



Department of
Primary Industries and
Regional Development

*We're working for
Western Australia.*

Animal Welfare (Transport, Saleyards and Depots) (Cattle and Sheep) Regulations 2020

Frequently Asked Questions



Disclaimer: This document is provided for guidance purposes only.

For detailed information on the Regulations, please contact DPIRD at Animal.welfare@dpird.wa.gov.au .

What are the Animal Welfare (Transport, Saleyards and Depots) (Cattle and Sheep) Regulations 2020?

The *Animal Welfare (Transport, Saleyards and Depots) (Cattle and Sheep) Regulations 2020*¹ (Transport Regulations) are the regulations that give legal effect to the Standards set out in two Australian Animal Welfare Standards and Guidelines (Standards and Guidelines):

- the Australian Animal Welfare Standards and Guidelines – Land Transport of Livestock
- the Australian Animal Welfare Standards and Guidelines – Livestock at Saleyards and Depots

Several years ago, agriculture ministers decided that some of the voluntary codes of practice in state and territory animal welfare legislation should be converted to minimum animal welfare standards, which should be made mandatory via amendments to legislation as appropriate to each jurisdiction.

Western Australia (WA) is introducing the Transport Regulations to give legal effect to the two Standards and Guidelines referred to above.

Note: the provisions described as ‘standards’ in the Standards and Guidelines will generally become mandatory under the Transport Regulations, while the provisions described as ‘guidelines’ are recommended practices to achieve desirable animal welfare outcomes. Non-compliance with requirements will normally comprise an offence but failure to apply guidelines will not.

The Transport Regulations are made under the *Animal Welfare Act 2002* (the Act). These regulations introduce requirements for people involved in transporting sheep and cattle and receiving or managing sheep and cattle at WA saleyards and depots.

What is the purpose of the Transport Regulations?

The purpose of the Transport Regulations is to give legal effect to the standards set out in the Standards and Guidelines, to ensure the welfare of sheep and cattle during land transport and at saleyards and depots.

Where do the Livestock Regulations apply?

The Transport Regulations apply to cattle and sheep at all stages in the ‘transport process’ (as defined) and at saleyards and depots in Western Australia. Apart from the provisions on loading and unloading livestock, the Transport Regulations do not apply to registered export premises, (to which the Australian Standards for Export of Livestock apply).

What is the ‘Transport Process’?

The ‘transport process’ starts when sheep or cattle are mustered for the purpose of transport, in WA, or outside WA if the animal is to be transported to WA. It ends when transported animals are given reasonable access to water and feed at a final destination (e.g. farm or a feedlot) or are slaughtered.

The ‘transport process’ includes: mustering, assembling, holding at a livestock handling facility (e.g. yards, saleyards, depot), selecting, loading, holding on a vehicle while the vehicle is stationary, transporting, unloading and spelling.

Do the Transport Regulations apply to livestock leaving, and entering, WA?

Yes, the Transport Regulations apply to both. Enforcement actions are normally taken in the jurisdiction where the animals are located and there is collaboration across state borders.

For example, if sheep transported from WA are found to have been off water for an extended time

¹ These regulations were previously titled Animal Welfare (Livestock) Regulations 2019.

when they arrive Adelaide, the regulatory authority of South Australia could implement an investigation in collaboration with Department of Primary Industries and Regional Development (DPIRD). If there is a breach of the regulations, or of the Act in relation to cruelty, prosecution could follow under the Act or regulations, as appropriate.

Who will enforce the Transport Regulations?

Inspectors appointed under the Act are responsible for the enforcement of the Act and regulations. These inspectors are employed by DPIRD, the Royal Society for the Prevention of Cruelty to Animals WA, the Department of Biodiversity, Conservation and Attractions, and some local government authorities. All WA Police officers are inspectors under the Act.

DPIRD inspectors have a regular presence at saleyards and other places where cattle and sheep are aggregated (e.g. abattoirs, wharves) and will therefore have a primary role in the enforcement of the Transport Regulations.

Do these regulations apply to me?

The Transport Regulations apply to all those responsible for the care and management of sheep and cattle handled in the 'transport process' including in saleyards and depots.

The Transport Regulations give rise to legal obligations for a consignor, transporter (including driver), rail authority, receiver, saleyard manager or superintendent, other saleyard staff, stockperson, agent, livestock owner (vendor, buyer or nominated representative) and any other person who has custody or control of sheep or cattle during the transport process.

Why is the Department adopting the Standards and Guidelines as Codes of Practice?

In addition to the Transport Regulations, the Standards and Guidelines are being adopted as codes of practice under the *Animal Welfare (General) Regulations 2003*.

Codes of practice adopted under the Act set out accepted industry practice. The existing codes of practice for transport of sheep, transport of cattle, and livestock in saleyards, address similar issues to those covered in the Standards and Guidelines, such as fitness for transport and stocking density. In fact, the Standards and Guidelines are based on the existing relevant codes of practice.

The adoption of the Standards and Guidelines on Land Transport, and Saleyards as codes of practice, means that these documents can be used by stakeholders as guidance in relation to good practice. If a person is accused of cruelty, the adopted codes of practice must be used by the courts to assess husbandry and management practices. They also provide a defence to a charge of cruelty if a person can prove that he/she was acting in accordance with a relevant adopted code of practice.

How are the Transport Regulations different from the Act?

The Act sets out broadly defined cruelty offences against animals, which generally relate to causing, or likely to cause, animals 'unnecessary harm' (as defined). The Act prohibits and punishes cruelty but does not provide or promote minimum animal welfare standards.

The Transport Regulations will have the effect of promoting a duty of care to animals, which should help to avoid and resolve animal welfare problems and lead to general improvement in practices. While the regulations cover many of the same issues in the adopted codes of practice for sheep and cattle transport, and saleyards, the codes of practice are not directly enforceable. Adopted codes of practice do not come into play, in a legal sense, until an inspector has evidence that cruelty has occurred.

The Chain of Responsibility

The Transport Regulations set out the concept of the 'chain of responsibility'. This provides for a person / persons to have responsibility, in a practical and legal sense, for the welfare of animals from the beginning of the transport process (on the farm of origin) to the end, including the time spent in a saleyard or depot. Responsibility for animal welfare must not be 'left to chance' at any stage.

In the past, a transport driver was sometimes seen as the main person responsible for the welfare of transported animals. Depending on the circumstances, this may be appropriate. For example, if

animals reach their maximum time off water during a journey and no spell is provided the driver (and perhaps the firm that employs him) could be held responsible.

In accordance with the 'chain of responsibility' concept, each person in the transport supply chain accepts a share of responsibility for animal welfare, according to that person's role in the process. A different person may be responsible at different stages of the transport process, and more than one person may be responsible for certain stages (e.g. the general manager of a saleyard AND the supervisor of livestock operations).

What defences apply with respect to the chain of responsibility?

In the case of non-compliance with provisions in the Transport Regulations, the regulations include defences that apply to a person responsible for an animal. For example, a person may have a defence if he/she did not have actual physical custody or control of animals, providing he/she had taken reasonable steps to ensure that the animal would be properly treated and cared for. In addition, a person may have a defence if he/she did not know and could not reasonably be expected to have known, that an animal was on a vehicle or at a facility and that it was not being properly treated and cared for.

If I send animals from my farm to the saleyard and a breach of the regulations is reported at the saleyard, can I be held responsible?

A producer may be held responsible for a condition that originates on the farm, e.g. an ingrown horn. However, a producer would not be held responsible for an accident that occurs while animals are being unloaded at a saleyard.

The welfare of the animals is a shared responsibility from farm to final destination. It is vital that each person in the transport supply chain meets their responsibilities and passes information, such as 'time off water', to the next person responsible for the animals.

I own a transport company. Can I be held responsible for the welfare of animals we transport?

Yes, depending on the circumstances. For example, in addition to the driver, the regulations define a person responsible for a livestock animal undertaking a journey by road as the proprietor of the business, or person concerned in the management of the business, that owns, uses manages or controls the use of the vehicle. The regulations also provide a defence to a charge under the regulations if the proprietor of the business, or person concerned in the management of the business can prove that they did not have physical custody or control and took reasonable steps to ensure the livestock animal would be properly treated and cared for.

What are the requirements in the Regulations about 'fit to load'?

To provide certainty to industry about the conditions that prevent sheep or cattle from being 'fit to load', the Transport Regulations list relevant conditions, injuries and diseases (see Box 1). Animals affected by these conditions are likely to suffer increased pain or distress during transport and they must not be loaded for transport, or offered for sale at a saleyard

The list of conditions is similar to those mentioned in current codes of practice and the Meat and Livestock Australia (MLA) Guide 'Is the Animal Fit to Load?' (revised 2019).

In addition to the listed conditions, an animal suffering from any other condition, injury or disease that is likely to result in increased pain or distress during transport must not be loaded for transport, or offered for sale in a saleyard.

Cattle and sheep in late pregnancy (as defined in the Transport Regulations) must not be transported, except if transport is direct from one place to another, not to an abattoir or saleyard, and the journey time and 'time off water' is likely to be less than 4 hours.

Box 1 list of conditions

- An animal that is unable to walk independently by bearing weight on all hooves;
- Emaciated animals i.e. body condition score (BCS) 1 or less for beef cattle, BCS less than 3 for dairy cattle, BCS 1.5 or less for sheep.
- Visibly dehydrated animals
- Animals that are blind in both eyes
- Animals that show visible signs of severe injury or distress
- A broken horn where the horn or pedicle has an injury that is bleeding or discharging
- An ingrown horn where the horn (other than its base) of an animal is in contact with any part of the livestock animal's body
- A broken leg
- Flystrike
- A dropped or engorged udder
- A lesion of the pizzle (prepuce), penis, sheath or scrotum
- A neurological dysfunction, including staggering, stargazing, convulsions or paralysis
- Tumours more than 3cm in length in any direction
- An umbilical, abdominal, inguinal or scrotal hernia
- A uterine, vaginal or rectal prolapse
- A visible lesion that is discharging and is more than 3 cm in length in any direction

Who is responsible for ensuring that animals are fit to be loaded for transport?

Everyone in the transport supply chain must accept his/her share of responsibility for animal welfare, according to each person's role in the process.

The consignor animals (e.g. producer or agent) and the transport driver share responsibility for ensuring that animals are fit to be loaded for transport.

The consignor is responsible for ensuring that animals are assessed as fit, and only animals assessed as fit are provided to the transporter.

The transport driver is responsible for ensuring that the animals are inspected immediately before loading and that only animals that are fit to be transported are loaded. If the transport driver determines that an animal is not fit to load, he should leave those animals at the point of loading. The welfare of those animals is the responsibility of the consignor.

What are the obligations of the transport driver during the journey?

After loading, the driver must inspect the sheep and cattle, as a group, as follows:

- immediately before departure;
- within the first hour of the journey;
- then every 3 hours or at every driver rest stop (whichever comes first);
- whenever the driver or vehicle is changed; and
- upon arrival at the destination.

If an animal is found to be weak, injured, ill or distressed when inspected during the journey, the driver must, at the first reasonable opportunity, make appropriate arrangements for the animal. This could include:

- separate the animal from others and resting it until it has recovered;
- treat the animal as appropriate to its condition;
- kill the animal in an appropriate, humane manner.

The driver must ensure that an animal that appears to be weak, injured, ill or distressed is identified to the receiver at the first reasonable opportunity.

What are the requirements in the Regulations on ‘time off water’?

Animals that are transported undergo a period of water deprivation, which in many cases begins with on-farm curfew. An extended period of water deprivation presents a risk to the welfare of animals, especially animals that are immature, under physiological stress or in poor condition. Extreme weather conditions increase the welfare risks.

- ‘Time off water’ (ToW) means the total period during which sheep and cattle do not have ‘reasonable access to water’ (as defined).
- ‘Reasonable access to water’ means access to water of suitable quality for a continuous period of at least 4 hours.
- ToW starts when the animal stopped having ‘reasonable access to water’ – for example, at the beginning of the curfew.
- The period of water deprivation is suspended when animals receive ‘reasonable access to water’ (4 or more hours, see above). If they do not have access to water after this 4 hour period, the period of water deprivation is deemed to continue.
- The ToW ends when animals are given reasonable access to feed and water at their final destination (e.g. farm or feedlot) or slaughtered.

For adult cattle and sheep, the maximum ToW is 48 hours. This period is shorter for cattle under 6 months, lambs under 4 months, and animals that are pregnant or lactating.

Before an animal reaches its maximum ToW, the person responsible for the animal at that time must give the animal an appropriate spell (36 hours for adult cattle and sheep).

A person responsible for livestock must take account of relevant factors when deciding on when to spell an animal. Under some circumstances, e.g. animals in poor condition or extreme weather, animals may need to be spelled before they reach the maximum ToW.

‘Spelling’ means giving an animal food, water and rest, under conditions of minimal disturbance for a defined period. Animals cannot be spelled while they are on a vehicle.

The sheep and cattle in my care will reach their maximum time off water at a time when I cannot give them a 36 hour spell. What should I do?

You may spell animals at any time before they reach the maximum time off water (ToW), at a convenient time and place. After a 36 hour spell, the measurement of ToW starts again from zero.

I have received a consignment of sheep or cattle and I don’t know how long they have been deprived of water. What should I do?

There is no automatic requirement to spell animals if you do not know how long they have been off water. The Transport regulations require an animal to be spelled at such times as are reasonably necessary in order to minimise the risk to the welfare of the animal.

The person responsible for an animal must ensure that the maximum ToW is not exceeded. In addition to the driver of a transport vehicle and the person who receives a consignment of animals, the person responsible for planning the transport shares responsibility.

Animals may need to be spelled before they reach the prescribed maximum ToW, for example, if they are in poor condition under adverse weather conditions.

Furthermore, the regulations require animals to be provided with reasonable access to water within defined periods following the arrival at a livestock handling facility or saleyard.

Remember – Failure of a person in charge of an animal to provide it with proper and sufficient food and water is an offence under the Act.

What are the requirements in the Regulations on stocking density?

Loading density on transport vehicles

The Transport Regulations state that a person responsible for livestock transported on a vehicle must ensure that the number of animals transported on the vehicle does not exceed a reasonable loading density.

The Transport Regulations do not contain numeric standards for loading density on transport vehicles. Instead, they state that a reasonable loading density for livestock depends on a number of factors, including:

- the species and class of the livestock;
- the size and body condition of the livestock;
- the average live weight of the livestock being transported on the vehicle;
- the wool or hair length of the livestock;
- whether any of the livestock have horns and, if so, the risk the horns may pose to other livestock;
- predicted weather conditions for the journey;
- nature of the journey - duration, distance, route, terrain, road, and traffic conditions;
- the type, design and capacity of the vehicle.

The Land Transport Standards and Guidelines have guidelines on loading density for sheep and cattle, which are consistent with the existing WA codes of practice for transport of sheep and cattle.

Pen stocking density at saleyards

The Transport Regulations require a person responsible for livestock in a saleyard or depot to ensure that the number of sheep or cattle held in each pen does not exceed the reasonable penning density.

Reasonable penning density for livestock is dependent on a number of factors, including:

- the species and class of the livestock;
- the size and body condition of the livestock;
- the wool or hair length of the livestock;
- whether any livestock are horned and the risk the horns may pose to other livestock;
- the weather conditions predicted for the period the livestock are to be held in the pen;
- the period that the livestock animals are to be held in the pen; and
- the type, design and capacity of the pen.

In a selling pen at a saleyard, each animal must have at least sufficient space to stand so that it can be freely inspected; and rise from a lying position unassisted.

In a non-selling pen, each animal must have at least sufficient space to move freely; and lie down and rest.

High penning density can result in restricted access to water and, in this situation, the ToW period continues to increase. To 'pause the clock', animals must have unimpeded access to water for at least 4 continuous hours.

What changes have been made to the Animal Welfare (Transport, Saleyards and Depots) (Cattle and Sheep) Regulations 2020 since the consultation draft?

A number of regulations have been reworded, reordered or otherwise modified. Few modifications have had a significant effect on the overall effect of the regulations.

Significant modifications are listed below.

1. The title of the regulations was changed from Animal Welfare (Livestock) Regulations 2019 to Animal Welfare (Transport, Saleyards and Depots) (Cattle and Sheep) Regulations 2020.
2. Clarification provided - the loading and unloading of livestock at registered premises are subject to the Transport Regulations. Other activities at registered premises are not.
3. The definition of 'heat stress' modified to reflect the meaning in the Standards and Guidelines.
"Heat stress occurs when the response by a livestock animal to hot conditions above its thermo-neutral zone exceeds the ability of its behavioural, physiological or psychological coping mechanisms."
4. The definition of 'cold stress' modified to align with the definition of heat stress.
"Cold stress occurs when the response by a livestock animal to cold conditions below its thermo-neutral zone depletes its behavioural, physiological or psychological coping mechanisms."
5. Definition of the thermo-neutral zone to clarify the definitions of heat stress / cold stress.
The thermo-neutral zone of a livestock animal is the range of environmental temperatures over which
 - (i) the heat produced by the livestock animal remains fairly constant; and
 - (ii) the livestock animal does not have to generate extra heat to keep warm (such as shivering or huddling) nor expend energy on cooling mechanisms (such as panting).
6. The definition of 'emaciated' for the body condition score of a dairy cow changed from '3 or less' to 'less than 3', consistent with the document referred to in the regulations.
7. The definition of 'livestock handling facility' modified to include loading and unloading from the transport vehicle, consistent with the Livestock Transport Standards.
8. The definition of 'journey' changed to include, at the end of a journey, the unloading of animals at a destination whether it occurs in WA or elsewhere. The regulations will require documentation for interstate journeys if they are expected to be more than 24 hours in duration, even if the period of the journey in WA is less than 24 hours.
9. The regulation in relation to dropping an animal has been redrafted to remove the maximum height limitation for sheep.
10. The regulation in relation to dragging an animal that is not standing has been changed to limit the offence to an animal that is not able to stand.
11. Competency has been included in the regulation relating to humane destruction to ensure consistency with the Standards. A person must not destroy an animal unless the person is competent for this task or under the direct supervision of a competent person.
12. Definition of a 'competent person' added.
"A person is a competent person if the person has the knowledge, skills and experience to destroy livestock of the same species and class as the animal being destroyed, using the method by which it is being destroyed."

13. Addition of a definition for 'Acting under the direct supervision of a competent person', to include that "the supervisor -
 - (i) provides instruction and guidance to the supervised person in relation to the destruction of the animal; and
 - (ii) oversees and evaluates the destruction of the animal; and
 - (iii) is on the same premises as the supervised person while the animal is being destroyed; and
 - (iv) is able to immediately render assistance to the supervised person, if required, at any time during the destruction of the animal."
14. Increased the requirement to observe the signs of death when euthanasing an animal (after a person has destroyed or attempted to destroy an animal, 3 signs of death should be observed.)
15. One of the signs that must be observed after a person has destroyed or attempted to destroy an animal is the absence of rhythmic respiratory movements. The monitoring time has been increased from 3 to 5 minutes, consistent with the Saleyard Standards.
16. The penalty for non compliance with the regulations when transporting a bobby calf was increased from \$7 500 to \$15 000, consistent with other comparable regulations.
17. The penalty for non compliance with the regulations when presenting a bobby calf for sale at a saleyard has been increased from \$7 500 to \$15 000, consistent with other comparable regulations.
18. The penalty for failing to ensure that each animal in a selling pen in a saleyard has sufficient space to stand so animals can be freely inspected and rise from a lying position unassisted has been increased from \$7 500 to \$15 000, consistent with other comparable regulations.
19. The penalty for failing to ensure that each animal in a non-selling pen in a saleyard (and any pen at a depot) has sufficient space to move freely and lie down and rest has been increased from \$7 500 to \$15 000, consistent with similar regulations
20. The penalty for failing to assess the welfare of livestock at saleyards and depots has been increased from \$7 500 to \$15 000, consistent with other comparable regulations.
21. The penalty for using a dog to assist in the control or movement of an animal that is unable to stand has been increased from \$7 500 to \$15 000, consistent with other comparable regulations.
22. The penalty for failing to ensure that a newborn livestock animal and its mother are properly treated and cared for while at the saleyard or depot has been reduced from \$15 000 to \$7 500, consistent with other comparable regulations.

In addition to the Australian Animal Welfare Standards and Guidelines – Land Transport of Livestock and Livestock at Saleyards and Depots, are any other Australian Animal Welfare Standards and Guidelines being adopted?

Yes, the existing adopted Model Code of Practice for the Welfare of Cattle will be removed and the Australian Animal Welfare Standards and Guidelines for Cattle (Cattle Standards) will be adopted. This action does not introduce any new offence. The purpose of bringing forward the adoption the Cattle Standards is to address industry practices that have attracted public concern, notably the dehorning of adult cattle without pain relief. DPIRD expects to begin drafting regulations to give legal effect to the Cattle Standards before the end of 2020.

Will the adoption of the Cattle Standards change how I manage my cattle?

The main effect is to remove the defence to a charge of cruelty, where feral cattle over 6 months of age are dehorned or castrated without appropriate pain relief. The Western Australian cattle industry is working proactively in relation to the use of appropriate medications when performing painful management interventions. Pain relief options for use on cattle are covered in a Cattle Council of Australia publication:

<https://www.cattlecouncil.com.au/assets/Resources/200605%20Pain%20Relief%20Guide%20-%20FINAL.pdf>

Will there be regulations based on the Cattle Standards?

DPIRD is preparing to work with the Parliamentary Counsel's Office to draft regulations giving legal effect to two sets of Australian Animal Welfare Standards and Guidelines, covering Cattle, and Sheep. Consultation on the draft regulations is expected to occur in 2021.

DPIRD Animal Welfare Regulation

11 September 2020

Important disclaimer

The Chief Executive Officer of the Department of Primary Industries and Regional Development and the State of Western Australia accept no liability whatsoever by reason of negligence or otherwise arising from the use or release of this information or any part of it.

Copyright © Department of Primary Industries and Regional Development, 2020