

# Local Law No. 6 (Operation of Saleyards) 2011

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## **Part 1 Preliminary**

### **1 Short title**

This local law may be cited as *Local Law No. 6 (Operation of Saleyards) 2011*.

### **2 Purpose**

The purpose of this local law is to provide for the orderly and proper conduct of business activities at the saleyards operated by the local government.

### **3 Definitions — the dictionary**

The dictionary in the schedule defines particular words used in this local law.

### **4 Relationship with other laws**

This local law is—

- (a) in addition to, and does not derogate from, laws regulating land use planning and development assessment; and
- (b) to be read with *Local Law No. 1 (Administration) 2011*.

## **Part 2 Stock handling**

### **5 Times for reception**

- (1) The local government must decide the days and times during which stock may be delivered to the saleyard.
- (2) The local government may refuse to permit stock to be delivered to the saleyard at any other time.

### **6 Identification of delivered stock**

- (1) A person delivering stock to the saleyard must —
  - (a) prior to unloading the stock, provide the manager with a written statement in the prescribed form containing details of —
    - (i) the owner of the stock; and
    - (ii) the number of stock for sale or consignment, as the case requires; and
    - (iii) the name of —
      - (A) the auctioneer who is to sell the stock; or
      - (B) the agent consigning the stock, and
  - (b) ensure that the auctioneer who is to sell the stock, or the agent who is consigning the stock, is present at the saleyard to take delivery of the stock.
- (2) A person delivering stock to the saleyard must ensure that the requirements of subsection (1) are complied with.

Maximum penalty — 50 penalty units.

## **7 Reception of stock**

- (1) If section 6 is complied with, a person may proceed to deliver stock when directed by the manager (but not otherwise).
- (2) When delivering stock, a person must —
  - (a) unload only at a ramp provided for stock delivery, unless otherwise directed by the manager; and
  - (b) where more than 1 person is waiting to deliver stock, as and when directed by the manager—
    - (i) take up a position; and
    - (ii) drive to the delivery ramp or other delivery point; and
    - (iii) unload the stock immediately, and complete unloading without delay; and
    - (iv) remove the delivery vehicle from the delivery ramp or other delivery point, immediately after the unloading is complete.

Maximum penalty for each of paragraphs (a) and (b) — 50 penalty units.

- (3) An auctioneer or agent taking delivery of stock must —
  - (a) place the stock in pens or yards as directed by the manager; and
  - (b) record details of the stock received in the prescribed form and provide a copy of the form to the manager.

Maximum penalty for each of paragraphs (a) and (b) — 50 penalty units.

## **8 Care and control of stock**

When stock are delivered to the saleyard —

- (a) the stock are deemed to be in the possession, and under the control, of the auctioneer or agent who has taken delivery of the stock, and are not in the possession, or under the control, of the local government; and
- (b) the auctioneer or agent must comply with all reasonable directions of the manager in relation to reception, yarding and other dealings with the stock; and
- (c) if the stock are kept at the saleyard for more than 24 hours — the auctioneer or agent must provide the stock with adequate food and general care in accordance with the reasonable directions of the manager.

Maximum penalty for each of paragraphs (b) and (c) — 50 penalty units.

## **9 Removal of stock**

- (1) Unless otherwise approved by the local government, stock must be removed from the saleyard before 11:00 am on the day following the day of the sale for which the stock were delivered.

Maximum penalty — 50 penalty units.

- (2) The person who took delivery of the stock and the owner of the stock are jointly and severally responsible for compliance with subsection (1).

- (3) The local government may approve of stock remaining at the saleyard after the time specified in subsection (1) for the purpose of —
  - (a) dipping; or
  - (b) agistment; or
  - (c) any other purpose approved by the local government in a particular case.
- (4) Subsection (1) does not apply to stock if —
  - (a) the local government's approval for the stock to remain is granted under subsection (3); and
  - (b) the prescribed fees in respect of the approved purpose are paid to the manager before the time specified in subsection (1).
- (5) To avoid doubt, stock which remain at the saleyard under this section remain in the possession, and under the control, of the person referred to in section 8(a).
- (6) The person with possession and control of stock which remain at the saleyard must—
  - (a) comply with all reasonable directions of the manager in relation to the yarding, management and other dealings with the stock; and
  - (b) provide the stock with adequate food and general care in accordance with the reasonable directions of the manager.

Maximum penalty for each of paragraphs (a) and (b) — 50 penalty units.

- (7) If a person is convicted of an offence against this section, the court may, in addition to any penalty, order the defendant to pay to the local government the costs (including labour and other overhead costs) incurred by the local government in feeding stock or taking any other reasonably necessary action in respect of the stock consequent upon the defendant's contravention.
- (8) If there has been a contravention of this section but —
  - (a) no person is prosecuted for the contravention; or
  - (b) a person is prosecuted but the court does not make an order under subsection (7),

the local government may recover the costs (including labour and other overhead costs) incurred by the local government in feeding stock or taking any other reasonably necessary action in respect of the stock consequent upon the contravention, as a debt payable to the local government by the person who committed the contravention.

## 10 Repair of damage

- (1) If any stock breaks, damages or otherwise injures the saleyard or any structure, fixture, fitting, equipment or other property of the local government at the saleyard, the person with possession and control of the stock, and the owner of the stock, must pay to the local government, on demand, the cost (including labour and other overhead costs incurred by the local government) of repairs or replacement required to be carried out or made to rectify the breakage, damage or injury.
- (2) The liability under subsection (1) is joint and several in respect of each person referred to in the subsection.

- (3) If a person with possession and control of stock at the saleyard or the owner of stock at the saleyard becomes aware of the occurrence of a breakage, damage or injury referred to in subsection (1), the person or owner, as the case may be, must immediately give the manager details of the breakage, damage or injury.

Maximum penalty — 10 penalty units.

- (4) Repairs or replacement required to be carried out or made to rectify the breakage, damage or injury must be carried out by the local government.
- (5) Payment under subsection (1) must be made within 14 days after the date on which the local government gives the person liable to pay a written statement of the cost of the repairs or replacement.

Maximum penalty for subsection (5) — 10 penalty units.

## **Part 3                      Approval for use of saleyard**

### **11    Approval for use of the saleyard**

- (1) A person must not use the saleyard for a prescribed activity unless the person holds a current approval from the local government
- (2) For the purposes of subsection (1), a person uses the saleyard for a prescribed activity if the person —
  - (a) sells or offers to sell stock by auction or otherwise at the saleyard; or
  - (b) consigns stock from the saleyard.
- (3) For the purposes of *Local Law No. 1 (Administration) 2011*, section 5(b), each activity identified in subsection (2) is a prescribed activity.

## **Part 4                      Stock sales**

### **12    Times for sale**

- (1) The local government may fix the days and times during which regular stock sales may be conducted at the saleyard.
- (2) The local government may grant an approval to a person to conduct a sale of stock at the saleyard on a day, or at a time, other than a regular stock sale day or time fixed under subsection (1), provided it does not cause unnecessary disruption to existing stock sale arrangements at the saleyard.
- (3) The local government may, by subordinate local law, specify information or materials which must be included in, or accompany, a written application under subsection (2).
- (4) A person must not conduct a sale at the saleyard on a day, or at a time other than a day and time fixed under subsection (1) unless the person —
  - (a) has obtained the local government's approval under subsection (2); and
  - (b) complies with the conditions (if any) imposed on the approval granted under subsection (2).

Maximum penalty for subsection (3) — 100 penalty units.

### 13 Conditions for sale

- (1) The local government may, by subordinate local law, prescribe conditions applicable to the sale of stock at the saleyard, including conditions that must be imposed and conditions that will ordinarily be imposed on the sale of stock at the saleyard.
- (2) Without limiting subsection (1), the prescribed conditions may set out the method, order, times and other relevant matters relating to the sale of stock or a specified type of stock at the saleyard.
- (3) A person selling stock at the saleyard must comply with every condition prescribed under subsection (1).

Maximum penalty for subsection (3) — 50 penalty units.

### 14 Priority of sale for auctioneers

- (1) Where more than 1 auctioneer proposes to sell stock on a regular sale day, unless the local government acts under subsection (7), all of the auctioneers must fix their order of priority of sale by drawing lots—
  - (a) under the supervision of the manager; and
  - (b) at a time and place as directed by the manager.
- (2) If an auctioneer is absent from the draw, or refuses to draw, the manager may draw for the auctioneer.
- (3) Upon the drawing of lots as provided in subsection (1), the local government may establish a roster of auctioneers based on the results of the drawing, and the future order of selling on regular sale days by the auctioneers shall be in accordance with the roster.
- (4) If an auctioneer has first priority of sale on a regular sale day, as provided in the roster, the auctioneer shall be given last priority of sale in the next sale on a regular sale day.
- (5) Each auctioneer shall, in turn, be given first priority of sale as provided in the roster and shall not be given first priority on two consequent regular sale days.
- (6) The roster established under subsection (3) shall remain in operation until a further drawing of lots is required by the local government.
- (7) Despite subsection (1), the local government may, for any regular sale day, fix the order of priority of sale and advise the auctioneers of the order on the sale day.
- (8) If stock are being sold by 2 or more persons in conjunction —
  - (a) only 1 auctioneer may be nominated to sell the stock; and
  - (b) the identity of the nominated auctioneer must be declared before the drawing of lots.
- (9) To avoid doubt, if the local government fixes different times for the selling of different classes of stock —
  - (a) stock of a given class may be sold only at the times fixed for the class; and
  - (b) the order of priority determined under this section applies separately to the sales for each class of stock.
- (10) An auctioneer not attending within 2 minutes of the time allocated to the

auctioneer on the roster must forfeit the auctioneer's position of sale, and be placed at the end of the roster.

## 15 Other controls on sale procedure

- (1) The local government may, by subordinate local law, fix —
  - (a) the maximum time allowed to each auctioneer for selling stock; and
  - (b) the maximum time allowed for preliminary remarks by each auctioneer opening a sale of stock; and
  - (c) the maximum time allowed for the sale of each individual lot or pen of stock by each auctioneer.
- (2) If the local government has acted under subsection (1), an auctioneer who has not completed a sale of stock of a particular class within the maximum time fixed by the local government —
  - (a) must withdraw the remainder of the auctioneer's stock of the particular class until other auctioneers have offered their stock of the class; and
  - (b) may offer the remainder after the other auctioneers have offered their stock of the class (or reached their maximum time allowed) if there is any time remaining of the time allocated by the local government for sale of stock of the class.
- (3) If the auctioneer passes in stock of a particular class on a sale day, the stock must not be re-offered on the sale day unless the manager gives specific approval in that regard after all other auctioneers have—
  - (a) offered their stock of the class for sale; or
  - (b) been allowed the maximum time for the sale of stock of the class.
- (4) Where there is more than 1 auctioneer who wishes to re-offer stock for sale under subsections (2) or (3), or where any other dispute or difficulty arises in relation to the application of subsections (2) or (3) —
  - (a) the manager may give all such directions as are necessary for the purpose of—
    - (i) fairly and reasonably applying subsections (2) or (3); and
    - (ii) resolving the dispute or difficulty; and
  - (b) each auctioneer must comply with each direction of the manager given under subsection (4)(a).

Maximum penalty for subsection (4)(b) — 25 penalty units.

## 16 Sale charges

- (1) The local government may prescribe fees applicable for the use of the saleyard and associated facilities.
- (2) A person who sells stock, or offers stock for sale, at the saleyard (by auction or otherwise), for example, the auctioneer or agent for the stock, and the owner of the stock, are jointly and severally liable to pay to the local government the prescribed fees in respect of the sale of the stock.
- (3) Within thirty (30) days after each sale day on which stock are sold or offered for



- sale at the saleyard, the person who sold or offered the stock for sale, must —
- (a) submit a return to the manager in the prescribed form specifying details of stock sold, unsold, or consigned at the saleyard on the sale day; and
  - (b) pay the local government the prescribed fees payable on the basis of the information in the return.
- (4) If subsection (3) is not complied with —
- (a) the local government may make its own determination about the information which should have been included in the prescribed form under subsection (3), using such information and knowledge as is reasonably available to it; and
  - (b) the local government may determine the prescribed fees payable on the basis of the information; and
  - (c) the local government may immediately take proceedings to recover the amount of the prescribed fees against any or all of the persons liable to pay the fees as a debt payable by the person or persons to the local government.
- (5) The local government may, by resolution, determine the terms and conditions to be included in a contract to be entered into between the local government and the holder of an approval in relation to matters which are outside the scope of this local law including, but not limited to, the payment of interest on fees which are prescribed under this section and unpaid at the expiry of 14 days after the date on which the fees should have been paid.

## **Part 5 Other management provisions**

### **17 Purposes other than sales**

- (1) A person may request the approval of the local government to use the saleyard for any purpose of stock management, including (as examples only)—
  - (a) loading and unloading by rail; and
  - (b) transportation of stock; and
  - (c) breaking in of horses; and
  - (d) spelling of stock.
- (2) An application for an approval under subsection (1) must be—
  - (a) made in the prescribed form; and
  - (b) accompanied by the prescribed fee.
- (3) The local government may grant the approval if it is satisfied that the proposed use—
  - (a) is consistent with the purposes for which the saleyard is established; and
  - (b) is consistent with the purpose of this local law; and
  - (c) is not likely to cause damage to the saleyard or unreasonable interference to other users of the saleyard.
- (4) An approval may be granted on conditions the local government considers appropriate.

- (5) A person using the saleyard pursuant to an approval under this section must —
- (a) comply with all reasonable directions of the manager in relation to the yarding, management and other dealings with stock under the approval; and
  - (b) provide the stock with adequate food, water and general care in accordance with the reasonable directions of the manager.

Maximum penalty — 50 penalty units.

- (6) A person must not —
- (a) use the saleyard for any purpose unless authorised by an approval under —
    - (i) this section; or
    - (ii) some other provision of this local law; or
  - (b) being the holder of an approval under this section — contravene a condition imposed on the approval.

Maximum penalty — 100 penalty units.

- (7) For the purposes of *Local Law No. 1 (Administration) 2011*, section 5(b), use of the saleyard for a purpose identified in subsection (1) is not a prescribed activity.

## 18 Dipping facilities

- (1) A person must not use dipping facilities at the saleyard unless —
- (a) the person has an approval from the manager; and
  - (b) the person complies with all reasonable directions of the manager in relation to the dipping and associated activities; and
  - (c) the person has, before using the dipping facilities, made appropriate arrangements to pay the prescribed fee (for use of the dipping facilities) to the manager, within a period of 30 days after the dipping takes place.

Maximum penalty — 25 penalty units.

- (2) Without affecting the liability of any person to be prosecuted for an offence against subsection (1), a person who uses dipping facilities contrary to subsection (1) must pay to the local government the prescribed fee which would have been payable in respect of the dipping if approval had been obtained, and if the fee is not paid on demand, the fee is recoverable by the local government as a debt payable by the person who used the dipping facilities.
- (3) For the purposes of *Local Law No. 1 (Administration) 2011*, section 5(b), use of the dipping facilities at the saleyard is not a prescribed activity.

## 19 Rental of facilities

The local government may make facilities at the saleyard (such as, for example, office space or paddocks) available by way of lease, licence or other arrangement on such terms and conditions as it determines.

## 20 Ticket selling etc

- (1) A person must not —
- (a) sell raffle tickets or the like at the saleyard; or

(b) hawk, or sell goods or services at the saleyard, without an approval from the local government.

Maximum penalty — 50 penalty units.

(2) An application for an approval under subsection (1) must be —

(a) made in the prescribed form; and

(b) accompanied by the prescribed fee.

(3) An approval may be granted on conditions the local government considers appropriate.

(4) The holder of an approval under subsection (1) must comply with the conditions of the approval.

Maximum penalty — 50 penalty units.

(5) For the purposes of *Local Law No. 1 (Administration) 2011*, section 5(b), use of the saleyard for an activity identified in subsection (1) is not a prescribed activity.

## 21 Diseased and injured animals

(1) If the manager is of the opinion that any stock at the saleyard is diseased or injured, the manager may give written notice to the person in possession and control of the stock, or the owner of the stock, to immediately remove the stock from the saleyard.

(2) The person to whom a written notice is given under subsection (1) must immediately remove the stock from the saleyard.

Maximum penalty — 50 penalty units.

(3) If the person to whom the written notice is given does not immediately remove the stock from the saleyard then, without affecting the liability of any person to be prosecuted, the manager may —

(a) cause the stock to be removed to a pound, animal care facility or other appropriate place as the manager determines; or

(b) destroy the stock.

(4) Costs (including labour and overhead costs) incurred by the local government as a result of the manager acting under subsection (3) must be paid to the local government on demand by the person to whom the written notice was given and, if not so paid, may be recovered by the local government as a debt payable by the person to whom the written notice was given.

## 22 Control of dogs

(1) A person must not take a dog into the saleyard except with the approval of the manager.

Maximum penalty — 50 penalty units.

(2) If a person takes a dog into the saleyard with the approval of the manager, the person must tie or secure the dog —

(a) at a place as directed by the manager; and

(b) in a manner that prevents the dog from running about the saleyard or

interfering with any stock.

- (3) Subsection (2) does not apply if—
- (a) the manager has granted an approval in respect of the use of the dog at the saleyard; and
  - (b) the dog is being used at the saleyard in accordance with the approval.

### **23 Branding or marking**

A person must not use any covered area or platform within the saleyard for the purpose of marking or branding any stock unless —

- (a) the person has the approval of the managers to do so; or
- (b) the area or platform is signed as having been set aside by the local government for the purpose of marking or branding.

Maximum penalty — 50 penalty units.

### **24 Right of entry to saleyard**

A person other than an employee or agent of the local government or other person authorised in writing by the local government or the manager must not, without reasonable excuse, enter the saleyard except —

- (a) on a day when a sale is to be conducted; or
- (b) when some other use of the saleyard approved by the local government and which the person is expressly or impliedly invited to attend, is being conducted.

Maximum penalty — 50 penalty units.

### **25 Motor vehicles**

A person must not drive a motor vehicle on any part of the saleyard other than a part—

- (a) constructed as a road; or
- (b) otherwise set aside, and signed, as an area for the driving or parking of motor vehicles.

Maximum penalty — 25 penalty units.

### **26 Damage to property**

- (1) A person must not break, damage or destroy a building, fence, structure, item of plant or equipment, ground work, other improvement or other property of any nature at the saleyard.

Maximum penalty — 50 penalty units.

- (2) Without limiting the liability of a person to be prosecuted under subsection (1), a person who contravenes subsection (1) must pay to the local government, on demand, the cost (including labour and other overhead costs incurred by the local government) of repairs or replacement required to be carried out or made in consequence of the breakage, damage or destruction.

- (3) The liability under subsection (1) is joint and several in respect of each person who is otherwise liable under subsection (1).
- (4) The repairs or replacement must be carried out or made by the local government.
- (5) Payment under subsection (2) must be made within 14 days after the date on which the local government gives the person liable to pay a written statement of the cost of the repairs or replacement and, if payment is not made, the cost is recoverable by the local government as a debt payable by the person to whom the statement of cost is given.

## 27 General offences

- (1) A person at the saleyard must not do, or permit to be done, any of the following —
  - (a) deposit, waste at any place other than a waste receptacle provided for the collection of waste by the local government;
  - (b) damage or deface any part of a building, fitting, fixture, plant or equipment;
  - (c) place a nail, hook, peg, or other fitting or thing in or on any part of the saleyard without the approval of the manager;
  - (d) obstruct, or loiter in, any entrance, thoroughfare, passageway or race;
  - (e) obstruct, prevent, hinder or interfere with the manager or any employee or agent of the local government in the exercise or performance of the persons powers or duties;
  - (f) make excessive use of a whip, jigger, cane, flapper, or other similar device.Maximum penalty — 10 penalty units.

## 28 Limitation of liability

- (1) The local government is not civilly liable for an act done, or omission made, honestly and without negligence, under this local law.
- (2) In particular, the local government—
  - (a) does not have legal possession or control of any stock brought onto the saleyard by a person other than the local government<sup>1</sup>; and
  - (b) owes no duty of care to any person in respect of, and is not otherwise responsible for, the safety, management, or control of any stock within the saleyard.

# Part 6 Subordinate local laws

## 29 Subordinate local laws

The local government may make subordinate local laws about—

- (a) the information or materials which must be included in, or are to accompany, a written application<sup>2</sup>; and

<sup>1</sup> See sections 8(a) and 9(5).

<sup>2</sup> See section 12(3).

- 
- (b) the conditions applicable to the sale of stock at the saleyard<sup>3</sup>; and
  - (c) maximum times for the selling of stock<sup>4</sup>; and
  - (d) other species of animal prescribed as stock<sup>5</sup>.

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<sup>3</sup> See section 13(1).

<sup>4</sup> See section 15(1).

<sup>5</sup> See section 3, schedule, definition *stock*.

## Schedule Dictionary

### section 3

**Act** means the *Local Government Act 2009*.

**adequate food** means —

- (a) stockfeed of a quantity which is adequate in the circumstances; and
- (b) stockfeed which is supplied by —
  - (i) the owner of the stock; or
  - (ii) a stock feed supplier who has a current quality assurance certificate for the conduct of a stock feed supply business.

**building** has the meaning given in the *Building Act 1975*.

**holder**, of an approval, means the holder of an approval granted under the local law and includes all employees, agents and authorised contractors of the holder of the approval.

**manager** means the person appointed by the local government to exercise the powers of a manager under this local law and includes any person for the time being performing the duties of the manager at the direction of, or with the approval of, the local government.

**motor vehicle** has the meaning given in the *Transport Operations (Road Use Management) Act 1995*.

**owner**, of stock, includes—

- (a) the auctioneer, agent or other person authorised by the owner to—
  - (i) sell the stock by auction or otherwise at the saleyard; or
  - (ii) consign the stock from the saleyard; and
- (b) any person in charge of the stock.

**prescribed fee** means a fee or charge determined by the local government for the matter in respect of which the term is used<sup>6</sup>.

**prescribed form** means a form approved by resolution of the local government for the matter in respect of which the term is used.

**regular sale day** means a day fixed under section 12(1).

**saleyard** means the saleyards and associated land and facilities acquired, provided, constructed, maintained or managed by the local government at which stock may be kept or exhibited for sale, exchange or disposal.

**stock** means —


- (a) cattle; and
- (b) horses; and
- (c) any other species of animal prescribed by subordinate local law.

<sup>6</sup>The local government has a power to determine cost – recovery fees under section 97, and fees and charges generally, under s262 of the *Local Government Act 2009*.

**structure** has the meaning given in the Act.

**waste** has the meaning given in the *Environmental Protection Act 1994*.

This and the preceding 13 pages bearing my initials is a certified copy of *Local Law No. 6 (Operation of Saleyards) 2011* made in accordance with the provisions of the *Local Government Act 2009* by Lockyer Valley Regional Council by resolution dated the 21<sup>st</sup> day of December 2011.



Chief Executive Officer