

Growing the Business of Farming



**REVIEW OF THE PROPOSED PREVENTION OF CRUELTY TO
ANIMALS (GENERAL) REGULATION 2006**

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NSW Farmers' Association Background

The NSW Farmer's Association (the Association) is Australia's largest State farmer organisation representing the interests of its farmer members – ranging from broad acre, meat, wool and grain producers, to more specialised producers in the horticulture, egg, pork, oyster and goat industries.

Executive Summary

The NSW Farmers' Association (the "Association") agrees with the majority of the draft regulations for the Prevention of Cruelty to Animals Act and thus will only make comment on two omissions from the regulations in relation to prescribing electric devices and minimum cage sizes for fowls used for egg production.

The Association believes that weaned sheep should also be included in the prescribed species list in Schedule 1 for reasons similar to those argued for use in horses during rodeos in the Regulatory Impact Statement, that is, to improve safety for the stockperson and help prevent possible harm to the animal.

Meeting obligations under the Prevention of Cruelty to Animals Act by not using electric prodders on sheep does not remove farmer's or employer's responsibility under the general duty of care in the Occupational Health and Safety Act.

The National Occupational Health and Safety Commission (NOHSC) Online Statistics Interactive National Workers' Compensation Statistics Databases shows that Australia wide, between 2001 and 2004, there were a total of 225 reported injuries which caused a minimum one weeks absence from work due to being hit by a moving sheep.

Although the risk of being injured per sheep is lower than the risk per head of cattle or per pig, it is countered by the much larger numbers of sheep which increases the rate of exposure of humans to the risk of injury.

Using the NOHSC statistics, the average number of weeks off work is much longer for injury from sheep than from cattle (19.95 weeks and 11.7 weeks respectively) with pigs causing an average of 5.9 weeks off work. The cumulative totals between 2001 and 2004 are 4451.3 weeks lost due to injuries from moving sheep and 5040.8 weeks lost to injuries from cattle (41.3 weeks is the cumulative loss from injuries due to pigs).

The degree of pain experienced in weaned cattle and pigs from contact with an electric prodder is likely to be no more or no less in weaned sheep. Therefore the only explanation for the permitted use of the prodders in cattle and pigs must be the risk to human safety.

Only weaned sheep are considered agile and heavy enough to cause injury of sufficient severity to warrant the countermeasure of inflicting pain through an electric prod. Additionally, only in race or penning situations is the use of a prod needed.

Regarding the absence of changes to the layer hen cage specifications in the draft regulations, the Association is very concerned about the delay in defining into legislation the ARMCANZ minimum standards. If the process of drafting cannot be quickened, then the Association requests as a minimum that the Government make a public statement to all egg producers on its intent to mandate the ARMCANZ standards.

TABLE OF CONTENTS

Executive Summary	2
1. Electric Devices Schedule 1.....	4
1.1 Improved safety for the stockperson.....	4
1.2 Prevention of harm to weaned sheep	8
1.3 Cost of alternatives to electric prods.....	8
1.4 Constraints to use of electric prods.....	8
2. Minimum cage sizes for egg laying fowls.....	9
Conclusion.....	10

1. Electric Devices Schedule 1

Schedule 1, listing the electric devices of the Prevention of Cruelty to Animals Act (POCTAA), states that the electric stock prod can be used for driving, herding, mustering or controlling weaned cattle or pigs. In addition the draft regulations include controlling horses in a rodeo for a defined purpose under a defined circumstance. These stock are defined as “prescribed species” in Section 16 of the Act.

The Association believes that weaned sheep should also be a prescribed species for reasons similar to those argued for use in horses during rodeos in the Regulatory Impact Statement, that is, to improve safety for the stockperson and help prevent possible harm to the animal.

1.1 *Improved safety for the stockperson*

The Association is concerned at the exposure to prosecution the farming community faces from any use of electric stock prods on sheep. Mr Mark Pearson of Animal Liberation brought this issue to prominence in early 2006 after capturing footage at the Wagga Wagga Saleyards of use of an electric stock prod on grown sheep. People servicing the sheep industry and sheep producers face not only prosecution under the Prevention of Cruelty to Animals Act (POCTAA) but also have raised fears of prosecution under the Occupational Health and Safety Act (OH&SA).

Meeting obligations under the POCTAA by not using electric prodders on sheep does not remove the farmer's or employer's responsibility under the general duty of care in the OH&SA.

A scan of literature from OH&S sources and surveys indicates a wide range of injury rates in the farming population from handling sheep in yards which suggests that a duty of care to minimise the risk of injury to humans should be taken into account in the review of the POCTA regulations.

The National Occupational Health and Safety Commission (NOHSC) Online Statistics Interactive National Workers' Compensation Statistics Databases shows that **Australia** wide, between 2001 and 2004, there were a total of 225 reported injuries which caused a minimum one weeks absence from work due to being hit by a moving sheep¹ (Table 1).

¹ National Occupational Health and Safety Commission
<http://www.nohsc.gov.au/OHSInformation/NOSI/default.asp> (accessed 16 June 2006)

Table 1: National Occupational Health and Safety Commission injury statistics for Sheep, Cattle and Pigs from 2001 to 2004.

	Number of reported cases nationally caused by being hit by a moving animal in grain, sheep and beef cattle farming which caused one weeks absence from work				Australian Bureau of Statistics national livestock figures –numbers in that species as a percentage of total sheep, cattle and pigs (2001-2003)	Injuries from that species as a percentage of combined injuries from sheep, cattle and pigs
Live four legged animal	2001	2002	2003	2004		
Sheep	58	58	45	64	81%	34.6%
Cows, steers, cattle, bulls, buffalo	99	135	95	91	20%	64.5%
Pigs	Publication restrictions	Publication restrictions	4	0	2%	0.9% (non published injuries estimated at 1)

In order to make some assessment of data for pigs a search was made of the NOHSC Online Statistics Interactive National Workers' Compensation Statistics Databases data from 1994 to 2000 (Table 2). It can be speculated from the NOHSC database explanatory notes² that the numbers for reported injuries from moving pigs are historically low as they are not published because the totals are below a threshold needed to preserve the confidentiality of the cases. (The assumption was made that at least one case was reported to complete the calculations in Tables 1 and 3).

Table 2. National Occupational Health and Safety Commission injury statistics from Sheep and Goats, Cattle and Pigs from 1994 to 2000.

	Number of reported cases nationally caused by being hit by a moving animal in grain, sheep and beef cattle farming which caused 5 days absence from work					
Live four legged animal	1994-95	1995-96	1996-97	1997-98	1998-99	1999-2000
Sheep and goats	72	100	75	48	86	72
Cows, steers, cattle, bulls, buffalo	103	102	88	109	127	103
Pigs	8	Publication restrictions	0	Publication restrictions	0	Publication restrictions

² http://nosi.nohsc.gov.au/site.taf?go=exnotes&_UserReference=B17886658BA913164492235E

The summary analysis in Table 3, shows the comparative injury rate as a percentage of total livestock numbers with cattle clearly more dangerous as a moving object at a rate of 0.4%, than either sheep or pigs. The threat from pigs at a rate of 0.07% is only marginally greater than sheep at 0.05% which might be expected given comparative weights and aggression of sows and boars. It can be assumed that the agility and speed of sheep in being able to turn and run in yards and races contribute to the injury rate as backing boards are used inside piggeries when moving pigs in races.

Table 3. Summary analysis of 2001 to 2003 NOHSC data.

	Average livestock numbers (000's) 2001 – 2003 (ABS)	Average injury numbers (one weeks absence) 2001- 2003 (NOHSC)	Average injuries as a percentage of livestock numbers (000's)
Sheep	105449	54	0.05%
Cattle	27419	110	0.4%
Pigs	2782	2	0.07%

It is assumed that the reporting rate of injury is only a small percentage of the true injury rate, given the majority of farm work is done by owner operators. However, for this submission it is the relative rates of injury for each animal cause that is important to assess rather than pursuing the actual injury rates.

Although the risk per sheep is lower than the risk per head of cattle or per pig (Table 3), it is countered by the much larger numbers of sheep which increases the rate of exposure of humans to the risk of injury. Any risk can be expressed as an incident rate in the population where a low rate is considered acceptable. However this acceptance is at odds with the OH &S, food safety and human health doctrines which are based on the premise that any incident is intolerable due to the pain and suffering of the human and the economic costs of days not worked.

The database query system of NOHSC does not permit filtering for “being hit by a moving object” when accessing the “average weeks absent” for being injured by a “live four legged animal”. Comparing the number of cases with and without this filter there are 20 more injuries by cattle and 27 more injuries for sheep not classified as “being hit by a moving object”. Thus Table 4 shows the average weeks of absence caused by any type of injury by a four legged animal. This would include being hit by a moving animal and being kicked and bitten by one.

Table 4. Average weeks of absence from work after being injured by a live four legged animal where the absence is a minimum of one week.

	Average weeks of absence from work				
	2001	2001	2003	2004	All years
Sheep	21.1	27.1	19.3	12.3	19.95
Cows, steers, cattle, bulls, buffalo	13.8	14.3	10.6	8.1	11.7
Pigs	Publication restricted	Publication restricted	5.9	Publication restricted	5.9

The average number of weeks from work is much longer for sheep than for cattle (19.95 weeks and 11.7 weeks respectively). It can be assumed that either severity of the injury or the complexity of the injury site accounts for these differences. Such differences can be seen when comparing two common yard injuries, a knee ligament damage as sheep run back in a race and blunt trauma to the chest after being knocked by a cow/steer in a pen. Ruptured knee ligaments may not be as severe an injury as lung contusions however, reconstructive knee surgery commonly involves a convalescent period of over 6 months³.

When multiplying out the number of injuries (Table 1) by the average weeks off work (Table 4), the cumulative data from 2001 to 2004 shows that 4451.3 weeks were lost due to injuries from moving sheep and 5040.8 weeks lost to injuries from cattle. Assuming at least one injury from pigs in the non recorded years at an average of 5.9 weeks for each injury, pigs caused an estimated cumulative loss of only 41.3 weeks. The cost to the community based on NOHSC data from injuries due to sheep is comparative to that from cattle, whereas the cost from pigs is minimal.

Other studies support the raw statistics in Table 1. One study showed a sheep caused an injury rate of 7.3% amongst farmers in a wheat sheep belt of NSW⁴. Whereas within an injured population of sheep farmers rates from yard causes are 4.5% - 20.3%⁵. Our own blind survey of sheep farming members revealed 69% injury rate in yards however the sample size of only 13 was the smallest of the literature researched. 19% of the injury type in the NSW survey⁴ mentioned above were knee injuries with 30% requiring knee reconstruction. 33% of injuries in the NSW Farmers' Association survey were in knees.

Over the medium to long term, the strict OH&SA requirements, the costs of workers compensation insurance, the labour shortage in agriculture, declining profits and the aging farming population lead to the supposition that there will be increasingly more and older farmers doing a greater proportion of the work themselves. Age and fatigue will be contributors to higher injury rates.

The degree of pain experienced in weaned cattle and pigs from contact with an activated electric prodder is likely to be no more or no less in weaned sheep. Therefore the only explanation for the use of the prodders in cattle and pigs must be the risk to human safety because of size and aggression has overridden the undisputed evidence that electric prodders cause pain. It is this pain which evokes the aversion to the prodder and thus moves the animal away in a direction of safety to both the animal and the human.

The source of the prescribed species list under POCTAA is assumed to have come from expert European advice however, the farming systems in Australia are extensive thus the European edict should not apply here. Large mobs, infrequent handling and selection for increased body weight have produced an Australian sheep that would be considered "wild" by Europeans. The Association argues that the agility and flightiness of Australian sheep is the cause of the high injury rate from moving sheep and thus this warrants their inclusion as a prescribed species.

³ <http://www.melbourneorthopaedics.com.au/ligament.html> (accessed 24 July 2006)

⁴ Low J.M., Griffith G.R. and Alston C.L. 1996. Australian Farm Work Injuries: incidence, diversity and personal risk factors. Aust. J. Rural Health 4, 179-189

⁵ Fragar L.J., Franklin R.C. and Lower A. 2001. Occupational health and safety risk associated with sheep and wool production in Australia. Australian Centre for Agricultural Health and Safety and Rural Industries and Research and Development Corporation: Moree

1.2 Prevention of harm to weaned sheep

It is taken that if a moving sheep causes injury to a stockperson, then it causes injury to itself with most collisions being likely to be head on. There is no data available on the injury rate in sheep. Anecdotally, it is known that sheep are exposed to breaking their necks or becoming concussed after splitting and running from one group to join another against the flow of stock.

1.3 Cost of alternatives to electric prods

Yard design is a major contributor to successful stock flow however, the cost of redesigning yards throughout NSW to achieve such improvement could be between \$1000 to \$10000 per yard. Additionally there is an inability to readily redesign stock crates on semi trailers which would need increased light to encourage sheep to fill internal pens and lower decks. The alternative is to reduce the stocking density of trucks which is economically inefficient (especially given likely increasing fuel prices).

1.4 Constraints to use of electric prods

As the proposal for use on horses prescribes the circumstance of the use, so it is proposed that use in sheep be similarly constrained. Only weaned sheep are considered agile and heavy enough to cause injury of sufficient severity to warrant the countermeasure of inflicting pain through an electric prod. Additionally, only in race or penning situations is the use of a prod needed.

2. Minimum cage sizes for egg laying fowls

The Association is very concerned about the delay in defining into legislation the ARMCANZ minimum standards for layer cage housing. It has become apparent that a portion of the egg industry does not believe that the cage requirements in the Model Code of Practice for the Welfare of Animals: Domestic Poultry (4th Edition, 2002) will be mandated.

Given the production cycles in the egg industry, delaying the drafting of the regulations for cages till the later part of 2006 will create complications for enforcers and encourage attacks by animal rights groups. To be compliant with the ARMCANZ decision on 1 January 2008, birds placed after June 2006, will have to be removed from non compliant cages, slaughtered before the end of their productive life and new cages fitted. There will be mass disruption to egg supply and potential for under capacity at bird processing plants under this scenario.

As certainty in legislation has not been provided to the egg industry by timely drafting of regulations, the Government has created potential for a more complicated regulation, need for a more expensive and intense communication campaign, and a more difficult job for RSPCA and AWL enforcers.

If the process of drafting regulations cannot be quickened, then the Association requests as a minimum that the Government make a public statement to all egg producers on its intent to mandate the ARMCANZ standards.

Conclusion

The Association believes the prescribing of weaned sheep as a species on which electric prods can be used is supported by the wild and unpredictable nature of weaned sheep when placed in a confined space in close proximity to humans and when needing the sheep to move to somewhere it would not chose to move to. These four circumstances mirror the established arguments in Australia for rodeo horses and weaned cattle and pigs. The only justification for past exclusion of weaned sheep from exposure to the electric prod is based on European literature on the nature of European sheep which is not supported by Australian injury statistics.