



Statutory Rules 1996 No. *1*



*206*

## Export Control (Hardwood Wood Chips) (1996) Regulations

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Statutory Rules 1996 No. *L*<sup>1</sup>

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## Export Control (Hardwood Wood Chips) (1996) Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia,  
acting with the advice of the Federal Executive Council, make the  
following Regulations under the *Export Control Act 1982*.

Dated

*L*

1996.

*18 September/*

*L* WILLIAM DEANE/  
Governor-General

By His Excellency's Command,

*L*

JOHN ANDERSON/  
Minister for Primary Industries and Energy

Minister for Primary Industries and Energy

## **PART 1—PRELIMINARY**

### **Citation**

1. These Regulations may be cited as the *Export Control (Hardwood Wood Chips) (1996) Regulations*.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

### **Purpose of these Regulations**

2. The purpose of these Regulations is to provide a system for the granting of licences to export hardwood wood chips that:

- (a) ensures that, from 1 January 2000, hardwood wood chips that are derived from native hardwood forests are permitted to be exported only if they are derived from a region to which a Regional Forest Agreement applies; and
- (b) ensures that, until 1 January 2000, the volume of exports (other than exports under a degraded forest licence or restricted shipment licence) of hardwood wood chips derived from native hardwood forests in regions to which a Regional Forest Agreement does not apply is subject to a national ceiling; and
- (c) ensures that, pending completion of a Regional Forest Agreement in respect of any region, harvesting of native hardwood that results in the production of wood chips is carried out in a manner that:
  - (i) protects areas that are, or may be, needed to establish a comprehensive, adequate and representative national forest reserve system; and
  - (ii) minimises any adverse effects on the environment of obtaining the wood chips; and
- (d) encourages investment in value-added production in forest industries; and
- (e) takes account of possible economic and social impacts, and the effects on the operations of an applicant, of a decision to grant or refuse a licence.

### Interpretation

3. In these Regulations, unless the contrary intention appears:

“Act” means the *Export Control Act 1982*;

“authorised export mass”, in relation to a licence, means the maximum mass of controlled wood chips the export of which is authorised by the licence;

“comprehensive, adequate and representative national forest reserve system” has the same meaning as in the National Forest Policy Statement published by the Commonwealth on behalf of the Commonwealth, the States, the Australian Capital Territory and the Northern Territory in 1992;

“controlled wood chips” means hardwood wood chips declared by regulation 4 to be prescribed goods;

“degraded forest licence” means a licence granted under Part 3;

“hardwood wood chips” means wood chips derived from trees of native Australian species that are botanically hardwoods;

“holder”, in relation to a licence, includes any person to whom the licence is assigned;

“licence” means a transitional licence, a degraded forest licence, an RFA licence or a restricted shipment licence;

“region” means a region, so described, in the Schedule;

[NOTE: The regions represent areas, identified in the forest management plans of States comprising local indigenous vegetative communities the dominant species of which are trees (having usually a single stem and a mature or potentially mature stand height exceeding 5 metres, and with existing or potential projective cover of overstorey strata about equal to, or greater than, 30 per cent), whether or not the communities have been regenerated with human assistance following disturbance.]

“Regional Forest Agreement” means an agreement between the Commonwealth and a State, in respect of a region or regions, that:

- (a) identifies areas in the region or regions that the parties believe are required for the purposes of a comprehensive, adequate and representative national forest reserve system, and provides for the conservation of those areas; and
- (b) provides for the ecologically sustainable management and use of forested areas in the region or regions; and

(c) is expressed to be for the purpose of providing long-term stability of forests and forest industries; and

(d) is expressed to be a Regional Forest Agreement for the purposes of these Regulations;

having regard to studies and projects carried out in relation to all of the following matters that are relevant to the region or regions:

(e) environmental values, including old growth, wilderness, endangered species, national estate values and world heritage values;

(f) indigenous heritage values;

(g) economic values of forested areas and forest industries;

(h) social values (including community needs); and

(i) principles of ecologically sustainable management;

**“regrowth forest”** means a forest that, after the death or removal of all, or substantially all, of the forest overstorey, has been, or is being, regenerated naturally or by seeding or replanting;

**“residue wood chips”** means controlled wood chips derived from sawmill residues or silvicultural thinnings;

**“restricted shipment licence”** means a licence granted under Part 5;

**“RFA licence”** means a licence granted under Part 4;

**“sawmill residues”** means waste material resulting from:

(a) the production of squared timber in sawmill operations;  
or

(b) rejection by a veneer mill, sawmill or other processing plant (other than a wood chipping plant) of a log found to be defective for the purposes of producing a commercial timber product, where the defect could not have been found on any reasonable inspection of the log before its arrival at the plant for processing;

**“silvicultural thinnings”** means waste material resulting from the thinning of a regrowth forest for the purpose of improving the production potential of the forest;

**“transitional licence”** means a licence granted under Part 2.

### **Declaration of prescribed goods**

4. (1) For the purposes of the definition of “prescribed goods” in section 3 of the Act, hardwood wood chips (except excluded hardwood wood chips) are declared to be prescribed goods.

(2) In subregulation (1):  
“excluded hardwood wood chips” means hardwood wood chips derived from:

- (a) sandalwood; or
- (b) plantation-grown trees.

[Note: The export of hardwood woodchips that are “excluded hardwood wood chips” for the purposes of subregulation 4 (1) may still be subject to licensing under the Export Control (Unprocessed Wood) Regulations.]

**Minister not to give preference, etc.**

5. The Minister must not, in exercising any of the Minister’s powers under these Regulations, give preference to one State or any part thereof over another State or any part thereof (within the meaning of section 99 of the Constitution).

**Export of controlled wood chips prohibited**

6. The export of controlled wood chips is prohibited unless:
- (a) the person exporting the wood chips is the holder of a licence that authorises the export of controlled wood chips, and the export is in accordance with the licence; or
  - (b) the export is of 2 tonnes, or less, green mass of controlled wood chips.

**PART 2—TRANSITIONAL LICENCES**

**Application for transitional licence**

7. (1) A person may apply, in writing, for a transitional licence to export hardwood as wood chips.

- (2) An application must specify:
- (a) in respect of each region from which the person intends to derive a proportion of the hardwood—the mass, in tonnes, of that proportion; and



- (b) if any proportion of the hardwood is intended to be derived from sawmill residues or silvicultural thinnings—the mass, in tonnes, of that proportion.

(3) If the Minister so requests, an applicant must give the Minister, in writing, any information that the Minister reasonably requires for the purpose of making a decision in relation to the application.

### **Consideration of application for transitional licence**

8. Before deciding whether to grant a transitional licence, the Minister may consider:

- (a) the need to protect areas that are or may be required to establish a comprehensive, adequate and representative national forest reserve system; and
- (b) the effect on the environment of obtaining the wood chips; and
- (c) the desirability of encouraging investment in value-added production in forest industries and related industries; and
- (d) the existence or otherwise of a local market for the wood chips, and if no local market exists, the prospects for the development of a local market; and
- (e) the source of supply of the proposed wood chips; and
- (f) the terms of any agreement that the applicant has entered into, or intends to enter into, in relation to the wood chips; and
- (g) the possible economic and social effects of a decision to grant or refuse the application; and
- (h) the possible effects on the operations of the applicant of a decision to grant or refuse the application; and
- (i) the financial resources available to the applicant; and
- (j) the ability and experience of the applicant in relation to the marketing and export of wood chips; and
- (k) the commercial reputation of the applicant; and
- (l) the applicant's record of adherence to export licence conditions; and
- (m) any other relevant matter.

**Grant or refusal of transitional licence**

**9. (1)** If an applicant for a transitional licence has complied with any request made by the Minister under subregulation 7 (3) in relation to the application, the Minister must:

- (a) subject to subregulation (2)—grant the licence; or
- (b) by notice in writing given to the applicant, refuse to grant the licence.

**(2)** If the application is in relation to a period that begins on or after 1 January 2000, the Minister must not grant the licence.

**(3)** Subject to subregulation (4), if the Minister refuses to grant the licence, the Minister must give to the applicant a statement setting out the reasons for the refusal together with the notice of the refusal.

**(4)** If the Minister determines that the inclusion of matter in a statement of reasons would be contrary to the public interest because it would involve the disclosure of deliberations of the Cabinet or a Committee of the Cabinet, the Minister:

- (a) is not required to include that matter in the statement; and
- (b) if the statement would be misleading if it did not include that matter, is not required to give the statement to the applicant.

**(5)** If the Minister makes a determination under subregulation (4), the Minister must give the applicant written notice:

- (a) if the matter of concern is not included in the statement of reasons—stating that the matter is not so included and giving the reason for not including the matter; or
- (b) if the statement of reasons is not given—stating that the statement of reasons will not be given and giving the reason for not giving the statement of reasons.

**Authorised export mass for licences**

**10. (1)** The Minister must specify, in a transitional licence, the authorised export mass for each year of the licence, including:

- (a) the proportion (if any) of that authorised export mass that constitutes part of the mass referred to in subparagraph (2) (a) (i); and
- (b) the proportion (if any) of that authorised export mass that constitutes part of the mass referred to in subparagraph (2) (a) (ii).

**(2)** The maximum aggregate mass of wood chips that the Minister may authorise for export under all the transitional licences in force in any year is:

- (a) if no RFA licences are in force—the aggregate of:
  - (i) 5.251 million tonnes green mass of controlled wood chips (whether residue or otherwise); and
  - (ii) 1 million tonnes green mass of residue wood chips; or
- (b) if at least 1 RFA licence is in force—the aggregate of:
  - (i) the mass of controlled wood chips (whether residue or otherwise) that is the difference between:
    - (A) 5.251 million tonnes green mass; and
    - (B) the mass that has been authorised to be exported in the year as part of the mass referred to in subparagraph (a) (i) under licences that, under paragraph 11 (3) (a), have ceased to have effect during that year; and
  - (ii) the mass of residue wood chips that is the difference between:
    - (A) 1 million tonnes green mass; and
    - (B) the mass that has been authorised to be exported in the year as part of the mass referred to in subparagraph (a) (ii) under licences that, under paragraph 11 (3) (a), have ceased to have effect during that year.

(3) The authorised export mass of controlled wood chips for a particular licence for a particular year must not be such that it would cause the relevant maximum aggregate mass to be exceeded.

(4) If, after a transitional licence is granted, a Regional Forest Agreement comes into force in relation to a region from which hardwood is being derived under the licence:

- (a) the validity of the licence is not affected by reason only of the fact that the Agreement has come into force; and
- (b) subject to paragraph 11 (3) (a)—the authorised export mass for the licence is not affected by reason only of the granting of an RFA licence in relation to the region.

**Period in which transitional licence is in effect**

**11. (1) A transitional licence takes effect:**

- (a) in relation to controlled wood chips the mass of which constitutes part of the mass referred to in subparagraph 10 (2) (a) (i):
  - (i) if it is granted before 1 January 1997—on 1 January 1997; or
  - (ii) if it is granted on or after 1 January 1997:
    - (A) if a date is specified in the licence as the date on which it comes into effect—on the specified date; or
    - (B) if no such date is specified—on the date it is granted; or
- (b) in relation to controlled wood chips the mass of which constitutes part of the mass referred to in subparagraph 10 (2) (a) (ii):
  - (i) if a date is specified in the licence as the date on which it comes into effect—on that date; or
  - (ii) if no such date is specified—on the date it is granted.

(2) Unless earlier surrendered or revoked, a transitional licence ceases to have effect at the end of whichever is the earlier of:

- (a) the date specified in the licence; and
- (b) 31 December 1999.

- (3) Despite subregulation (2):
- (a) a transitional licence ceases to have effect if the holder is granted an RFA licence that authorises the export of wood chips taken from a region specified in the transitional licence; and
  - (b) a transitional licence ceases to have effect at the end of a calendar year if, during the year, the holder did not export at least 25% of the mass of wood chips authorised for export by the licence for the year.

**Conditions or restrictions specified in transitional licence**

12. A transitional licence:
- (a) must specify each region, being a region in relation to which application was made, from which the controlled wood chips to be exported under the licence may be derived; and
  - (b) if the licence is to take effect on a date other than the date on which the licence is granted—must specify the date on which the licence takes effect; and
  - (c) may specify conditions or restrictions that the Minister has determined must be complied with by the licence holder; and
  - (d) in respect of any condition or restriction—may specify a time (before or after exportation) at, or before, which the licence holder must comply with the condition or restriction.

**PART 3—DEGRADED FOREST LICENCES**

**Application for degraded forest licence**

13. (1) A person may apply, in writing, for a degraded forest licence to export, as wood chips, hardwood derived from a forest situated on land that is privately-owned.

(2) An application must specify the forest or forests from which the hardwood is to be derived.

(3) If the Minister so requests, an applicant must give to the Minister, in writing, any information that the Minister reasonably requires for the purpose of making a decision in relation to the application.

#### **Consideration of application for degraded forest licence**

14. (1) Before deciding whether to grant a degraded forest licence, the Minister must consider, in relation to each forest to which the application relates:

- (a) the general state of the forest, and, in particular, whether the floristic composition of the forest has been altered significantly by reason of disease, weed infestation, harvesting and other human activities, or other causes; and
- (b) any other relevant matter.

(2) For the purpose of considering the matter set out in paragraph (1) (a) in relation to a particular forest, the Minister must have regard to a report provided to the Minister in respect of that matter by a person approved, in writing, by the Minister.

(3) The Minister may approve a person only if the person is suitable to provide a report of that kind by reason:

- (a) of the person's training and experience; and
- (b) that the person is independent of the applicant for the relevant licence.

(4) For the purposes of subregulation (3), a person is taken to be independent of an applicant for a licence, if the person is not, in any way, dependent upon, or associated with, the applicant.

**Grant or refusal of degraded forest licence**

**15. (1)** If an applicant for a degraded forest licence has complied with any request made by the Minister under subregulation 13 (3) in relation to the application, the Minister must:

- (a) subject to subregulations (2) and (3)—grant the licence;  
or
- (b) by notice in writing given to the applicant, refuse to grant the licence.

**(2)** If the application is in relation to a period that begins on or after 1 January 2000, the Minister must not grant the licence.

**(3)** The Minister must not grant a degraded forest licence unless the Minister is satisfied that:

- (a) after having regard to a report provided under subregulation 14 (2) in relation to any forest to which the application relates—the forest is degraded; and
- (b) the forest is situated wholly on land that is privately-owned; and
- (c) the forest is not likely to be required as a necessary component in a comprehensive, adequate and representative national forest reserve system; and
- (d) the forest, when harvested, will be succeeded by the establishment of a plantation of Australian native hardwood species.

**(4)** Subject to subregulation (5), if the Minister refuses to grant the licence, the Minister must give to the applicant a statement setting out the reasons for the refusal together with the notice of the refusal.

**(5)** If the Minister determines that the inclusion of matter in a statement of reasons would be contrary to the public interest because it would involve the disclosure of deliberations of the Cabinet or a Committee of the Cabinet, the Minister:

- (a) is not required to include that matter in the statement;  
and
- (b) if the statement would be misleading if it did not include that matter—is not required to give the statement.

(6) If the Minister makes a determination under subregulation (5), the Minister must give the applicant written notice:

- (a) if the matter of concern is not included in the statement of reasons—stating that the matter is not so included and giving the reason for not including the matter; or
- (b) if the statement of reasons is not given—stating that the statement of reasons will not be given and giving the reason for not giving the statement of reasons.

**Controlled wood chips to be derived only from specified forest**

16. (1) A degraded forest licence applies only in relation to the forest or forests specified in the licence.

(2) It is a condition of a degraded forest licence that the controlled wood chips to be exported under it must be derived only from the specified forest or forests.

**Other conditions or restrictions specified in degraded forest licence**

17. A degraded forest licence:

- (a) may specify conditions or restrictions that the Minister has determined must be complied with by the licence holder; and
- (b) in respect of any condition or restriction, may specify a time (before or after exportation) at, or before, which the licence holder must comply with the condition or restriction.

**Degraded forest licence not affected by Regional Forest Agreement**

18. If, after a degraded forest licence is granted in relation to a forest, a Regional Forest Agreement in relation to the region in which the forest is located comes into force, the validity of the licence is not affected by reason only of the fact that the Agreement has come into force.



### **Cessation of effect of degraded forest licence**

**19. (1)** Unless earlier surrendered or revoked, a degraded forest licence ceases to have effect at the end of whichever is the earlier of:

- (a) the date specified in the licence; and
- (b) 31 December 1999.

**(2)** Despite subregulation (1), a degraded forest licence ceases to have effect if the holder is granted an RFA licence that authorises the export of controlled wood chips taken from a region in which a forest specified in the degraded forest licence is located.

## **PART 4—RFA LICENCES**

### **Application for RFA licence**

**20. (1)** A person may apply, in writing, for an RFA licence to export, as wood chips, hardwood derived from a region or regions subject to a Regional Forest Agreement.

**(2)** If the Minister so requests, an applicant must give to the Minister, in writing, any information that the Minister reasonably requires for the purpose of making a decision in relation to the application.

### **Grant or refusal of RFA licence**

**21. (1)** If an applicant for an RFA licence has complied with any request made by the Minister under subregulation 20 (2) in relation to the application, the Minister must:

- (a) subject to subregulation (2)—grant the licence; or
- (b) by notice in writing given to the applicant, refuse to grant the licence.

**(2)** The Minister must not grant an RFA licence unless he or she is satisfied that doing so would be consistent with the relevant Regional Forest Agreement.

(3) Subject to subregulation (4), if the Minister refuses to grant the licence, the Minister must give to the applicant a statement setting out the reasons for the refusal together with the notice of the refusal.

(4) If the Minister determines that the inclusion of matter in a statement of reasons would be contrary to the public interest because it would involve the disclosure of deliberations of the Cabinet or a Committee of the Cabinet, the Minister:

- (a) is not required to include that matter in the statement; and
- (b) if the statement would be misleading if it did not include that matter—is not required to give the statement.

(5) If the Minister makes a determination under subregulation (4), the Minister must give the applicant written notice:

- (a) if the matter of concern is not included in the statement of reasons—stating that the matter is not so included and giving the reason for not including the matter; or
- (b) if the statement of reasons is not given—stating that the statement of reasons will not be given and giving the reason for not giving the statement of reasons.

#### **Controlled wood chips to be derived only from specified region**

22. (1) An RFA licence applies only in relation to the region or regions specified in the licence.

(2) A specified region must be a region in respect of which there is in force a Regional Forest Agreement.

(3) It is a condition of an RFA licence that the controlled wood chips to be exported under it must be derived only from the specified region or regions.

**Other conditions or restrictions specified in RFA licence**

23. An RFA licence:
- (a) may specify conditions or restrictions that the Minister has determined must be complied with by the licence holder; and
  - (b) in respect of any condition or restriction, may specify a time (before or after exportation) at, or before, which the licence holder must comply with the condition or restriction.

**PART 5—RESTRICTED SHIPMENT LICENCES**

**Application for restricted shipment licence**

24. (1) A person may apply, in writing, for a licence to export hardwood as wood chips for the purpose only of:
- (a) the trial of a prospective market; or
  - (b) the analysis of the woodchips for suitability to undergo processing.
- (2) An application must specify:
- (a) the person to which the shipment is to be exported; and
  - (b) the mass of wood chips proposed to be exported under the licence sought.
- (3) If the Minister so requests, an applicant must give to the Minister, in writing, any information that the Minister reasonably requires for the purpose of making a decision in relation to the application.

**Grant or refusal of restricted shipment licence**

25. (1) If an applicant for a restricted shipment licence has complied with any request made by the Minister under subregulation 24 (3) in relation to the application, the Minister must:
- (a) subject to subregulation (2), grant the licence; or
  - (b) by notice in writing given to the applicant, refuse to grant the licence.

**(2)** The Minister must not grant a restricted shipment licence unless the Minister is satisfied that:

- (a)** in relation to an application for a licence for the purpose set out in paragraph 24 (1) (a):
  - (i)** the proposed shipment is for that purpose; and
  - (ii)** the applicant has not previously exported controlled wood chips for that purpose to the person specified in the application in the year in which it is intended that the shipment take place; or
- (b)** in relation to an application for a licence for the purpose set out in paragraph 24 (1) (b):
  - (i)** the proposed shipment is for that purpose; and
  - (ii)** the grant will not result in more than 10,000 tonnes of controlled woodchips being exported for that purpose in that year.

**(3)** Subject to subregulation (4), if the Minister refuses to grant the licence, the Minister must give to the applicant a statement setting out the reasons for the refusal together with the notice of the refusal.

**(4)** If the Minister determines that the inclusion of matter in a statement of reasons would be contrary to the public interest because it would involve the disclosure of deliberations of the Cabinet or a Committee of the Cabinet, the Minister:

- (a)** is not required to include that matter in the statement; and
- (b)** if the statement would be misleading if it did not include that matter—is not required to give the statement to the applicant.

**(5)** If the Minister makes a determination under subregulation (4), the Minister must give the applicant written notice:

- (a)** if the matter of concern is not included in the statement of reasons—stating that the matter is not so included and giving the reason for not including the matter; or
- (b)** if the statement of reasons is not given—stating that the statement of reasons will not be given and giving the reason for not giving the statement of reasons.

**Controlled wood chips to be derived only from specified region**

**26. (1)** A restricted shipment licence applies only in relation to the region or regions specified in the licence.

**(2)** It is a condition of a restricted shipment licence that the controlled wood chips to be exported under it must be derived only from the specified region or regions.

**Other conditions or restrictions specified in restricted shipment licence**

**27. (1)** A restricted shipment licence:

- (a)** may specify conditions or restrictions that the Minister has determined must be complied with by the licence holder; and
- (b)** in respect of any condition or restriction, may specify a time (before or after exportation) at, or before, which the licence holder must comply with the condition or restriction.

**(2)** It is a condition of a restricted shipment licence granted for the purpose set out in paragraph 24 (1) (a) that the controlled wood chips authorised to be exported under the licence must be exported in 1 shipment.

**PART 6—DEALINGS WITH LICENCES**

**Surrender of licence**

**28. (1)** The holder of a licence may, by notice in writing to the Minister, surrender the licence.

**(2)** If a licence has been surrendered, the document evidencing the licence instrument must be returned to the Minister as soon as practicable.

### **Surrender and exchange of licence**

**29. (1)** Under this regulation, the holder of a licence may surrender the licence in exchange for another licence of the same type.

**(2)** Application for exchange of a licence under this regulation must be made, in writing, to the Minister and must set out the reasons for seeking the exchange.

**(3)** If the Minister consents to the surrender and exchange, the Minister must grant the new licence in exchange for the surrendered licence.

**(4)** The mass of controlled wood chips authorised to be exported by the holder of a new licence granted under this regulation must not be greater than the residual authorised export mass under the surrendered licence (that is, the mass of controlled wood chips authorised to be exported by the licence holder under the surrendered licence, less the mass of controlled wood chips already exported by the licence holder under the authority of that licence).

**(5)** The Minister may specify in the new licence:

- (a)** any condition or restriction that the Minister could have specified if he or she were granting the new licence under Part 2, 3, 4 or 5; and
- (b)** in particular, if the surrendered licence specifies a region from which the wood chips to which it relates are to be derived—that the wood chips to which the new licence relates are to be derived from a different region.

**(6)** The Minister must refuse to grant the new licence if, assuming that the surrendered licence had never been granted, the Minister would not have granted to the holder a licence of the same type as the new licence at the time when the surrendered licence was granted.

**(7)** Subregulation (6) does not prevent the Minister from specifying, in the new licence, as the region from which controlled wood chips to which the new licence relates may be derived, a region that the Minister could not have specified for that purpose in the surrendered licence.

(8) Subject to subregulation (9), if the Minister refuses to consent to an application, he or she must give to the licence holder notice in writing of that decision, and a statement of the reasons for the decision.

(9) If the Minister determines that the inclusion of matter in a statement of reasons would be contrary to the public interest because it would involve the disclosure of deliberations of the Cabinet or a Committee of the Cabinet, the Minister:

- (a) is not required to include that matter in the statement; and
- (b) if the statement would be misleading if it did not include that matter—is not required to give the statement to the applicant.

(10) If the Minister makes a determination under subregulation (9), the Minister must give the applicant written notice:

- (a) if the matter of concern is not included in the statement of reasons—stating that the matter is not so included and giving the reason for not including the matter; or
- (b) if the statement of reasons is not given—stating that the statement of reasons will not be given and giving the reason for not giving the statement of reasons.

### **Surrender of licence in exchange for more than 1 licence**

**30. (1)** In this regulation:  
“licence” does not include a restricted shipment licence.

(2) Under this regulation, the holder of a licence may surrender the licence in exchange for other licences of the same type.

(3) Application for exchange of a licence under this regulation must be made, in writing, to the Minister and must set out the reasons for seeking the exchange.

(4) If the Minister consents to the surrender and exchange, the Minister must grant the requested new licences in exchange for the surrendered licence.

(5) Regulation 29 (except subregulations 29 (1), (2) and (3)) applies in relation to the grant of a new licence, or new licences, as if references in that regulation to a new licence were references to a new licence, or new licences, granted under this regulation.

(6) Nothing in this regulation or in regulation 29 requires a restriction or condition imposed on a new licence granted to the applicant to be imposed on any other new licence granted to the applicant.

### **Assignment of licence**

**31. (1)** A licence may, with the consent in writing of the Minister, be assigned but must not be assigned for reward.

(2) The Minister must refuse to allow the assignment if the Minister would not have granted a licence:

- (a) of the same type as the licence; and
- (b) subject to the same conditions and restrictions as the licence;

to the holder at the time when the licence was granted.

(3) An assignee of a licence is bound by the conditions and restrictions of that licence as if the assignee were the person to whom the licence was granted.

(4) If the Minister refuses to consent to the assignment of a licence, he or she must give the licence holder notice in writing of that decision.

### **Suspension of licence**

**32. (1)** If the Minister has reasonable grounds to believe that:

- (a) the holder of a licence has not complied with a condition or restriction of the licence (including a condition or restriction imposed by these Regulations); and



(b) because of that non-compliance:

- (i) damage, degradation or disruption of the environment has occurred; or
  - (ii) there is an imminent threat of such an occurrence,
- the Minister may suspend the licence, vary a condition or restriction, or impose additional conditions or restrictions upon the licence.

(2) If the Minister suspends a licence, varies a condition or restriction or imposes an additional condition or restriction on a licence, the Minister must notify the holder of the licence of the fact as soon as practicable.

(3) If the Minister acts under subregulation (1), the Minister must investigate the validity of the belief under which the action was taken.

(4) If the Minister finds that the belief may not be valid, the Minister must cancel the suspension or variation of conditions or restrictions, or withdraw the additional conditions or restrictions, as the case may be.

(5) Despite anything in this regulation, action taken by the Minister under subregulation (1) ceases to have effect at the end of the period of 28 days that begins on the day on which the action was taken.

### **Revocation of licence**

33. If the holder of a licence fails to comply with a condition or restriction of the licence, the Minister may revoke the licence, whether or not the holder of the licence is charged with an offence against section 9 of the Act in respect of the failure to comply with the condition or restriction.

**PART 7—RECONSIDERATION AND REVIEW OF  
CERTAIN DECISIONS**

**Interpretation**

**34. In this Part:**

“decision” has the same meaning as in the *Administrative Appeals Tribunal Act 1975*;

“relevant person” means:

- (a) in relation to a decision under regulation 9, 12, 15, 17, 21, 23, 25, 27, 29 or 30—the person who was the applicant for the licence to which the decision relates;
- (b) in relation to a decision under subregulation 14 (2)—the person to whom the approval to which the decision relates was to have been given;
- (c) in relation to a decision under regulation 31—the person to whom the licence to which the decision relates was to have been assigned;
- (d) in relation to a decision under regulation 33—the holder of the licence to which the decision relates;

“reviewable decision” means:

- (a) a decision of the Minister under regulation 9, 12, 15, 17, 21, 23, 25, 27, 29, 30, 31 or 33; or
- (b) a decision of the Minister under subregulation 14 (2); or
- (c) a decision of the Minister or a delegate of the Minister under subparagraph 36 (2) (a) (ii) or subregulation 36 (5).

**Statements to accompany notification of certain decisions**

**35. (1)** If a decision is made under regulation 9, 12, 15, 17, 21, 23, 25, 27, 29, 30, 31 or 33, or subregulation 14 (2), by a delegate of the Minister, the notice of the decision must include a statement to the effect that:

- (a) if the relevant person is dissatisfied with the decision, the person may seek reconsideration of the decision in accordance with regulation 36; and

- (b) if the person is dissatisfied with the decision made as a result of the reconsideration, then, subject to the *Administrative Appeals Tribunal Act 1975*, the person may apply to the Administrative Appeals Tribunal for review of that decision.

(2) A failure to comply with subregulation (1) in relation to a decision does not affect the validity of the decision.

### **Reconsideration of certain decisions**

**36. (1)** Subject to subregulation (2), a person who is the relevant person in relation to a decision made under regulation 9, 12, 15, 17, 21, 23, 25, 27, 29, 30, 31 or 33, or subregulation 14 (2), by a delegate of the Minister may request the Minister to reconsider the decision.

(2) The request must:

(a) be made in writing to the Minister:

(i) before the end of 28 days after the person first becomes aware of the decision; or

(ii) within a further period that the Minister allows;  
and

(b) set out the reasons for the request.

(3) The Minister may allow a further period under subparagraph (2) (a) (ii) whether or not the period of 28 days mentioned in paragraph (2) (a) (i) has expired.

(4) The Minister must reconsider the relevant decision before the end of 45 days after receipt of the request.

(5) The Minister may:

(a) confirm the decision;

(b) vary the decision; or

(c) set the decision aside and make a new decision in place of the decision.

(6) After the reconsideration, the Minister must give to the person notice in writing of the result of the reconsideration and the reasons for the result.

(7) A delegate of the Minister must not reconsider a relevant decision that the delegate made or participated in making.

### **Review of certain decisions**

37. (1) Subject to subregulation (2), application may be made to the Administrative Appeals Tribunal for review of a reviewable decision.

(2) The operation of section 27 of the *Administrative Appeals Tribunal Act 1975* is modified in relation to an application under subregulation (1) to the extent that an application may be made only:

- (a) in the case of a decision by the Minister made under regulation 9, 12, 15, 17, 21, 23, 25 or 27—by or on behalf of the person who was the applicant for the licence to which the decision relates; or
- (b) in relation to a decision of the Minister made under subregulation 14 (2)—by or on behalf of the person to whom the approval to which the decision relates was to have been given; or
- (c) in the case of a decision by the Minister made under regulation 29 or 30—by the person who applied to surrender and exchange the licence to which the decision relates; or
- (d) in the case of a decision by the Minister made under regulation 31—by the person to whom the licence to which the decision relates was to have been assigned; or
- (e) in the case of a decision by the Minister made under regulation 33—by or on behalf of the holder of the licence to which the decision relates; or
- (f) in the case of a decision of the Minister or a delegate of the Minister made under subparagraph 36 (2) (a) (ii) or subregulation 36 (5)—by or on behalf of the person at whose request the Minister or delegate made that decision.

[NOTE: Paragraph 25 (6) (b) of the *Administrative Appeals Tribunal Act 1975* provides that if an “enactment” makes provision for a review by the Tribunal, the enactment may modify the application of certain provisions of the Act (including section 27) in relation to that review.]

## **PART 8—MISCELLANEOUS**

### **Records to be kept**

**38.** The holder of a licence must keep such records as the Minister reasonably requires.

### **Composite licences**

**39.** Nothing in these Regulations prevents a licence granted under these Regulations being combined, in 1 instrument, with a licence granted under the Export Control (Unprocessed Wood) Regulations.

### **Delegation**

**40.** Subject to these Regulations, the Minister may delegate, in writing, to an officer of the Department any of the Minister's powers under these Regulations, other than this power of delegation.

## **PART 9—TRANSITIONAL**

### **Interpretation**

**41.** In this Part:

“**1995 Regulations**” means the Export Control (Hardwood Wood Chips) Regulations (that is, Statutory Rules 1995 No. 386, as amended by Statutory Rules 1995 No. 388 and 1996 No. 22);

“**old licence**” means a first-stage licence or a second-stage licence granted under the 1995 Regulations that was in force immediately before the 1995 Regulations ceased to have effect.

**Old licences**

**42.** An old licence is taken to continue in effect until the earlier of:

- (a) the time at which, under those Regulations, it would have ceased to be in force; or
- (b) the end of 31 December 1996; and

is taken to continue to be subject to:

- (c) any conditions and restrictions stated in it; and
- (d) any other conditions that it was subject to under those Regulations.

**Dealings with licences continued in force, etc.**

**43. (1)** Part 6 applies to an old licence as if it were a transitional licence.

**(2)** Despite regulation 11, a transitional licence granted under regulation 29 or 30, in exchange for an old licence takes effect:

- (a) if a date of commencement is specified in the licence—on that date; or
  - (b) in any other case—on the day it is granted.
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**SCHEDULE**

Regulation 3

**REGIONS**

**1. Tasmania**

Tasmania Region—being the whole of the State of Tasmania

**2. Victoria**

West Region, Central Highlands Region, North East Region, Gippsland Region and East Gippsland Region—being the respective areas of forest so called and delineated on Map 1 in the Draft Deferred Forest Areas Report for Victoria, dated September 1995

**3. New South Wales**

(a) North Region—being the area of forest consisting of the Urbenville, Tenterfield, Casino, Glen Innes, Murwillumbah, Grafton, Styx River, Dorrigo, Coffs Harbour, Urunga, Kempsey, Wauchope, Walcha-Nundle, Cessnock, Gloucester, Mt Royal, Chichester, Marsh, Kendall, Coopernook, Wingham, Taree, Bulahdelah, Wyong and Wallaroo Management Areas; and

(b) South Region—being the area of forest consisting of the Moss Vale, Queanbeyan, Nowra, Bateman's Bay, Narooma, Badja, Eden and Monaro South Management Areas;

delineated on Maps 1 to 12 in the Draft Deferred Forest Areas Report for New South Wales issued in September 1995; and

(c) Tumut Region—being the area of forest consisting of:

(i) the area identified by the Authority known as State Forests of New South Wales, at the time of commencement of this Schedule, as the Bago-Maragle Management Area; and

(ii) part of the area identified by State Forests of New South Wales, at the time of commencement of this Schedule, as the Tumut Management Area—being the part of that area known as the Native Forests Working Circle

**SCHEDULE —continued**

**4. Queensland**

**Queensland Region—being the whole of the State of Queensland**

**5. Western Australia**

**South West Region—being the area of forest within the Swan, Central Forest and Southern Forest Administrative Regions of the Department of Conservation and Land Management as at the time of commencement of this Schedule**

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**NOTE**

1. Notified in the *Commonwealth of Australia Gazette* on

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1996. 19 September