



EXPORT ADVISORY NOTICE – 2018-14		20 December 2018
Title:	Independent observers on live-stock vessels	
Species:	All livestock	
Country:	All	
For information:	[1] Livestock Exporters [2] Australian Government Accredited Veterinarians [3] Department Officers [4] LiveCorp [5] Meat and Livestock Australia [6] Australian Livestock Exporters Council	

Purpose

To inform all livestock exporters of the department's policy to issue directions to Independent Observers under sections 9D and/or 9E of the *Export Control Act 1982* (Export Control Act) requiring them to accompany consignments of livestock exported by sea.

Legislative overview

Under section 9A of the Export Control Act, an approved export program is a program of activities to be undertaken by an AAV or an authorised officer for the purpose of ensuring the health and welfare of live animals in the course of export activities within or outside of Australia. On 7 July 2018, the Animals Order was amended by the *Export Control (Animals) Amendment (Approved Export Programs and Other Measures) Order 2018* to introduce two types of approved export programs, the exporter's approved export program and the secretary's approved export program.

An exporter's approved export program is a program of activities approved under section 1A.36 of the Animals Order to be undertaken by an AAV for the purpose of ensuring the health and welfare of live-stock in the course of export activities. A secretary's approved export program is a program of activities approved under section 1A.45 of the Animals Order, to be undertaken by an authorised officer (independent observer), for the purpose of ensuring the health and welfare of livestock in the course of export activities by sea.

Key Points

All independent observers are authorised officers under section 20 of the Export Control Act. It is the department's policy that independent observers will be directed under sections 9D and/or 9E of the Export Control Act to accompany livestock export voyages by sea.

An independent observer is placed on a live-stock vessel to undertake some or all of the activities in an approved export program set by the Secretary, or to monitor, review or audit the activities of Australian Government Accredited Veterinarians (AAVs) and exporters under their approved export program for the voyage.

In accordance with section 1A.49 of the *Export Control (Animals) Order 2005* (Animals Order), the department intends to publish summary independent observer reports (SIORs) as they are finalised.

The SIORs will summarise the independent observer's observations in relation to the approved export program on a given voyage.

SIORs will be published on the department's website:

<http://www.agriculture.gov.au/export/controlled-goods/live-animals/livestock/regulatory-framework/compliance-investigations/independent-observations-livestock-export-sea>

Costs incurred by the department in placing an independent observer on board voyages are recoverable in accordance with section 1A.52 of the Animals Order. Further information on the charging regime can be found in Export Advisory Notice 2018-10.

Background

The department will ensure that all persons deployed as independent observers have:

- demonstrated experience in the handling and management of live-stock;
- undergone medical and psychological assessments to ensure they are fit and capable of undertaking the role;
- received extensive briefings from the department in relation to their role on board the vessel, their responsibilities and the requirement to act in a professional manner at all time;
- a digital camera for capturing digital images, a satellite phone for communicating directly with the department and other digital devices to enable them to record information and prepare their report.

Independent observers will be required to check-in with their departmental contact daily throughout their deployment. This is primarily to ensure the ongoing health and wellbeing of the independent observer, but also includes a brief report on the conditions on the vessel in the previous 24 hour period. Should the department not hear from the independent observer as expected, steps will be taken to contact the independent observer directly. This may involve seeking the exporter's assistance with obtaining details for contacting the master of the vessel directly.

Powers of an Independent Observer

An independent observer is directed under section 9D of the Export Control Act to undertake some or all of the activities in the secretary's approved export program. An independent observer may also be directed under section 9E of the Export Control Act to monitor, review or audit the activities of an AAV and of the exporter as set out in the exporter's approved export program.

Independent observers do not take an active role in animal management during the voyage. Their primary role is to observe and document the activities in an exporter's approved export program as undertaken by the AAV, and the activities of the exporter to ensure the health and welfare of livestock for each livestock export consignment. As part of this role, they may assess the health and welfare of the livestock and collect still and video digital images to document on-board procedures and conditions.

The independent observer does not have any powers to direct stockpersons or members of the crew. If a deficiency arises and a stockperson/crew does not remedy the issue, the department will be advised by the independent observer and a direction to the exporter will be issued.

The independent observer has power to issue a written direction to AAVs in specific circumstances where the AAV is observed to be deficient in undertaking the activities specified in an exporter's approved export program.

An independent observer may be required to keep records and report on the implementation of the approved export program (section 9A of the Export Control Act). Section 1A.49 of the Animals Order provides that the Secretary may publish records and reports made by independent observer in relation to approved export programs.

I n s t r u c t i o n s

1. In accordance with section 1A.25 of the Animals Order, exporters must ensure they lodge their Notice of Intention (NOI) to export on TRACE **at least ten** clear business days prior to the expected date of departure, or ten clear business days prior to pre-export quarantine or isolation if required by importing country requirements.
2. Exporters are to make arrangements to accommodate the independent observer on the vessel to enable them to carry out their duties throughout the voyage.
3. The department strongly encourages exporters to factor the requirement of an independent observer on all voyages. Where the exporter anticipates extenuating circumstances that may prevent an independent observer being accommodated, they should advise the department by email (to livestockexp@agriculture.gov.au, copied to observers@agriculture.gov.au) **at least 20** clear business days prior to the expected date of departure.

The department will consider each instance of this nature on a case by case basis. The Australian Maritime Safety Authority (AMSA) is assisting the department to clarify accommodation arrangements on vessels.

4. Independent observers are officers of the department and, on that basis, are covered by the Commonwealth of Australia's insurance scheme, Comcover. The Commonwealth is covered for medical expenses relating to a departmental officer who becomes ill or is injured while travelling outside Australia on approved departmental business including expenses arising from medical emergencies. The department is enforcing stringent physical and mental health requirements to qualify for independent observer positions.

The Commonwealth will not indemnify an exporter, the shipping company or any other third party for losses or costs arising in the event the independent observer falls ill or is injured during a voyage, including but not limited to any deviation costs of the vessel (including daily hire). Any on-ship indemnity requirements must be accepted by the exporter on the independent observer's behalf well in advance of the departure of the vessel.

If a scenario arises where an exporter does not allow an IO passage on a vessel due to indemnity requirements, the proposed export may be prevented by the department and the exporter may commit an offence under section 1A.50(2) of the Animals Order and section 9J of the Export Control Act.

5. The department may provide copies of independent observer reports to exporters on request, provided that the disclosure is consistent with the *Privacy Act 1988*.

Please contact the department for more information or to discuss how these changes affect any consignment preparations.



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