

EXPLANATORY STATEMENT

Issued by Authority of the Parliamentary Secretary to the Deputy Prime Minister and Minister for Agriculture and Water Resources

Illegal Logging Prohibition Act 2012

Illegal Logging Prohibition Amendment (Harmonized System Changes and Other Measures) Regulations 2017

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 Regulation 2012* (the Regulation) commenced on 30 November 2014. The Regulation gives effect to various sections of the Act. This includes prescribing timber products that are regulated under the Act; the due diligence requirements for persons importing regulated timber products; and the due diligence requirements for persons processing domestically-grown raw logs into another form.

Purpose

The *Illegal Logging Prohibition Amendment (Harmonized System Changes and Other Measures) Regulations 2017* amends Schedules 1 and 2 of the Regulation to reflect recent international amendments to Harmonized System (HS) tariff codes and to add new country specific and state specific guidelines to the Regulation.

Background

Schedule 1 of the Regulation lists all regulated timber products according to their HS tariff code. These codes are subject to regular review and the World Customs Organization (WCO) completed its fifth review of the HS tariff codes in June 2014. As a member of the WCO, the Australian Government has implemented the associated changes to the HS tariff codes.

The changes to Australia's system of HS tariff codes were implemented through the *Customs Tariff Amendment (2017 Harmonized System Changes) Act 2016*, which received royal assent on 23 November 2016. The changes to the HS tariff codes took effect from 1 January 2017. The revised tariff classifications are available on the Department of Immigration and Border Protection website.

The changes to the HS tariff codes affected Schedule 1 of the Regulation by changing some of the tariff codes and product descriptions used to identify regulated timber products. The *Illegal Logging Prohibition Amendment (Harmonized System Changes and Other Measures) Regulations 2017* updates Schedule 1 to reflect these changes. This includes the addition of a new tariff code to cover wood flooring made of tropical timbers (HS tariff code 4409.22.00) and refining the Regulation to only regulate prefabricated buildings that contain wood (HS tariff code 9406.10.000). This will ensure the Regulation continues to maintain its intended scope, while clarifying its scope.

Part 2 of Schedule 2 of the Regulation has been amended to add the new country specific guidelines for Malaysia and Papua New Guinea to the Regulation's scope. Part 3 has also been amended to add the Queensland state specific guideline to the Regulation. The new guidelines will assist persons importing regulated timber products from these countries, or persons processing Queensland-grown raw logs into another form, to meet their regulatory due diligence requirements.

Impact and Effect

The impact of the amendments will be to reinstate the full scope of the Regulation as it was prior to the *Customs Tariff Amendment (2017 Harmonized System Changes) Act 2016* coming into effect on 1 January 2017. The amendment will also formally recognise the Malaysian and Papua New Guinea country specific guidelines and the Queensland state specific guideline, which offer the regulated community guidance on how to complete their due diligence obligations for regulated timber products originating from those jurisdictions.

Consultation

The amendments have been developed in consultation with the Department of Immigration and Border Protection, who have led the Australian Government's implementation of the changes to the HS tariff codes. The amendments are consistent with the new HS tariff codes which came into effect on 1 January 2017. The Office of Best Practice Regulation has been consulted and have advised that the amendments are machinery in nature and a regulation impact statement is not required (OBPR ID Number: 21631).

Details of the Regulation are set out in the [Attachment A](#).

The Regulation is a legislative instrument for the purposes of the *Legislation 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 amendments to the *Illegal Logging Prohibition Regulation 2012*

Section 1 – Name of Regulation

This section provides that the name of the Regulation is the *Illegal Logging (Harmonized System Changes and Other Measures) Regulations 2017*.

Section 2 – Commencement

This Section provides that the measures in Schedule 1 will commence the day after the proposed Regulation is registered.

Section 3 – Authority

This Section provides that the proposed amendments to the Regulation is made under the *Illegal Logging Prohibition Act 2012* (the Act).

Section 4 – Schedules

This Section provides that the Regulation is to be amended as set out in Schedule 1.

Schedule 1 – Amendments

Item 1

Item 1 inserts a new part 5 – Application and transitional provisions in the Regulation. This item also inserts a new section 27 which would provide that the amendments made by the items 2 and 3 of the *Illegal Logging Prohibition Amendment (Harmonized Systems Changes and Other Measures) Regulations 2017* apply to the importation of a thing on or after the commencement of those items.

Item 2 inserts an additional item in Schedule 1 at the end of the Regulation.

Insert ‘4409.22.00 WOOD (INCLUDING STRIPS AND FRIEZES FOR PARQUET FLOORING, NOT ASSEMBLED) CONTINUOUSLY SHAPED (TONGUED, GROOVED, REBATED, CHAMFERED, V-JOINTED, BEADED, MOULDED, ROUNDED OR THE LIKE) ALONG ANY OF ITS EDGES, ENDS OR FACES, WHETHER OR NOT PLANED, SANDED OR END-JOINTED OF TROPICAL WOOD’.

Item 3

Item 3 repeals item 46 of the table to schedule 1 and inserts ‘9406.10.00 PREFABRICATED BUILDINGS OF WOOD’.

Items 4 and 5 insert additional items in Schedule 2 at the end of the Regulation.

Insert in Part 2 — Country specific guidelines: ‘Country Specific Guideline for Malaysia, co-endorsed by the Government of Australia and the Government of Malaysia on 13 February 2015’ and ‘Country Specific Guideline for Papua New Guinea, co-endorsed by the Government of Australia and the Government of Papua New Guinea on 20 November 2015’. The guidelines are incorporated in the Regulation as at the date they were made and are freely available on the Department of Agriculture and Water Resources’ website.

Item 6 inserts an additional item in Schedule 2 at the end of the Regulation: ‘State specific guideline for Queensland, co-endorsed by the Commonwealth and Queensland governments on 16 June 2015’. The guideline is incorporated in the Regulation as at the date it was made and is freely available on the Department of Agriculture and Water Resources’ website.

Statement of Compatibility with Human Rights

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

Illegal Logging Prohibition Amendment (Harmonized System Changes and Other Measures) Regulation 2017

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 *Illegal Logging Prohibition Amendment (Harmonized System Changes and Other Measures) Regulation 2017* amends Schedules 1 and 2 of the *Illegal Logging Prohibition Regulation 2012* to reflect recent international amendments to Harmonized System (HS) tariff codes and to add new country specific and state specific guidelines to the Regulation.

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. Anne Ruston
Parliamentary Secretary to the Deputy Prime Minister and Minister for Agriculture and Water Resources