



Export Control (Unprocessed Wood) Regulations

Statutory Rules No. 1986 No. 79 as amended

made under the

Export Control Act 1982

Consolidated as in force on 3 September 1999

(includes amendments up to SR 1996 No. 338)

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1 Citation [see Note 1]

These Regulations may be cited as the Export Control (Unprocessed Wood) Regulations.

2 Commencement

These Regulations shall come into operation on 1 July 1986.

3 Interpretation

- (1) In these Regulations, unless the contrary intention appears:

Act means the Export Control Act 1982.

code of practice, in relation to a State, means the practices adopted in a State for the establishment, management and harvesting of all plantations in that State, whether or not those practices are contained in a single document.

CSIRO means the Commonwealth Scientific and Industrial Research Organisation established under section 8 of the Science and Industry Research Act 1949.

plantation means an intensively managed stand of trees of either native or exotic species that is created by the regular placement of seedlings or seed.

State includes the Australian Capital Territory and the Northern Territory.

- (2) A reference in these Regulations to prescribed goods is a reference to goods declared by regulation 4 to be prescribed goods.

4 Declaration of prescribed goods

- (1) The following are declared to be prescribed goods:

- (a) wood chips (except wood chips declared to be prescribed goods by the Export Control (Hardwood Wood Chips) (1996) Regulations);

- (b) wood in the round which is intended to undergo further processing following export;
- (c) wood with a cross sectional area of 225 square centimetres or greater which is intended to undergo further processing following export.

Note Special provisions apply to the export of certain kinds of hardwood wood chips — see the Export Control (Hardwood Wood Chips) (1996) Regulations.

- (2) Subregulation (1) does not apply to wood or wood chips derived from a plantation in a State where a code of practice has been approved by the Minister under regulation 4B.

4A Minister not to give preference, etc

In exercising any of the Minister's powers under these Regulations, the Minister must not give preference to one State, or a part of that State, over another State, or a part of that State (within the meaning of section 99 of the Constitution).

4B Approval of code of practice

- (1) The Minister may approve a code of practice for a State only if subregulation (2) or (3) applies.
- (2) This subregulation applies if the Minister finds that the State's code of practice would satisfactorily protect environmental and heritage values in the State.
- (3) This subregulation applies if:
 - (a) the Minister finds that the State's code of practice would substantially protect environmental and heritage values in the State; and
 - (b) the State agrees, in writing, with the Commonwealth:
 - (i) to amend the code, by an agreed date, to ensure that the code would satisfactorily protect those values; and
 - (ii) to advise the Commonwealth, in writing, when the amendments have been made.

- (4) Before deciding whether to approve a State's code of practice, the Minister must consider a report by CSIRO that:
 - (a) states that CSIRO has conducted a scientific assessment of the code, using as a basis the document entitled "Forest Practices Related to Wood Production in Plantations: National Principles", published by the Standing Committee on Forestry in March 1996; and
 - (b) sets out the findings of that assessment.
- (5) If the Minister approves a State's code of practice, the Minister must cause to be published in the *Gazette* a notice stating:
 - (a) that the approval has been given; and
 - (b) the date on which the approval was given.

4C Revocation of approval of code of practice

- (1) The Minister may revoke the approval of a State's code of practice only if the Minister finds that the code does not satisfactorily protect environmental and heritage values in the State.
- (2) The Minister must not revoke the approval of a State's code of practice unless the Minister:
 - (a) has given the State written notice that states that the approval is to be revoked on a date specified in the notice unless the State amends the code by that date to ensure that the code satisfactorily protects environmental and heritage values in the State; and
 - (b) has considered a report by CSIRO that:
 - (i) states that CSIRO has conducted a scientific assessment of the code, using as a basis the document entitled "Forest Practices Related to Wood Production in Plantations: National Principles", published by the Standing Committee on Forestry in March 1996; and
 - (ii) sets out the findings of that assessment.

- (3) If the Minister revokes an approval, the Minister must cause to be published in the *Gazette* a notice stating:
 - (a) that the approval has been revoked; and
 - (b) the date on which the approval was revoked.

5 Export of prescribed goods

The export of prescribed goods is prohibited unless the person exporting the goods is the holder of a licence to export those goods granted by the Minister.

6 Application of Regulations

These Regulations do not apply to, or in relation to, the export of goods in a shipment of less than 2 tonnes.

7 Application for a licence

- (1) An application for a licence to export prescribed goods must be:
 - (a) in writing; and
 - (b) lodged with the Department.
- (2) If the Minister so requests, an applicant for a licence 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.
- (3) Without limiting the generality of subregulation (2), the Minister may require information in relation to the effect on the environment of obtaining the prescribed goods.

8 Grant or refusal of licence

- (1) Where a person has made an application for a licence and has complied with any request duly made by the Minister under regulation 7 in relation to the application, the Minister shall:
 - (a) grant the licence; or
 - (b) by notice in writing given to that person, refuse to grant the licence.

- (2) Where notice of a refusal to grant a licence is given to a person under subregulation (1), a statement setting out the reasons for the refusal shall be prepared and, subject to this regulation, furnished to that person together with the notice.
- (3) Where the Minister certifies, by writing signed by the Minister, that the disclosure of matter contained in a statement prepared in accordance with subregulation (2) would be contrary to the public interest by reason that 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 false or misleading if it did not include that matter — is not required to furnish the statement.
- (4) Where the Minister:
 - (a) is required under subregulation (1) to give to a person notice of a refusal to grant a licence; and
 - (b) has given a certificate under subregulation (3) in relation to matter contained in a statement prepared in accordance with subregulation (2);the Minister shall notify that person in writing:
 - (c) in a case where the matter is not included in the statement — that the matter is not so included and giving the reason for not including the matter; or
 - (d) in a case where the statement is not furnished — that the statement will not be furnished and giving the reason for not furnishing the statement.

9 Conditions or restrictions specified in licence

A licence granted under regulation 8 may specify conditions or restrictions to be complied with by the holder of the licence and may, in respect of any such condition or restriction, specify the time, (being a time before or after the exportation of the goods to which the licence relates) at or before which the condition or restriction shall be complied with by the holder of the licence.

10 Records to be kept

The holder of a licence granted under these Regulations shall keep such records as the Minister may reasonably require.

11 Surrender

- (1) The holder of a licence granted under regulation 8 may, by notice in writing given to the Minister, surrender that licence.
- (2) Where a licence has been surrendered under subregulation (1) it shall, as soon as practicable, be returned to the Department.
- (3) A licence surrendered under subregulation (1) may, with the consent in writing of the Minister, be surrendered in exchange for the granting to the holder of the surrendered licence of another licence.
- (4) Where:
 - (a) the Minister grants a licence in exchange for a surrendered licence; and
 - (b) the surrendered licence specifies conditions or restrictions to be complied with by the holder of the licence;
the licence so granted shall specify as conditions or restrictions to be complied with by the holder of the licence:
 - (c) such of the conditions or restrictions referred to in paragraph (b), with or without such variation or modification as the Minister may consider necessary for the purpose, as are capable in the circumstances of applying in relation to the holder of the licence; and
 - (d) such other conditions or restrictions, if any, being conditions or restrictions not inconsistent with any of the conditions or restrictions referred to in paragraph (c), as the Minister may determine.

12 Assignment of licence

- (1) A licence granted under regulation 8 may, with the consent in writing of the Minister, be assigned but shall not be assigned for reward.

- (2) An assignee of a licence under subregulation (1) shall be bound by the conditions and restrictions of that licence specified in that licence.

13 Consent of Minister

- (1) The Minister shall not unreasonably refuse:
 - (a) to grant a licence in exchange for a surrendered licence under subregulation 11 (3); or
 - (b) to consent to the assignment of a licence under subregulation 12 (1).
- (2) Where the Minister has refused his or her consent for the purposes of subregulation 11 (3) he or she shall inform the licence holder by notice in writing of that decision.

14 Suspension of licence

- (1) Where the Minister has reasonable grounds to believe that:
 - (a) the holder of a licence has not complied with a condition or restriction to which the holder is subject under these Regulations; and
 - (b) by reason of such non-compliance, damage, degradation or disruption of the environment has occurred or there is an imminent threat that such damage, degradation or disruption will occur;the Minister may suspend the licence, vary the conditions or impose additional conditions upon the licence.
- (2) Where the Minister suspends a licence, varies conditions or imposes additional conditions on a licence under subregulation (1) the Minister shall, as soon as practicable, notify the holder of the licence of the fact.
- (3) Where the Minister suspends a licence, varies conditions or imposes additional conditions on a licence under subregulation (1) the Minister shall investigate the matter in respect of which the licence was suspended, the conditions varied or the additional conditions imposed.

- (4) Where the Minister has investigated the matter in respect of which the licence was suspended, the conditions varied or additional conditions imposed and has not found any grounds for revoking the licence, the Minister shall remove the suspension or variation of conditions or withdraw the additional conditions.
- (5) Notwithstanding anything contained in this regulation, a suspension, a variation of conditions or an imposition of additional conditions under subregulation (1) ceases to apply upon the expiration of a period of 28 days commencing on the day on which the licence was suspended, the conditions varied or the additional conditions imposed.

15 **Revocation of licence**

Where the holder of a licence fails to comply with a condition or restriction to which the holder is subject under these Regulations, 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.

16 **Reconsideration and review of certain decisions**

- (1) In this regulation, unless the contrary intention appears:
 - decision** has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.
 - relevant decision** means a decision of a delegate of the Minister under these Regulations, being a decision made under regulation 8, 9 or 15 or subregulation 11 (3), 11 (4) or 12 (1).
 - relevant person** means:
 - (a) in relation to a relevant decision made under regulation 8 or 9 — the person who was the applicant for the licence to which the decision relates;
 - (b) in relation to a relevant decision made under subregulation 11 (3), 11 (4) or 12 (1) or regulation 15 — the holder of the licence to which the decision relates.

reviewable decision means:

- (a) a decision of the Minister made under regulation 4B, 4C, 8, 9 or 15 or subregulation 11 (3), 11 (4) or 12 (1); or
 - (b) a decision of the Minister or a delegate of the Minister under these Regulations made under subparagraph (3) (a) (ii) or subregulation (4).
- (2) Subject to subregulation (3) a person who is the relevant person in relation to a relevant decision may request the Minister to reconsider the relevant decision.
- (3) The request shall:
- (a) be made by notice in writing given to the Minister within:
 - (i) the period of 28 days after the decision first comes to the notice of the relevant person; or
 - (ii) such further period as the Minister (whether before or after the expiration of that period of 28 days), by notice in writing served on the relevant person, allows; and
 - (b) set out the reasons for making the request.
- (4) The Minister shall within 45 days after receipt of the request reconsider the relevant decision and may:
- (a) confirm the decision;
 - (b) vary the decision; or
 - (c) set the decision aside and make a new decision for the decision set aside.
- (5) Where, pursuant to a request under subregulation (2), the Minister reconsiders a relevant decision, the Minister shall by notice in writing served on the person who made the request, inform the person of the result of the reconsideration and the reasons for the decision.
- (5A) A delegate of the Minister shall not reconsider a relevant decision in the making of which that delegate has had a part.
- (6) Subject to subregulation (7), applications may be made to the Administrative Appeals Tribunal for review of reviewable decisions.

- (7) Pursuant to subsection 25 (6) of the *Administrative Appeals Tribunal Act 1975*, the operation of section 27 of that Act, in relation to an application under subregulation (6), is modified to the extent that an application may only be made by or on behalf of:
- (aa) in the case of a decision by the Minister made under regulation 4B or 4C — the State to which the decision relates; or
 - (a) in the case of a decision by the Minister made under regulation 8 or 9 — the person who was the applicant for the licence to which the decision relates;
 - (b) in the case of a decision by the Minister made under subregulation 11 (3), 11 (4) or 12 (1) or regulation 15 — the holder of the licence to which the decision relates; or
 - (c) in the case of a decision of the Minister or a delegate of the Minister under these Regulations made under subparagraph (3) (a) (ii) or subregulation (4) — the person at whose request the Minister or delegate made that decision.

17 Statements to accompany notification of certain decisions

- (1) In this regulation, ***decision***, ***relevant decision***, ***relevant person*** and ***reviewable decision*** have the same respective meanings as in regulation 16.
- (2) Where a relevant decision is made and notice in writing of the making of that decision is given to the relevant person, the notice shall include a statement to the effect that the relevant person:
 - (a) may, if that person is dissatisfied with the decision, seek a reconsideration of the decision in accordance with regulation 16; and
 - (b) may, subject to the *Administrative Appeals Tribunal Act 1975*, if that person is dissatisfied with the decision on the reconsideration, apply to the Administrative Appeals Tribunal for review of the last-mentioned decision.

- (3) Where the Minister or a delegate of the Minister under these Regulations makes a reviewable decision and gives to the person who is the appropriate person in relation to that decision, being a person referred to in paragraph 16 (7) (aa), (a), (b) or (c), notice in writing of the making of the decision, the notice shall include a statement that, subject to the *Administrative Appeals Tribunal Act 1975*, that person may, if that person is dissatisfied with the decision, apply to the Administrative Appeals Tribunal for review of the decision.
- (4) A failure to comply with the requirements of subregulation (2) or (3) in relation to a decision does not affect the validity of the decision.

18 Delegation

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister, delegate to an authorised officer any of the Minister's powers under these Regulations, except:
 - (a) the power under regulation 4B or 4C; and
 - (b) this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of these Regulations, be deemed to have been exercised by the Minister.
- (3) A delegation under this regulation does not prevent the exercise of a power by the Minister.

Table of Statutory Rules

Notes to the Export Control (Unprocessed Wood) Regulations**Note 1**

The Export Control (Unprocessed Wood) Regulations (in force under the *Export Control Act 1982*) as shown in this consolidation comprise Statutory Rules 1986 No. 79 amended as indicated in the Tables below.

Table of Statutory Rules

Year and number	Date of notification in Gazette	Date of commencement	Application, saving or transitional provisions
1986 No. 79	24 Apr 1986	1 July 1986	
1986 No. 327	6 Nov 1986	6 Nov 1986	—
1995 No. 387 (a)	29 Nov 1995	29 Nov 1995	—
1996 No. 207	19 Sept 1996	19 Sept 1996	—
1996 No. 338	24 Dec 1996	24 Dec 1996	—

(a) Statutory Rules 1995 No. 387 were disallowed by the House of Representatives on 11 September 1996.

Table of Amendments
Table of Amendmentsad. = added or inserted
substituted

am. = amended

rep. = repealed

rs. = repealed and

Provision affected	How affected
R. 3	am. 1996 No. 338
R. 4	am. 1995 No. 387 (disallowed); 1996 Nos. 207 and 338
Rr. 4A–4C	ad. 1996 No. 338
R. 7	rs. 1996 No. 338
R. 8	am. 1986 No. 327
R. 16	am. 1986 No. 327; 1996 No. 338
Rr. 17, 18	am. 1997 No. 338
