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Statutory Rules 1986 No. 1 79/

Export Control (Unprocessed Wood) Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting
with the advice of the Federal Executive Council, hereby make the following
Regulations under the *Export Control Act 1982*.

Dated 17 APRIL 1986.

N. M. STEPHEN

Governor-General

By His Excellency's Command,

John KERIN

Minister of State for Primary Industry

Citation

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

Commencement

2. These Regulations shall come into operation on 1 July 1986.

Interpretation

3. (1) In these Regulations, "the Act" means the *Export Control Act 1982*.

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

Declaration of prescribed goods

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

- (a) wood chips;
- (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.

Export of prescribed goods

5. 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.

Application of Regulations

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

Application for a licence

7. (1) An application for a licence to export prescribed goods shall be in writing and shall be lodged with the Department.

(2) An applicant for a licence referred to in sub-regulation (1) shall, on being so requested by the Minister, furnish in writing to the Minister such information as the Minister reasonably may require in relation to the application.

(3) Without limiting the generality of sub-regulation (2), the Minister may require information in relation to the following matters:

- (a) the effect on the environment of obtaining the prescribed goods;
- (b) the existence, or otherwise, of a local market for the prescribed goods and if no local market exists, the prospects for development of such a market;
- (c) the commercial reputation of the applicant;
- (d) the financial resources available to the applicant;
- (e) the ability and experience of the applicant in relation to the marketing and export of prescribed goods;
- (f) where the whole or part of the prescribed goods has yet to be obtained by the applicant, the source of supply of the prescribed goods;
- (g) the terms of any agreement that the applicant has entered into or intends to enter into in relation to the goods to be exported.

Grant or refusal of licence

8. 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.

Conditions or restrictions specified in licence

9. 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.

Records to be kept

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

Surrender

11. (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 sub-regulation (1) it shall, as soon as practicable, be returned to the Department.

(3) A licence surrendered under sub-regulation (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.

Assignment of licence

12. (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 sub-regulation (1) shall be bound by the conditions and restrictions of that licence specified in that licence.

Consent of Minister

13. (1) The Minister shall not unreasonably refuse—

(a) to grant a licence in exchange for a surrendered licence under sub-regulation 11 (3); or

(b) to consent to the assignment of a licence under sub-regulation 12 (1).

(2) Where the Minister has refused his or her consent for the purposes of sub-regulation 11 (3) he or she shall inform the licence holder by notice in writing of that decision.

Suspension of licence

14. (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 sub-regulation (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 sub-regulation (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 sub-regulation (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.

Revocation of licence

15. 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.

Reconsideration and review of certain decisions

16. (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 sub-regulation 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 sub-regulation 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 8, 9 or 15 or sub-regulation 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 sub-paragraph (3) (a) (ii) or sub-regulation (4).

(2) Subject to sub-regulation (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 sub-regulation (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.

(6) Subject to sub-regulation (7), applications may be made to the Administrative Appeals Tribunal for review of reviewable decisions.

(7) Pursuant to sub-section 25 (6) of the *Administrative Appeals Tribunal Act 1975*, the operation of section 27 of that Act, in relation to an application under sub-regulation (6), is modified to the extent that an application may only be made by or on behalf of—

- (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 sub-regulation 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 sub-paragraph (3) (a) (ii) or sub-regulation (4)—the person at whose request the Minister or delegate made that decision.

Statements to accompany notification of certain decisions

17. (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) (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 sub-regulation (2) or (3) in relation to a decision does not affect the validity of the decision.

Delegation

18. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister, delegate to an authorized officer any of the Minister’s powers under these Regulations, other than 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.

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NOTE

1. Notified in the *Commonwealth of Australia Gazette* on *h* 1986. *24 April*

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