

## **EXPLANATORY STATEMENT**

### **SELECT LEGISLATIVE INSTRUMENT No. 172, 2014**

Issued by Authority of the Parliamentary Secretary to the Minister for Agriculture

*Illegal Logging Prohibition Act 2012*

*Illegal Logging Prohibition Amendment Regulation 2014 (No. 1)*

#### **Legislative Authority**

Section 86 of the *Illegal Logging Prohibition Act 2012* (the Act) provides that the Governor-General may make Regulations prescribing either: all matters required or permitted by the Act to be prescribed; or all matters necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Illegal Logging Prohibition Amendment Regulation 2014 (No. 1)* (the Regulation) provides that sections 1 to 4 and the measures in Schedule 2 commence on the day after the Regulation is registered and the measures in Schedule 1 commence on the start of the day after the Regulation was registered or immediately after the commencement of the *Illegal Logging Prohibition Amendment Regulation 2013 (No 1)*, whichever is the later.

#### **Purpose**

The purpose of the Regulation is to give effect to various sections of the Act and for various related purposes. This includes prescribing: regulated timber products; due diligence requirements for persons importing regulated timber products; and due diligence requirements for persons processing domestically-grown raw logs into another form.

The Regulation prescribes minor legislative amendments to clarify terminology or address drafting errors in Schedule 1 of the *Illegal Logging Prohibition Amendment Regulation 2013 (No 1)* (the Amendment Regulation). The Regulation also prescribes additional timber legality frameworks, country specific guidelines and state specific guidelines in Schedule 2 of the Amendment Regulation, in order to assist persons importing regulated timber products, or persons processing domestically-grown raw logs into another form, to meet their regulatory due diligence requirements.

#### **Consultation**

The Department of Agriculture (the department) consulted with key stakeholders representing a range of business interests, industry associations, social justice and environmental groups, state and territory governments and international trading partners throughout the development of the Amendment Regulation. Some stakeholders, including the Australian Forest Products Association and Timber Development Association, recommended minor amendments. Where appropriate, the department agreed to make minor legislative amendments that clarified terminology or addressed existing drafting errors.

The Office of Best Practice Regulation was consulted in the preparation of the Regulation (ID 17242).

## **Details of the Regulation**

Details of the Regulation are set out in the Attachment A.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

**Details of the *Illegal Logging Prohibition Amendment Regulation 2014 (No. 1)***

**Section 1 – Name of Regulation**

This Section provides for the title of the *Illegal Logging Prohibition Amendment Regulation 2014 (No. 1)* (the Regulation).

**Section 2 – Commencement**

This Section provides that sections 1 to 4 and the measures in Schedule 2 commence on the day after the Regulation is registered.

The measures in Schedule 1 commence either: on the start of the day after the Regulation is registered; or immediately after the commencement of the *Illegal Logging Prohibition Amendment Regulation 2013 (No. 1)* (the Amendment Regulation), whichever is later.

**Section 3 – Authority**

This Section provides that the Regulation is made under the *Illegal Logging Prohibition Act 2012*.

**Section 4 – Schedules**

This Section provides for the *Illegal Logging Prohibition Act 2012* to be amended as set out in Schedule 1 and 2.

**Schedule 1 – Amendments**

**Item 1** amends subsection 6(3) to insert the term ‘medium density fibreboard’ and omit the term ‘plywood’.

**Item 2** amends subparagraph 10(2)(a)(ii) to insert the term ‘or scientific name’ and omit the term ‘and scientific name’.

**Item 3** amends paragraph 14(3)(a) to insert the term ‘independent’ and omit the term ‘third party’.

**Item 4** amends paragraph 14(3)(b) to insert ‘using the procedures in subsection 11(2), 12(2) or 13(2)’ and omit ‘consideration of each of the matters mentioned in subsection 13(2)’.

**Item 5** amends paragraph 19(2)(f) to insert the term ‘processor’ and omit the term ‘importer’.

**Item 6** amends paragraph 23(3)(a) to insert the term ‘independent’ and omit the term ‘third party’.

**Item 7** amends paragraph 23(3)(b) to insert ‘using the procedures in subsection 20(2), 21(2) or 22(2)’ and omit ‘consideration of each of the matters mentioned in subsection 22(2)’.

**Item 8** inserts additional items in Schedule 2 at the end of the Regulation.

## Schedule 2 – Timber legality frameworks, country specific guidelines and state specific guidelines

### *Part 1 – Timber legality frameworks*

Timber legality frameworks are listed for the purpose of satisfying the optional requirements in sections 11 and 20 of the Amendment Regulation. An importer or processor can use these frameworks when undertaking due diligence. Sections 11 and 20 of the Amendment Regulation provide the circumstances for using these frameworks and the potential interaction with ‘risk assessment’ (sections 13 and 22) and ‘risk mitigation’ (sections 14 and 23).

The intention of these provisions is to enable importers and processors to use the timber legality frameworks listed, in conjunction with the information gathered under sections 10 and 19 of the Amendment Regulation, to provide an acceptable level of assurance of the legal compliance and legal origins of timber harvested in accordance with the frameworks.

This assurance also applies to in-country schemes endorsed or licensed under these timber legality frameworks, such as the Australian Forestry Standard.

### *Part 2 – Country specific guidelines*

Country specific guidelines are being developed by the relevant Australian Government department in consultation with trading partner governments. The guidelines list a range of relevant information about legal timber from a country of harvest which may be used by importers to satisfy the optional requirements in section 12 of the Amendment Regulation.

The country specific guidelines are listed for individual countries in alphabetical order by country name.

The country specific guidelines will be consistent with the definition of ‘illegally logged’ in the Act, that is, ‘in relation to timber, means harvested in contravention of the laws in force in the place (whether or not in Australia) where the timber was harvested’.

Each country specific guideline includes information on timber harvesting legislation in the country of origin, lists the relevant government authorities and provides their contact details. Each country specific guideline may also list relevant documents issued by the government authorities that an importer may obtain to help satisfy section 12 of the Amendment Regulation.

### *Part 3 – State specific guidelines*

State specific guidelines are being developed by the relevant Australian Government department in consultation with Australian state (and territory) governments. The guidelines list a range of relevant information about legal timber from a state (or territory) of harvest which may be used by processors to satisfy the optional requirements in section 21 of the Amendment Regulation.

The state specific guidelines are listed for individual states (and territories) by order of their population.

The state specific guidelines will be consistent with the definition of ‘illegally logged’ in the Act, that is, ‘in relation to timber, means harvested in contravention of the laws in force in the place (whether or not in Australia) where the timber was harvested’.

Each state specific guideline includes information on timber harvesting legislation in the state (or territory) of origin, lists the relevant state (or territory) government authorities and provides their contact details. Each state specific guideline may also list relevant documents issued by the government authorities that a processor may obtain to help satisfy section 21 of the Amendment Regulation.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Illegal Logging Prohibition Amendment Regulation 2014 (No. 1)**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Legislative Instrument**

The Regulation gives effect to various sections of the *Illegal Logging Prohibition Act 2012* and for various related purposes. This includes prescribing: regulated timber products; due diligence requirements for persons importing regulated timber products; and due diligence requirements for persons processing domestically-grown raw logs into another form.

The Regulation also prescribes minor legislative amendments to clarify terminology or address drafting errors in Schedule 1 of the *Illegal Logging Prohibition Amendment Regulation 2013 (No 1)* (the Amendment Regulation), and prescribes additional timber legality frameworks, country specific guidelines and state specific guidelines in Schedule 2 of the Amendment Regulation, in order to assist persons importing regulated timber products, or persons processing domestically-grown raw logs into another form, to meet their regulatory due diligence requirements.

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**Senator the Hon. Richard Colbeck MP**  
**Parliamentary Secretary to the Minister for Agriculture**