



Illegal Logging Prohibition Amendment (Strengthening Measures to Prevent Illegal Timber Trade) Act 2024

No. 84, 2024

An Act to amend the *Illegal Logging Prohibition Act 2012*, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

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Illegal Logging Prohibition Amendment (Strengthening Measures to Prevent Illegal Timber Trade) Act 2024

No. 84, 2024

An Act to amend the *Illegal Logging Prohibition Act 2012*, and for related purposes

[Assented to 17 September 2024]

The Parliament of Australia enacts:

1 Short title

This Act is the *Illegal Logging Prohibition Amendment (Strengthening Measures to Prevent Illegal Timber Trade) Act 2024*.

No. 84, 2024 Illegal Logging Prohibition Amendment (Strengthening Measures to Prevent Illegal Timber Trade) Act 2024 1

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Illegal Logging Prohibition Act 2012

1 Section 6 (heading)

Repeal the heading, substitute:

6 Simplified outline of this Act

2 Section 6

Omit:

Part 4 applies the Regulatory Powers Act to enable inspectors to exercise monitoring, investigation and enforcement powers for the purposes of this Act.

substitute:

Notice must be given of:

- (a) a regulated timber product that is, or is intended to be, brought into Australia and unloaded at a landing place or port; or
- (b) the processing of a raw log into something other than a raw log.

The Secretary may require, from a person who has imported a regulated timber product or a person who has processed a raw log into something other than a raw log, information or documents relevant to the person's due diligence system or the due diligence requirements.

The Regulatory Powers Act is applied to:

- (a) enable inspectors to exercise monitoring, investigation and enforcement powers and to issue infringement notices for the purposes of this Act; and
- (b) allow the Secretary to accept undertakings from persons to comply with this Act; and

- (c) allow the Secretary to seek injunctions to restrain persons from contravening this Act or to compel compliance with this Act.

Inspectors have powers in relation to regulated timber products that are subject to biosecurity control or customs control.

The Secretary may require an audit to be carried out in relation to whether:

- (a) a person who imports a regulated timber product has complied with the due diligence requirements for importing the regulated timber product; or
- (b) a person who processes a raw log into something other than a raw log has complied with the due diligence requirements for processing the raw log.

Entrusted persons can use or disclose information (referred to as relevant information) in accordance with Part 4A.

3 Section 7

Insert:

auditor means a person covered by paragraph 29(1)(a) or (b).

Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

de-identified, in relation to personal information, has the same meaning as in the *Privacy Act 1988*.

4 Section 7 (definition of *due diligence requirements*)

Repeal the definition, substitute:

due diligence requirements:

- (a) for importing regulated timber products—has the meaning given by subsections 13A(1) and 14(1); and
- (b) for processing raw logs—has the meaning given by subsections 17A(1) and 18(1).

5 Section 7

Insert:

due diligence system:

- (a) for importing regulated timber products—has the meaning given by subsection 13A(2); and
- (b) for processing raw logs—has the meaning given by subsection 17A(2).

entrusted person means any of the following:

- (a) the Minister;
- (b) the Secretary;
- (c) an APS employee in the Department;
- (d) any other person employed or engaged by the Commonwealth to provide services to the Commonwealth in connection with the Department;
- (e) any other person who is:
 - (i) employed or engaged by the Commonwealth or a body corporate that is established by a law of the Commonwealth; and
 - (ii) in a class of persons specified by rules made for the purposes of this subparagraph.

landing place has the same meaning as in the *Biosecurity Act 2015*.

personal information has the same meaning as in the *Privacy Act 1988*.

port has the same meaning as in the *Biosecurity Act 2015*.

premises includes the following:

- (a) a structure, building, vehicle, vessel or aircraft;
- (b) a place (whether or not enclosed or built on);
- (c) a part of a thing referred to in paragraph (a) or (b).

protected person has the meaning given by section 85D.

6 Section 7 (definition of *regulated timber product*)

Repeal the definition, substitute:

regulated timber product means a timber product prescribed by the rules for the purposes of this definition.

7 Section 7

Insert:

relevant information means:

- (a) information obtained by a person under this Act or the rules; or
- (b) information obtained or generated by a person in the course of or for the purposes of:
 - (i) administering this Act or the rules or monitoring compliance with this Act or the rules; or
 - (ii) assisting another person to administer this Act or the rules or monitor compliance with this Act or the rules.

rules means the rules made under section 86.

State or Territory body includes a Department of State, or an authority or agency, of a State or Territory.

8 Section 7 (definition of *this Act*)

Repeal the definition.

9 Before Division 1 of Part 2

Insert:

Division 1A—Introduction

7A Simplified outline of this Part

The importation of illegally logged timber is prohibited.

Importers of regulated timber products must conduct due diligence in order to reduce the risk that illegally logged timber is imported.

Importers of regulated timber products must provide declarations, at the time of import, to the Customs Minister about the due diligence that they have undertaken.

10 Sections 8 and 9

Repeal the sections, substitute:

8 Importing illegally logged timber

Fault-based offence

- (1) A person commits an offence if:
 - (a) the person imports a thing; and
 - (b) the thing is, is made from, or includes, illegally logged timber; and
 - (c) the thing is not prescribed as exempt by the rules for the purposes of this paragraph.

Penalty: 5 years imprisonment or 500 penalty units, or both.

Strict liability offence

- (2) A person commits an offence of strict liability if:
 - (a) the person imports a thing; and
 - (b) the thing is, is made from, or includes, illegally logged timber; and
 - (c) the thing is not prescribed as exempt by the rules for the purposes of this paragraph.

Penalty: 60 penalty units.

Civil penalty provision

- (3) A person contravenes this subsection if:
 - (a) the person imports a thing; and
 - (b) the thing is, is made from, or includes, illegally logged timber; and
 - (c) the thing is not prescribed as exempt by the rules for the purposes of this paragraph.

Civil penalty: 100 penalty units.

9 Importing illegally logged timber in regulated timber products

Fault-based offence

- (1) A person commits an offence if:
- (a) the person imports a thing; and
 - (b) the thing is, is made from, or includes, illegally logged timber; and
 - (c) the thing is a regulated timber product; and
 - (d) the thing is not prescribed as exempt by the rules for the purposes of this paragraph.

Penalty: 5 years imprisonment or 500 penalty units, or both.

- (2) The fault element for paragraph (1)(b) is negligence.

Strict liability offence

- (3) A person commits an offence of strict liability if:
- (a) the person imports a thing; and
 - (b) the thing is, is made from, or includes, illegally logged timber; and
 - (c) the thing is a regulated timber product; and
 - (d) the thing is not prescribed as exempt by the rules for the purposes of this paragraph.

Penalty: 60 penalty units.

Civil penalty provision

- (4) A person contravenes this subsection if:
- (a) the person imports a thing; and
 - (b) the thing is, is made from, or includes, illegally logged timber; and
 - (c) the thing is a regulated timber product; and
 - (d) the thing is not prescribed as exempt by the rules for the purposes of this paragraph.

Civil penalty: 100 penalty units.

11 Subsection 10(1)

After “may order”, insert “(the *forfeiture order*)”.

12 Paragraph 10(1)(a)

Repeal the paragraph, substitute:

- (a) the court:
 - (i) convicts a person of an offence against subsection 8(1) or (2) or 9(1) or (3) in respect of the thing or part; or
 - (ii) makes a civil penalty order under section 82 of the Regulatory Powers Act in relation to a contravention of subsection 8(3) or 9(4) of this Act in respect of the thing or part; and

13 Subsection 10(2)

Omit “the order”, substitute “the forfeiture order”.

14 Paragraph 10(3)(a)

Omit “the order”, substitute “the forfeiture order”.

15 Paragraph 10(3)(a)

After “the conviction”, insert “or civil penalty order”.

16 Paragraph 11(a)

Repeal the paragraph, substitute:

- (a) the importation of goods is an offence under subsection 8(1) or (2) or 9(1) or (3) or a contravention of subsection 8(3) or 9(4); and

17 Sections 12 and 13

Repeal the sections, substitute:

Subdivision A—Offences and civil penalties

12 Importing regulated timber products

Fault-based offence

- (1) A person commits an offence if:
-

- (a) the person imports a thing; and
- (b) the thing is a regulated timber product; and
- (c) the person does not comply with one or more due diligence requirements for importing the regulated timber product; and
- (d) the regulated timber product is not prescribed as exempt by the rules for the purposes of this paragraph.

Penalty: 300 penalty units.

Strict liability offence

- (2) A person commits an offence of strict liability if:
 - (a) the person imports a thing; and
 - (b) the thing is a regulated timber product; and
 - (c) the person does not comply with one or more due diligence requirements for importing the regulated timber product; and
 - (d) the regulated timber product is not prescribed as exempt by the rules for the purposes of this paragraph.

Penalty: 60 penalty units.

Civil penalty provision

- (3) A person contravenes this subsection if:
 - (a) the person imports a thing; and
 - (b) the thing is a regulated timber product; and
 - (c) the person does not comply with one or more due diligence requirements for importing the regulated timber product; and
 - (d) the regulated timber product is not prescribed as exempt by the rules for the purposes of this paragraph.

Civil penalty: 100 penalty units.

Exception

- (4) Subsections (1), (2) and (3) do not apply in any circumstances prescribed by the rules for the purposes of this subsection.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code* and section 96 of the *Regulatory Powers Act*.

13 Customs declaration*Fault-based offence*

- (1) A person commits an offence if:
- (a) the person imports a thing; and
 - (b) the thing is a regulated timber product; and
 - (c) the person does not make a declaration to the Customs Minister, in the manner and form prescribed by the rules, about the person's compliance with the due diligence requirements for importing the regulated timber product; and
 - (d) the regulated timber product is not prescribed as exempt by the rules for the purposes of this paragraph.

Penalty: 100 penalty units.

Strict liability offence

- (2) A person commits an offence of strict liability if:
- (a) the person imports a thing; and
 - (b) the thing is a regulated timber product; and
 - (c) the person does not make a declaration to the Customs Minister, in the manner and form prescribed by the rules, about the person's compliance with the due diligence requirements for importing the regulated timber product; and
 - (d) the regulated timber product is not prescribed as exempt by the rules for the purposes of this paragraph.

Penalty: 60 penalty units.

Civil penalty provision

- (3) A person contravenes this subsection if:
- (a) the person imports a thing; and
 - (b) the thing is a regulated timber product; and
 - (c) the person does not make a declaration to the Customs Minister, in the manner and form prescribed by the rules, about the person's compliance with the due diligence requirements for importing the regulated timber product; and

- (d) the regulated timber product is not prescribed as exempt by the rules for the purposes of this paragraph.

Civil penalty: 100 penalty units.

Subdivision B—Due diligence requirements for importing regulated timber products

13A Due diligence requirement—due diligence system

- (1) A *due diligence requirement* for importing regulated timber products is that the person importing such products has a due diligence system for importing such products.
- (2) A *due diligence system* for importing regulated timber products is a system that:
 - (a) is in writing; and
 - (b) sets out the process by which the person will meet the due diligence requirements, covered by subsection 14(1), for importing regulated timber products; and
 - (c) includes the information prescribed by the rules for the purposes of this paragraph.

18 Section 14 (heading)

Repeal the heading, substitute:

14 Due diligence requirements—other requirements prescribed by rules

19 Subsection 14(1)

Repeal the subsection, substitute:

- (1) The rules may prescribe other *due diligence requirements* for importing regulated timber products.

20 Subsection 14(2)

Omit “The requirements must be prescribed only”, substitute “The other requirements prescribed by the rules for the purposes of subsection (1) must be”.

21 Subsection 14(3)

Omit “The requirements”, substitute “The other requirements prescribed by the rules for the purposes of subsection (1)”.

22 Paragraph 14(3)(e)

After “compliance”, insert “to the Secretary”.

23 Paragraph 14(3)(h)

Omit “Minister”, substitute “Secretary”.

24 Subsection 14(5)

Omit “regulations”, substitute “rules”.

25 Subsection 14(5)

After “due diligence requirements”, insert “, covered by subsection (1),”.

26 Before Division 1 of Part 3

Insert:

Division 1A—Introduction

14A Simplified outline of this Part

The processing of illegally logged raw logs is prohibited.

Processors of raw logs must conduct due diligence in order to reduce the risk that illegally logged timber is processed.

27 Section 15

Repeal the section, substitute:

15 Processing illegally logged raw logs

Fault-based offence

(1) A person commits an offence if:

- (a) the person processes a raw log into something other than a raw log; and
- (b) the person is a constitutional corporation, or the person processes the raw log:
 - (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
 - (ii) on behalf of a constitutional corporation; or
 - (iii) for the purposes of supplying timber products to a constitutional corporation; or
 - (iv) on behalf of the Commonwealth or a Commonwealth authority; or
 - (v) for the purposes of supplying timber products to the Commonwealth or a Commonwealth authority; and
- (c) the raw log is illegally logged; and
- (d) the person is not included in a class of persons prescribed as exempt by the rules for the purposes of this paragraph; and
- (e) the process is not prescribed as exempt by the rules for the purposes of this paragraph; and
- (f) the raw log is not of a kind prescribed as exempt by the rules for the purposes of this paragraph.

Penalty: 5 years imprisonment or 500 penalty units, or both.

Strict liability offence

- (2) A person commits an offence of strict liability if:
 - (a) the person processes a raw log into something other than a raw log; and
 - (b) the person is a constitutional corporation, or the person processes the raw log:
 - (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
 - (ii) on behalf of a constitutional corporation; or
 - (iii) for the purposes of supplying timber products to a constitutional corporation; or
 - (iv) on behalf of the Commonwealth or a Commonwealth authority; or

- (v) for the purposes of supplying timber products to the Commonwealth or a Commonwealth authority; and
- (c) the raw log is illegally logged; and
- (d) the person is not included in a class of persons prescribed as exempt by the rules for the purposes of this paragraph; and
- (e) the process is not prescribed as exempt by the rules for the purposes of this paragraph; and
- (f) the raw log is not of a kind prescribed as exempt by the rules for the purposes of this paragraph.

Penalty: 60 penalty units.

Civil penalty provision

- (3) A person contravenes this subsection if:
- (a) the person processes a raw log into something other than a raw log; and
 - (b) the person is a constitutional corporation, or the person processes the raw log:
 - (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
 - (ii) on behalf of a constitutional corporation; or
 - (iii) for the purposes of supplying timber products to a constitutional corporation; or
 - (iv) on behalf of the Commonwealth or a Commonwealth authority; or
 - (v) for the purposes of supplying timber products to the Commonwealth or a Commonwealth authority; and
 - (c) the raw log is illegally logged; and
 - (d) the person is not included in a class of persons prescribed as exempt by the rules for the purposes of this paragraph; and
 - (e) the process is not prescribed as exempt by the rules for the purposes of this paragraph; and
 - (f) the raw log is not of a kind prescribed as exempt by the rules for the purposes of this paragraph.

Civil penalty: 100 penalty units.

Exception—imported raw logs

- (4) Subsections (1), (2) and (3) do not apply if the raw log was imported into Australia.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

28 Subsection 16(1)

After “may order”, insert “(the *forfeiture order*)”.

29 Paragraph 16(1)(a)

Repeal the paragraph, substitute:

- (a) the court:
- (i) convicts a person of an offence against subsection 15(1) or (2) in respect of the thing or part; or
 - (ii) makes a civil penalty order under section 82 of the Regulatory Powers Act in relation to a contravention of subsection 15(3) of this Act in respect of the thing or part; and

30 Subsection 16(2)

Omit “the order”, substitute “the forfeiture order”.

31 Paragraph 16(3)(a)

Omit “the order”, substitute “the forfeiture order”.

32 Paragraph 16(3)(a)

After “the conviction”, insert “or civil penalty order”.

33 Section 17

Repeal the section, substitute:

Subdivision A—Offences and civil penalties**17 Processing raw logs***Fault-based offence*

- (1) A person commits an offence if:
- (a) the person processes a raw log into something other than a raw log; and
 - (b) the person is a constitutional corporation, or the person processes the raw log:
 - (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
 - (ii) on behalf of a constitutional corporation; or
 - (iii) for the purposes of supplying timber products to a constitutional corporation; or
 - (iv) on behalf of the Commonwealth or a Commonwealth authority; or
 - (v) for the purposes of supplying timber products to the Commonwealth or a Commonwealth authority; and
 - (c) the person does not comply with one or more due diligence requirements for processing the raw log; and
 - (d) the raw log is not of a kind prescribed as exempt by the rules for the purposes of this paragraph.

Penalty: 300 penalty units.

Strict liability offence

- (2) A person commits an offence of strict liability if:
- (a) the person processes a raw log into something other than a raw log; and
 - (b) the person is a constitutional corporation, or the person processes the raw log:
 - (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
 - (ii) on behalf of a constitutional corporation; or

- (iii) for the purposes of supplying timber products to a constitutional corporation; or
- (iv) on behalf of the Commonwealth or a Commonwealth authority; or
- (v) for the purposes of supplying timber products to the Commonwealth or a Commonwealth authority; and
- (c) the person does not comply with one or more due diligence requirements for processing the raw log; and
- (d) the raw log is not of a kind prescribed as exempt by the rules for the purposes of this paragraph.

Penalty: 60 penalty units.

Civil penalty provision

- (3) A person contravenes this subsection if:
 - (a) the person processes a raw log into something other than a raw log; and
 - (b) the person is a constitutional corporation, or the person processes the raw log:
 - (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
 - (ii) on behalf of a constitutional corporation; or
 - (iii) for the purposes of supplying timber products to a constitutional corporation; or
 - (iv) on behalf of the Commonwealth or a Commonwealth authority; or
 - (v) for the purposes of supplying timber products to the Commonwealth or a Commonwealth authority; and
 - (c) the person does not comply with one or more due diligence requirements for processing the raw log; and
 - (d) the raw log is not of a kind prescribed as exempt by the rules for the purposes of this paragraph.

Civil penalty: 100 penalty units.

Exception—imported raw logs

- (4) Subsections (1), (2) and (3) do not apply if the raw log was imported into Australia.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

Exception—other prescribed circumstances

- (5) Subsections (1), (2) and (3) do not apply in any other circumstances prescribed by the rules for the purposes of this subsection.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act.

Subdivision B—Due diligence requirements for processing raw logs

17A Due diligence requirement—due diligence system

- (1) A *due diligence requirement* for processing raw logs is that the person doing the processing has a due diligence system for processing raw logs.
- (2) A *due diligence system* for processing raw logs is a system that:
- (a) is in writing; and
 - (b) sets out the process by which the person will meet the due diligence requirements, covered by subsection 18(1), for processing raw logs; and
 - (c) includes the information prescribed by the rules for the purposes of this paragraph.

34 Section 18 (heading)

Repeal the heading, substitute:

18 Due diligence requirements—other requirements prescribed by rules

35 Subsection 18(1)

Repeal the subsection, substitute:

- (1) The rules may prescribe other *due diligence requirements* for processing raw logs.

36 Subsection 18(2)

Omit “The requirements must be prescribed only”, substitute “The other requirements prescribed by the rules for the purposes of subsection (1) must be”.

37 Subsection 18(3)

Omit “The requirements”, substitute “The other requirements prescribed by the rules for the purposes of subsection (1)”.

38 Paragraph 18(3)(d)

After “compliance”, insert “to the Secretary”.

39 Paragraph 18(3)(g)

Omit “Minister”, substitute “Secretary”.

40 Subsection 18(5)

Omit “regulations”, substitute “rules”.

41 Subsection 18(5)

After “due diligence requirements”, insert “, covered by subsection (1),”.

42 After Part 3

Insert:

Part 3A—Notice of regulated timber products to be unloaded in Australia or of processing of raw logs

Division 1—Introduction

18A Simplified outline of this Part

Notice must be given of:

- (a) a regulated timber product that is, or is intended to be, brought into Australia and unloaded at a landing place or port; or
- (b) the processing of a raw log into something other than a raw log.

Division 2—Notice of regulated timber products to be unloaded in Australia

18B Notice of regulated timber products to be unloaded in Australia

- (1) A notice must be given to the Secretary of a regulated timber product that is, or is intended to be:
- (a) brought into Australia; and
 - (b) unloaded at a landing place or port in Australia;
- other than a regulated timber product originating in Australia that leaves temporarily for the purpose of travelling between landing places or ports in Australia.

Note 1: A person may commit an offence or contravene a civil penalty provision if the person provides a false or misleading notice (see section 137.2 of the *Criminal Code* and section 84 of this Act).

Note 2: This section is not subject to the privilege against self-incrimination (see section 82).

- (2) The notice must be given by each person prescribed by the rules in relation to the regulated timber product.

- (3) Subsection (1) applies in relation to a regulated timber product that is, or is intended to be, brought into Australia on or after a day prescribed by the rules for the purposes of this subsection.
- (4) The notice must:
- (a) include the information in relation to the regulated timber product that is prescribed by the rules; and
 - (b) be given in the manner prescribed by the rules; and
 - (c) be given at a time, or during the period, prescribed by the rules (which may be before or after the regulated timber product is unloaded as referred to in subsection (1)); and
 - (d) be in the form approved in an instrument under subsection (5).
- (5) The Secretary may, by notifiable instrument, approve a form for the purposes of paragraph (4)(d).
- (6) The rules may prescribe exceptions to the requirement to give a notice under this section.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code* and section 96 of the *Regulatory Powers Act*.

Strict liability offence

- (7) A person commits an offence of strict liability if:
- (a) a regulated timber product is unloaded as referred to in subsection (1); and
 - (b) the person is required to give a notice under subsection (1) in relation to the regulated timber product; and
 - (c) the person does not give a notice in relation to the regulated timber product in accordance with this section; and
 - (d) no other person gives a notice in relation to the regulated timber product in accordance with this section.

Penalty: 60 penalty units.

Civil penalty provision

- (8) A person contravenes this subsection if:
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- (a) a regulated timber product is unloaded as referred to in subsection (1); and
- (b) the person is required to give a notice under subsection (1) in relation to the regulated timber product; and
- (c) the person does not give a notice in relation to the regulated timber product in accordance with this section; and
- (d) no other person gives a notice in relation to the regulated timber product in accordance with this section.

Civil penalty: 100 penalty units.

Application to persons within and outside Australia

- (9) Subsections (7) and (8) apply whether or not the person is in Australia when the notice is required to be given or when the regulated timber product is unloaded.

Geographic jurisdiction

- (10) Section 15.2 of the *Criminal Code* (Extended geographical jurisdiction—category B) applies to an offence against subsection (7).

Division 3—Notice of the processing of a raw log into something other than a raw log

18C Notice of the processing of a raw log into something other than a raw log

- (1) A person who processes a raw log into something other than a raw log must give notice of the processing to the Secretary if:
 - (a) the person is a constitutional corporation; or
 - (b) the person processes the raw log:
 - (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
 - (ii) on behalf of a constitutional corporation; or
 - (iii) for the purposes of supplying timber products to a constitutional corporation; or

- (iv) on behalf of the Commonwealth or a Commonwealth authority; or
- (v) for the purposes of supplying timber products to the Commonwealth or a Commonwealth authority.

Note 1: A person may commit an offence or contravene a civil penalty provision if the person provides a false or misleading notice (see section 137.2 of the *Criminal Code* and section 84 of this Act).

Note 2: This section is not subject to the privilege against self-incrimination (see section 82).

- (2) Subsection (1) applies in relation to a raw log that is processed into something other than a raw log on or after a day prescribed by the rules for the purposes of this subsection.
- (3) The notice must:
 - (a) include the information in relation to the raw log or processing that is prescribed by the rules; and
 - (b) be given in the manner prescribed by the rules; and
 - (c) be given before the end of the following period after the raw log is processed into something other than a raw log:
 - (i) 1 month, unless subparagraph (ii) applies;
 - (ii) if the rules prescribe a longer period for the purposes of this subparagraph—that longer period; and
 - (d) be in the form approved in an instrument under subsection (4).
- (4) The Secretary may, by notifiable instrument, approve a form for the purposes of paragraph (3)(d).
- (5) The rules may prescribe exceptions to the requirement to give a notice under this section.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code* and section 96 of the *Regulatory Powers Act*.

Strict liability offence

- (6) A person commits an offence of strict liability if:
 - (a) the person is required to give a notice under subsection (1); and

-
- (b) the person does not give the notice in accordance with this section.

Penalty: 60 penalty units.

Civil penalty provision

- (7) A person contravenes this subsection if:
 - (a) the person is required to give a notice under subsection (1); and
 - (b) the person does not give the notice in accordance with this section.

Civil penalty: 100 penalty units.

Part 3B—Information gathering powers

Division 1—Introduction

18D Simplified outline of this Part

The Secretary may require, from a person who has imported a regulated timber product or a person who has processed a raw log into something other than a raw log, information or documents relevant to the person's due diligence system or the due diligence requirements.

Division 2—Importers

18E Requirement to give information or documents to Secretary—importers

Secretary may request information or documents

- (1) The Secretary may, by written notice given to a person who has imported a regulated timber product, require the person to give to the Secretary any information, or produce to the Secretary any documents, specified in the notice that are relevant to:

- (a) the person's due diligence system in place at the time the person imported the regulated timber product; or
- (b) the person's compliance with the due diligence requirements for importing regulated timber products.

Note 1: A person may commit an offence or contravene a civil penalty provision if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code* and section 84 of this Act).

Note 2: This section is not subject to the privilege against self-incrimination (see section 82).

- (2) The notice must specify a reasonable period within which the person must comply with the notice. The period must be at least 28 days starting on the day on which the notice is given.
- (3) The notice must set out the effect of the following:
 - (a) subsections (4) and (5) (about an offence or civil penalty for failing to comply with the notice);
 - (b) subsections 84(5) and (7) (about a civil penalty for giving false or misleading information or documents);
 - (c) section 137.1 of the *Criminal Code* (about giving false or misleading information);
 - (d) section 137.2 of the *Criminal Code* (about producing false or misleading documents).

Strict liability offence

- (4) A person commits an offence of strict liability if:
 - (a) the person is given a notice under subsection (1); and
 - (b) the person fails to comply with the notice.

Penalty: 30 penalty units.

Civil penalty provision

- (5) A person contravenes this subsection if:
 - (a) the person is given a notice under subsection (1); and
 - (b) the person fails to comply with the notice.

Civil penalty: 100 penalty units.

Division 3—Processors

18F Requirement to give information or documents to Secretary—processors

Secretary may request information or documents

- (1) The Secretary may, by written notice given to a person who is covered by subsection (4) and has processed a raw log into something other than a raw log, require the person to give to the Secretary any information, or produce to the Secretary any documents, specified in the notice that are relevant to:
 - (a) the person's due diligence system in place at the time the person processed the raw log; or
 - (b) the person's compliance with the due diligence requirements for processing raw logs.

Note 1: A person may commit an offence or contravene a civil penalty provision if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code* and section 84 of this Act).

Note 2: This section is not subject to the privilege against self-incrimination (see section 82).
- (2) The notice must specify a reasonable period within which the person must comply with the notice. The period must be at least 28 days starting on the day on which the notice is given.
- (3) The notice must set out the effect of the following:
 - (a) subsections (5) and (6) (about an offence or civil penalty for failing to comply with the notice);
 - (b) subsections 84(5) and (7) (about a civil penalty for giving false or misleading information or documents);
 - (c) section 137.1 of the *Criminal Code* (about giving false or misleading information);
 - (d) section 137.2 of the *Criminal Code* (about producing false or misleading documents).
- (4) A person is covered by this subsection if:
 - (a) the person is a constitutional corporation; or
 - (b) the person processed the raw log:

- (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
- (ii) on behalf of a constitutional corporation; or
- (iii) for the purposes of supplying timber products to a constitutional corporation; or
- (iv) on behalf of the Commonwealth or a Commonwealth authority; or
- (v) for the purposes of supplying timber products to the Commonwealth or a Commonwealth authority.

Strict liability offence

- (5) A person commits an offence of strict liability if:
- (a) the person is given a notice under subsection (1); and
 - (b) the person fails to comply with the notice.

Penalty: 30 penalty units.

Civil penalty provision

- (6) A person contravenes this subsection if:
- (a) the person is given a notice under subsection (1); and
 - (b) the person fails to comply with the notice.

Civil penalty: 100 penalty units.

43 Before Division 1 of Part 4

Insert:

Division 1A—Introduction

18G Simplified outline of this Part

The Regulatory Powers Act is triggered to allow a range of enforcement actions in relation to this Act.

The Secretary may appoint persons as inspectors for the purposes of those persons exercising powers under the Regulatory Powers Act.

Inspectors are permitted to enter premises under a monitoring warrant or with consent of the occupier and to exercise monitoring powers under the Regulatory Powers Act for the purposes of determining:

- (a) whether this Act has been, or is being, complied with; or
- (b) whether information given in compliance or purported compliance with this Act is correct.

Inspectors are permitted to enter premises under an investigation warrant or with consent of the occupier and to exercise investigation powers under the Regulatory Powers Act for the purposes of gathering material relating to contraventions of offences against this Act, certain offences that relate to this Act or civil penalty provisions of this Act.

A relevant court can order the payment of a civil penalty for a contravention of a civil penalty provision of this Act.

Infringement notices can be issued for alleged contraventions of strict liability offences against this Act or civil penalty provisions of this Act.

Undertakings to comply with this Act may be accepted and enforced under the Regulatory Powers Act. If a person gives an undertaking, the undertaking may be enforced in a relevant court.

A relevant court can grant an injunction restraining a person from contravening provisions of this Act or requiring a person to comply with provisions of this Act.

Inspectors have powers in relation to regulated timber products that are subject to biosecurity control or customs control.

The Secretary may require an audit to be carried out in relation to whether:

- (a) a person who imports a regulated timber product has complied with the due diligence requirements for importing the regulated timber product; or
- (b) a person who processes a raw log into something other than a raw log has complied with the due diligence requirements for processing the raw log.

44 Subsection 21(4)

After “inspector”, insert “or an auditor”.

45 Subsection 21(11)

Repeal the subsection, substitute:

- (11) The additional monitoring power is the power to take, test and analyse samples of any regulated timber product on premises entered under Part 2 of the Regulatory Powers Act in relation to the provisions mentioned in subsection (1) or the information mentioned in subsection (2).

46 Subsection 22(10)

Repeal the subsection, substitute:

- (10) The additional investigation power is the power to take, test and analyse samples of any regulated timber product on premises entered under Part 3 of the Regulatory Powers Act in relation to evidential material that relates to a provision mentioned in subsection (1).

47 Paragraph 24(1)(b)

Omit “Act;”, substitute “Act.”.

48 Paragraph 24(1)(c)

Repeal the paragraph.

49 After subsection 24(5)

Insert:

Time limit for giving an infringement notice

- (5A) Despite subsection 103(2) of the Regulatory Powers Act, an infringement notice must be given within 24 months of the alleged contravention of a provision mentioned in subsection (1) of this section.

50 At the end of Part 4

Add:

Division 6—Enforceable undertakings

25 Enforceable undertakings

Enforceable provisions

- (1) The provisions of this Act are enforceable under Part 6 of the Regulatory Powers Act.

Note: Part 6 of the Regulatory Powers Act creates a framework for accepting and enforcing undertakings relating to compliance with provisions.

Authorised person

- (2) For the purposes of Part 6 of the Regulatory Powers Act, the Secretary is an authorised person in relation to the provisions mentioned in subsection (1).
- (3) The Secretary may, in writing, delegate to an SES employee, or acting SES employee, in the Department the Secretary's powers and functions under Part 6 of the Regulatory Powers Act in relation to the provisions mentioned in subsection (1).

Relevant court

- (4) For the purposes of Part 6 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions mentioned in subsection (1):
- (a) the Federal Court of Australia;
 - (b) the Federal Circuit and Family Court of Australia (Division 2).

No extension to external Territories

- (5) Part 6 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), does not extend to the external Territories.

Division 7—Injunctions

26 Injunctions

Enforceable provisions

- (1) The provisions of this Act are enforceable under Part 7 of the Regulatory Powers Act.

Note: Part 7 of the Regulatory Powers Act creates a framework for using injunctions to enforce provisions.

Authorised person

- (2) For the purposes of Part 7 of the Regulatory Powers Act, the Secretary is an authorised person in relation to the provisions mentioned in subsection (1).
- (3) The Secretary may, in writing, delegate to an SES employee, or acting SES employee, in the Department the Secretary's powers and functions under Part 7 of the Regulatory Powers Act in relation to the provisions mentioned in subsection (1).

Relevant court

- (4) For the purposes of Part 7 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions mentioned in subsection (1):
- (a) the Federal Court of Australia;
 - (b) the Federal Circuit and Family Court of Australia (Division 2).

No extension to external Territories

- (5) Part 7 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), does not extend to the external Territories.
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Division 8—Regulated timber products subject to biosecurity control or customs control

27 Regulated timber products subject to biosecurity control or customs control

- (1) For the purpose of monitoring compliance with the provisions of Part 2, an inspector may do the things covered by subsection (2) in relation to a regulated timber product that is subject to biosecurity control under section 119 of the *Biosecurity Act 2015*, or customs control under section 30 or 31 of the *Customs Act 1901*, in order to determine the following:
 - (a) the common name, genus or scientific name of the tree from which the timber, or the timber in the product, is derived;
 - (b) the country, the region of the country or the forest harvesting unit in which the timber, or the timber in the product, was harvested.
- (2) The things covered by this subsection are the following:
 - (a) enter any premises at which the regulated timber product is located;
 - (b) inspect or examine the regulated timber product;
 - (c) conduct tests on the regulated timber product;
 - (d) take, test and analyse samples of the regulated timber product.

Division 9—Audits

28 Secretary may require audits to be carried out

Carrying out audits—importers

- (1) The Secretary may require an audit to be carried out in relation to whether a person who imports a regulated timber product has complied with the due diligence requirements for importing the regulated timber product.

Carrying out audits—processors

- (2) The Secretary may require an audit to be carried out in relation to whether a person covered by subsection (3) who processes a raw log into something other than a raw log has complied with the due diligence requirements for processing the raw log.
- (3) A person is covered by this subsection if:
 - (a) the person is a constitutional corporation; or
 - (b) the person processes the raw log:
 - (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
 - (ii) on behalf of a constitutional corporation; or
 - (iii) for the purposes of supplying timber products to a constitutional corporation; or
 - (iv) on behalf of the Commonwealth or a Commonwealth authority; or
 - (v) for the purposes of supplying timber products to the Commonwealth or a Commonwealth authority.

Single audit or program of audits may be required

- (4) The Secretary may require a single audit, or a program of audits, to be conducted.

29 Who can carry out an audit?

- (1) Any audit under this Division must be carried out by:
 - (a) a person approved under subsection (2); or
 - (b) a person included in a class of persons approved under subsection (3).

Instrument for a person

- (2) The Secretary may, in writing, approve a person for the purposes of paragraph (1)(a). The Secretary must not do so unless the Secretary is satisfied that the person is appropriately qualified and experienced.

Instrument for class of persons

- (3) The Secretary may, in writing, approve a class of persons for the purposes of paragraph (1)(b). The Secretary must not do so unless the Secretary is satisfied that persons of that class are appropriately qualified and experienced.

Approvals are not legislative instruments

- (4) An approval under subsection (2) or (3) is not a legislative instrument.

30 Rules may specify requirements

- (1) The rules may specify requirements in relation to carrying out an audit under this Division.
- (2) Without limiting subsection (1), the rules may specify requirements relating to an auditor providing the Secretary with a copy of the audit report.

31 Conduct of audit

Notice of scope of audit

- (1) Before an auditor starts to conduct an audit, the auditor must give the person being audited a notice in writing describing the scope of the audit.

Requirement to answer questions, give information or produce documents

- (2) In carrying out an audit under this Division, the auditor may require any person to answer questions, give information in writing or produce documents that the auditor is satisfied are relevant to the audit.

Note 1: A person may commit an offence if the person provides false or misleading information or documents (see sections 137.1 and 137.2 of the *Criminal Code*).

Note 2: This section is not subject to the privilege against self-incrimination (see section 82).

Offence

- (3) A person commits an offence if:
- (a) the person is required under subsection (2) to answer a question, give information in writing or produce a document; and
 - (b) the person fails to comply with the requirement.

Penalty: Imprisonment for 6 months or 30 penalty units, or both.

Civil penalty provision

- (4) A person contravenes this subsection if:
- (a) the person is required under subsection (2) to answer a question, give information in writing or produce a document; and
 - (b) the person fails to comply with the requirement.

Civil penalty: 30 penalty units.

Other powers

- (5) The auditor may do the following:
- (a) examine information given under subsection (2) or a document produced under subsection (2);
 - (b) make copies of the information or document.

32 Requirement to provide all reasonable facilities and assistance

- (1) An auditor who is carrying out an audit may require the person being audited to provide the auditor with all reasonable facilities and assistance for the conduct of the audit.

Offence

- (2) A person commits an offence if:
- (a) the person is required to provide facilities and assistance under subsection (1); and
 - (b) the person fails to comply with the requirement.

Penalty: Imprisonment for 6 months or 30 penalty units, or both.

Civil penalty provision

- (3) A person contravenes this subsection if:
- (a) the person is required to provide facilities and assistance under subsection (1); and
 - (b) the person fails to comply with the requirement.

Civil penalty: 30 penalty units.

51 After Part 4

Insert:

Part 4A—Information management

33 Simplified outline of this Part

Entrusted persons can use or disclose information (referred to as relevant information) in accordance with this Part.

Note: Each provision in this Part provides an authorisation for the purposes of the *Privacy Act 1988* and other laws.

34 Use or disclosure for the purposes of this Act

An entrusted person may use or disclose relevant information in the course of or for the purposes of:

- (a) administering this Act or the rules or monitoring compliance with this Act or the rules; or
- (b) assisting another person to administer this Act or the rules or monitor compliance with this Act or the rules.

35 Use or disclosure for the purposes of other Acts

An entrusted person may use or disclose relevant information if the use or disclosure is for the purposes of the administration of an Act (other than this Act) that is administered by the Minister.

36 Disclosure to foreign governments etc. for export, trade and other purposes

An entrusted person may disclose relevant information to a foreign government, an authority or agency of a foreign government or an international body of an intergovernmental character, for the purposes of:

- (a) matters relating to illegally logged timber or to promoting trade in timber that is not illegally logged; or
- (b) managing Australia's international relations in respect of trade; or
- (c) giving effect to Australia's international obligations.

37 Disclosure to a Commonwealth entity

An entrusted person may disclose relevant information to a Commonwealth entity if the disclosure is for the purposes of assisting the entity to perform its functions or duties or exercise its powers.

38 Disclosure to State or Territory body

The Secretary may disclose relevant information to a State or Territory body if:

- (a) the Secretary reasonably believes that disclosing the information is necessary for the purposes of the administration of a law of a State or Territory; and
- (b) the State or Territory body has undertaken not to use or further disclose the information except in accordance with an agreement that:
 - (i) is in force between the Commonwealth and the State or Territory; and
 - (ii) applies in relation to the information; and
- (c) the Secretary is satisfied that the information will be used or further disclosed only in accordance with the agreement.

39 Disclosure for the purposes of law enforcement

- (1) An entrusted person may disclose relevant information to a body mentioned in subsection (2) if:
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- (a) the entrusted person reasonably believes that disclosing the information is necessary for:
 - (i) the enforcement of the criminal law; or
 - (ii) the enforcement of a law imposing a pecuniary penalty; or
 - (iii) the protection of public revenue; and
 - (b) the functions of the body include that enforcement or protection; and
 - (c) for a body mentioned in paragraph (2)(b) or (d)—the body has undertaken not to use or further disclose the information except in accordance with an agreement that:
 - (i) is in force between the Commonwealth and the State or Territory; and
 - (ii) applies in relation to the information; and
 - (d) for a body mentioned in paragraph (2)(b) or (d)—the entrusted person is satisfied that the information will be used or further disclosed only in accordance with the agreement.
- (2) The bodies are the following:
- (a) a Commonwealth entity;
 - (b) a State or Territory body;
 - (c) the Australian Federal Police;
 - (d) the police force or police service of a State or Territory.

40 Disclosure to a court, tribunal etc.

- (1) An entrusted person may disclose relevant information to a court exercising federal jurisdiction.
- (2) An entrusted person may disclose relevant information to:
 - (a) a court; or
 - (b) a tribunal, authority or person that has the power to require the answering of questions or the production of documents; for the purposes of the enforcement of a law of the Commonwealth or to assist the court, tribunal, authority or person to make or review an administrative decision that is required or authorised to be made or reviewed under a law of the Commonwealth.

41 Use or disclosure for research, policy development or data analysis

- (1) An entrusted person may:
 - (a) use relevant information; or
 - (b) disclose relevant information to an entrusted person; or
 - (c) disclose relevant information to another person or body;for the purposes of the person or body undertaking research, policy development or data analysis to assist the Department with the administration of this Act or the rules.
- (2) An entrusted person is not authorised under paragraph (1)(c) to disclose relevant information to:
 - (a) another person who is not employed or engaged by the Commonwealth or a body corporate that is established by a law of the Commonwealth; or
 - (b) a body that is not a Commonwealth entity;unless:
 - (c) the other person or body has undertaken not to use or further disclose the information except in accordance with an agreement that:
 - (i) is in force between the Commonwealth and that person or body; and
 - (ii) applies in relation to the information; and
 - (d) the entrusted person is satisfied that the information will be used or further disclosed only in accordance with the agreement.
- (3) An entrusted person is not authorised under paragraph (1)(c) to disclose relevant information unless the entrusted person is satisfied that:
 - (a) in the case of research, policy development or data analysis that could not proceed if personal information were de-identified before the relevant information is disclosed—only the minimum amount of personal information necessary to proceed is disclosed; or
 - (b) otherwise—all reasonable steps have been taken to de-identify any personal information before the relevant information is disclosed.

42 Use or disclosure of statistics

An entrusted person may use or disclose relevant information if the information is statistics that are not likely to enable the identification of a person.

43 Use or disclosure of publicly available information

An entrusted person may use or disclose relevant information if the information has already been lawfully made available to the public.

44 Disclosure to person to whom information relates

An entrusted person may disclose relevant information to the person to whom the information relates.

45 Use or disclosure with consent

An entrusted person may use or disclose relevant information that relates to a person if:

- (a) the person has consented to the use or disclosure; and
- (b) the use or disclosure is in accordance with that consent.

46 Disclosure to person who provided information

An entrusted person may disclose relevant information to the person who provided the information.

47 Use or disclosure to manage severe and immediate threats

The Secretary may use or disclose relevant information if the Secretary reasonably believes that:

- (a) using or disclosing the information is necessary to manage a severe and immediate threat to human health, animal health, plant health or the environment; and
- (b) the threat:
 - (i) arises in connection with the import of goods into Australia; or
 - (ii) has the potential to cause harm on a nationally significant scale.

48 Use or disclosure authorised by rules

- (1) A person may use relevant information if:
 - (a) the person is included in a class of persons prescribed by rules made for the purposes of this paragraph; and
 - (b) the use is for a purpose prescribed by rules made for the purposes of this paragraph; and
 - (c) the information is of a kind prescribed by rules made for the purposes of this paragraph; and
 - (d) the use complies with any conditions prescribed by rules made for the purposes of this paragraph.
- (2) A person may disclose relevant information if:
 - (a) the person is included in a class of persons prescribed by rules made for the purposes of this paragraph; and
 - (b) the disclosure is for a purpose prescribed by rules made for the purposes of this paragraph; and
 - (c) the information is of a kind prescribed by rules made for the purposes of this paragraph; and
 - (d) the disclosure complies with any conditions prescribed by rules made for the purposes of this paragraph.
- (3) Rules made for the purposes of this section must specify the legislative power or powers of the Parliament in respect of which the rules are made.
- (4) The other provisions of this Part do not limit the rules that may be made for the purposes of this section.

52 Before section 83

Insert:

81 Simplified outline of this Part

This Part deals with the privilege against self-incrimination, reports about the operation of this Act, civil penalties for false or misleading information or documents, publishing details of contraventions of this Act, delegation by the Secretary and the Minister's power to make rules.

82 Privilege against self-incrimination etc.

- (1) An individual is not excused from making a declaration under section 13, giving a notice under section 18B or 18C, giving information or producing a document under section 18E, 18F or 31 or answering a question under section 31 on the ground that making the declaration, giving the notice or information, producing the document or answering the question might tend to incriminate the individual in relation to an offence.

Note: A body corporate is not entitled to claim the privilege against self-incrimination.

- (2) However:
- (a) the declaration made, notice or information given, document produced or answer given; and
 - (b) the making of the declaration, the giving of the notice or information, the production of the document or the answering of the question; and
 - (c) any information, document or thing obtained as a direct or indirect consequence of the making of the declaration, the giving of the notice or information, the production of the document or the answering of the question;
- are not admissible in evidence against the individual in criminal proceedings, other than:
- (d) proceedings for an offence against section 13, 18B, 18C, 18E, 18F or 31; or
 - (e) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act or the rules.
- (3) If, at general law, an individual would otherwise be able to claim the privilege against self-exposure to a penalty (other than a penalty for an offence) in relation to:
- (a) making a declaration under section 13; or
 - (b) giving a notice under section 18B or 18C; or
 - (c) giving information or producing a document under section 18E, 18F or 31; or
 - (d) answering a question under section 31;

the individual is not excused from making the declaration, giving the notice or information, producing the document or answering the question on that ground.

Note: A body corporate is not entitled to claim the privilege against self-exposure to a penalty.

52A After section 83

Insert:

83A Review of the operation of this Act

- (1) The Minister must cause an independent review to be conducted of the operation of this Act during the 5-year period starting on the commencement of the *Illegal Logging Prohibition Amendment (Strengthening Measures to Prevent Illegal Timber Trade) Act 2024*.
- (2) The persons conducting the review must give the Minister a written report of the review within 9 months after the end of the 5-year period.
- (3) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.

53 Section 84

Repeal the section, substitute:

84 Civil penalty provisions for false or misleading information or documents

Customs declarations

- (1) A person contravenes this subsection if:
 - (a) the person makes a declaration under section 13; and
 - (b) the person does so knowing that the declaration is false or misleading.

Civil penalty: 60 penalty units.

- (2) Subsection (1) does not apply if the declaration is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Notice of regulated timber products to be unloaded in Australia or of processing of raw logs

- (3) A person contravenes this subsection if:
- (a) the person gives a notice under section 18B or 18C; and
 - (b) the person does so knowing that the notice is false or misleading.

Civil penalty: 60 penalty units.

- (4) Subsection (3) does not apply if the notice is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Other documents

- (5) A person contravenes this subsection if:
- (a) the person produces a document to the Secretary in compliance or purported compliance with a requirement under subsection 18E(1) or 18F(1); and
 - (b) the person does so knowing that the document is false or misleading.

Civil penalty: 60 penalty units.

- (6) Subsection (5) does not apply if the document is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Information

- (7) A person contravenes this subsection if:
- (a) the person gives information to the Secretary in compliance or purported compliance with a requirement under subsection 18E(1) or 18F(1); and

- (b) the person does so knowing that the information:
 - (i) is false or misleading; or
 - (ii) omits any matter or thing without which the information is misleading.

Civil penalty: 60 penalty units.

- (8) Subsection (7) does not apply as a result of subparagraph (7)(b)(i) if the information is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

- (9) Subsection (7) does not apply as a result of subparagraph (7)(b)(ii) if the information did not omit any matter or thing without which the information is misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

84A Publishing details of contraventions of this Act

Criminal convictions

- (1) The Secretary may publish on the Department's website the following information:
 - (a) the name of a person who has been convicted of an offence against subsection 8(1) or (2), 9(1) or (3), 12(1) or (2), 13(1) or (2), 15(1) or (2) or 17(1) or (2);
 - (b) for an offence against subsection 8(1) or (2) or 9(1) or (3):
 - (i) a description of the thing imported and of the illegally logged timber; and
 - (ii) the name of the country whose laws have been contravened;
 - (c) for an offence against subsection 12(1) or (2):
 - (i) a description of the regulated timber product; and
 - (ii) details of the due diligence requirements that were not complied with;
 - (d) for an offence against subsection 13(1) or (2)—a description of the regulated timber product;
 - (e) for an offence against subsection 15(1) or (2)—a description of the raw log that was processed;

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- (f) for an offence against subsection 17(1) or (2):
 - (i) a description of the raw log that was processed; and
 - (ii) details of the due diligence requirements that were not complied with;
 - (g) such other details relating to the offence as the Secretary considers appropriate.
- (2) A reference in subsection (1) to a person who has been convicted of an offence includes a reference to a person in respect of whom an order has been made under section 19B of the *Crimes Act 1914* in relation to the offence.

Civil penalty orders

- (3) The Secretary may publish on the Department's website the following information:
- (a) the name of a person who has been the subject of a civil penalty order under section 82 of the Regulatory Powers Act in relation to a contravention of subsection 8(3), 9(4), 12(3), 13(3), 15(3) or 17(3) of this Act;
 - (b) for a contravention of subsection 8(3) or 9(4):
 - (i) a description of the thing imported and of the illegally logged timber; and
 - (ii) the name of the country whose laws have been contravened;
 - (c) for a contravention of subsection 12(3):
 - (i) a description of the regulated timber product; and
 - (ii) details of the due diligence requirements that were not complied with;
 - (d) for a contravention of subsection 13(3)—a description of the regulated timber product;
 - (e) for a contravention of subsection 15(3)—a description of the raw log that was processed;
 - (f) for a contravention of subsection 17(3):
 - (i) a description of the raw log that was processed; and
 - (ii) details of the due diligence requirements that were not complied with;
 - (g) such other details relating to the order as the Secretary considers appropriate.

Enforceable undertaking orders

- (4) The Secretary may publish on the Department's website the following information:
 - (a) the name of a person who has been the subject of an order under subsection 115(2) of the Regulatory Powers Act, to the extent that Act relates to subsection 8(1), (2) or (3), 9(1), (3) or (4), 12(1), (2) or (3), 13(1), (2) or (3), 15(1), (2) or (3) or 17(1), (2) or (3) of this Act;
 - (b) a description of the undertaking given by the person;
 - (c) a description of the nature of the breach of the undertaking by the person;
 - (d) such other details relating to the order as the Secretary considers appropriate.

54 After section 85

Insert:

85A Treatment of partnerships

- (1) This Act and the rules apply to a partnership as if it were a person, but with the changes set out in this section.
- (2) An obligation that would otherwise be imposed on the partnership by this Act or the rules is imposed on each partner instead, but may be discharged by any of the partners.
- (3) If this Act or the rules would otherwise permit something to be done by the partnership, the thing may be done by one or more of the partners on behalf of the partnership.
- (4) An offence against this Act that would otherwise have been committed by the partnership is taken to have been committed by each partner in the partnership, at the time the offence was committed, who:
 - (a) did the relevant act or made the relevant omission; or
 - (b) aided, abetted, counselled or procured the relevant act or omission; or

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- (c) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the partner).
- (5) A civil penalty provision of this Act that would otherwise have been contravened by the partnership is taken to have been contravened by each partner in the partnership, at the time the provision was contravened, who:
- (a) did the relevant act or made the relevant omission; or
 - (b) aided, abetted, counselled or procured the relevant act or omission; or
 - (c) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the partner).
- (6) For the purposes of this Act and the rules, a change in the composition of a partnership does not affect the continuity of the partnership.

85B Treatment of trusts

- (1) This Act and the rules apply to a trust as if it were a person, but with the changes set out in this section.

Trusts with a single trustee

- (2) If the trust has a single trustee:
- (a) an obligation that would otherwise be imposed on the trust by this Act or the rules is imposed on the trustee instead; and
 - (b) if this Act or the rules would otherwise permit something to be done by the trust, the thing may be done by the trustee; and
 - (c) an offence against this Act that would otherwise have been committed by the trust is taken to have been committed by the trustee; and
 - (d) a civil penalty provision of this Act that would otherwise have been contravened by the trust is taken to have been contravened by the trustee.

Trusts with multiple trustees

- (3) If the trust has 2 or more trustees:
- (a) an obligation that would otherwise be imposed on the trust by this Act or the rules is imposed on each trustee instead, but may be discharged by any of the trustees; and
 - (b) if this Act or the rules would otherwise permit something to be done by the trust, the thing may be done by one or more of the trustees on behalf of the trust; and
 - (c) an offence against this Act that would otherwise have been committed by the trust is taken to have been committed by each trustee of the trust, at the time the offence was committed, who:
 - (i) did the relevant act or made the relevant omission; or
 - (ii) aided, abetted, counselled or procured the relevant act or omission; or
 - (iii) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the trustee); and
 - (d) a civil penalty provision of this Act that would otherwise have been contravened by the trust is taken to have been contravened by each trustee of the trust, at the time the provision was contravened, who:
 - (i) did the relevant act or made the relevant omission; or
 - (ii) aided, abetted, counselled or procured the relevant act or omission; or
 - (iii) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the trustee).

85C Treatment of unincorporated bodies or associations

- (1) This Act and the rules apply to an unincorporated body or association as if it were a person, but with the changes set out in this section.
 - (2) An obligation that would otherwise be imposed on the body or association by this Act or the rules is imposed on each member of the body's or association's committee of management instead, but may be discharged by any of the members.
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- (3) If this Act or the rules would otherwise permit something to be done by the body or association, the thing may be done by one or more of the members of the body's or association's committee of management on behalf of the body or association.
- (4) An offence against this Act that would otherwise have been committed by the body or association is taken to have been committed by each member of the body's or association's committee of management, at the time the offence was committed, who:
- (a) did the relevant act or made the relevant omission; or
 - (b) aided, abetted, counselled or procured the relevant act or omission; or
 - (c) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the member).
- (5) A civil penalty provision of this Act that would otherwise have been contravened by the body or association is taken to have been contravened by each member of the committee of management of the body or association, at the time the provision was contravened, who:
- (a) did the relevant act or made the relevant omission; or
 - (b) aided, abetted, counselled or procured the relevant act or omission; or
 - (c) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the member).

85D Protection from civil proceedings

- (1) No civil proceeding lies against the Commonwealth or a protected person in relation to anything done, or omitted to be done, in good faith by a protected person in the performance or purported performance of a function, or the exercise or purported exercise of a power, conferred by this Act or the rules.
- (2) **Protected person** means a person who is, or was, any of the following:
- (a) the Minister;

- (b) the Secretary;
- (c) an APS employee in the Department;
- (d) an inspector;
- (e) an auditor.

55 Section 86

Repeal the section, substitute:

86 Rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters:
 - (a) required or permitted by this Act to be prescribed by the rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Incorporation of other instruments

- (2) Despite subsection 14(2) of the *Legislation Act 2003*, the rules may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

Exception

- (3) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.

56 Application provisions—offences and civil penalties

- (1) The repeal and substitution of sections 8, 9, 12 and 13 of the *Illegal Logging Prohibition Act 2012*, and the amendments of sections 10 and 11 of that Act, made by this Schedule apply in relation to a thing that is imported on or after the commencement of this item.
- (2) The repeal and substitution of sections 15 and 17 of the *Illegal Logging Prohibition Act 2012*, and the amendments of section 16 of that Act, made by this Schedule apply in relation to a raw log that is processed into something other than a raw log on or after the commencement of this item.

57 Application provisions—enforcement

Infringement notices

- (1) Subsection 24(5A) of the *Illegal Logging Prohibition Act 2012*, as inserted by this Schedule, applies in relation to an infringement notice issued on or after the commencement of this item, where the contravention of a provision of that Act is alleged to have taken place on or after that commencement.

Enforceable undertakings

- (2) Part 6 of the *Regulatory Powers (Standard Provisions) Act 2014*, as that Part applies under Division 6 of Part 4 of the *Illegal Logging Prohibition Act 2012*, applies in relation to undertakings given on or after the commencement of this item.

Injunctions

- (3) Part 7 of the *Regulatory Powers (Standard Provisions) Act 2014*, as that Part applies under Division 7 of Part 4 of the *Illegal Logging Prohibition Act 2012*, applies in relation to contraventions occurring on or after the commencement of this item.

Regulated timber products subject to biosecurity control or customs control

- (4) Section 27 of the *Illegal Logging Prohibition Act 2012*, as added by this Schedule, applies in relation to regulated timber products that become subject to biosecurity control under section 119 of the *Biosecurity Act*
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2015, or customs control under section 30 or 31 of the *Customs Act 1901*, on or after the commencement of this item.

58 Application provisions—information gathering and audits

- (1) Section 18E of the *Illegal Logging Prohibition Act 2012*, as inserted by this Schedule, applies in relation to a notice given under that section on or after the commencement of this item, whether the regulated timber product mentioned in that section was imported before, on or after that commencement.
- (2) Section 18F of the *Illegal Logging Prohibition Act 2012*, as inserted by this Schedule, applies in relation to a notice given under that section on or after the commencement of this item, whether the raw log mentioned in that section was processed before, on or after that commencement.
- (3) Subsection 28(1) of the *Illegal Logging Prohibition Act 2012*, as added by this Schedule, applies in relation to a regulated timber product that is imported on or after that commencement.
- (4) Subsection 28(2) of the *Illegal Logging Prohibition Act 2012*, as added by this Schedule, applies in relation to a raw log that is processed on or after that commencement.

59 Application provision—information management

Part 4A of the *Illegal Logging Prohibition Act 2012*, as inserted by this Schedule, applies in relation to the use or disclosure of relevant information on or after the commencement of this item, whether the relevant information is obtained or generated before, on or after that commencement.

60 Application provision—civil penalty provisions for false or misleading information or documents

Subsection 84(1) of the *Illegal Logging Prohibition Act 2012*, as substituted by this Schedule, applies in relation to a declaration made on or after the commencement of this item.

61 Application provisions—publishing details of contraventions of this Act

- (1) Subsection 84A(1) of the *Illegal Logging Prohibition Act 2012*, as substituted by this Schedule, applies in relation to a conviction occurring on or after the commencement of this item.
- (2) Subsections 84A(2), (3) and (4) of the *Illegal Logging Prohibition Act 2012*, as substituted by this Schedule, apply in relation to an order made on or after the commencement of this item.

62 Application provision—protection from civil proceedings

Section 85D of the *Illegal Logging Prohibition Act 2012*, as inserted by this Schedule, applies in relation to anything done, or omitted to be done, on or after the commencement of this item.

[Minister's second reading speech made in—
House of Representatives on 27 March 2024
Senate on 26 June 2024]

(40/24)
