

LIVE EXPORT

Around three million Australian animals are sold and transported live to overseas buyers each year. 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 animals.

Currently, exporters must follow the Australian Standards for the Export of Livestock 2011 and submit an Exporter Supply Chain Assurance System (“ESCAS”) that is meant to trace the journey of animals from export to slaughter.¹² ESCAS was introduced by the Federal Government in response to the footage obtained by Animals Australia in 2011 showing the cruel treatment Australian cattle suffered in Indonesian abattoirs.

Over many years, animal protection groups and whistleblowers have provided the Federal Government with numerous examples of breaches of ESCAS in countries including Jordan, Gaza, Israel, Mauritius and Lebanon. However the ability of ESCAS to protect Australian animals is limited, because it is extremely difficult to impose animal welfare standards in foreign countries. For example, there is no requirement in many importing countries for animals to be stunned before being slaughtered. The current legal framework remains unable to effectively

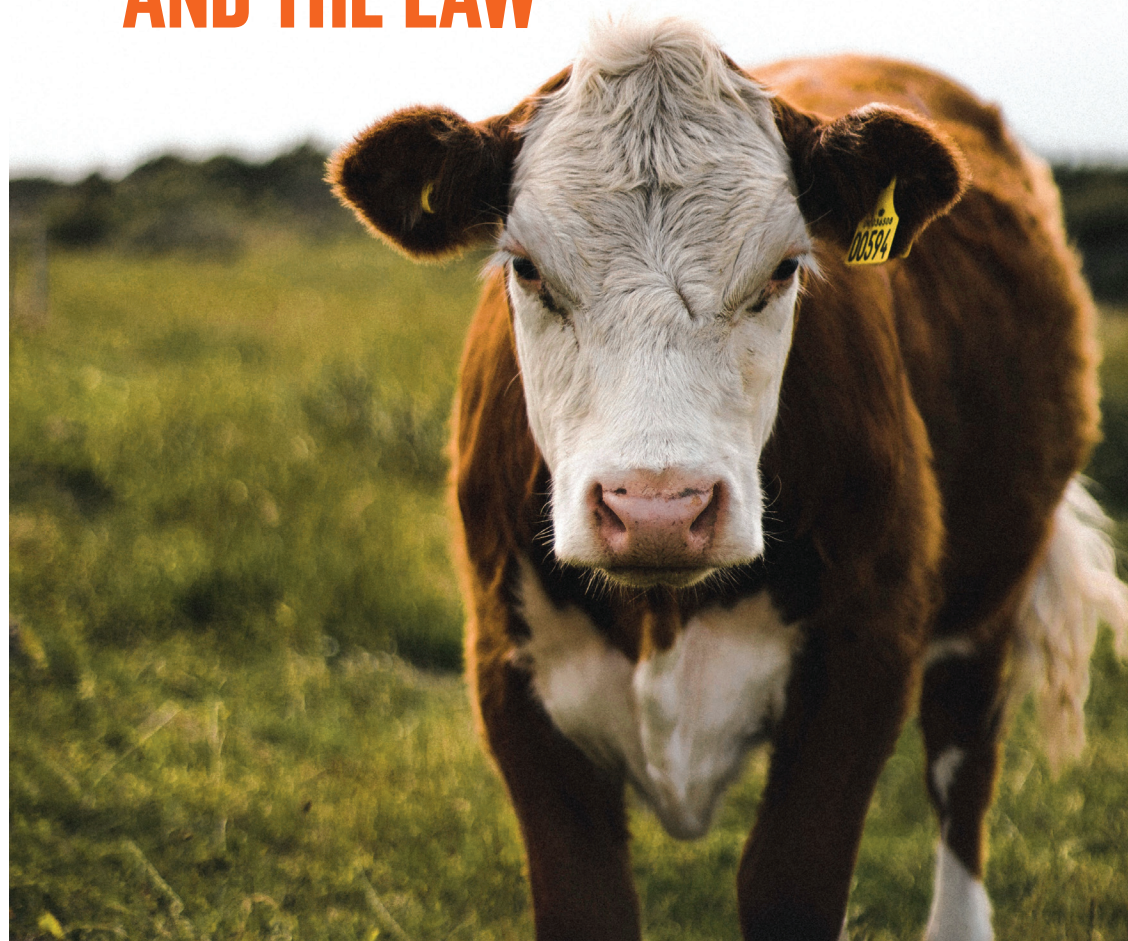
protect Australian livestock from being subject to cruelty overseas.¹³

Endnotes:

- 1 Bell v Gunter (1997); Fleet v District Court of NSW & Ors [1999] NSWCA 363; Pearson v Janlin Circuses Pty Ltd [2002] NSW 1118.
- 2 Voiceless, Independent office of animal welfare, <https://www.voiceless.org.au/content/independent-office-animal-welfare>, as at October 2018.
- 3 Australian Animal Welfare Standards and Guidelines for Sheep (edition 1, version 1, endorsed January 2016) <http://www.animalwelfarestandards.net.au/files/2011/01/Sheep-Standards-and-Guidelines-for-Endorsed-Jan-2016-061017.pdf>.
- 4 Australian Animal Welfare Standards and Guidelines for Cattle (edition 1, version 1, endorsed January 2016) http://www.animalwelfarestandards.net.au/files/2011/01/Cattle-Standards-and-Guidelines-Endorsed-Jan-2016-061017_.pdf.
- 5 ACCC v Turi Foods Pty Ltd [2013] FCA 1109.
- 6 ACCC v Luv-a-Duck Pty Ltd [2013] FCA 1136.
- 7 Canberra Times, ‘Not guilty pleas entered on Wally’s Piggery animal cruelty charges’, 8 October 2013, <http://www.canberaratimes.com.au/nsw/not-guilty-pleas-entered-on-wallys-piggery-animal-cruelty-charges-20131008-2v5zs.html>.
- 8 Voiceless, Ag-gag, https://www.voiceless.org.au/hot-topics/ag-gag?gclid=EAIaIQobChMn8WkxJLk3QIVQSQrCh3u-4wbSEAAAYASAAEgLDtVd_BwE, as at October 2018.
- 9 Australian Competition and Consumer Commission, Free range chicken egg claims, 6 February 2018, <https://www.accc.gov.au/publications/free-range-chicken-egg-claims>.
- 10 Choice, Free-range eggs buying guide, <https://www.choice.com.au/food-and-drink/meat-fish-and-eggs/eggs/articles/what-free-range-eggs-meet-the-model-code>, as at October 2018.
- 11 Voiceless, Animal law in the spotlight: update on free range eggs, <https://www.voiceless.org.au/content/animal-law-spotlight-update-free-range-eggs>, as at October 2018.
- 12 Department of Agriculture and Water Resources, Exporter Supply Chain Assurance System (ESCAS), <http://www.agriculture.gov.au/export/controlled-goods/live-animals/livestock/information-exporters-industry/escas>, as at October 2018.
- 13 For more information see: Animals Australia, Live export, https://secure.animalsaustralia.org/take_action/live-export-shipboard-cruelty/, as at October 2018; RSPCA, How is the live export trade regulated?, http://kb.rspca.org.au/how-is-the-live-export-trade-regulated_107.html, as at October 2018; Voiceless, Live export, https://www.voiceless.org.au/hot-topics/live-export?gclid=EAIaIQobChMlmbWt-k53k3QIV0worCh0GPg3yEAAAYAiAAEgKZGPD_BwE, as at October 2018.

FACTSHEET

LIVESTOCK AND THE LAW



ANIMALS ON NSW FARMS

The welfare of farm animals such as cows, pigs, sheep and chickens is overseen by the NSW Department of Primary Industries (“DPI”). The DPI is also responsible for promoting the profitability of the agricultural industry. This often leads to a conflict of interest because implementing good animal welfare practices involves additional financial costs.

HOW ARE LIVESTOCK TREATED?

In NSW, it is illegal to commit an act of cruelty on an animal under the *Prevention of Cruelty to Animals Act 1979* (NSW) (“POCTA”). Cruelty generally refers to any act that ‘unreasonably, unnecessarily or unjustifiably’ inflicts pain on an animal.¹

While companion animals such as dogs and cats are protected under this law, there are exemptions for livestock in food production (for example, cows, pigs and sheep). For these animals, if a person inflicts pain in the process of killing the animal for food but can show that the pain was not ‘unnecessary’, then it is legal. However, the POCTA does not define what ‘unnecessary’ cruelty means, so in reality it is open to interpretation.

If a person is charged with animal cruelty, they can use the Australian Animal Welfare Standards and Guidelines as a defence in court. These national standards were mainly developed by state and territory governments and the livestock industry. The national standards allow several practices which are argued to be cruel by many animal protection groups:²

- The standards for sheep allow tail docking and mulesing, castration

without pain relief (if pain relief is not ‘practical’), and shooting sheep with a firearm to the head and letting them bleed to death.³

- The standards for cattle allow such things as dehorning, castration of cattle under six months old without anaesthetic, and shooting cattle with a firearm to the head and letting them bleed to death.⁴

WHO CAN PROSECUTE ANIMAL CRUELTY?

In NSW, only the police, Royal Society for the Prevention of Cruelty to Animals (“RSPCA”), Animal Welfare League (“AWL”) and DPI can prosecute cases of animal cruelty. The RSPCA and AWL are both charities and only receive a small amount of government funding, even though they prosecute the majority of animal cruelty cases on behalf of the government.

WHAT ARE ‘AG GAG’ LAWS?

Due to the limited resources of the RSPCA and AWL to monitor practices in all factory farms across NSW, it is important for members of the public or animal welfare organisations to be able to alert the RSPCA and AWL to possible cases 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, whereas in reality, the birds were either packed so tightly they could not roam freely⁵ or did not spend any time outdoors at all.⁶ 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



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53 charges of aggravated animal cruelty and closure of the piggery.⁷

Ag gag laws aim to hamper animal welfare groups and members of the public from recording and releasing footage of illegal animal cruelty on farms and other animal use industries. These laws are often introduced on the basis of protecting biosecurity or introducing higher penalties for trespassing, and may force people with any footage obtained of factory farms to hand it over immediately to the police and not release the footage to the media or the public.⁸

WHAT ARE THE CURRENT EGG LABELLING STANDARDS?

There is now a national information standard for free range egg labelling, which came into effect in April 2018. It states that egg producers cannot use the ‘free range’ label on egg cartons unless their hens have ‘meaningful and regular access’ to an outdoor range, and are able to roam and forage on the outdoor range. Under

the information standard, the maximum number of hens per hectare is 10,000.⁹

While this new information standard would appear to provide clarity to egg producers and consumers on the meaning of ‘free range’, there are strong concerns from animal protection groups and other public interest organisations who argue that a maximum number of 1,500 hens per hectare (rather than 10,000 hens) is necessary to promote good animal welfare, as contained in the Model Code of Practice by the Commonwealth Scientific and Industrial Research Organisation (“CSIRO”).¹⁰ Therefore, animal protection groups such as Voiceless argue that the new information standard falls short of consumer expectations about what constitutes ‘free range’ and only benefits large-scale, intensive egg producers.¹¹