



Australian Government

Department of Agriculture,  
Fisheries and Forestry

# Draft Illegal Logging Prohibition Rules 2024

29 August 2024

International Forest Policy Section



# Presentation overview

1. Background on the laws & reform process
2. Update on the Bill & matters raised
3. Key changes in the rules
4. Next steps
5. Q&A



# Background

- Illegal logging laws introduced in 2012
- Reviewed three times
  - 2015 KMPG Review
  - 2018 Statutory Review
  - 2021 Sunsetting Review
- 2015 Review led to some changes that were disallowed in Parliament
- 2018 Review outcomes were carried over to the 2021 Review for consultation



# Sunsetting Review

- Regulation ‘sunsets’ after 10 years unless reviewed & remade to ensure fit for purpose
- Sunsetting Review over 21/22 found reforms needed to implement best practice
  - Over 70 stakeholders inputted with broad support to reform laws
  - Regulation Impact Statement (RIS) sets out reforms agreed by Minister & published online
- Illegal Logging Prohibition Amendment (Strengthening Measures to Prevent Illegal Timber Trade) Bill 2024 will implement most reforms through changes to the Act
  - Remaining reforms to be implemented through rules to replace current Regulation





# Legislative reforms

## *Key changes to the Act in the Bill before Parliament:*

- Power to sample and test timber products – including at the border
- Adding injunction and enforceable undertaking powers & more flexible tiered offences
- Power to publish anonymous timber testing results and instances of non-compliance
- Powers to enable more efficient compliance audits
- Moving offences into the Act to comply with legislative standards



# Feedback on the Bill

- Feedback on the Bill has mostly concerned:
  - Strict liability offences
  - Publication powers
  - Operation of timber testing
  - Application to importers and processors & giving notice
- Senate Inquiry to Bill in May & June (RRAT Committee)
  - Received 37 Submissions
  - Inquiry Report available online
  - Government provided submission addressing key issues
- Changes to Explanatory Memorandum to address issues



# Illegal Logging Prohibition Rules

- Bill sets out a rule-making power
- Rules to replace Illegal Logging Prohibition Regulation
  - Will be a transition period before April 2025
  - Exact timing depends on when the Bill passes Parliament
- Rules provide more flexibility than Regulations
  - Quicker to amend for updated CSGs & SSGs for example
- Made by Minister, but tabled in Parliament & disallowable





# Key changes

- Simplified information gathering requirements
- Streamlined due diligence pathways – certified and non-certified
  - Simplified requirements for certified products
  - Risk assessment considerations for non-certified products
- Clarified risk mitigation
- New pathway for identical repeat imports & processing lines - removes need to repeat some due diligence requirements within 12 months
- Notice requirements





# Due diligence requirements

- Due diligence obligations in the Regulation are largely preserved
  - 5-step due diligence process at the core



- Exemptions:
  - Products made from recycled timber
  - Value of consignment <\$1000
  - \*Where the processor was also the harvester of the raw logs

# Simplified information gathering

- Must obtain as much of the following information as is reasonably practicable:
  - Product description inc. product type & common & scientific name(s)
  - Country or area of harvest
  - Country of manufacture (if applicable)
  - Supplier details
  - Certification details (if applicable)
  - Quantity
  - Invoice or receipt
- Removed requirement here to gather evidence that product not illegally logged – requirement now in risk assessment step
  - The need to make a reasonable risk conclusion will dictate what further information is collected



# Streamlined due diligence pathways

- Currently 3 risk assessment methods:
  - Timber legality frameworks (FSC or PEFC)
  - Country or state specific guidelines (CSGs or SSGs)
  - Regulated risk factors
- Draft rules will replace these with 2 pathways – separate certified and non-certified pathways
  - Certified pathway centres on confirming certification
  - Non-certified pathway focuses on considering key illegal logging indicators
  - Must consider CSGs & SSGs for non-certified products



# Certified pathway

- Pathway for FSC or PEFC certified products or raw logs
- Still need to gather information on products or logs
- Verify the product or raw log is certified & details are true and correct
- Conduct simplified risk assessment, considering:
  - Information gathered on product or timber
  - Implication that entities in the supply chain have been involved in illegal logging
  - Any other information the importer or processor knows which may indicate illegal logging





# Non-certified pathway

- Same initial information gathering step applies
- Conduct a risk assessment, considering:
  - Information gathered on product or logs
  - Any CSG or SSG that relates to the timber
  - If supply chain entities have been involved in illegal logging
  - The extent of illegal logging of the species
  - The conservation status of the species, including CITES listing
  - The extent of illegal logging in the area of harvest
  - Any other information the importer or processor knows which may indicate illegal logging
  - \* Armed conflict in the area of harvest
  - \* Corruption in the area of harvest
  - \* The governance arrangements for forest management in the area of harvest

(\* For importers only)



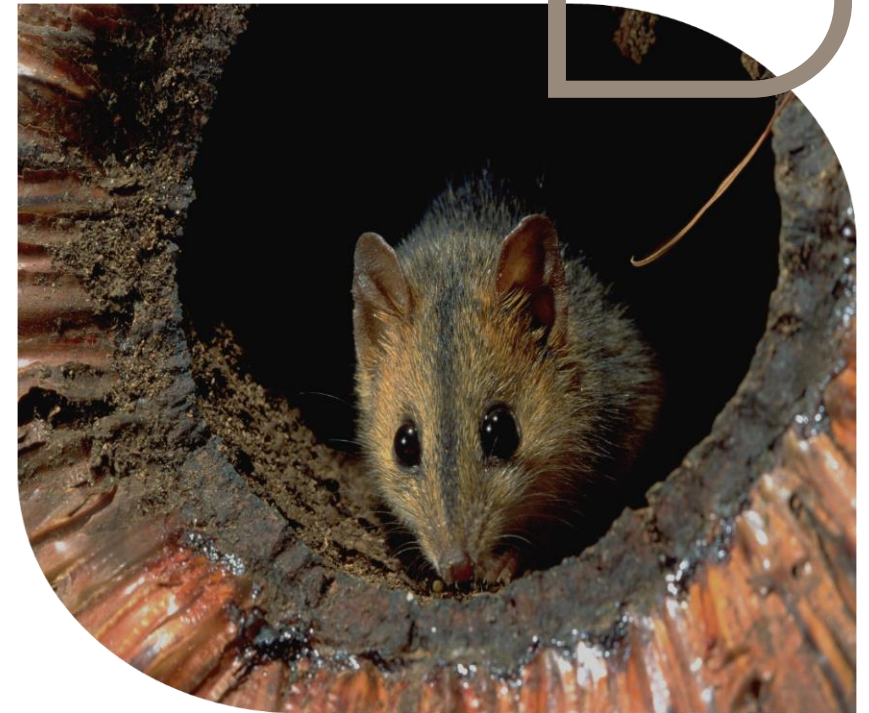
# Risk mitigation

- Risk mitigation still required if risk identified is greater than low
- Maintains requirement that risk mitigation process is adequate & proportionate to risk identified
- Removes need to undertake multiple risk assessments before proceeding to risk mitigation
- Includes examples of risk mitigation measures:
  - obtain further information
  - conduct scientific testing
- Must identify & record the level of risk following mitigation



# Removing repeated due diligence

- New exception for repeated imports or processing of identical products / raw logs in past 12 months
- Creates a simplified due diligence pathway to remove repetition
- Can rely on previous risk assessment & risk mitigation undertaken
- Must still gather information and confirm it matches:
  - Product description, harvest location, supplier, place of manufacture (if applicable) & certification details (if applicable)
- Must have completed full due diligence process previously & keep records to link this





# Notice requirements

- Bill sets out notice requirements for both importers & processors
  - Manner, form & timing of notices to be set out in rules
- Intend notices to be provided via a new IT system, which is still being developed
- As such, these details are not included in the rules yet
- Until the IT solution is ready, importers and processors will not be required to provide notice
  - We will consult the regulated community on implementation before notices are required to be given





# Rules consultation

- Visit the Department's Have Your Say page  
[www.haveyoursay.agriculture.gov.au/illegal-logging-laws](http://www.haveyoursay.agriculture.gov.au/illegal-logging-laws)
  - Draft rules
  - Fact sheet
  - How to make a submission
- Closes on 13 September 2024 at 5 pm AEST
- All feedback will be considered, and we will make any changes to the draft rules as appropriate
- Subscribe to our e-updates at:  
[www.agriculture.gov.au/agriculture-land/forestry/policies/illegal-logging/get-updates](http://www.agriculture.gov.au/agriculture-land/forestry/policies/illegal-logging/get-updates)





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# Questions?

Contact us at  
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