

THE LAW

Illegal timber faces the axe

Legislation targets imports and domestic harvesting.

The importation and sale of illegally harvested timber, or products containing illegal timber, will be banned under legislation currently being considered by federal parliament.

Illegal timber harvesting costs the global economy US\$60 billion annually, impacting environmental sustainability and undercutting legal and regulated timber industries.

The Illegal Logging Prohibition Bill 2011 restricts the importation of illegal timber products through customs controls, and institutes monitoring at timber processing plants to ensure domestically sourced raw logs are legally harvested.

Individuals found guilty of importing or processing illegal timber will face up to five years in jail, while corporations would be liable for fines of up to \$275,000 per offence.

While the bill establishes the regulatory and enforcement framework for monitoring illegal timber, the regulations that define what constitutes illegally harvested timber will be contained in subordinate legislation still being developed.

Then Parliamentary Secretary for Agriculture, Fisheries and Forestry, Mike Kelly said it is important to get the framework in place so the

new rules are ready to be enforced once the regulations are finalised.

“The government recognises these are essential first steps towards a longer-term goal of Australia sourcing timber products from sustainably managed forests, wherever in the world they are,” Dr Kelly said.

The bill assists in bringing Australia in line with its international partners, with similar legislation enacted in the United States and Europe to combat illegal logging and reduce its impact in the Southeast Asia region.

A report from the Joint Foreign Affairs, Defence and Trade Committee supported the passage of the bill as a key tool in the ongoing fight against illegal logging.

“Illegal logging imposes an enormous financial, environmental and social cost worldwide,” Trade Sub-Committee chair Janelle Saffin (Page, NSW) said. “The World Bank estimates that illegal logging as a criminal activity generates approximately US\$10 to 15 billion annually worldwide.”

However opposition members of the committee produced a minority report calling for the bill to be delayed until subordinate legislation is finalised and further community consultation is undertaken on the bill’s impact.

“It is indisputable that as soon as it enters into law, the Illegal Logging Prohibition Bill will cause uncertainty in Australia’s timber trade because importers will not know what the precise impact of the legislation will be until the regulations are enacted,” the minority report states.

The Coalition members also said there is “considerable unease” among Australia’s key regional trading partners about a lack of consultation on the bill’s impact.

“The evidence presented to the Trade Sub-Committee also clearly shows that important regional trading partners believe this bill will harm their trading relationship with Australia and that there is legal uncertainty as to whether the bill is World Trade Organisation (WTO) compliant.”

Greens members of the committee also raised concerns about the consultation process, saying a more considered approach with more input from importer countries needs to be developed to ensure the regulations are effective and supported by all parties.

“Importers will not know what the precise impact of the legislation will be until the regulations are enacted”

“One of the persistent complaints from a variety of submitters to this and previous inquiries has been the lack of clarity and certainty in the current bill,” the Greens’ statement said. “In particular, the lack of clarity regarding the definition of illegal timber and the lack of clarity regarding due diligence requirements remains unresolved.”

But Dr Kelly told the House extensive consultation with the timber industry has already been done, and will continue to be done through an illegal logging working group made up of government and industry representatives.

“The government will continue to work closely with its illegal logging working group and state and

“These are essential first steps towards a longer-term goal of Australia sourcing timber products from sustainably managed forests”

THE LAW

CRIMECHOPPERS: *Illegal logging hits the economy and the environment*

THINKSTOCK



territory governments to develop the subordinate legislative instruments required," Dr Kelly said.

Illegal timber harvesting costs the global economy US \$60 billion annually

"The Illegal Logging Prohibition Bill 2011 delivers on the government's policy to restrict

the importation and sale of illegally logged timber in Australia.

"It will remove unfair competition posed by illegally logged timber for Australia's domestic timber producers and suppliers and establish an even economic playing field for the purchase and sale of legally logged timber products and provide assurance to consumers that products they purchase have been sourced in compliance with government legislation." •

AGRICULTURE

Wheat exports open up

Accreditation scheme to be abolished.

The Australian wheat export market will take the final steps to deregulation under legislative changes contained in the Wheat Export Marketing Amendment Bill 2012.

Wheat exporters are currently required to be accredited under a scheme overseen by Wheat Exports Australia, which replaced the old 'single desk' export model administered by the Australian Wheat Board prior to July 2008.

The amendment will phase out the requirements for accreditation, and the associated Wheat Export Charge that is applied to all wheat exports to fund the accreditation scheme.

Parliamentary Secretary for Agriculture, Fisheries and Forestry Sid Sidebottom said the accreditation scheme has served its purpose in supporting the transition from a single exporter model to a deregulated market.

"Abolishing the scheme will ensure that the benefits to industry provided by accreditation during the transition to deregulation are not undermined in the longer term by the direct and indirect costs of continuing with a scheme that has served its purpose," Mr Sidebottom said.

"These costs include the WEC and the administrative and regulatory burden of accreditation, as well as the negative impact of unnecessary regulation on efficiency and competition in the wheat industry over time."

However the Victorian Farmers Federation has voiced opposition to the bill, saying the WEC and Wheat Exports Australia should be maintained and used to fund and direct improvements to the industry.

"We believe that there is an opportunity with the WEA to control the WEC," VFF Grains Group president Andrew Weidemann said. •

THE LAW

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MARRIAGE SPLIT: *Differences of view over same-sex marriage bills*

SOCIAL POLICY

Divisions remain over marriage bills

MPs urged to consider committee's report.

Parliament still stands divided on two controversial bills which seek to legalise same-sex marriage in Australia. A report by the House of Representatives Social Policy and Legal Affairs Committee has prompted another round of passionate debate.

The Marriage Equality Amendment Bill and the Marriage Amendment Bill seek to legalise same-sex marriage in Australia and recognise same-sex marriages performed in foreign countries. Both bills uphold existing protections that ensure no obligation is placed on ministers of religion to perform any marriage, which would include same-sex marriages.

Tabling the report in parliament, committee chair Graham Perrett (Moreton, Qld), urged all MPs to read the committee's report before voting on the two marriage equality bills before the House.

"I appreciate that there are many differences of opinion among us, as there is across the country. However, we have the weighty responsibility of upholding the views of the constituents who elected us to this position," Mr Perrett said.

"We have a duty to lead, as well as to represent our constituents and to vote accordingly."

To assist parliament with the debate, the report outlined some amendments which emerged from the evidence

received by the inquiry. This includes rewording of the bills to define marriage as simply 'between two people' in order to achieve the intent of removing discrimination in the Marriage Act.

The inquiry also found that, for practical purposes, it may be desirable for the proponents of the two bills to discuss agreeing on the text of a single bill for the parliament to consider.

The committee chose not to recommend how MPs should vote on the bills, but committee members submitted additional remarks which reflect the diversity of views in the parliament and the community.

Some members of the committee argued that the overwhelming response to its public inquiry showed that the community is ready for change, stating that it is indefensible and unjust that two people who love each other are unable to marry each other because of their sexual orientation.

But other committee members disputed that Australian attitudes to marriage have changed, saying the limitation of marriage to people of the opposite sex was not to discriminate against people who wish to belong to same-sex relationships, but rather acknowledges the unique institution of marriage.

More debate on the bills is expected during parliament's Spring sittings. •

EMPLOYMENT

Wanted: life beyond work

Proposals aim for better balance.

The right to request flexible working arrangements would be extended to all long-term casual employees and those employed for over 12 months under proposed amendments to workplace legislation.

The Fair Work Amendment (Better Work/Life Balance) Bill 2012 seeks to expand the National Employment Standards to allow staff to request the number of hours they work, the scheduling of those hours and the location of the workplace.

Current legislation only allows similar requests to be made by people with caring responsibilities for children under school age, or dependants under 18 with disabilities.

However a review by the House Education and Employment Committee has cast doubt over whether the amendments will be adopted.

The majority report of the committee recommended that consideration of the amendments be delayed until after a current review of the Fair Work Act 2009 is completed.

Introducing the private member's bill into the House, Adam Bandt (Melbourne, Vic) said it will provide a better work/life balance for Australian families.

"Sixty per cent of women say that they feel consistently time pressured and nearly half of men also feel this way," Mr Bandt told the House.

"Almost half of all fathers in couple households work more than they would prefer, and one-third of women working full time would also prefer to work less, even taking into account the impact that this might have on their income."

Mr Bandt said the bill would help families to better spread working responsibilities.

Professor Anna Charlesworth of the Centre for Work + Life welcomed

the bill, saying the amendments will provide people greater control over their time and the right to adjust their work schedule to fit changes in personal circumstances, lifestyles and family arrangements.

However the Australian Industry Group said the amendments will put undue pressure on employers that are already trying to do the right thing by their staff.

“Business conditions are very tough under the two speed economy and the high dollar is impacting substantially on many of our members,” Australian Industry Group CEO John O’Callaghan told a committee inquiry into the bill.

“Most employers try hard to accommodate reasonable requests for flexible working arrangements as it currently exists under the Fair Work Act.” •

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HOMEWORK: Many workers want to spend less time in the office

LEGAL AFFAIRS

Judging the judges

Support for judicial complaints mechanism.

A new framework for dealing with complaints against federal court justices is a step closer after a report by the House of Representatives Social Policy and Legal Affairs Committee recommended the proposed legislation be passed by the House.

The Judicial Complaints Bill sets up an internal mechanism for lower level complaints about judicial conduct to be handled by the Chief Justices of the Federal and Family Courts and the Chief Federal Magistrate.

The Parliamentary Commissions Bill is focused on serious complaints against sitting Commonwealth judicial officers, including a Justice of the High Court of Australia. The bill enables the establishment of parliamentary commissions, following a resolution by each house of the parliament, to investigate specified allegations of misbehaviour or incapacity, which in rare circumstances could lead to the dismissal of a federal court justice.

First assistant secretary at the Attorney-General’s Department Louise Glanville said together the bills will provide parliament and the judiciary with standard mechanisms for investigating complaints and allegations of misconduct or incapacity.

“The bills will give the public increased confidence that complaints about judicial officers will be handled appropriately and in this way the bills will promote an independent, robust and accountable judiciary,” Ms Glanville said.

But opposition members of the committee have raised concerns the bills could lead to a flood of complaints and impact on the independence of the judiciary.

Committee deputy chair Judi Moylan (Pearce, WA) questioned whether the Parliamentary Commissions Bill could undermine the independence of the judiciary by formalising a system allowing

politicians to dismiss judges from the federal courts.

“I think we have to be very, very careful that there is not political interference in the work of our judiciary,” Mrs Moylan said. “I think that is my overriding concern and, reading through the submissions, that clearly comes out as a concern of many.”

Former Attorney-General Philip Ruddock (Berowra, NSW), who joined the committee for its examination of the two bills, also cast doubts on the changes, predicting a steep rise in vexatious claims.

“What I am worried about is something that all of the data and statistics that you have will probably not reflect, the propensity for litigants in the family law area in particular to be so fixated about outcomes they will pursue every avenue, even to the point in the end of not accepting the function and the role of the judiciary.

“And I suspect providing a mechanism is likely to generate an enormous number of complaints in comparison to what you have seen in other jurisdictions.”

However Law Council of Australia treasurer Michael Colbran QC said the council supports the two bills, with the new system having the potential to increase transparency and public confidence in the judiciary.

“Our perception and our present position is that we do not fear a floodgate of new problems arising through that mechanism,” Mr Colbran said. “But what we do see is that there may be additional complaints that are identified by the fact that you have an established mechanism.

“So at the moment we may have a situation where there is, shall I say, unsatisfied demand to bring forward a complaint which in itself has a tendency to undermine confidence in the operation of the judicial system.” •