The new mapping process involves the chief executive certifying and publishing a digital online map of stock routes.

The *Nature Conservation Act 1992* (the Nature Conservation Act) governs the management of protected areas. Travelling stock in a protected area is managed under the Nature Conservation Act, and associated permit fees are prescribed under the *Nature Conservation (Protected Areas Management) Regulation 2017*. The fees are different to that which apply to travelling stock under the Stock Route Management Act.

The *Stock Route Management Regulation 2023* also amends the *Nature Conservation (Protected Areas Management) Regulation 2017*. The objective is to ensure consistency in permit fees for travelling stock under both the Nature Conservation Act and the Stock Route Management Act.

Achievement of policy objectives

Stock route management plans

Stock route management plans establish and communicate how a local government would manage and administer stock routes in their area. The stock route management plan requirements under chapter 3, part 3 of the Stock Route Management Act apply only to a local government prescribed under a regulation.

The *Stock Route Management Regulation 2023* will require local governments with significant primary networks in their local area to prepare a stock route management plan. 'Significant' is considered as those local governments with substantially greater areas of primary stock routes, with a high usage and or integral to retain connectivity of the network. Schedule 1 lists 19 such local governments. Previously, 24 local governments (including the 19 listed in the *Stock Route Management Regulation 2023*) were required to have a stock route management plan in place.

There is little value for local governments with limited primary stock routes in their area to prepare a management plan. However, local governments with no significant primary network are encouraged to include the management of stock routes in their other plans.

Interest on amounts payable

Costs reasonably incurred by the chief executive officer of a local government when taking action for non-compliance with a fencing notice or obligation to maintain fence is a debt payable to the local government by the landholder. The same applies to a permit holder who does not comply with a mustering notice.

A debt that is not paid when it is due incurs an interest which accrues daily at the rate prescribed by regulation.

The *Stock Route Management Regulation 2023* changes the prescribed interest rate on amounts not paid by a landholder for instances of non-compliance to be consistent with the *Taxation Administration Act 2001* and the *Taxation Administration Regulation 2012*.

The new interest rate is based on the more contemporary bank bill yield rate for each day the interest accrues, plus a margin of eight per cent. The bank bill yield rate means the monthly average yield of 90-day bank accepted bills published by the Reserve Bank of Australia. The benefit of using this rate is to provide greater consistency with other Queensland legislation, and to strike a mid-point between other common interest rates charged.

The previous rate was a heavily discounted rate that could not be considered as a default interest rate and was considerably below the state's current cost of funds.

Market value of seized stock

Under the Stock Route Management Act, stray stock on the stock route network that have been seized may be released to the owner under certain conditions. If the stray stock is not claimed, the way it must be dealt with depends on the market value of seized stock as prescribed under a regulation.

The *Stock Route Management Regulation 2023* continues the previously prescribed market value of \$1000 a head. Stakeholder feedback has indicated that this amount is still appropriate.

Fees

The *Stock Route Management Regulation 2023* makes significant changes to the fee regime to enable local governments to achieve greater cost recovery.

Application fee

Payment of an application fee for stock travel and agistment permits will be required under new sections 116(4)(b), 122(2)(b), 134(2)(b) of the Stock Route Management Act (as amended by the LOLA Act). The Stock Route Management Act also provides that local governments can waive this fee if satisfied the applicant is experiencing financial hardship (e.g., hardship caused by droughts or floods).

The *Stock Route Management Regulation 2023* sets this new application fee at 150 fee units. The fee units reflect the amount charged by some local governments under the *Local Government Act 2009* to recover assessment costs. The Local Government Association of Queensland (LGAQ), AgForce and most local governments support regulating the fee to ensure consistency for local governments.

The application fee is non-refundable and subject to annual indexation.

Permit fees

The *Stock Route Management Regulation 2023* changes the fees payable for travel and agistment of stock as follows:

1. Fees for travelling stock are increased, based on a per day rate (instead of a per kilometre rate) to facilitate stock moving at the legislatively required speed of 10 kilometres per day and to enable annual indexation.
2. The prescribed minimum and maximum amounts of fees for agisting stock are increased to reflect commercial rates. The matters local governments must consider when determining a 'reasonable' fee within the prescribed range remain much the same.
3. Travel and agistment fees for small stock are set at one seventh the fee for large stock (previously one fifth) to better reflect resource utilisation between large and small stock.

The fees were developed through extensive stakeholder consultation on the most appropriate fee regime based on an independent economic analysis of the costs and benefits of the stock route network and the uses on the network.

The fee levels were tested with stakeholders and found to be reasonable, more representative of the value of the benefits to stock route users, and agistment fees more aligned with commercial rates. The range of fees for the agistment of stock is comparable to that of New South Wales.

In deciding the agistment permit fee to charge within the prescribed minimum and maximum range, local governments will have to consider the following matters:

1. The characteristics of the relevant land (e.g., topography, vegetation).
2. The weather conditions for the relevant land when the permit is issued and on its renewal.
3. The stock—the number and type of stock to be agisted; and the reason for the agistment (e.g., agistment to manage excess fuel loads to reduce the risk of fire; ensuring stock have access to pasture during drought).
4. The quality of pasture available for the agistment.

5. The accessibility of water for the agistment.
6. Any proposed use of travelling stock facilities under the permit.
7. The commercial agistment rates in the relevant local government area.

The changes to permit fees are consistent with stakeholder advice that the fees should reflect a user pays system and be increased so that local governments can better recover costs to re-invest in administration and maintenance, without impacting too greatly on users of the network. Generally, stakeholders have acknowledged that the fee increases are long overdue and necessary to make up for the significant shortfalls in cost recovery. The strongest support for changes to fees has come from the LGAQ, AgForce and local governments.

Some stock route travel permit fees have not changed since 1997. The fees have lost their value over time and were too low to be annually indexed, resulting in significant shortfalls in cost recovery with time. This is inconsistent with government policy as regulatory fees and charges must maintain their value over time relative to anticipated increase in costs.

The changes reflect a principle of the Stock Route Management Act that a person who benefits from using the network must pay a reasonable amount for its use. This aligns with the principles of cost recovery and beneficiary pays as outlined in the Queensland Treasury 'Principles for Fees and Charges January 2020'.

The *Stock Route Management Regulation 2023* continues to exempt the following stock (now defined as 'excluded stock') from paying fees for permits issued under the Stock Route Management Act:

1. For a stock route agistment permit—stock mentioned in section 116(2)(b) of the Act being travelled to a gymkhana or rodeo under a stock route travel permit.
2. For a stock route travel permit—stock being travelled to a gymkhana or rodeo under the permit; unweaned stock of less than six months travelling with their mothers under the permit; and horses being used for droving stock under the permit.

Likewise, there is no change in the ways in which additional fees or refunds arising from changed stock route travel permits are dealt with.

Alignment of other travelling stock fees

The *Stock Route Management Regulation 2023* amends the fees prescribed under the *Nature Conservation (Protected Areas Management) Regulation 2017* for a permit issued by the Department of Environment and Science for stock to travel through protected areas.

The purpose of the amendment is to align the fees charged for stock to travel in a protected area with that which applies to stock travelling on the stock route network.

This amendment addresses stakeholder concern over the confusion caused by the differences in fees for the same use. It provides consistency and certainty for pastoralists and drovers, helping to avoid any unintended consequences of two very different fee regimes applying—for example, making it cheaper to travel stock through a protected area.

Minor amendments

The *Stock Route Management Regulation 2023* updates the dictionary by inserting new definitions for ‘eligible large stock’, ‘eligible small stock’ and ‘excluded stock’; and removing terms no longer in use.

The *Stock Route Management Regulation 2023* also removes provisions that have become obsolete.

Some provisions have been redrafted in line with current drafting practices.

Consistency with policy objectives of authorising law

The *Stock Route Management Regulation 2023* is consistent with the purpose of the Stock Route Management Act, which is to provide for stock route network management. This purpose is to be achieved mainly by:

1. Establishing principles of stock route network management.
2. Providing for stock route network management planning.
3. Establishing responsibilities for stock route network management.
4. Constructing and maintaining travelling stock facilities on the stock route network.
5. Monitoring, surveying, and controlling the movement of travelling stock.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives. Subordinate legislation is needed to provide operational detail that supports the objectives and implementation of the Stock Route Management Act and to standardise permit fee regimes for stock travelling on the stock route network or in a protected area.

This view was confirmed through a review and extensive consultation process undertaken since 2018.

Benefits and costs of implementation

The state government will incur an added cost to update existing systems (e.g., the Stock Route Management Network System) used to manage the stock route network. The added support costs associated with these elements will be funded through the realignment of existing resources.

The impact of the fee regime changes on state revenue is minimal. Revenue from permit fees varies from year to year based on seasonal demand. For example, total revenue varied from under \$200,000 in 2015-16 to \$1.42 million in 2017-22 (averaging \$284,127 per year). The state's share of this revenue was only 50 per cent.

The combination of the revised fee regime and authority under the amended Stock Route Management Act for local governments to keep all revenue received—from application and permit fees, water facility agreements and fines—would increase cost recovery for local governments from around 3.5 to 38 per cent of the estimated \$4.8 million it costs them annually to manage the network. Previously, local governments could only keep 50 per cent of revenue from permit fees.

In accordance with new section 187B of the amended Stock Route Management Act, local governments must use all retained revenue for the administration, maintenance, or improvement of the stock route network in their area. The administration of the stock route network in the local government's area includes deciding applications relating to stock routes.

Under the new fee regime, the state and local governments would continue to subsidise commercial users of the network but to a lesser degree, with rate payers benefitting from the reduced subsidy.

The fees set by the *Stock Route Management Regulation 2023* remain cost-effective for users of the stock route network, with cost increases outweighed by:

1. The comparatively higher cost of trucking stock, purchasing fodder or agistment.
2. The benefits that pastoralists and drovers will derive from a better managed, maintained and more sustainable network.

Local governments will also benefit from the simplification of processes. This reduces the regulatory and financial burden associated with preparing a stock route management plan. Five local governments will no longer be required to have such a plan in place (though they may still choose to do so). These local governments are Bulloo Shire Council, Charters Towers Shire Council, Cloncurry Shire Council, Mt Isa City Council and Quilpie Shire Council.

Consistency with fundamental legislative principles

The *Stock Route Management Regulation 2023* does not breach fundamental legislative principles and is consistent with the payment for use principle of the Stock Route Management Act.

Consultation

Extensive consultation was fundamental to identifying issues with and improvements to the *Stock Route Management Regulation 2003*.

Public and stakeholder consultation was supported by the *Consultation Paper: Review of Stock Route Management Regulation 2003 and Queensland Stock Route Network Management Strategy 2014-19* (April 2019), four regional workshops and one Brisbane workshop. Meetings were held with government, industry, conservation, and other stakeholders. Feedback was sought on the efficiency and effectiveness of the Regulation, as well the State Stock Route Network Management Strategy existing at the time. The paper also sought comment on whether there were alternative ways to declare stock routes, provide for local government stock route planning and determine appropriate fees.

Thirty-three submissions were received from local governments, peak bodies, individuals, and others, primarily in relation to declaring stock routes, stock route management plans and fees. This consultation complemented the extensive consultation that was undertaken from 2010 to 2016 through the development of several bills proposed to modernise the Stock Route Management Act.

The feedback received was supplemented by a cost benefit analysis of the stock route network management which was tested at meetings and workshops with key stakeholders. Stakeholders collectively agreed to the principles and criteria for assessing alternative fee models, and then took part in assessing the different proposals.

Further public consultation occurred through the *Stock Routes Discussion Paper: Proposed amendments to the Stock Route Management Regulation 2003* (July 2021) primarily in relation to the declaration of stock routes, stock route network management plans, interest on amounts payable, market value of seized stock, fees and charges, management costs and revenue sharing arrangements, and simplification of processes for local governments.

Sixteen formal submissions and 72 responses to online survey questions were received from local governments, peak bodies, individuals, and others. Twelve of the survey responders were affiliated with councils and three with droving. In addition, there were 227 unidentified responders to the 'quick poll' which asked, 'Should stock route network fees change?'

These reviews and the extensive consultation:

1. Highlighted the importance of the stock route network to users and the state, regional and local economies.
2. Supported reforms to ensure that the stock route network is better funded and the regulatory burden on local governments is reduced.
3. Led to the publication of the *Stock Route Network Management Strategy 2021 - 2025* (March 2021) to coordinate the management of the stock route network.
4. Confirmed the need to remake the *Stock Route Management Regulation 2003* with improvements, particularly making significant changes to the fee regime to increase cost recovery for local governments.
5. Led to the amendment of the Stock Route Management Act by the *Land and Other Legislation Amendment Act 2023* which received assent on 28 February 2023. The Stock Route Management Act amendments mainly provide for:
 - a. an administrative process to decide, map and amend stock routes in digital electronic form instead of declaring stock routes by regulation
 - b. simplified and modernised processes for local governments to prepare a stock route management plan
 - c. a new application fee (waivable for hardship) for travel and agistment permits to cover assessment costs
 - d. local governments to now keep all stock route revenue (obtained from permit and application fees, water facility agreements and fines) to fund the administration and maintenance of the stock route network in place of remitting 50 per cent of permit fees to the state.
6. Led to the development of the *Stock Route Management Regulation 2023* with significant changes to stock route fees and charges, the alignment of permit fees for stock travelling in protected areas with the stock route network's new fee regime, and fewer local governments required to prepare a stock route management plan.

The *Consultation Report: Stock Routes Discussion Paper - Proposed amendments to the Stock Route Management Regulation 2003 and associated legislation* (March 2022) summarises the consultation outcomes.

The Office of Best Practice Regulation (OBPR) was consulted on the proposed regulation. The OBPR noted that the proposed fees were informed by a cost-benefit analysis and several rounds of consultation. While the fees will have adverse impacts on users of the network, stakeholder feedback appears to have been incorporated to inform an appropriate compromise between improved cost recovery of the network, and affordability for users of the network.