

Timber Marketing Regulation 2005

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Timber Marketing Act 1977*.

Minister for Primary Industries

Explanatory note

This Regulation replaces, without any substantial changes other than the omission of certain forms, the updating of references to certain Australian Standards and a slight change to the test set out in clause 4, the *Timber Marketing Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The omitted forms were the prescribed forms of applications for approval under the *Timber Marketing Act 1977* ("**the Act**") of preservative treatments of timber and for the registration of brands to be used to brand timber, and for the renewal, variation and transfer of such approvals and registrations. The Act was amended by the *Statute Law (Miscellaneous Provisions) Act 2005* to provide that such applications are to be made in a form approved by the Director-General of the Department of Primary Industries, rather than in a prescribed form. However, the form of a Certificate of Authority under section 27 of the Act (which shows that the authorised person may carry out inspections and tests for the purposes of the Act) remains a prescribed form.

The new Regulation makes provision with respect to the following matters:

- (a) tests relating to lyctid susceptible sapwood (clause 4 and Schedule 1),
- (b) classes of articles that may be sold despite containing lyctid susceptible sapwood (clause 5),
- (c) a form of warning for the purposes of section 6 of the *Timber Marketing Act 1977*, which prohibits the sale of framing timber containing more than a certain percentage of lyctid susceptible sapwood (clause 6),
- (d) classes of treated timber that need not be individually branded (clause 7),
- (e) standards as to the moisture content of certain timber (clause 8 and Schedule 2),
- (f) classes of timber for the purposes of section 12A of the Act, which prohibits certain timber from being sold unless it complies with the prescribed moisture content standards or is described as "unseasoned" (clause 9 and Schedule 2),
- (g) articles and classes of articles for the purposes of sections 13 and 13A of the Act, which prohibit the use of certain classes of timber in the manufacture of furniture and prescribed articles and classes of articles (clause 10),
- (h) standards for the moisture content of timber that is permitted to be used in the manufacture of portable ladders, stepladders, trestles and other articles (clause 11),
- (i) the manner for determining the moisture content of certain timber (clause 12),
- (j) classes of treated timber that need not be individually branded (clause 13),
- (k) requiring the Forestry Commission to keep records of approvals of preservative treatment and brands registered in respect of those approvals (clause 14),
- (l) administrative requirements relating to approvals of preservative treatments and the registration of brands relating to those approvals (clauses 15-18),
- (m) various matters of an administrative or machinery nature (Parts 1 and 5 and Schedule 3).

The Regulation is made under the *Timber Marketing Act 1977*, including section 34 (the general regulation-making power) and sections 4, 6, 8, 12, 12A, 13, 13A and 14.

The Regulation refers to various Australian and Australian/New Zealand Standards for the purpose of prescribing standards for the moisture content of timber and the manner of determining that content (clauses 8, 11 and 12 and Schedule 2).

Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Timber Marketing Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

3 Definitions

- (1) In this Regulation: "**approval**" means an approval of a preservative treatment given under section 20 (1) (a) of the Act. "**Australian Standard**" means a Standard issued by Standards Australia. "**the Act**" means the *Timber Marketing Act 1977*.
- (2) A reference in any provision of this Regulation to the abbreviation "AS" or "AS/NZS" followed by a group of numerals or letters, or numerals and letters, is a reference to:
 - (a) the Australian Standard indicated by that group, and
 - (b) all additions and amendments (if any) to that Australian Standard issued before the date on which that provision takes effect.
- (3) When a standard, or a clause of a standard, specified in clause 11 or Column 3 of Schedule 2 is applied by this Regulation, a reference in the standard or clause to a time or date at which compliance with the specification as to moisture content is recommended or required is to be disregarded.
- (4) Notes included in this Regulation do not form part of this Regulation.

Part 2 – Lyctid susceptible sapwood

4 Prescribed test and result and prescribed list of species

- (1) For the purposes of paragraph (b) of the definition of "**lyctid susceptible sapwood**" in section 4 (1) of the Act, the following test is a prescribed test:

Step 1	Preparation of reagent: Dissolve 14 grams of potassium iodide in 20 to 30 millilitres of distilled water. Into this solution dissolve 7 grams of iodine crystals. Make up to 1 litre with distilled water and store in a dark bottle.
Step 2	Application: Apply the solution evenly over a freshly-split radial of the timber to be tested. Ensure that the solution does not come into contact with any metal before the test is started.

- (2) For the purposes of paragraph (b) of the definition of "**lyctid susceptible sapwood**" in section 4 (1) of the Act, the following result is prescribed for the test referred to in subclause (1):

The appearance of blue or blue-black granules immediately after the application of the solution.

- (3) For the purposes of paragraph (d) of the definition of "**lyctid susceptible sapwood**" in section 4 (1) of the Act, the species of trees listed in Schedule 1 are prescribed species.

5 Prescribed classes of articles that may be sold having lyctid susceptible sapwood

For the purposes of the definition of "**article**" in section 4 (1) of the Act, the following are prescribed as classes of articles:

- (a) articles intended or designed to be used permanently in fixed contact with the ground or articles intended or designed to be permanently exposed to weathering, excluding:

- (i) furniture, and
- (ii) ladders, and
- (iii) articles intended or designed to be used for the purpose of building construction, such as scaffold planks, scaffolding and similar articles,
- (b) articles intended or designed to be used in the preparation of food or in direct contact with prepared food, such as bread boards and butcher's blocks,
- (c) articles intended or designed to be destroyed through use or discarded or abandoned after use, such as matches, toothpicks and packing cases.

6 Form of warning to be given for purposes of section 6 (2) of Act

- (1) For the purposes of section 6 (2) of the Act, the prescribed warning is as follows:
Warning as to lyctid susceptibility (Section 6 (2) of the *Timber Marketing Act 1977*)
This framing timber may have lyctid susceptible sapwood comprising more than 25 per cent of the perimeter of any cross section or more than 50 per cent of any face or edge at any cross section. If attacked by lyctids, it may become so weakened as no longer to possess the normal strength properties of the timber.
- (2) For the purposes of section 6 (2) of the Act, the prescribed manner of giving the prescribed warning is:
 - (a) in the case of timber sold in the presence of the purchaser or the purchaser's agent--by handing to the purchaser or the agent, at or before the time of sale, an invoice, a sales docket or some other document on which is legibly written the prescribed warning, with the first 5 words being in letters not less than 5 millimetres high and the remaining words being in letters not less than 2 millimetres high, or
 - (b) in the case of timber sold in the presence of the purchaser or the purchaser's agent and described in an advertisement, or a notice, that is attached to the timber or conspicuously displayed adjacent to the timber--by including the prescribed warning in a prominent place in the advertisement or notice, or
 - (c) in the case of timber sold otherwise than in the presence of the purchaser or the purchaser's agent:
 - (i) by handing to the purchaser or the agent at the time of delivery of the timber, or
 - (ii) by forwarding to the purchaser before the time of delivery and in such a way as should, in the normal course of events, result in the purchaser receiving the instrument at or before the time of delivery, a document on which the prescribed warning is legibly written.

7 Prescribed classes of treated timber that need not be individually branded

For the purposes of section 8 (2) of the Act, the following are prescribed classes of timber:

- (a) fence palings, fence battens and fence droppers,
- (b) veneers,
- (c) timber less than 1,500 square millimetres in cross section area (except light decking),
- (d) timber less than 15 millimetres in thickness (except light decking),
- (e) timber less than 500 millimetres in length.

Part 3 – Moisture content of timber

8 Prescribed standards for moisture content of timber and for determining that content

If the timber referred to in a provision of the Act specified in Column 2 of Schedule 2 is of a class specified opposite that provision in Column 1 of that Schedule, then, for the purposes of that provision:

- (a) the prescribed standard for the moisture content of that timber is that set out in the clause of an Australian Standard specified in Column 3 of that Schedule opposite the

reference to that class of timber, and

(b) the prescribed manner for determining that moisture content is that set out in that clause.

9 Prescribed classes of timber to be dried or seasoned or described as unseasoned

For the purposes of section 12A of the Act, the following are prescribed classes of timber:

- (a) all timber of a class specified in Column 1 of Schedule 2,
- (b) lining boards,
- (c) cladding,
- (d) flooring timber,
- (e) moulding timbers,
- (f) joinery timbers,
- (g) timber used in the manufacture of indoor furniture,
- (h) fascia boards,
- (i) barge boards,
- (j) light decking.

10 Prescribed articles and classes of articles for the purposes of sections 13 (1) and 13A (1) of Act

(1) For the purposes of sections 13 (1) and 13A (1) of the Act, the following articles are prescribed:

- (a) portable ladders, stepladders and trestles,
- (b) scaffold planks,
- (c) frames and sashes for windows,
- (d) timber doors and their hanging frames,
- (e) handles for tools,
- (f) base blocks for the mounting of electrical accessories.

(2) For the purposes of sections 13 (1) and 13A (1) of the Act, the following classes of articles are prescribed:

- (a) gymnasium equipment,
- (b) marine craft.

11 Prescribed standard for timber used in manufacture and sale of prescribed articles

For the purposes of sections 13 (1) (a) and 13A (1) (b) (i) of the Act, the prescribed standard for the moisture content of timber or a class of timber is as follows:

- (a) in the case of timber used in the manufacture of portable ladders, stepladders and trestles--the moisture content specified in *AS 1892.2--1992*,
- (b) in the case of timber used in the manufacture of scaffold planks--the moisture content specified in *AS 1577--1993*,
- (c) in the case of timber used in the manufacture of frames and sashes for windows--the moisture content specified in *AS 2047--1999*,
- (d) in the case of timber used in the manufacture of timber doors--the moisture content specified in *AS 2688--1984*,
- (e) in the case of timber used in the manufacture of timber doors and their hanging frames--the moisture content specified in *AS 2689--1984*,
- (f) in the case of timber used in the manufacture of handles for tools--the moisture content specified in *AS 1729--1994*,
- (g) in the case of timber used in the manufacture of gymnasium equipment--the moisture content specified in *AS Z12*,
- (h) in the case of timber used in the manufacture of marine craft--the moisture content specified in *AS/NZS 2272--1996*.

12 Prescribed manner for determining moisture content of certain timber

For the purposes of sections 12 (c), 12 (d) (ii), 12A (a), 12A (b) (ii), 13 (1) (b), 13A (1) (a) and 13A

(b) (ii) of the Act, the prescribed manner for determining the moisture content of timber referred to in those provisions is as follows:

- (a) in the case of veneer, plywood or blockboard--the oven-drying method for determining moisture content specified in *AS/NZS 2098.1--1996*,
- (b) in the case of particle board--the method for determining moisture content specified in *AS 1859.1--2004*,
- (c) in all other cases--the oven-drying method for determining moisture content specified in *AS 1080.1--1997*.

Part 4 – Preservative treatment of timber

13 Prescribed classes of treated timber that need not be individually branded

For the purposes of sections 16 (2) and 17 (2) of the Act, the following are prescribed classes of timber:

- (a) fence palings, fence battens and fence droppers,
- (b) veneers,
- (c) timber less than 1,500 square millimetres in cross section area (except light decking),
- (d) timber less than 15 millimetres in thickness (except light decking),
- (e) timber less than 500 millimetres in length.

14 Commission to keep records of approvals and registered brands

(1) The Commission must keep records of all approvals of preservative treatments and all brands registered in respect of those approvals.

(2) Any person who wishes to do so may inspect the records of registered brands at the office of the Commission at Pennant Hills, New South Wales, whenever the office is open to the public.

15 Application for approval of preservative treatment and registration of brand

An application under section 18 (1) of the Act must be accompanied by a fee of \$150 for each approval sought.

16 Application for renewal of approval of preservative treatment and registration of brand

An application under section 23 (1) of the Act must be accompanied by a fee of \$150 for each approval sought to be renewed.

17 Application for variation of approval of preservative treatment and registration of brand

An application under section 24 (1) of the Act must be accompanied by a fee of \$75 for each approval sought to be varied.

18 Application for transfer of approval of preservative treatment and registration of brand

An application under section 25 (2) of the Act must be accompanied by a fee of \$75 for each consent to the transfer of an approval.

Part 5 – Miscellaneous

19 Approved forms for purposes of Act

(1) An approved form containing any directions for its completion must be completed in accordance with those directions.

(2) In addition to any particulars required by an approved form of application for approval or consent to be provided on the form, the Commission may require a person to provide it with such further particulars with respect to the application as it considers necessary to determine whether the approval or consent should be given.

(3) The Commission may reject an application for an approval or consent if the applicant fails:

- (a) to complete the approved form of the application, or
- (b) to comply with subclause (1) when completing that form, or
- (c) to provide the Commission with any particulars with respect to the application, within a reasonable period after being requested to do so in accordance with subclause (2), or
- (d) to pay to the Commission any fee required by this Regulation to accompany the application.

20 Form of certificate of authority

For the purposes of section 27 (1) of the Act, the prescribed form is Form 1 in Schedule 3.

21 Form of prescribed "not for sale" notice

(1) For the purposes of section 32A (2) (a) of the Act, the prescribed form of notice is one that complies with the following requirements:

- (a) the notice must consist of the words "NOT FOR SALE" and those words only,
- (b) the words "NOT FOR SALE" must be printed in bold faced capital letters not less than 50 millimetres in height and 30 millimetres in width,
- (c) the notice must not contain any alterations or erasures.

(2) For the purposes of section 32A (2) (a) of the Act, the prescribed manner is to attach the notice to, or exhibit it near, the timber or articles so that:

- (a) the notice is clearly visible to any person who is standing close to the timber or article, and
- (b) it is clear as to which timber or article the notice relates.

22 Offence to fail to notify change of address

A person to whom an approval has been given or transferred must notify the Commission of any change in the person's address for the giving of notices under the Act. The notice must be given within 1 month after the change of address.

23 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Timber Marketing Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.

Schedule 1 Prescribed species of trees

(Clause 4 (3))

Part 1 – Indigenous species

Column 1	Column 2
Common name	Scientific name
alder, rose	<i>Caldcluvia australiensis</i>
almond, rose	<i>Owenia venosa</i>
ash, mountain	<i>Eucalyptus regnans</i>
ash, pink	<i>Alphitonia petriei</i>
ash, red	<i>Alphitonia excelsa</i> <i>Alphitonia whitei</i>
ash, silvertop	<i>Eucalyptus sieberi</i>
backhousia, stony	<i>Backhousia hughesii</i>
belah	<i>Casuarina cristata</i>
blackbutt	<i>Eucalyptus pilularis</i>
box, brush	<i>Lophostemon confertus</i>

box, ironwood	Choricarpia subargentea Choricarpia leptopetala
box, kanuka	Tristania laurina Tristania exiliflora
box, swamp	Tristania suaveolens
box, white	Eucalyptus albens
box, white-topped	Eucalyptus quadrangulata
box, yellow	Eucalyptus melliodora
coachwood	Ceratopetalum apetalum
gum, grey	Eucalyptus propinqua Eucalyptus major Eucalyptus punctata
gum, scribbly	Eucalyptus racemosa Eucalyptus micrantha Eucalyptus signata
hardwood, Johnstone River	Backhousia bancroftii
hollywood, yellow	Premna lignum-vitae
ironbark, grey	Eucalyptus drepanophylla Eucalyptus paniculata Eucalyptus siderophloia
ironbark, gum-topped	Eucalyptus decorticans
ironbark, red-broad-leaved	Eucalyptus fibrosa subsp. fibrosa
ironbark, red-narrow-leaved	Eucalyptus crebra
ironbark, silver-leaved	Eucalyptus melanophloia
mahogany, white	Eucalyptus acmenoides Eucalyptus umbra subsp. umbra Eucalyptus umbra subsp. carnea
malletwood	Rhodamnia argentea
malletwood, brown	Rhodamnia rubescens
malletwood, silver	Rhodamnia acuminata
mangrove, grey	Avicennia marina var. australasica
maple, Queensland	Flindersia brayleyana
maple, silkwood	Flindersia pimenteliana
maple, scented	Flindersia laevicarpa var. laevicarpa
messmate, Gympie	Eucalyptus cloeziana
myall	Acacia pendula
oak, bull	Allocasuarina leuhmannii
penda, brown	Xanthostemon chrysanthus
penda, red	Xanthostemon whitei
penda, southern	Xanthostemon oppositifolius
penda, yellow	Tristania pachysperma
saffronheart	Halfordia kendack Halfordia scleroxyla
sandalbox	Eremophila mitchellii
sassafras	Daphnandra dielsii Doryphora sassafras Daphnandra repandula Daphnandra micrantha Doryphora aromatica
sassafras grey	Dryadodaphne novoguineensis
satinay	Syncarpia hillii
she-oak, beach	Casuarina equisetifolia Casuarina equisetifolia var. incana
she-oak, black	Allocasuarina littoralis
she-oak, river	Casuarina cunninghamiana
she-oak, rose	Allocasuarina torulosa
stringybark, blackdown	Eucalyptus sphaerocarpa
stringybark, white	Eucalyptus eugenioides Eucalyptus phaeotricha
stringybark, yellow	Eucalyptus muellerana

sycamore, silver	Cryptocarya glaucescens
tea-tree, river	Melaleuca bracteata
turpentine	Syncarpia glomulifera
wattle, ironwood	Acacia excelsa
yapunyah, mountain	Eucalyptus thozetiana
yarran	Acacia homalophylla

Part 2 – Exotic species

Column 1	Column 2
Common name	Scientific name
beech, silver	Nothofagus menziesii
chengal	Balanocarpus spp.
dabarima	Planchonia spp.
gaboon	Aucoumea klaineana
genonggang	Cratoxylon arborescens
giam	Hopea spp.
kamarere	Eucalyptus deglupta
kapur	Dryobalanops spp.
malas	Homalium spp.
medang	Cinnamomum spp.
vitex	Vitex spp.

Schedule 2 Prescribed standards for moisture content of timber

(Clauses 3 (3), 8 and 9)

Column 1	Column 2	Column 3	
Class of timber	Provision of the Act for which standard is prescribed	Standard	
1	Stress graded sawn, dressed or sized hardwood intended for structural purposes:		
	Sawn, dressed or sized hardwood which is intended for structural purposes and which has been stress graded by visual means	Sections 12 (d) (i), 12A (b) (i) and 14 (1)	Clause 1.8 of AS 2082 --2000
2	Stress graded sawn, dressed or sized softwood intended for structural purposes:		
	Sawn, dressed or sized softwood which is intended for structural purposes and which has been stress graded by visual means	Sections 12 (d) (i), 12A (b) (i) and 14 (1)	Clause 1.8 of AS 2858 --2004
3	Hardwood sawn and milled products:		
	Strip flooring, light decking, parquet flooring, lining boards, dressed boards, joinery and mouldings, cladding, fascia and	Sections 12 (d) (i), 12A	Clause 2.2 of AS

	bargeboards, sawn boards for feedstock (dressing), overlay strip flooring	(b) (i) and 14 (1)	2796.1--1999
4	Softwood sawn and milled products:		
	Strip flooring, light decking, parquet flooring, lining boards, dressed boards, joinery and mouldings, cladding, fascia and bargeboards, sawn boards for feedstock (dressing), overlay strip flooring	Sections 12 (d) (i), 12A (b) (i) and 14 (1)	Clause 2.2 of AS 4785.1 --2000
5	Cypress milled products:		
	Flooring boards, light decking, lining, dressed boards, joinery stock and mouldings, cladding, fascia and bargeboards	Sections 12 (d) (i), 12A (b) (i) and 14 (1)	Clause 2.1 of AS 1810 --1995
6	Window frames and sashes:		
	Timber used in frames and sashes for windows	Section 14 (1)	Clause 3.2.1.3 of AS 2047--1999
7	Doors and their hanging frames:		
	(a) Timber used in doors	Section 14 (1)	Clause 2.5 of AS 2688 --1984
	(b) Timber used in the hanging frames for doors	Section 14 (1)	Clause 2.2 of AS 2689 --1984
8	Plywood and blockboard:		
	(a) Structural plywood	Sections 12 (d) (i), 12A (b) (i) and 14 (1)	Clause 1.7 of AS/NZS 2269 --2004
	(b) Plywood and blockboard intended for non-structural uses where the material is fully protected from the weather or damp conditions, other than blockboard for use in flush doors with blockboard infill	Sections 12 (d) (i), 12A (b) (i) and 14 (1)	Clause 1.7 of AS/NZS 2270--1999
	(c) Plywood and blockboard intended for uses where the material is exposed to the weather or damp conditions, other than blockboard for use in flush doors with blockboard infill	Sections 12 (d) (i), 12A (b) (i) and 14 (1)	Clause 1.7 of AS/NZS 2271--2004
	(d) Marine plywood	Sections 12 (d) (i), 12A (b) (i) and 14 (1)	Clause 1.8 of AS/NZS 2272 --1996
9	Particleboard:		
	Particleboard produced by flat pressing or means other than the extrusion process	Sections 12 (d) (i), 12A (b) (i) and 14 (1)	Clause 2.3 of AS/NZS 1859.1--2004
10	Medium density fibreboard:		
	Medium density fibreboard produced by mat forming	Sections 12 (d) (i), 12A (b) (i) and 14 (1)	Clause 2.3 of AS/NZS 1859.2 --2004

Schedule 3 Form

(Clause 20)

Form 1 – Certificate of authority

Certificate of authority

Timber Marketing Act 1977, section 27

No

Sydney, [date]

This certificate certifies that [name] [whose photograph is attached] is a person authorised under section 27 (1) of the *Timber Marketing Act 1977* to exercise and perform the powers, authorities, duties and functions under that section and section 27A of that Act.

The seal of the Forestry Commission of New South Wales was affixed to this certificate on the date mentioned above in the presence of:

Secretary

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
ClI	clauses	pp	pages	Secs	sections
Div	Division	Reg	Regulation	Subdiv	Subdivision
Divs	Divisions	Regs	Regulations	Subdivs	Subdivisions
GG	Government Gazette	Rep	repealed	Subst	substituted
Ins	inserted	Sch	Schedule		

Table of amending instruments *Timber Marketing Regulation 2005 (506)*. GG No 107 of 26.8.2005, p 5937. Date of commencement, 1.9.2005, cl 2.