

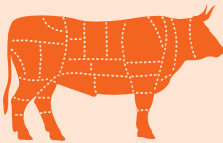
**FACTSHEET**

# **LIVESTOCK UNDER THE LAW**

**NSW ANIMAL LAW COMMITTEE**

## 2013 Live Australian Export

2,900,000



beef & dairy cattle



sheep & goats

\$790,000,000  
total revenue

3%

AUSTRALIAN  
AGRICULTURE

## OVERVIEW

- The welfare of farm animals such as cows, pigs, sheep and chickens who are used in local food productions is overseen by the NSW Department of Primary Industries (DPI). The DPI is also responsible for promoting the profitability of the agricultural industry. This can lead to a conflict of interest since implementing good animal welfare practices can involve a financial cost.
- For live export (i.e. where these animals are sold to overseas buyers), the Federal Department of Agriculture regulates the standards of animal welfare on the ships used to transport the animals overseas. There have been many breaches of these standards and the current system does not always effectively protect Australian livestock.

## ANIMALS ON NSW FARMS

In NSW, the Prevention of Cruelty to Animals Act 1979 (POCTA) makes it a criminal offence to commit an act of cruelty upon an animal. Cruelty generally refers to an act that “unreasonably, unnecessarily or unjustifiably” inflicts pain on an animal but does not necessarily require an intention to harm.<sup>1</sup>

Whilst companion animals such as dogs, cats or rabbits are protected by this provision, livestock used for the purpose of producing food for human consumption (e.g. cows, pigs, sheep) are subject to various exemptions. For these animals, if a person inflicts pain on the animal in the process of destroying the animal and can show that the pain was not “unnecessary” then it is allowed. The term “unnecessary” is not defined in the POCTA so is open to subjective interpretation. The POCTA also provides a defence to a charge of cruelty if the pain was inflicted in connection with ear-tagging, branding or dehorning a stock animal or cutting the tail off or mulesing sheep (slicing off strips of skin from around the buttocks without anaesthetic).

## ACCEPTABLE PRACTICES

In addition to these exemptions, voluntary compliance with a “Model Code of Practice” developed by the livestock industry may act as a defence to a charge of cruelty. These codes contain minimal animal welfare standards. This means that for chickens, practices such as cutting off part of their beaks, removing their toes, cutting off the excess skin around their necks, killing unwanted chicks through carbon dioxide gassing or putting them through a grinder, and slaughtering adult chickens by giving them an electric shock then letting them bleed to death or dislocating their neck or decapitating them are all acceptable practices.<sup>2</sup>

The model code of practice for cattle allows castration without anaesthetic, tail docking, depriving baby dairy cows of liquid for up to 10 hours and supports a method of slaughter that involves using a .22 calibre firearm to shoot the cow in the head then severing the major blood vessels of its neck and letting it bleed to death.<sup>3</sup>

## PROSECUTING AUTHORITIES

In NSW, only the Police, the RSPCA, the Animal Welfare League (AWL) and the DPI can prosecute cases of animal cruelty. The RSPCA and AWL are both charities. Even though they prosecute the majority of cases on behalf of the NSW government, they only receive a very small amount of government funding. The RSPCA has 32 inspectors for the whole of NSW and AWL only has two.

## “AG GAG” LAWS

Given they have limited resources, it is impossible for the RSPCA and AWL to monitor the practices being used in all factory farms across NSW. Reports from members of the public or animal welfare organisations therefore play an important role in alerting the RSPCA and AWL to possible instances of cruelty. For example, animal welfare organisations played an instrumental role in notifying the Australian Competition and Consumer Commission of two major poultry companies that were misleading the public into thinking their ducks and chickens were free range when in reality, the birds were either packed so tightly they could not roam freely<sup>4</sup> or did not spend any time outdoors at all.<sup>5</sup> In another example, footage taken by Animal Liberation showed piggery workers kicking piglets and beating sows with a sledgehammer. This led to the RSPCA laying 53 charges of aggravated animal cruelty and closure of the piggery.<sup>6</sup>

In a concerning move, there are measures underway by various state governments and the Federal Government to pass new laws that will seriously hamper the ability of animal welfare groups and members of the public to help the RSPCA and AWL detect animal cruelty. The new laws may force any footage obtained of factory farms to be handed over immediately to the police and not be released to the public. Since it is an established offence to trespass on someone else’s land, these extra measures are aimed at shielding controversial livestock production practices from public scrutiny.

## LIVE EXPORT

Australia exported 2.9 million beef and dairy cattle, sheep and goats in 2013<sup>7</sup>, making it one of the world's largest exporters of livestock even though the \$790 million revenue earned from live export accounted for less than 3% of the total revenue of the entire agricultural sector.<sup>8</sup>

Live export is regulated by the Federal Department of Agriculture which requires exporters to comply with the Australian Standards for the Export of Livestock 2011, which amongst other things, defines reportable mortality rates (e.g. 2% of sheep or goats, or 1% of cattle) for animals in transit. Live exporters are relied on to regulate themselves by employing an accredited stock person to monitor compliance with animal welfare standards and are responsible for reporting on the health, welfare and mortalities of livestock during transit.<sup>9</sup>

As part of the Exporter Supply Chain Assurance System (ESCAS), the Government also requires live exporters to provide plans for tracing animals up to their final destination of slaughter. ESCAS was introduced in response to the footage obtained by Animals Australia (an animal welfare charity) in 2011 depicting the cruel treatment Australian cattle suffered in Indonesian abattoirs. Australian cattle were shown repeatedly hitting their heads and breaking their legs as they struggled to stand on wet concrete floors on their way to slaughter. They were filmed being kicked, hit, eye-gouged and ultimately killed by unskilled workers using blunt knives requiring multiple neck cuts before they slowly bled to death.

Over the last few years, Animals Australia has provided the Federal Government with numerous examples of breaches of ESCAS in Jordan, Gaza, Israel, Mauritius and Lebanon. However the ability of ESCAS to protect Australian Animals is limited since it is extremely difficult to impose animal welfare standards in foreign countries. The current legal framework therefore remains unable to effectively protect Australian livestock from being subject to gross abuse overseas.

- <sup>1</sup> Bell v Gunter (1997); Fleet v District Court of NSW & Ors [1999] NSWCA 363; Pearson v Janlin Circuses Pty Ltd [2002] NSW 1118.
- <sup>2</sup> Primary Industries Standing Committee Model Code of Practice for the Welfare of Animals, Domestic Poultry 4th Edition, <http://www.publish.csiro.au/Books/download.cfm?ID=3451>.
- <sup>3</sup> Primary Industries Standing Committee Model Code of Practice for the Welfare of Animals, Cattle 2nd Edition, <http://www.publish.csiro.au/Books/download.cfm?ID=4831>.
- <sup>4</sup> ACCC v Turi Foods Pty Ltd [2013] FCA 1109.
- <sup>5</sup> ACCC v Luv-a-Duck Pty Ltd [2013] FCA 1136.
- <sup>6</sup> <http://www.canberratimes.com.au/nsw/not-guilty-pleas-entered-on-wallys-piggery-animal-cruelty-charges-20131008-2v5zs.html>.
- <sup>7</sup> <https://www.livecorp.com.au/industry-statistics>.
- <sup>8</sup> [http://data.daff.gov.au/data/warehouse/9aac/9aaca/2014/LveAnmlExprt/LveAnmlExprt20140708\\_v1.0.0.pdf](http://data.daff.gov.au/data/warehouse/9aac/9aaca/2014/LveAnmlExprt/LveAnmlExprt20140708_v1.0.0.pdf).
- <sup>9</sup> [http://www.daff.gov.au/\\_data/assets/pdf\\_file/0010/1904365/australian-standards-v2.3.pdf](http://www.daff.gov.au/_data/assets/pdf_file/0010/1904365/australian-standards-v2.3.pdf).

### Illustrations from the Noun Project:

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