

## **EXPLANATORY STATEMENT**

Issued by Authority of the Minister for Agriculture, Fisheries and Forestry

*Illegal Logging Prohibition Act 2012*

*Illegal Logging Prohibition Amendment (Country and State Specific Guidelines) Regulations  
2023*

### **Legislative Authority**

The *Illegal Logging Prohibition Act 2012* (the Act) aims to reduce the harmful environmental, social and economic impacts of illegal logging by restricting the importation and sale of illegally logged timber in Australia. The Act requires importers of regulated timber products and processors of domestically grown raw logs to conduct a due diligence process in order to reduce the risk that illegally logged timber is imported or processed.

Section 86 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted to be prescribed by the Act or matters necessary and convenient to be prescribed for carrying out or giving effect to the Act.

### **Purpose**

The purpose of the *Illegal Logging Prohibition Amendment (Country and State Specific Guidelines) Regulations 2023* (the Regulations) is to amend the *Illegal Logging Prohibition Regulation 2012* (the ILP Regulation) in order to: (i) prescribe one updated Country Specific Guideline (CSG) in Part 2 of Schedule 2 to the ILP Regulation; (ii) prescribe four updated State Specific Guidelines (SSGs) in Part 3 of Schedule 2 to the ILP Regulation; and (iii) update references to the website of the Department of Agriculture, Fisheries and Forestry (the Department) to reflect the new Uniform Resource Locator (URL).

### **Background**

Section 12 of the Act relevantly provides that a person commits an offence if the person imports a regulated timber product that is not exempt, and the person does not comply with the due diligence requirements for importing the product. Section 14 of the Act relevantly provides that the Regulations must prescribe due diligence requirements for importing regulated timber products and may provide for those due diligence requirements to be satisfied, wholly or partly, by compliance with specified laws, rules or processes, including laws, or processes under laws, in force in a State or Territory or another country.

The ILP Regulation prescribes due diligence requirements for importing regulated timber products and processing raw logs. Under section 12 of the ILP Regulation, an importer of a regulated timber product may use a CSG in Part 2 of Schedule 2 (where applicable) to assess whether there is a risk that the product is, is made from, or includes, illegally logged timber.

Section 17 of the Act relevantly provides that a certain person commits an offence if the person processes a raw log (that is not exempt) into something other than a raw log and the person does not comply with the due diligence requirements for processing raw logs. Section 18 of the Act relevantly provides that the regulations must prescribe due diligence requirements for processing raw logs and may provide for those due diligence requirements to be satisfied, wholly or partly, by compliance with specified laws, rules or processes, including laws, or processes under laws, in force in a State or Territory.

The CSGs and the SSGs in Schedule 2 to the ILP Regulation are periodically reviewed and updated where needed, in consultation with the relevant country or jurisdiction, and co-endorsed by the Commonwealth and the relevant country or jurisdiction, to ensure their currency.

The Department has completed the process of reviewing the CSGs and the SSGs for 2022. On behalf of the Commonwealth, the Department has co-endorsed one update to the CSGs (for Italy) and four updates to the SSGs (for New South Wales, Victoria, Queensland and Western Australia).

Under the Administrative Arrangements Order dated 1 June 2022, the name of the department changed from the Department of Agriculture, Water and the Environment to the Department of Agriculture, Fisheries and Forestry. The URL was also changed to [www.agriculture.gov.au](http://www.agriculture.gov.au).

### **Impact and Effect**

The Regulations ensure that references to the CSGs, the SSGs and the URL for the Department of Agriculture, Fisheries and Forestry in the ILP Regulation are up to date.

The Regulations are machinery in nature and will not add any new obligations to the existing due diligence process or create any additional regulatory burden for affected stakeholders.

### **Consultation**

As the Proposed Regulations are machinery in nature, importers of timber products and processors of raw logs have not been consulted in relation to the proposed amendments. This is consistent with the approach used for the development of all previous country specific and State specific guidelines. The wider public is not impacted and was therefore not consulted.

Consultations regarding the proposed amendments to the CSG for Italy were conducted with the Government of Italy from 2018 onwards.

Consultations regarding the amendments to the SSG for New South Wales were conducted with the Government of New South Wales from approximately May 2019 to September 2022.

Consultations regarding the amendments to the SSG for Victoria were conducted with the Government of Victoria from approximately May 2019 to October 2022.

Consultations regarding the amendments to the SSG for Queensland were conducted with the Government of Queensland from approximately May 2019 to June 2022.

Consultations regarding the amendments to the SSG for Western Australia were conducted with the Government of Western Australia from approximately May 2019 to October 2022.

The Office of Impact Analysis, formerly the Office of Best Practice Regulation (OBPR), was consulted on the Regulations and advised that they appear likely to have a minor regulatory impact. A Regulation Impact Statement (RIS) is therefore not required (OBPR22-03701).

### **Details/ Operation**

Details of the Regulations are set out in Attachment A.

### **Other**

The Regulations are 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.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

**Details of the Illegal Logging Prohibition Amendment (Country and State Specific Guidelines) Regulations 2023**

**Section 1 – Name**

This section provides that the name of the Regulations is the *Illegal Logging Prohibition Amendment (Country and State Specific Guidelines) Regulations 2023*.

**Section 2 – Commencement**

This section provides for the Regulations to commence on the day after the end of the period of 2 months beginning on the day on which the instrument is registered. This allows stakeholders sufficient notice to switch to undertaking due diligence in accordance with the updated CSG and SSGs and be consistent with the commencement provision for the equivalent provisions in section 2 of Schedule 1 of the *Illegal Logging Prohibition Amendment (2021 Measures No. 1) Regulations 2021*.

The note following subsection 2(1) highlights that the table only relates to the provisions of this instrument as originally made. The table is not amended to deal with any later amendments of this instrument.

Subsection 2(2) provides that any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument. Column 3 would contain relevant dates and details.

**Section 3 – Authority**

This section provides that this instrument is made under the *Illegal Logging Prohibition Act 2012*.

**Section 4 – Schedules**

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

**Schedule 1 – Amendments**

***Illegal Logging Prohibition Regulation 2012***

**Item 1 – Clause 2 of Schedule 2 (table item 4)**

This item omits the former date of co-endorsement of the CSG for Italy in table item 4 of clause 2 of the Schedule 2 to the ILP Regulation and substitutes a new date of 19 December 2022.

This amendment prescribes the updated CSG for Italy that was co-endorsed by the Government of Australia and the Government of Italy on 19 December 2022.

The updated CSG for Italy provides guidance material for importers of regulated timber products when gathering information to meet their due diligence requirements in section 10 of the ILP Regulation to reduce the risk that imported regulated timber products containing timber harvested in Italy are, are made from, or include, illegally logged timber. Importers may elect to use the CSG optional risk mitigation procedures under section 12 of the ILP Regulation to conduct due diligence, if the CSG for Italy applies to the timber in the product, or the area in which the timber is harvested.

**Item 2 – Clause 2 of Schedule 2 (note)**

This item omits the existing note and substitutes a note that explains that the CSGs could in 2023 be viewed on the Department’s website at [www.agriculture.gov.au](http://www.agriculture.gov.au).

This amendment reflects that the name of the department changed from the Department of Agriculture, Water and the Environment to the Department of Agriculture, Fisheries and Forestry under the Administrative Arrangements Order dated 1 June 2022 and that the URL of the Department also changed to [www.agriculture.gov.au](http://www.agriculture.gov.au).

**Item 3 – Clause 3 of Schedule 2 (table item 1)**

This item omits the former date of co-endorsement of the SSG for New South Wales in table item 1 of clause 3 of Schedule 2 to the ILP Regulation and substitutes a new date of 15 September 2022.

This amendment prescribes the updated SSG for New South Wales that was co-endorsed by the Australian Government and the Government of New South Wales on 15 September 2022. Processors of raw logs are required to use this updated version of the SSG for New South Wales when they elect to use the SSG optional risk mitigation process, provided for in section 21 of the ILP Regulation, to conduct due diligence, or when required to obtain information about raw logs where a SSG applies, as provided for in section 19 of the ILP Regulation.

**Item 4 – Clause 3 of Schedule 2 (table item 2)**

This item omits the former date of co-endorsement of the SSG for Victoria in table item 2 of clause 3 of Schedule 2 to the ILP Regulation and substitutes a new date of 13 October 2022.

This amendment prescribes the updated SSG for Victoria that was co-endorsed by the Australian Government and the Government of Victoria on 13 October 2022. Processors of raw logs are required to use this updated version of the SSG for Victoria when they elect to use the SSG optional risk mitigation process, provided for in section 21 of the ILP Regulation, to conduct due diligence, or when required to obtain information about raw logs where a SSG applies, as provided for in section 19 of the ILP Regulation.

**Item 5 – Clause 3 of Schedule 2 (table item 2A)**

This item omits the former date of co-endorsement of the SSG for Queensland in table item 2A of clause 3 of Schedule 2 to the ILP Regulation and substitutes a new date of 29 June 2022.

This amendment prescribes the updated SSG for Queensland that was co-endorsed by the Australian Government and the Government of Queensland on 29 June 2022. Processors of raw logs are required to use this updated version of the SSG for Queensland when they elect to use the SSG optional risk mitigation process, provided for in section 21 of the ILP Regulation, to conduct due diligence, or when required to obtain information about raw logs where a SSG applies, as provided for in section 19 of the ILP Regulation.

**Item 6 – Clause 3 of Schedule 2 (table item 3)**

This item omits the former date of co-endorsement of the SSG for Western Australia in table item 3 of clause 3 of Schedule 2 to the ILP Regulation and substitutes a new date of 26 October 2022.

This amendment prescribes the updated SSG for Western Australia that was co-endorsed by the Australian Government and the Government of Western Australia on 26 October 2022. Processors of raw logs are required to use this updated version of the SSG for Western Australia when they elect to use the SSG optional risk mitigation process, provided for in section 21 of the ILP Regulation, to conduct due diligence, or when required to obtain information about raw logs where a SSG applies, as provided for in section 19 of the ILP Regulation.

**Item 7 – Clause 3 of Schedule 2 (note)**

This item omits the existing note and substitutes a note that explains that the SSGs could in 2023 be viewed on the Department’s website at [www.agriculture.gov.au](http://www.agriculture.gov.au).

This amendment reflects that the name of the Department changed from the Department of Agriculture, Water and the Environment to the Department of Agriculture, Fisheries and Forestry under the Administrative Arrangements Order dated 1 June 2022 and that the URL of the Department also changed to [www.agriculture.gov.au](http://www.agriculture.gov.au).

**Statement of Compatibility with Human Rights**

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

*Illegal Logging Prohibition Amendment (Country and State Specific Guidelines) Regulations 2023*

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 (Country and State Specific Guidelines) Regulations 2023* (the Regulations) amends the *Illegal Logging Prohibition Regulation 2012* (the ILP Regulation) to prescribe one Country Specific Guideline (CSG), four State Specific Guidelines (SSGs) in Schedule 2 to the ILP Regulation and update the Uniform Resource Locator (URL) for the Department of Agriculture, Fisheries and Forestry (the Department).

The *Illegal Logging Prohibition Act 2012* (the Act) aims to reduce the harmful environmental, social and economic impacts of illegal logging by restricting the importation and sale of illegally logged timber in Australia. The Act requires importers of regulated timber products and processors of domestically grown raw logs to conduct a due diligence process in order to reduce the risk that illegally logged timber is imported or processed.

Section 12 of the Act relevantly provides that a person commits an offence if the person imports a regulated timber product that is not exempt, and the person does not comply with the due diligence requirements for importing the product. Section 14 of the Act relevantly provides that the Regulations must prescribe due diligence requirements for importing regulated timber products and may provide for those due diligence requirements to be satisfied, wholly or partly, by compliance with specified laws, rules or processes, including laws, or processes under laws, in force in a State or Territory or another country.

The ILP Regulation prescribes due diligence requirements for importing regulated timber products and processing raw logs. Under section 12 of the ILP Regulation, an importer of a regulated timber product may use a CSG in Part 2 of Schedule 2 (where applicable) to assess whether there is a risk that the product is, is made from, or includes, illegally logged timber.

Section 17 of the Act relevantly provides that a certain person commits an offence if the person processes a raw log (that is not exempt) into something other than a raw log and the person does not comply with the due diligence requirements for processing raw logs. Section 18 of the Act relevantly provides that the regulations must prescribe due diligence requirements for processing raw logs and may provide for those due diligence requirements to be satisfied, wholly or partly, by compliance with specified laws, rules or processes, including laws, or processes under laws, in force in a State or Territory.

Section 21 of the ILP Regulation provides that a processor of a raw log may use a SSG in Part 3 of Schedule 2 (where applicable) to assess if there is a risk that the raw log is illegally logged.

The CSGs and the SSGs in Schedule 2 to the ILP Regulation are periodically reviewed and updated where needed, in consultation with the relevant country or jurisdiction, and co-endorsed by the Commonwealth and the relevant country or jurisdiction, to ensure their currency.

The Department has completed the process of reviewing the CSGs and the SSGs for 2022. On behalf of the Commonwealth, the Department has co-endorsed one update to the CSGs (for Italy) and four updates to the SSGs (for New South Wales, Victoria, Queensland and Western Australia).

Under the Administrative Arrangements Order dated 1 June 2022, the name of the Department changed from the Department of Agriculture, Water and the Environment to the Department of Agriculture, Fisheries and Forestry. The URL was also changed to [www.agriculture.gov.au](http://www.agriculture.gov.au).

### **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. Murray Watt**  
**Minister for Agriculture, Fisheries and Forestry**