



STATUTORY INSTRUMENTS.

**S.I. No. 251 of 2015**



EUROPEAN UNION (FLEGT LICENSING SCHEME FOR IMPORTS OF  
TIMBER) REGULATIONS 2015

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I, SIMON COVENEY, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Council Regulation (EC) No 2173/2005 of 20 December 2005<sup>1</sup>, as amended by Regulation (EU) No 657/2014 of the European Parliament and of the Council of 15 May 2014<sup>2</sup>, and Article 5 of Regulation (EC) No 1024/2008 of 17 October 2008<sup>3</sup>, hereby make the following regulations:

*Citation*

1. These Regulations may be cited as the European Union (FLEGT Licensing Scheme for Imports of Timber) Regulations 2015.

*Interpretation*

2. (1) In these Regulations—

“authorised officer” means—

- (a) a person appointed under Regulation 7,
- (b) a person appointed to be an authorised officer under section 11(4) of the Forestry Act 1946 (No. 13 of 1946),
- (c) a member of the Garda Síochána, or
- (d) an officer of the Revenue Commissioners;

“Council Regulation” means Council Regulation (EC) No 2173/2005 of 20 December 2005<sup>1</sup>, as amended by Regulation (EU) No 657/2014 of the European Parliament and of the Council of 15 May 2014<sup>2</sup>;

“Minister” means Minister for Agriculture, Food and the Marine;

“record” includes a memorandum, book, plan, map, drawing, diagram, pictorial or graphic work or other document, a photograph, film or recording (whether of sound or images or both), any form in which data (within the meaning of the Data Protection Act 1988) are held, any other form (including machine-readable form) or thing in which information is held or stored manually, mechanically or

<sup>1</sup>OJ No. L347, 30.12.2005, p.1

<sup>2</sup>OJ No. L189, 27.06.2014, p.108

<sup>3</sup>OJ No. L277, 18.10.2008, p.23

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 19th June, 2015.*

electronically and anything that is a part or a copy, in any form, of any of the foregoing or is a combination of two or more of the foregoing;

“vehicle” includes a trailer, designed for use or used with a vehicle, or container designed or used for carriage on a vehicle, whether either is attached to or detached from a vehicle;

“vessel” includes a boat, ship, hovercraft or aircraft.

(2) A word or expression that is used in these Regulations and is also used in the Council Regulation has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Council Regulation.

*Competent authority*

3. The Minister is designated for the purpose of Article 7 of the Council Regulation as the competent authority.

*Prohibition on import of timber products without FLEGT licence*

4. (1) A person shall not import a timber product into the State in contravention of Article 4 of the Council Regulation.

(2) A person shall not have in his or her possession or under his or her control or move within the State a timber product that has been imported into the State in contravention of paragraph (1).

(3) A person who contravenes paragraph (1) or (2) commits an offence and is liable—

(a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 3 months or to both, or

(b) on conviction on indictment, to a fine not exceeding €250,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) A timber product which is prohibited from being imported or is subject to any restriction on importation under the Council Regulation or this Regulation is deemed to be so prohibited or restricted for the purposes of the Customs Consolidation Act 1876, the Customs Act 1956 (No. 7 of 1956) and the Customs and Excise (Miscellaneous Provisions) Act 1988 (No. 10 of 1988).

*Presentation of FLEGT licence*

5. A person who fails to present a FLEGT licence for the time being in force for the purposes of Article 5 of the Council Regulation commits an offence and is liable on summary conviction to a class A fine.

*Translation of FLEGT licences*

6. (1) Where a shipment of a timber product being imported into the State is accompanied by a FLEGT licence, the licence shall be translated into English by the importer of the product for the shipment to be released for free circulation in the State.

(2) A person who fails to comply with paragraph (1) commits an offence and is liable on summary conviction to a class E fine.

*Appointment of authorised officer*

7. (1) The Minister may, by instrument in writing, appoint such and so many persons or a class of persons as he or she thinks fit to be authorised officers for the purposes of some or all of the functions of an authorised officer as may be specified in the instrument.

(2) The Minister may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period.

(3) An appointment as an authorised officer ceases—

(a) if it is terminated under paragraph (2),

(b) if it is for a fixed period, on the expiry of that period, or

(c) if the person appointed is an officer of the Minister, upon the person ceasing to be such an officer.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom that paragraph relates.

(5) An authorised officer appointed under this section shall be furnished with a warrant of his or her appointment as an authorised officer and, when exercising a function conferred on him or her as an authorised officer, the officer shall, if requested by a person affected, produce the warrant, or evidence that he or she is such an officer, to the person for inspection.

*Functions of authorised officer*

8. (1) If an authorised officer has reasonable grounds for believing that—

(a) a timber product or a vehicle used in connection with the transport of a timber product is present, has been present or may be present on a premises,

(b) a timber product, is or has been kept, processed, stored or otherwise dealt with on a premises,

(c) a timber product is or has been transported in a vehicle, vessel, aircraft or railway wagon,

(d) equipment, plant or machinery used in connection with a timber product, has been, is or may be on a premises, or

(e) a FLEGT licence or a record relating to an imported timber product is present on a premises, vehicle, vessel, aircraft or railway wagon,

then the authorised officer may for the purposes of enforcing these Regulations and the Council Regulation—

- (i) enter and search the premises and the vehicle,
- (ii) board and search the vehicle, vessel, aircraft or railway wagon,
- (iii) take, without payment, samples of a timber product, or other thing or an article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on a sample such tests, analyses, examinations or inspections as he or she considers necessary or expedient,
- (iv) require the production of a FLEGT licence, record (including a document in non-legible form in a legible form) or thing relating to a timber product, for inspection, that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,
- (v) retain a FLEGT licence, document or thing (for so long as is reasonably necessary),
- (vi) make a record using any means including writing, photography or video,
- (vii) request information of a person regarding a timber product,
- (viii) require the name and address of a person and the name and address of any other person including the owner of, or person to whom a timber product or other thing is being delivered or who is causing it to be delivered,
- (ix) require of a person information relating to the ownership, identity and origin of a timber product,
- (x) require a person in charge or control of timber products to refrain from moving a timber product,
- (xi) seize and detain, for as long as is necessary, mark or otherwise identify a timber product, or a sample taken under subparagraph (iii), or
- (xii) require the name and address of the owner or person in possession or control of equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with a timber product or other thing to which the Council Regulation relates as is in the person's knowledge or procurement.

(2) If an authorised officer has reasonable grounds for believing that an offence is being or has been committed under these Regulations, then the authorised officer may, in addition to the powers exercisable by him or her under paragraph (1)—

- (a) seize and detain the timber product concerned, or

(b) deal with or dispose of the timber product concerned, or require the owner or person in charge of or in possession of it to deal with or dispose of the product in a manner that the authorised officer sees fit.

(3) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling unless he or she has obtained a search warrant under Regulation 10 other than where he or she has reasonable grounds for believing that before a search warrant could be sought in relation to the dwelling, any evidence of an offence referred to in paragraph (2) is being or is likely to be disposed of or destroyed.

(4) An authorised officer, when exercising a power under this Regulation may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the power.

(5) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her functions under these Regulations, if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(6) An authorised officer may use reasonable force, if necessary, to exercise his or her functions under these Regulations.

(7) An authorised officer may require the owner or the person in charge of a timber product, to furnish to the officer the name and address of a person to whom the timber product has been sold or given away and who is for the time being receiving or has, on any day in the past or on any particular day specified by the authorised officer, received the timber product.

(8) If in the course of exercising any functions under these Regulations an authorised officer finds or comes into possession of any thing that the officer believes to be evidence of an offence or suspected offence under these Regulations, it may be seized and retained for use in evidence in criminal proceedings.

(9) Nothing in these Regulations operates to prejudice a power conferred by another enactment to search, or to seize or detain property, which may be exercised by a member of the Garda Síochána or an officer of the Revenue Commissioners.

(10) A member of the Garda Síochána may stop a vehicle or vessel for the purposes of these Regulations and may require it to be moved for inspection to such place as he or she directs.

*Assistance to authorised officer*

9. (1) A person who has—

(a) a timber product, record, document or other thing to which the Council Regulation relates, or

- (b) equipment, machinery, a container, a vehicle, a vessel or other thing used in connection with a timber product to which the Council Regulation relates,

in his or her possession or under his or her control, or information or a record relating to any of them, shall give such—

- (i) assistance to an authorised officer, or person who accompanies the officer, and
- (ii) information to an authorised officer,

on request being made in that behalf by the officer, as the officer may reasonably require for the exercise of his or her functions under these Regulations.

(2) The owner or person in charge of any premises used in connection with a timber product to which the Council Regulation relates shall, if required by an authorised officer, where it is practicable and possible, provide suitable equipment or facilities or a suitable part of the plant or establishment for the officer to carry out his or her functions under these Regulations.

(3) An authorised officer may require a person to give to the officer such information as is in the person's power or procurement or as regards any premises specified by the officer including—

- (a) whether or not the premises is used, either partly or wholly, for or in connection with a timber product to which the Council Regulation relates,
- (b) the name of the owner, occupier or person who is in charge of the premises, and
- (c) whether or not the premises is let and, if let, the name and address of the person to whom, and the period of time for which, it is let.

#### *Search warrant*

10. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting that—

- (a) evidence of, or relating to the commission or intended commission of an offence under these Regulations, is to be found on a premises or vessel,
- (b) there is or was a timber product or other thing made, used or adapted for use (including manufacture and transport) in connection with a timber product, to be found on a premises or vessel, or
- (c) a FLEGT licence, a document relating to an imported timber product is or may be on a premises or vessel,

then the judge may issue a search warrant in respect of the premises or vessel, as the case may be.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by use of reasonable force) the premises, vehicle or vessel named in the warrant.

(3) If a premises, vehicle or vessel is entered pursuant to a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under Regulation 8.

*Obstruction, etc.*

11. (1) A person who—

- (a) obstructs, interferes with or impedes an authorised officer, or any person who accompanies an authorised officer, in the course of exercising a function conferred on the officer under these Regulations,
- (b) fails or refuses, without reasonable cause, to comply with a requirement of an authorised officer under Regulation 8 or 9(2),
- (c) fails, without reasonable cause, to give assistance or requested information to an authorised officer in accordance with Regulation 9(1) or (3) or the Council Regulation, or
- (d) in purporting to give information to an authorised officer for the performance of the officer's functions under Regulation 8—
  - (i) makes a statement that he or she knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or
  - (ii) fails to disclose a material particular,

commits an offence and is liable on summary conviction to a class A fine.

(2) A statement or admission made by a person pursuant to a requirement under Regulation 9(1)(b)(ii) is not admissible in evidence in proceedings brought against the person for an offence (other than an offence under this Regulation for failing to give information or giving false information) under these Regulations.

*Forgery*

12. (1) A person shall not forge or use, knowing it to be forged, a FLEGT licence (in this Regulation referred to as a “forged document”).



(2) A person shall not alter with intent to defraud, deceive, or use, knowing it to be altered, a FLEGT licence (in this Regulation referred to as an “altered document”).

(3) A person shall not have, without lawful authority, in his or her possession or under his or her control a forged document or an altered document.

(4) A person who contravenes this Regulation commits an offence and is liable—

(a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 3 months, or to both, or

(b) on conviction on indictment, to a fine not exceeding €50,000, or to imprisonment for a term not exceeding 12 months, or to both.

#### *Summary proceedings*

13. An offence under these Regulations may be prosecuted summarily by the Minister.

#### *Offence by body corporate*

14. (1) Where an offence under these Regulations has been committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any wilful neglect on the part of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she committed the first-mentioned offence.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the functions of management as if such a member were a director or manager of the body corporate.

#### *Compliance notice*

15. (1) Where an authorised officer is of the opinion that a contravention of these Regulations or the Council Regulation may have taken place or may be taking place, the officer may serve a notice (“compliance notice”) stating that opinion, on the person—

(a) who appears to be the owner, occupier, or person in charge of the premises, vehicle, vessel or container used in connection with a timber product, or

(b) in possession or control of a timber product or other thing,

to which the notice relates.

- (2) A compliance notice shall—
  - (a) require the person to whom it is served to take such action as specified in the notice,
  - (b) inform the person to whom it is served that he or she may appeal the notice in the District Court under Regulation 17, and
  - (c) state that if the person to whom it is served fails to comply with the notice, he or she commits an offence and is liable to a penalty set out in paragraph (12).
- (3) A compliance notice may—
  - (a) require that a timber product to which the Council Regulation relates be detained, disposed of or destroyed in a manner and at a place (if any) specified in the notice,
  - (b) prohibit or regulate any activity specified in the notice, including prohibiting or restricting entry onto the premises, vehicle, vessel or container specified in the notice,
  - (c) require that the owner or person in charge of any premises, vehicle, vessel or container used in connection with a timber product to which the Council Regulation relates dispose of the timber product in a manner specified in the notice,
  - (d) prohibit the transport or further transport of a timber product to which the Council Regulation relates, either absolutely or unless such conditions as may be specified in the notice are complied with,
  - (e) require a person to return a timber product to which the Council Regulation relates to a place of departure by a route which in the opinion of the authorised officer is the most direct or prudent,
  - (f) require that such alterations or additions be made to any timber product, premises, vehicle, vessel, container, machinery or equipment as may be specified in the notice, or
  - (g) require a person to undertake a specified type or level of sampling and analysis for a specified period.
- (4) A person to whom a compliance notice is served—
  - (a) shall comply with it until the notice expires, is withdrawn under paragraph (6) or is annulled under Regulation 17, and
  - (b) shall not cause or permit another person to contravene the terms of the notice.
- (5) A compliance notice may specify a time limit within which it is to be complied with.

(6) A compliance notice may be modified or withdrawn in a further notice and the earlier notice has effect subject to the modification or withdrawal.

(7) A compliance notice may require the owner, operator or person in charge of a timber product to which the Council Regulation relates or any premises, vehicle, vessel, machinery, container, equipment or other thing used in connection with it to choose between two or more of the requirements specified in the notice.

(8) A compliance notice shall include an address for service of an appeal under Regulation 17.

(9) Subject to paragraph (10), a compliance notice, other than where it relates to paragraph (3)(b) or (e), comes into operation—

- (a) where an appeal has not been made under Regulation 17, upon the expiration of the period allowed within which an appeal may be made, or
- (b) where an appeal is made under that Regulation upon the withdrawal of the appeal or on the determination of the proceedings.

(10) A compliance notice which relates to paragraph (3)(b) or (e) comes into operation on it being served on the person to which it relates.

(11) Where the authorised officer serving a compliance notice is of the opinion that—

- (a) there is an immediate and serious threat to the environment or it is necessary to prevent pests or diseases being transmitted from imported timber products to other timber products, trees, forests, woodlands or fauna which requires immediate compliance with the notice to prevent serious harm or damage, or
- (b) there is a risk that the timber product to which the notice relates could be moved from the place where the officer found it,

the compliance notice comes into operation on it being served on the person to which it relates.

(12) A person on whom a compliance notice is served who fails to comply with, or causes or permits another person to contravene the notice commits an offence and is liable—

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €25,000.

*Seizure and detention for non-compliance with a compliance notice*

16. (1) Without prejudice to an appeal under Regulation 17, if—

- (a) a person in control of a timber product to which the Council Regulation relates or a premises, vessel, vehicle, equipment, container, machinery or other thing used in connection with a timber product fails to comply with the terms of a compliance notice within the time specified in the notice,
- (b) an authorised officer has reasonable grounds for believing that the terms of a compliance notice will not be complied with,
- (c) a compliance notice has been confirmed with or without modification under Regulation 17(4) and the notice has not been complied with, or
- (d) an authorised officer has reasonable grounds for believing that the terms of a compliance notice which has been confirmed with or without modification under Regulation 17(4) will not be complied with,

an authorised officer may at any time seize the timber product or vessel, vehicle, equipment, container, machinery or other thing used in connection with the timber product.

(2) If a timber product to which the Council Regulation relates or vessel, vehicle, equipment, container, machinery or other thing used in connection with it is seized in accordance with paragraph (1), an authorised officer may—

- (a) sell, destroy or dispose of the timber product or cause it to be sold, destroyed or be disposed of, or
- (b) take such other reasonable measures in relation to the timber product or other thing or a vessel, vehicle, equipment, container, machinery or other thing used in connection with the timber product as the authorised officer considers appropriate in the circumstances.

(3) Any profits arising out of the sale, destruction or disposal of a timber product in accordance with paragraph (2) less any expenses incurred in connection with the seizure, sale, destruction or disposal shall be paid to the exchequer.

(4) The costs (including ancillary costs) of a measure taken under this Regulation are recoverable by the Minister—

- (a) as a simple contract debt in a court of competent jurisdiction from the person who was the owner of the timber product or other thing to which the Council Regulation relates or means of transport at the time the measure was carried out, or
- (b) by deducting the costs from any sum due by the Minister to a person on whom a compliance notice has been served.

(5) The costs of any action required by a compliance notice shall be borne by the person to which the notice relates.

*Appeal against compliance notice*

17. (1) A person on whom a compliance notice is served may, within 7 days from the date of service of the notice, appeal the notice to the judge of the District Court having jurisdiction in the District Court district—

- (a) where a timber product, premises, vehicle, machinery, container, equipment, vessel or other thing to which the Council Regulation relates, which is the subject of the notice, is situated, or
- (b) where the person bringing the appeal ordinarily resides or carries on business,

on the grounds that the notice is unreasonable having regard to these Regulations or the Council Regulation.

(2) Notice of an appeal shall contain a statement on the grounds upon which it is alleged that the notice or any of the terms of the notice are unreasonable and shall be served on the authorised officer who served the compliance notice at the address included on the notice in accordance with Regulation 15(8) not later than 48 hours prior to the hearing of the appeal.

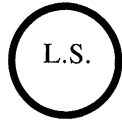
(3) A person bringing an appeal shall lodge a copy of the notice or appeal with the District Court Clerk concerned not later than 48 hours prior to the hearing of the appeal.

(4) On the hearing of an appeal a judge of the District Court may confirm, modify or annul a notice.

(5) A person, including a person on whom a compliance notice has been served, shall not—

- (a) pending the determination of an appeal, deal with a timber product, premises, vehicle, vessel, container, machinery, equipment or other thing to which the notice relates, other than in accordance with the terms of the compliance notice, or
- (b) if the notice is confirmed or modified on appeal, deal with a timber product to which the Council Regulation relates, any premises, vehicle, vessel, equipment, container, machinery or other thing to which the notice relates other than in accordance with the terms of the compliance notice as confirmed or modified.

(6) In this Regulation “appeal” means an appeal under paragraph (1).



GIVEN under my Official Seal,  
9 June 2015.

SIMON COVENEY,  
Minister for Agriculture, Food and the Marine.

EXPLANATORY NOTE

*(This note is not part of the instrument and does not purport to be a legal interpretation)*

These Regulations give effect to Council Regulation (EC) No 2173/2005 of 20 December 2005, as amended by Regulation (EU) No 657/2014 of the European Parliament and of the Council of 15 May 2014, and Regulation (EC) No 1024/2008 of 17 October 2008, on the establishment and implementation of a FLEGT licensing scheme for imports of timber into the European Union.

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