

COMPLIANCE MEASURES AND SANCTIONS FOR LIVESTOCK EXPORTS

Compliance measures relating to the livestock export licence

These sanctions relate directly to the export licence and fit within the framework of the *Australian Meat and Livestock Industry Act 1997* (AMLI Act).

Criminal sanctions

s54 AMLI Act
Exporting without a licence; intentionally/recklessly contravening a licence condition;
5 years imprisonment
s55 AMLI Act
False and misleading information;
Knowingly = 12 months imprisonment
Recklessly = 6 months imprisonment or relevant fine

Revoke licence

s24 AMLI Act
If the Secretary is not satisfied after reviewing a written statement by the holder, then the licence can be cancelled or suspended, or further suspended, for a period specified in the notice.

Issue show cause notice

s23 AMLI Act
If the Secretary has reasonable grounds for believing that in relation to an export licence, information given to the Secretary was false or misleading or the holder has contravened a condition on the licence, the Secretary may issue a show cause notice (and suspend the export licence from the time of the notice pending further information).

Apply conditions to licences

ss12, 15 and 17, AMLI Act; r 16 and 18, AMLI Export Licence Regulations
The Secretary may issue a licence subject to conditions. Before issuing a licence, the Secretary must consider whether the exporter is able to comply with such conditions, and whether the exporter has failed in the past to comply with such conditions, with an order made or direction given under the AMLI Act, or with a condition of a licence of any other kind, including an approval of a NOI, CRMP or ESCAS and an export permit granted under the *Export Control (Animals) Order 2004* (EC Animals Order).

AMLI (Conditions on live-stock export licences) Order 2012

It is a condition of a live-stock export licence that the holder comply with any relevant provisions of the EC Animals Order. If the Secretary has reasonable grounds for believing that the exporter has contravened this condition, he or she may decide to take compliance measures or impose sanctions as outlined above.

Compliance measures relating to the activities of a licence holder

These sanctions relate to activities regulated under the *Export Control Act 1982* (EC Act) and legislative instruments made under that Act.

General criminal sanctions

Knowingly providing false and misleading information = 12 months imprisonment (*s137.1 Criminal Code Act*).
Providing false or misleading information in the application for a licence, permit or authority:
knowingly = 12 months imprisonment, recklessly = 6 months imprisonment (*s136.1 Criminal Code Act*)

Criminal sanctions

- Falsely representing compliance conditions or restrictions under the EC Regulations = 5 years imprisonment (*s7A EC Act*).
- Exporting in contravention of conditions or restrictions under the EC regulations and orders = 5 years imprisonment (*s8 EC Act*).
- Failure to provide the Secretary with information requested under section 11Q EC Act = 12 months imprisonment.
- Failure to comply with a condition or restriction on a licence or permission granted under the EC regulations and orders (such as an approved NOI, CRMP or ESCAS or an export permit granted under the EC Animals Order) = fine of up to \$50,000.

Refuse to issue or revoke an export permit (EP)

- In deciding whether to grant an EP, the Secretary may consider compliance with an approved NOI, CRMP and ESCAS and with licence conditions (order 2.59).
- The Secretary may revoke an EP if conditions of the permit have not been complied with or relevant circumstances have changed (order 2.61).

Refuse to grant, suspend or cancel a permission to leave for loading (PLL)

- Compliance with an approved NOI, CRMP and ESCAS and with AMLI licence conditions are relevant in the granting of a PLL (order 2.54).
- If there has been a relevant change in circumstances, the Secretary may suspend or cancel a PLL (order 2.57).

Cancel a NOI or CRMP or revoke an ESCAS

- The Secretary may cancel, vary or require a new NOI if the Secretary has become aware of a change relevant to the proposed export (order 2.46).
- The Secretary may revoke an approval of an ESCAS, including in circumstances where the Secretary is not satisfied the live-stock will be dealt with in accordance with an approved ESCAS or the exporter has not complied with any conditions in the approval or a previous approval (order 2.46A).

Apply conditions on the approval of a NOI, CRMP or ESCAS

- The Secretary may before approving a NOI, CRMP or ESCAS, direct that it be amended or varied in specified way, and may approve a NOI, CRMP and ESCAS subject to a condition (order 2.44).
- The Secretary may direct that a NOI or CRMP be varied, or require a new NOI or CRMP, if the Secretary becomes aware of a change relevant to the proposed export (order 2.46).
- The Secretary may at any time require that an approved ESCAS be varied in a specified manner, approve a variation of an approved ESCAS, or vary the conditions imposed on an approved ESCAS (order 2.46A).
- An authorised officer may impose a condition on a PLL (order 2.54).

Refuse to approve a NOI, CRMP or ESCAS

- The Secretary may refuse to approve a NOI, CRMP or ESCAS.
- A NOI and CRMP must comply with the requirements of the EC Animals Order, the AMLI Act and regulations and orders under that Act, and the conditions of the exporter's AMLI licence, including the Australian Standards for Export of Live-stock (order 2.44).
- An ESCAS may be approved if the Secretary is satisfied it will ensure the live-stock will be transported, handled, slaughtered and subjected to any other related operations in accordance with relevant OIE recommendations (order 2.44).

Seek additional information

- The Secretary may require a person to provide information or documents that relate to any export or proposed export. Failure to comply = 12 months imprisonment (*s11Q EC Act*)
- The Secretary may require additional information about a proposed export in relation to a NOI and CRMP (Animals Order *s2.44*)

Please note: This document is for information only and is not intended to be a comprehensive account of legislative provisions relating to the export of live animals. *The Export Control Act 1982*, the *Australian Meat and Live-stock Industry Act 1997* and the legislative instruments made under each Act contain further details.