Department of Agriculture illegal logging position paper at June 2014

**Introduction**

Illegal logging is a significant problem in many countries; generating environmental, economic and social impacts. In Australia, the trade in illegally logged timber disadvantages legitimate businesses and undercuts market prices.

The Australian Government is committed to supporting the purchase and sale of legally logged timber products. Legislation to combat destructive illegal logging activities is now in place.

The **Illegal Logging Prohibition Act 2012** has been in effect since November 2012. The Act makes it an offence to import a timber product or to process an Australian grown raw log that has been illegally logged.

The **Illegal Logging Prohibition Amendment Regulation 2013** is law and its requirements come into effect on 30 November 2014. From this date, importers of certain timber or timber products (as defined in the Regulation) or processors of domestically grown raw logs will need to assess and manage the risk that the timber has been illegally logged. This is known as carrying out ‘due diligence’.

The department’s website ([daff.gov.au/illegallogging](http://daff.gov.au/illegallogging)) contains a range of information to help importers and processors understand and comply with the laws and due diligence requirements. To stay up to date the department also has a subscription list available by visiting the website.

**What do the illegal logging laws mean for importers and processors?**

The Regulation requires that importers and processors undertake due diligence from 30 November 2014.

Many importers and processors are already using existing systems, asking questions and gathering information so that the risk of importing or processing illegally logged timber is decreased. Others have started analysing their existing systems to determine what else may be required to complete their due diligence requirements.

The department recognises it may take time for some businesses to transition to the new due diligence requirements. For this reason, for the 18 months following commencement, the department’s focus will be on helping importers and processors to comply with the Regulation requirements.

**Key points**

- The **Illegal Logging Prohibition Amendment Regulation 2013** requires that importers and processors undertake due diligence from 30 November 2014.
- For the 18 months following commencement, the department’s focus will be on helping importers and processors to comply with the due diligence requirements.
- Visit the department’s website ([daff.gov.au/illegallogging](http://daff.gov.au/illegallogging)) for information to help importers and processors understand and comply with the laws and due diligence requirements.
- To stay up to date subscribe to the department’s illegal logging mailing list available by visiting the website.
It is up to individual businesses to decide what due diligence arrangements they will implement. The department will not seek to ‘catch out’ those who are trying to do the right thing. During the first 18 months, the department will work with businesses to ensure they have sufficient information to understand and comply with the due diligence requirements.

The department will be seeking due diligence information from some businesses. This information will be used to understand industry practices and issues arising from undertaking due diligence. This will help the department to deliver useful information and support to industry. It will also help the department to set the future monitoring approach and ensure that it is as streamlined as possible.

Following the 18-month transition period, the department’s objective is for all importers and processors to understand the requirements and be using due diligence systems to minimise the risk of illegal timber being imported or processed.

It is important to remember that breaches of the Act (which has been in place since 2012) will continue to be taken seriously. If an importer or processor intentionally, knowingly or recklessly imports or processes illegally logged timber they could face significant penalties, including up to five years imprisonment and/or heavy fines.

**Import declarations**

Importers and processors are required to have completed due diligence for products being imported or processed from 30 November 2014.

Importers will be required to answer a simple declaration question about their compliance with their due diligence obligations. This will be via a community protection question as part of their full import declaration to Customs. Importers should make the declaration honestly.

More information on the due diligence declaration will be made available in the lead up to the Regulation commencing on 30 November 2014.

The department’s role is to facilitate the trade in legally logged timber and timber products. Regardless of whether an importer answers yes or no to the declaration question, their goods cannot be held up at the border.

The department will monitor the declarations and will also use this data to understand industry practices and issues arising from undertaking due diligence. If needed, the department may contact some businesses to provide further guidance on the due diligence requirements.

Importers should be aware that the due diligence requirements apply to all imports of timber arriving in Australia from when the Regulation comes into effect on 30 November 2014, irrespective of whether the order was placed prior to the commencement of the Regulation. The department encourages importers to start thinking about how they will comply with the due diligence arrangements, and to read the information provided on the department’s website. The department will be focusing on helping importers and processors to comply with the due diligence requirements, and will not be seeking to ‘catch out’ businesses who are trying to do the right thing.

**Potential amendments to the law**

A full review of the Act and Regulation is legislated to take place in 2017. The department will draw on its experiences and information gathered in the first few years of operation of the laws, as well as industry feedback, as part of the review.

The department is seeking to make minor amendments to the Regulation prior to 30 November 2014 to list finalised country and state specific guidelines in Schedule 2 of the Regulation. These guidelines will help importers and processors understand the legal frameworks for harvesting timber in that country or state to assist them in carrying out their due diligence obligations.

The department will also be seeking to correct some minor drafting errors in the Regulation that maintain but better clarify the original intent of the Regulation. These minor amendments will have no significant impact on importers and processors.

The department thanks industry, social and non-government organisations and international and state government representatives for their feedback on the potential impacts of the due diligence requirements and ongoing assistance in developing education materials. To become involved or to provide feedback please email the department at illegallogging@agriculture.gov.au or call 1800 657 313.

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