

TIMBER RESOURCES (LEGALITY LICENSING)
REGULATIONS, 2012

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L.I. 2184

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IN EXERCISE of the power conferred on the Minister responsible for Forestry by section 18 of the Timber Resources Management Act, 1998 (Act 547), and on the recommendation of the Forestry Commission, 1997 (Act 571), these Regulations are made this 19th day of June, 2012.

Preliminary provisions

Purpose of Regulations

1. The purpose of these Regulations is to provide for a licensing scheme to regulate the import and export of timber products to and from Ghana to control the international trade of illegally harvested timber products and illegal logging.

Application of Regulations

2. These Regulations apply to the timber products specified in the First Schedule which are

- (a) harvested within the country;
- (b) imported into Ghana;
- (c) destined for distribution and sale on the domestic market; and
- (d) destined for export from the country.

Establishment and functions of the Timber Validation Committee

Establishment of Timber Validation Committee

3. There is established by these Regulations a Timber Validation Committee.

Functions of the Committee

4. The Committee shall

- (a) monitor and ensure that the division or department of the Commission responsible for verification and validation of applications for licences performs its functions in a credible, transparent and independent manner;
- (b) establish measures to ensure that the processes of verification and validation under these Regulations are not interfered with;

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- (c) settle complaints made in respect of the division or department of the Commission responsible for verification and validation of applications for licences and the verification and validation process undertaken under Regulation 12(2);
- (d) make recommendations to the Minister regarding the implementation of these Regulations; and
- (e) report annually to the Minister on its activities.

Membership and tenure of office of members of Committee

5. (1) The Committee shall consist of

- (a) a chairperson appointed by the Minister, acting on the advice of the Commission;
- (b) the Chief Executive of the Commission;
- (c) one representative **not below the rank of Director** from
 - (i) the Customs Division of the Ghana Revenue Authority nominated by the Commissioner-General;
 - (ii) the Ministry of Lands and Natural Resources; and
 - (iii) the Ghana Police Service;
- (d) one representative from the Judiciary nominated by the Chief Justice;
- (e) one representative of the Trades Union Congress;
- (f) one representative from the private sector with requisite professional qualification;
- (g) one representative from the timber industry;
- (h) one representative from the National House of Chiefs, and
- (i) the Director of the division or department of the Commission responsible for verification and validation of applications for licences.

(2) The members of the Committee, other than the Chief Executive of the Commission and the Director of the division or department of the Commission responsible for verification and validation of applications for licences shall be appointed by the Minister.

(3) A member of the Committee shall hold office for a period not exceeding three years and is eligible for re-appointment, but a member shall not be appointed for more than two consecutive terms.

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(4) A member of the Committee may at any time resign from office in writing addressed to the Minister.

(5) A member of the Committee who is absent from three consecutive meetings without sufficient cause ceases to be a member of the Committee.

(6) The Minister may by letter addressed to a member revoke the appointment of that member.

(7) Where a member of the Committee is for sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in a declaration of a vacancy.

(8) Where there is a vacancy

(a) under subregulations (4), (5), (6) or regulation 7 (2),

(b) as a result of a declaration under subregulation (7), or

(c) by reason of the death of a member, the Minister shall appoint another person to fill the vacancy.

Meetings of Committee

6. The Committee shall regulate the manner and procedure of its meetings.

Disclosure of interest

7. (1) A member of the Committee who has an interest in a matter for consideration

(a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) shall not participate in the deliberations of the Committee in respect of that matter.

(2) A member ceases to be a member of the Committee, if that member has an interest in a matter before the Committee and

(a) fails to disclose that interest, or

(b) participates in the deliberations of the Committee in respect of the matter.

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Allowances

8. Members of the Committee shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.

General provisions on licences

Requirement for licence

9. A person shall not

- (a) export from Ghana; or
- (b) distribute for sale on the domestic market a timber product without a licence issued by the Commission.

Application for licence

10. (1) A person who intends to export a timber product from the country or distribute a timber product for sale on the domestic market shall apply in writing to the Commission.

(2) The application shall be made in the format determined by the Commission.

(3) An application for a licence may be made to cover

- (a) the shipment of a timber product destined for export from Ghana; and
- (b) the consignment of a timber product harvested within the country or a timber product destined for sale on the domestic market.

(4) The application shall be accompanied with the documentation required by the Commission.

(5) The applicant shall submit the application with the administrative and processing fee prescribed by the Commission.

Conditions for licence

11. (1) A licence under these Regulations shall only be granted if

- (a) the timber product obtained from Ghana and destined for export from Ghana or for distribution for sale on the domestic market has been legally produced;

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(b) the timber product destined for export from Ghana does not include a timber product imported into the country from a third country

(i) in a form in which the laws of that third country prohibit for export; or

(ii) which is produced in contravention of the laws of the country where the trees were harvested.

(2) A timber product is legally produced if it

(a) has been checked in accordance with the wood tracking system prescribed by the Commission, and

(b) conforms to the definition, principles, standards, and criteria set out in the Second Schedule.

(3) The Commission may require an applicant for a licence to satisfy any other condition or furnish it with additional documentation or information it considers necessary to determine the application.

Process for application

12. (1) The Commission shall within three days of the receipt of a completed application, acknowledge receipt and forward one copy of the application to the division or department of the Commission responsible for verification and validation of applications for licences to verify and validate the application.

(2) For the purposes of processing an application for a licence made under regulation 10, the division or department of the Commission responsible for verification and validation of applications for licences shall within fourteen days of the receipt of an application verify and validate the application.

(3) Where the division or department is of the opinion that the applicant has

(a) paid the prescribed fee; and

(b) met the requirements of the verification and validation process in respect of the application, it shall prepare and submit in writing a report and its recommendations on the verification and validation process to the Commission for consideration.

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- (4) For the purposes of this regulation, the verification and validation of an application includes the conduct of processes
- (a) to confirm the legality of a timber product as specified in the Second Schedule; and
 - (b) in accordance with the criteria prescribed by the Commission.

Grant of licence

13. (1) The Commission shall within seven days of the receipt of a report from the Division or department of the Commission responsible for verification and validation of applications for licences make a decision based on the recommendations.

(2) Where after consideration of the report the Commission is of the opinion that

- (a) the consignment of a timber product meets the required legal standards for export from Ghana or for distribution for sale on the domestic market; and
- (b) verification of the process chain of timber products destined for export from Ghana or for distribution for sale on the domestic market has been completed; the Commission may grant a licence to the applicant.

(3) The Commission shall within thirty days of receipt of the report inform the applicant in writing of its decision.

(4) A licence granted by the Commission is subject to conditions specified in the licence.

(5) Where the Commission refuses to grant a licence, it shall communicate the reason for the refusal to grant the licence.

(6) For the purposes of this regulation, the 'process chain of timber products' includes

- (a) the processes involved from the point in time when a timber product is harvested through to the point in time when the timber product is ready for export or for sale on the domestic market; and
- (b) the wood tracking system prescribed by the Commission.

Non-transferability of licence

14. (1) A person granted a licence under these Regulations shall not transfer that licence to another person.

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(2) A person who transfers or attempts to transfer a licence commits an offence and is liable on summary conviction to a fine of not more than one thousand penalty units or to a term of imprisonment of not more than **two** years or to both.

Validity and duration of licence

15. (1) A licence is valid from the date that it is granted.

(2) The period of validity of a licence shall not exceed

(a) twenty-one days for timber products destined for export from the country; or

(b) thirty days for timber products for distribution for sale on the domestic market.

(3) Despite subregulation (2) the Commission may extend the period for the validity of a licence.

(4) The Commission shall validate the extension of the validity of a licence.

(5) The use of a licence shall not affect any requirements of an enactment with respect to the movement of goods within, into or out of the country.

(6) On the expiration of a licence, the licensee or a representative of the licensee shall return that licence to the Commission.

Suspension and cancellation of licence

16. (1) The Commission may suspend a licence, where it is satisfied that the licensee

(a) is not complying with or has not complied with any of the terms or conditions of the licence;

(b) has contravened any of the provisions of these Regulations or any other relevant enactment; or

(c) no longer meets the requirements for which the licence has been granted.

(2) The Commission shall not suspend or cancel a licence under subsection (1) unless the Commission has

(a) given the licensee at least seven days written notice of the decision to suspend or cancel the licence and specified in the notice the defect, omission or breach that has caused the dissatisfaction of the Commission; and

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(b) requested the licensee to remedy the defect, omission or breach within fourteen days from the date of the written notice.

(3) Where the licensee fails to take the necessary action to remedy the defect, omission or breach the Commission shall suspend or cancel the licence.

(4) The suspension or cancellation of a licence is effective from the day that the applicant is informed of the decision of the Commission to suspend or cancel the licence.

Miscellaneous provisions

Review of decision by Committee

17. (1) A person aggrieved by a decision of the division or department of the Commission responsible for the verification and validation of licences may, within seven days of being informed of the decision submit a complaint in writing to the Committee for a review of the decision.

(2) The Committee shall

(a) determine its own procedure for review; and

(b) invite the applicant to appear before it and give the applicant a hearing.

(3) An applicant invited to appear before the Committee may

(a) be represented by a lawyer of the applicant's choice; and

(b) call any expert or witness of the applicant's choice.

(4) The Committee shall

(a) within seven days after the receipt of the complaint, inform the applicant in writing of its decision and the reason for the decision; and

(b) submit in writing a report of its findings with reasons to the Minister.

(5) The Minister shall within seven days of receipt of the report make a decision and communicate the decision to the aggrieved person.

(6) Where

(a) a person is dissatisfied with the decision of the Minister; or

(b) twenty-one days have expired without a decision being made and communicated by the Minister that person may pursue the matter in the Court.

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18. (1) For the purposes of these Regulations, the Commission may grant a paper-based licence or an electronic licence.

(2) A paper-based licence and an electronic licence shall provide the information on the timber product for which a licence may be granted under these Regulations.

Paper-based licence

19. (1) A paper-based licence issued by the Commission shall

(a) be in the format set out in Form One of the Third Schedule;

(b) be of the standard A4 paper size;

(c) have a watermark indicating the logo of the Commission embossed on the paper in addition to the seal; and

(d) be completed in manuscript, typescript or by computerised means.

(2) The Commission shall stamp each paper-based licence that it issues.

(3) The Commission shall use any tamper-proof method to record the quantity of paper-based licences it grants in order to prevent the insertion of figures or references.

(4) The Commission shall furnish an applicant it issues with a paper-based licence with five copies of the licence in the format set out in Form Two of the Third Schedule.

Electronic licence

20. (1) A licence may be issued and processed electronically.

(2) The Commission shall establish electronic systems for the issue, transmission and receipt of electronic licences before the licences are issued.

Lost, stolen or destroyed licence

21. (1) In the event of the loss, theft or destruction of an original licence granted under these Regulations or a copy of that licence, the licensee or the representative of the licensee shall within fourteen days of

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the loss, theft or destruction apply to the Commission for a replacement of the licence on the basis of the document in the possession of the licensee or the representative.

(2) An application for a replacement licence shall be accompanied by a police report.

(3) The Commission shall within fourteen days of the receipt of the request from the licensee or the representative of the licensee issue the licensee or the representative of the licensee with a replacement licence.

(4) A replacement licence shall contain the licence number and the information and entries appearing on the **original** licence it replaces.

(5) A replacement licence shall bear the endorsement "Replacement Licence".

(6) If a replacement licence is lost, stolen or destroyed no further replacement licence shall be issued.

(7) In the event that a lost or stolen licence is retrieved, the finder of the retrieved licence shall return the licence to the Commission.

Validation and alteration of licences

22. (1) The Commission shall validate each copy of a licence or replacement licence.

(2) A licence shall not contain any erasure or alteration.

Inspection and investigation by Committee

23. (1) Where the Committee considers that an inspection or investigation is necessary to prevent an abuse or manipulation of the verification and validation process, it may authorise a person to carry out an inspection or conduct an investigation into any matter related to the verification and validation process required for the grant of a licence.

- (2) An authorised person may, subject to subregulation (3),
- (a) at any reasonable time, enter the premises of a person concerned in or affected by a verification or validation process;
 - (b) require an officer, employee or agent or a person who is the subject of a verification or validation process to produce any book, record, accounts or other document;

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- (c) search premises for any book, record, accounts or other document;
- (d) examine and make extracts from any book, record, accounts or other document of the person concerned in or affected by the verification or validation process;
- (e) undertake field trips to inspect and examine timber logs and timber products which are related to the verification or validation process;
- (f) remove any book, record, accounts or other document of the person who is the subject of the inspection or investigation and keep them for as long as is necessary to examine them, but the authorised person shall give a receipt for the book, record, accounts or other document removed; or
- (g) require an officer, employee or agent of the person who is the subject of inspection or investigation to
 - (i) explain an entry in the book, record, accounts or document; or
 - (ii) provide the authorised person with information concerning the management or activities of the person who is the subject of the inspection or investigation.

(3) The powers of entry and search under sub-regulation (2) (a) and (c) shall only be exercised with the consent of the person who is the subject of the inspection or investigation or the person in charge of the premises.

(4) The authorised officer may collaborate with a police officer where there are reasonable grounds to believe that it is necessary to exercise the powers under sub-regulation (2)(a) and (c) for the prevention; investigation or detection of an offence or to obtain evidence relating to an offence.

(5) A person shall not without just cause, hinder or obstruct an authorised person in the exercise of a function under this regulation.

Procedures on completion of inspection or investigation

24. (1) An authorised person shall

- (a) make a written report on the inspection and investigation and forward a copy of the report to the Committee, and

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Interpretation

27. In these Regulations, unless the context otherwise requires,
- “applicant” means a person who makes an application for a licence under regulation 10;
 - “authorised person” means a person authorised by the Committee under subregulation (1) of regulation 23;
 - “Committee” means the Timber Validation Committee established under regulation 3;
 - “domestic market” means the Ghanaian market for the sale and export of timber products;
 - “harvest” means to fell, cut, convert, collect or otherwise dispose of timber from land or a water body;
 - “licence” means a licence granted by the Commission for the purpose of these Regulations;
 - “licensee” means the holder of a licence granted by the Commission under regulation 13;
 - “logger” means a harvester of timber;
 - “paper-based licence” means a licence granted by the Commission under regulation 19;
 - “tamper proof method” includes the method adopted by the Commission to prevent the alteration of any record of a licence granted by the Commission;
 - “timber product” means a timber product which is
 - (a) subject to a timber utilisation contract granted under the Timber Resources Management Act, 1998 (Act 547) or any permit granted under an enactment for the logging or sale of timber; and
 - (b) of the class descriptions set out in the First Schedule;
 - “timber utilisation contract” means a written agreement that specifies the terms of timber rights granted in respect of an area of land for a fixed period of time;
 - “verification and validation process” includes the processes required to be carried out to
 - (a) ascertain the legality of a timber product of the specifications indicated in the First Schedule; and

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(b) meet the criteria prescribed by the Commission; and
“wood tracking system” includes a chain of processes that relate to the monitoring and reporting system used by the Commission to ensure that a timber product of the class description set out in the First Schedule meet the criteria required by the Commission.

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FIRST SCHEDULE
(regulations 2 and 27)

Description and specifications of timber products

ITEM	CLASS DESCRIPTIONS
1	Rough wood whether or not striped of bark or sapwood or roughly squared (For example Teak in the rough)
2	Railway Sleepers and cross-ties of wood
3	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed
4	Veneer sheets and sheets of plywood whether or not sliced
5	Wood including strips and friezes for parquet flooring and not assembled but continuously shaped (tongued, grooved, rebated, chamfered, v-jointed, beaded, moulded, rounded) along any of its edges, ends or faces whether or not planed, sanded or end-jointed
6	Plywood, veneered panels and similar laminated wood
7	Builders joinery and carpentry or wood, cellular wood, panels, assembled flooring panels, shingles and shakes
8	Wood marquetry and inlaid wood, caskets and cases for jewellery or cutlery and similar articles or wood, statuettes and ornaments of wood

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SECOND SCHEDULE

(regulation 11 (2) (b)) and 12 (4)
Legally produced timber

1. A timber product is legally produced, if it meets the following requirements:

- (a) in cases where the source is other than salvaged timber or timber products, imported timber or timber products, or confiscated or abandoned timber or timber products; the
- (i) timber originated from land subject to timber rights or land properly acquired as the case may;
 - (ii) owners of the land gave their consent to the logging of the timber product, where the land is not public land or a forest reserve;
 - (iii) logger, at the time of felling, held a valid timber utilization contract, issued by the competent authority and ratified by Parliament or other competent authority, and followed the prescribed competitive process; and
 - (iv) logger complied with forest operation procedures, standards and any other requirements prescribed by law.
- (b) in cases where the source is salvaged timber or timber product:
- (i) the logger at the time of felling, held a valid Salvaging Permit issued by the Forestry Commission; and
 - (ii) the logger complied with forest operation procedures, standards and any other requirements prescribed by law.
- (c) in cases where the source is confiscated or abandoned timber or timber products:
- (i) there is a valid Certificate of Purchase;

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- (ii) the Certificate of Purchase was issued pursuant to a court order confiscating the timber;
 - (iii) the abandoned timber or timber product was sold by the Forestry Commission in accordance with statutory procedures; and
 - (iv) the owner complied with forest operation procedures, standards and any other requirement prescribed by law.
2. A timber or timber product shall be certified to be legally produced if:
- (a) the timber or timber product was at all times transported or processed in accordance with standards prescribed by law;
 - (b) all vendors and exporters have valid licences or permits to market timber;
 - (c) at the time of the sale or export of the timber or timber product no accrued fees, rents or taxes, prescribed by law were owing to the State; and
 - (d) at the time of sale or export, the logger had complied fully with obligations under any relevant Social Responsibility Agreement.

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**THIRD SCHEDULE
Form One**

(regulation 19 (1) (a))

Format of a Paper Based Licence

Ghana emblem

**THIRD SCHEDULE
Form One
regulation 19 (1) (a)
Format of a Paper Based Licence**

Ghana emblem

ORIGINAL	1 Issuing authority Name Address		2 Importer		
	3 FLEGT license number		4 Date of Expiry <input type="text"/>		
	5 Country of export		7 Means of transport		
	6 ISPC Code				
	8 Licensee (name and address)				
9 Commercial description of the timber products			10 HS-Heading		
1	11 Common or Scientific Names		12 Countries of harvest		13 ISPC
14 Volume (m ³)		15 Net Weight (kg)		16 Number of units	
17 Distinguishing marks					
18 Signature and stamp of issuing authority					

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Ghana emblem

Ghana emblem

COPY FOR CUSTOMS	2	1 Issuing authority Name _____ Address _____		2 Importer _____ _____	
	3 FLEGT licence number _____	4 Date of Expiry _____			
	5 Country of export _____	7 Means of transport _____			
	6 ISO Code _____				
	8 Licensee (name and address) _____ _____				
	9 Commercial description of the timber products _____ _____			10 HS-Heading _____	
	11 Common or Scientific Names _____		12 Countries of harvest _____		13 ISO Codes _____
	14 Volume (m3) _____	15 Net Weight (kg) _____	16 Number of units _____		
	17 Distinguishing marks _____ _____				
	18 Signature and stamp of issuing authority _____ _____				
Place and date _____					

*TIMBER RESOURCES (LEGALITY LICENSING)**REGULATIONS, 2012***THIRD SCHEDULE****Form Two***(regulation 19 (4))***Copies of Paper Based Licence**

1. The colours of the paper used for the licence shall represent the following:

- (a) white for form A, the "Original" for the applicant,
- (b) yellow for form B, the "Copy for the Customs Authority of the country of destination",
- (c) green for form C, the "Copy for the Commission",
- (d) pink for form D, the "Copy for the Customs Division of the Ghana Revenue Authority Division",
- (e) Blue for form E, the "Copy for the Competent Authority" of the country of destination'.

2. The first copy, marked 'Original' shall after being completed, be signed and stamped by the licensing authority, and be given to the applicant.

3. The second copy, marked 'Copy for the Customs' shall after being completed, be signed and stamped by the licensing authority, and be given to the applicant for submission to the Customs Authority of the country in which the shipment covered by that licence is declared for release for free circulation.

4. The third copy, marked 'Copy for the Commission' shall after being completed, be signed and stamped by the licensing authority, and be retained for their records and future verification of licences issued.

5. The fourth copy, marked 'Copy for the Customs Division of the Ghana Revenue Authority' shall after being completed, be signed and stamped by the licensing authority and be given to the applicant for submission to the Customs Division of the Ghana Revenue Authority for which the shipment covered by that licence is declared for release for loading on to the vessel.

The fifth copy, marked 'Copy for the Competent Authority of the country of destination' shall after being completed, be signed and stamped by the

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licensing authority and be given to the applicant for submission to the competent authority of the country of destination in which the shipment covered by that licence is declared for release for free circulation.

MIKE ALLEN HAMMAH
Minister for Lands and Natural Resources

Date of *Gazette* notification: 20th June, 2012.

Entry into force: