

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

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Mark Furner MP, Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities, provide this human rights certificate with respect to the *Animal Care and Protection (Codes of Practice) Amendment Regulation 2021* made under the *Animal Care and Protection Act 2001*.

In my opinion, the *Animal Care and Protection (Codes of Practice) Amendment Regulation 2021* (Amendment Regulation), is compatible with the human rights protected by the *Human Rights Act 2019* (Human Rights Act). I base my conclusion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Amendment Regulation is made under the *Animal Care and Protection Act 2001*.

The authorising law for the Amendment Regulation is sections 13, 15 and 217 of the *Animal Care and Protection Act 2001*.

The Amendment Regulation seeks to protect and maintain the welfare of livestock by prescribing three new Codes of Practice:

- Code of practice about sheep;
- Code of practice about cattle; and
- Code of practice for livestock in saleyards and depots.

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 are based on nationally agreed standards which were developed based on available scientific knowledge, current industry practice and community expectations.

The Codes of Practice will impose obligations on persons who have responsibility for the care and handling of livestock including, for example, owners, saleyard and depot operators and stockpersons.

Human Rights Issues

Human Rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

Section 19 Freedom of movement

Section reference	How the clause engages the right	Restriction of right
<i>Schedule 2A (Code of practice about sheep)</i>		
Clause 7, Schedule 2A, section 5 (Health inspections)	This section provides that a person in charge of sheep must ensure that the sheep are inspected at regular intervals as is reasonable in the circumstances having regard to prescribed matters such as stocking density, availability of food etc, potentially restricting his or her right to move freely within Queensland while a person in charge of sheep while the sheep is in the person's direct control.	This section aims to reduce welfare risks to sheep by providing for regular inspections for disease, injury and provision of appropriate treatment.
Clause 7, Schedule 2A, section 19 (Access to food and water on daily basis)	This section provides that a person in charge of sheep kept in an intensive production system must ensure that food is provided to the sheep on a daily basis, potentially restricting his or her right to move freely within Queensland while sheep are kept in an intensive production system while the sheep is in the person's direct control.	This section aims to reduce welfare risks to sheep kept in intensive production systems if the sheep are dependent upon the person in charge of them to provide them food as they do not have another source of food.
Clause 7, Schedule 2A, section 19 (Access to food and water on a daily basis)	This section provides that a person in charge of sheep kept in an intensive production system must ensure that water is provided to the sheep on a daily basis, potentially restricting his or her right to move freely within Queensland while sheep are kept in an intensive production system while the sheep is in the person's direct control.	This section aims to reduce welfare risks to sheep kept in intensive production systems if the sheep are dependent upon the person in charge of them to provide them water as they do not have another source of water.
Clause 7, Schedule 2A, section 20 (Health inspections)	This section provides that a person in charge of sheep kept in an intensive production system must ensure that the sheep are	This section aims to reduce welfare risks to sheep kept in intensive production systems by providing daily inspections for disease, injury

	inspected daily to assess the health and wellbeing of the sheep, potentially restricting his or her right to move freely within Queensland while sheep are kept in an intensive production system while the sheep is in the person's direct control.	and the provision of appropriate treatment.
<i>Schedule 2B (Code of practice about cattle)</i>		
Clause 7, Schedule 2B, section 6 (Health inspections)	This section provides that a person in charge of cattle must ensure that the cattle are inspected at regular intervals as is reasonable in the circumstances having regard to prescribed matters such as stocking density, availability of food etc, potentially restricting his or her right to move freely within Queensland while a person in charge of cattle while the cattle is in the person's direct control.	This section aims to reduce welfare risks to cattle by providing for regular inspections for disease, injury and provision of appropriate treatment.
Clause 7, Schedule 2B, section 13 (Tethering cattle)	This section provides that a person in charge of cattle may tether cattle provided that cattle are given a reasonable opportunity to exercise every day, potentially restricting his or her right to move freely within Queensland while a person in charge of cattle while the cattle is in the person's direct control.	This section aims to reduce welfare risks by providing tethered cattle regular exercise.
Clause 7, Schedule 2B, section 22 (Health inspections)	This section provides that a person in charge of a lactating dairy cow must ensure that the cow is inspected daily to assess the health and wellbeing of the cow, potentially restricting his or her right to move freely within Queensland while the cow is in the person's direct control.	This section aims to reduce welfare risks by providing by daily inspections for disease, injury and provision of appropriate treatment
Clause 7, Schedule 2B, Section 26 (Health inspections)	This section provides that a person in charge of cattle kept in a beef feedlot must ensure that the cattle are inspected daily to assess the health and wellbeing of the cattle, potentially restricting his or her right to move freely within	This section aims to reduce welfare risks to cattle kept in beef feedlots by providing daily inspections for disease, injury and the provision of appropriate treatment

	Queensland while sheep are kept in an intensive production system while the cattle is in the person's direct control.	
<i>Schedule 3AA (Code of practice for livestock in saleyards and depots)</i>		
Clause 10, Schedule 3AA, Section 7 (Access to water on arrival)	This section provides that an operator of a depot or saleyard must ensure that livestock are given water within a prescribed period, potentially restricting his or her right to move freely within Queensland while the livestock are in the person's direct control.	This section aims to reduce risks to the health and welfare of livestock kept in a depot or saleyard.
Clause 10, Schedule 3AA, Section 8 (Time off water)	This section provides that an operator of a depot or saleyard must manage time off water for livestock taking into consideration the matters prescribed in subsection (2), potentially restricting his or her right to move freely within Queensland while the livestock are in the person's direct control.	This section aims to reduce risks to the health and welfare of livestock that will be transported from the depot or saleyard to another place.
Clause 10, Schedule 3AA, Section 9 (Access to food and water for pigs)	This section provides that an operator of a depot or saleyard must ensure that pigs: <ul style="list-style-type: none"> • are provided with reasonable access to food if held at the depot or saleyard for 24 hours or more; • held in a pen have access to water at all times. <p>These requirements potentially restrict the person's right to move freely within Queensland while the livestock are in the person's direct control.</p>	This section aims to reduce risks to the health and welfare of pigs held in the depot or saleyard for 24 hours or more are given food; and water is provided at all time to pigs held in a pen.
Clause 10, Schedule 3AA, Section 10 (Access to food for cattle, sheep, goats and horses)	This section provides that an operator of a depot or saleyard must ensure that reasonable access to food is given: <ul style="list-style-type: none"> • to any cattle, sheep, and goats within 48 hours of delivery to the depot or saleyard; • to any horse held in the depot or saleyard for 12 hours or more. 	This section aims to reduce risks to the welfare of cattle, sheep, goats and horses held in a depot or saleyard are given food within the prescribed period.

	<p>These requirements potentially restrict the person’s right to move freely within Queensland while the livestock are in the person’s direct control.</p>	
<p>Clause 10, Schedule 3AA, Section 4 (Inspection of depot or saleyard)</p>	<p>This section provides that an owner or operator of a depot or saleyard must ensure the depot or saleyard is inspected 24 hours before the arrival of livestock at the depot or saleyard and at least every 24 hours after the arrival of livestock.</p> <p>These requirements potentially restrict the person’s right to move freely within Queensland while the livestock are in the person’s direct control.</p>	<p>This section aims to reduce risks to the welfare of livestock by imposing inspections on the condition of the facilities to ensure that they are in a condition that does not pose a risk to the livestock.</p>
<p>Clause 10, Schedule 3AA, Section 17 (Health inspections)</p>	<p>This section provides that an operator of a depot or saleyard must ensure livestock at the depot or saleyard are inspected to assess health and wellbeing at least every 24 hours after delivery to the depot or saleyard.</p> <p>This requirement potentially restricts the person’s right to move freely within Queensland while the livestock are in the person’s direct control.</p>	<p>This section aims to reduce risks to the welfare of livestock by imposing inspections on the condition of the facilities to ensure the livestock’s health and wellbeing.</p>

Consideration of reasonable limitations on human rights (section 13 Human Rights Act 2019)

(a) The nature of the right

Section 19 provides for the right to freedom of movement, specifically that every person lawfully within Queensland has the right to move freely within Queensland, enter or leave Queensland, and choose where he or she lives. This clause is modelled on article 12 of the International Covenant on Civil and Political Rights (ICCPR). It reflects the negative obligation on the State under article 12 of the ICCPR to not act in a way that would unduly restrict the freedom of movement, but is not intended to impose positive obligations on the State to take positive actions to promote free movement (e.g. the provision of free public transport services).

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The limitations on the right to freedom of movement within the amendments to this regulation require persons to be at a location to fulfil the obligations including the provision of food and water, minimising the risk of severe weather conditions to livestock, the exercise of tethered livestock, and the conduct of health inspections.

The limitation to the freedom of movement restrictions only applies in certain circumstances which can be easily resolved if the requirements are carried out on behalf of the person. For example, an owner of an animal, or operator of a depot or saleyard can move freely if he or she has arranged an employee to fulfil the requirements on his or her behalf. These limitations are consequently consistent with a free and democratic society based on human dignity, equality and freedom.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

In each of the cases where the right to freedom of movement is limited, the limitation helps to achieve the following purposes of the *Animal Care and Protection Act 2001*:

- (a) promote the responsible care and use of animals;
- (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.

The requirements to provide food and water promote the responsible care and use of animals because it assists in meeting the animals' physiological needs.

The requirement to carry out health inspections protects animals from unjustifiable, unnecessary or unreasonable pain by ensuring that their health and wellbeing are being monitored.

The requirement to inspect the condition of the depot and saleyards before and while livestock are being held in them promotes the responsible care and use of animals by identifying welfare risks. Those risks are pain, injury or distress resulting in outcomes such as sunburn, hypothermia, heat stress, dehydration, exhaustion, abortion, injury, metabolic disease or death

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

At this time, the limitations referred to above are the best available solutions for reducing the risks to the welfare of livestock. The limitations are considered to be minimally restrictive as possible.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

Each of the limitations to the freedom of movement only restricts movement in limited circumstances which can be easily resolved by another person taking responsibility for the animals, depots or saleyards in the person's absence. For example, an owner or operator of a depot or saleyard may employ a person to carry out the responsibilities including providing feed and water, carrying out health and facility inspections.

As the limitations have very limited scope and persons subject to them have the ability to move freely through complying with simple requirements, the limitations provide an appropriate balance between the purpose of the limitation and the impact of the limitation on the affected person and are, therefore, justified.

Conclusion

I consider that the *Animal Care and Protection (Codes of Practice) Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because, while it does limit, restrict or interfere with the freedom of movement, the limitations are reasonable and demonstrably justified for the responsible care and use, and protection from unjustifiable, unnecessary or unreasonable pain.

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MINISTER FOR AGRICULTURAL INDUSTRY DEVELOPMENT AND FISHERIES
AND MINISTER FOR RURAL COMMUNITIES