

Timber Marketing Regulation 2010

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

Minister for Mineral and Forest Resources

Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Timber Marketing Regulation 2005*, which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) lyctid susceptible timber,
- (b) the moisture content of timber,
- (c) the preservative treatment of timber,
- (d) the form of a certificate of authority to carry out inspections and tests,
- (e) the form of notice that timber or an article at business premises is not for sale,
- (f) savings and formal matters.

The Regulation is made under the *Timber Marketing Act 1977*, including sections 4 (1) (definitions of "**article**" and "**lyctid susceptible sapwood**"), 6 (2), 8 (2), 12 (c) and (d), 12A, 13 (1), 13A (1), 14 (1), 16 (2), 17 (2), 27 (1), 32A (2) (a) and 34 (the general regulation-making power).

Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Timber Marketing Regulation 2010*.

2 Commencement

This Regulation commences on 1 September 2010 and is required to be published on the NSW legislation website.

This Regulation replaces the *Timber Marketing Regulation 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

- (1) In this Regulation: "**the Act**" means the *Timber Marketing Act 1977*.
- (2) Notes included in this Regulation do not form part of this Regulation.

Part 2 – Lyctid susceptible sapwood

4 Sapwood that is not lyctid susceptible sapwood

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 Test for the presence of starch

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

- (a) the preparation of a reagent, as follows:
 - (i) by dissolving 14 grams of potassium iodide into 20 to 30 millilitres of distilled water,
 - (ii) by dissolving 7 grams of iodine crystals into that solution,
 - (iii) by making that solution up to 1 litre with distilled water,
 - (iv) by ensuring that the solution does not come into contact with any metal before the test is started and, if it is stored, that it is stored in a dark bottle,
- (b) the application of the reagent solution evenly over a freshly-split radial of the timber to be tested.

(2) For the purposes of paragraph (b) of the definition of "**lyctid susceptible sapwood**" in section 4 (1) of the Act, the appearance of blue or blue-black granules immediately after the application to timber of the solution referred to in subclause (1) is prescribed as the result in relation to the test prescribed by that clause.

6 Warning about lyctid susceptibility

(1) For the purposes of section 6 (2) of the Act, the prescribed warning about lyctid susceptibility 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 warning about lyctid susceptibility 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--by ensuring that a document on which the prescribed warning is legibly written:
 - (i) is handed to the purchaser or the agent at the time of delivery of the timber, or
 - (ii) is forwarded to the purchaser before the time of delivery in such a way as should, in the normal course of events, result in the purchaser receiving the document at or before the time of delivery.

7 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 that are not required to be branded:

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

oriented strand board and products using veneer laminations, which are required to be branded).

Part 3 – Moisture content of timber

8 Determining moisture content if moisture content shown on invoice or docket or if no moisture content standard prescribed

For the purposes of sections 12 (c) and (d) (ii), 12A (a) and (b) (ii), 13 (1) (b) and 13A (1) (a) and (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-dry method for determining moisture content specified in *AS/NZS 2098.1: 2006, Methods of test for veneer and plywood Method 1: Moisture content of veneer and plywood*,

(b) in the case of particleboard--the method for determining moisture content specified in *AS/NZS 1859.1:2004, Reconstituted wood-based panels--Specifications Part 1: Particleboard*,

(c) in all other cases--the oven-dry method for determining moisture content specified in *AS/NZS 1080.1:1997, Timber--Methods of Test: Method 1: Moisture Content*.

9 Sale of timber not complying with moisture content standards

(1) For the purposes of section 12A of the Act, timber of the following classes or descriptions of timber are prescribed:

(a) sawn, dressed or sized hardwood, or softwood, that is intended for structural purposes and that has been stress graded by visual means,

(b) dressed boards, sawn boards for feedstock (dressing) that are hardwood or softwood sawn or milled products,

(c) timber used in doors, hanging frames for doors, window frames or sashes for windows,

(d) structural plywood,

(e) 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,

(f) 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,

(g) marine plywood,

(h) particleboard produced by flat pressing,

(i) medium density fibreboard produced by mat forming,

(j) lining boards, cladding, flooring timber, moulding timber, joinery timber, fascia boards, bargeboards and light decking,

(k) timber used in the manufacture of indoor furniture.

10 Manufacture and sale of articles--standards

For the purposes of sections 13 (1) and 13A (1) of the Act, the following classes or descriptions of articles are prescribed and the prescribed standard for the moisture content of timber used in the manufacture of any such article, and the manner of determining that moisture content, is that set out in the Australian Standard or Australian and New Zealand Standard specified in relation to that class or description of article:

(a) portable ladders, stepladders and trestles-- *AS 1892.2--1992, Portable ladders Part 2: Timber*,

(b) scaffold planks-- *AS 1577--1993, Scaffold planks*,

(c) frames and sashes for windows-- *AS 2047--1999, Windows in buildings--Selection and installation*.

- (d) timber doors-- *AS 2688--1984, Timber Doors*,
- (e) timber doors with hanging frames-- *AS 2689--1984, Timber doorsets*,
- (f) handles for tools-- *AS 1729--1994, Timber--Handles for tools*,
- (g) gymnasium equipment-- *AS Z12--1962, Gymnasium equipment*,
- (h) marine craft-- *AS/NZS 2272:2006, Plywood--Marine*.

11 Standards for moisture content of timber

- (1) For the purposes of sections 12 (d) (i), 12A (b) (i) and 14 (1) of the Act, the prescribed standard for the moisture content of a class of timber set out in subclauses (2)-(12) and the prescribed manner for determining that moisture content is that set out in the clause of the Australian Standard or Australian and New Zealand Standard specified in relation to that class of timber.
- (2) Hardwood for structural purposes Sawn, dressed or sized hardwood that is intended for structural purposes and that has been stress graded by visual means--clause 1.8 of *AS 2082--2007, Timber--Hardwood--Visually stress-graded for structural purposes*.
- (3) Softwood for structural purposes Sawn, dressed or sized softwood that is intended for structural purposes and that has been stress graded by visual means--clause 1.8 of *AS 2858--2004, Timber--Softwood--Visually stress-graded for structural purposes*.
- (4) Hardwood 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) or overlay strip flooring that are hardwood sawn or milled products--clause 2.2 of *AS 2796.1--1999, Timber--Hardwood--Sawn and milled products Part 1: Product specification*.
- (5) 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) or overlay strip flooring that are softwood sawn or milled products--clause 2.2 of *AS 4785.1--2002, Timber--Softwood--Sawn and milled products Part 1: Product specification*.
- (6) Cypress milled products Flooring boards, light decking, lining, dressed boards, joinery stock and mouldings, cladding, fascia and bargeboards that are cypress milled products--clause 2.1 of *AS 1810--1995, Timber--Seasoned cypress pine--Milled products*.
- (7) Plywood and blockboard Structural plywood--clause 1.7 of *AS/NZS 2269.0:2008, Plywood--Structural Part 0: Specifications*.
- (8) 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--clause 1.7 of *AS/NZS 2270:1999, Plywood and blockboard for interior use*.
- (9) 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--clause 1.7 of *AS/NZS 2271:2004, Plywood and blockboard for exterior use*.
- (10) Marine plywood--clause 1.8 of *AS/NZS 2272:2006, Plywood--Marine*.
- (11) Particleboard Particleboard produced by flat pressing or means other than the extrusion process--clause 7 of *AS/NZS 1859.1:2004, Reconstituted wood-based panels--Specifications Part 1: Particleboard*.
- (12) Fibreboard Medium density fibreboard produced by mat forming--clause 7 of *AS/NZS 1859.2:2004, Reconstituted wood-based panels--Specifications--Part 2: Dry-processed fibreboard*.

12 Standards for moisture content of doors and windows

- (1) For the purposes of section 14 (1) of the Act, the prescribed standard for the moisture content of a class of timber set out in subclauses (2)-(4) and the prescribed manner for determining that moisture content is that set out in the clause of the Australian Standard specified in relation to that class of timber.
- (2) Window frames and sashes Frames and sashes for windows--clause 3.2.1.3 of *AS*

2047--1999, *Windows in buildings--Selection and installation.*

(3) Doors and their hanging frames Timber used in doors--clause 2.5 of *AS 2688--1984, Timber Doors.*

(4) Timber used in the hanging frames of doors--clause 2.2 of Australian Standard *AS 2689--1984, Timber Doorsets.*

13 Application of Standards

When a standard, or a clause of a standard, specified in this Part 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.

Part 4 – Preservative treatment of timber

14 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 as classes of timber that are not required to be branded:

- (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, particleboard, oriented strand board and products using veneer laminations),
- (e) timber less than 500 millimetres in length.

15 Compliance with approved forms and fees

(1) This clause applies to an application under section 18 (1), 23 (1), 24 (1) or 25 (2) of the Act.

(2) The Commission may reject an application if the applicant:

- (a) fails to complete the approved form of the application, or
- (b) fails to comply with any directions contained in that approved form, or
- (c) fails to provide the Commission with any further particulars with respect to the application that the Commission considers necessary to determine whether the relevant approval, renewal or consent should be given, within a reasonable period after being requested to do so.

(3) Subclause (2) does not limit the reasons for which the Commission may reject an application.

(4) An application must be accompanied by the following fee:

- (a) for an application under section 18 (1) or 23 (1) of the Act--\$300 for each preservative treatment the subject of the application,
- (b) for an application under section 24 (1) or 25 (2) of the Act--\$150 for each preservative treatment the subject of the application.

16 Offence to fail to notify change of address

(1) Each of the following persons must notify the Commission of any change in the person's address for the giving of notices under the Act:

- (a) a person whose application for approval of a preservative treatment and registration of a brand has been granted under section 20 (1) of the Act,
- (b) a person to whom the approval of a preservative treatment and registration of a brand has been transferred, with the consent of the Commission under section 25 (4).

(2) The notice must be given within 30 days after the change of address.

Maximum penalty: 5 penalty units.

17 Public access to records of approvals and registered brands

(1) The Commission must keep records of:

- (a) all preservative treatments that are approved by the Commission under section 20 of the Act, and
 - (b) any conditions to which any such approval is subject, and
 - (c) any brand registered under section 20 of the Act in respect of any preservative treatment approved under that section.
- (2) The Commission must ensure that any person who wishes to do so may inspect those records for no charge at the head office of the Commission whenever the office is open to the public.

Part 5 – Miscellaneous

18 Articles that are not included within the meaning of the term "article"

For the purposes of the definition of "**article**" in section 4 (1) of the Act the following are prescribed as classes of articles that are not included within the meaning of the term "**article**" as used in section 9 (1) of the Act:

- (a) articles intended or designed to be used permanently in fixed contact with the ground, and articles intended or designed to be permanently exposed to weathering, except that the following such articles are included in that definition:
 - (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.

19 Certificate of authority to carry out inspections and test

For the purposes of section 27 (1) of the Act, the prescribed form of a certificate of a person's authority to carry out inspections and tests for the purposes of the Act is as follows:

Certificate of authority (Section 27 of the *Timber Marketing Act 1977*) 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

20 Notice that timber or article at business premises is not for sale

(1) For the purposes of section 32A (2) (a) of the Act, the prescribed form of notice stating that timber or an article is not for sale 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 of attaching or exhibiting such a notice 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.

21 Savings

Any act, matter or thing that, immediately before the repeal of the *Timber Marketing Regulation*

2005, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Species of trees the sapwood of which is not lyctid susceptible sapwood

(Clause 4)

Part 1 – Indigenous species

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

Historical notes

The following abbreviations are used in the Historical notes:

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

Table of amending instruments *Timber Marketing Regulation 2010 (496)*. LW 27.8.2010.
Date of commencement, 1.9.2010, cl 2.