



Western Australia

Agriculture and Related Resources Protection Act 1976

Agriculture and Related Resources Protection (European House Borer) Regulations 2006

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Agriculture and Related Resources Protection (European House Borer) Regulations 2006

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Defined Terms

Agriculture and Related Resources Protection (European House Borer) Regulations 2006

Part 1 — Preliminary

1. Citation

These regulations are the *Agriculture and Related Resources Protection (European House Borer) Regulations 2006*¹.

2. Terms used

(1) In these regulations —

control period means the period beginning on 1 September in any year and ending on 30 April in the next year;

EHB means the European house borer *Hylotrupes bajulus* Linnaeus;

pinewood means trees or wood from trees of the genera *Pinus*, *Abies*, *Picea* and *Pseudotsuga* whether or not the wood is, or is part of an article (including an item of furniture, decoration, utensil or other personal effect);

pinewood dealer means a person who carries on a business or hobby of, or a business or hobby that includes, buying, selling or transporting pinewood;

PMZ or ***priority management zone*** means each property in respect of which the owner or occupier has been given a notice under regulation 17(1);

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RMZ or **restricted movement zone** means an area determined by a notice given under regulation 18A(1);

seasoned pinewood means pinewood that has a moisture content of 20% or less when tested in accordance with Australian Standard AS 1080.1 — 1997 *Timber: Methods of test – Moisture content*;

unseasoned pinewood means pinewood that is not seasoned pinewood;

unwanted pinewood means pinewood that is untreated and —

- (a) of no commercial value (including off-cuts, discarded wood or wooden articles, fallen or dead trees or parts of trees and other waste wood); or
- (b) intended for use as firewood.

[(2) deleted]

*[Regulation 2 amended in Gazette 28 Dec 2007 p. 6480-1;
5 Feb 2010 p. 241-2.]*

Part 2 — Restrictions on movement of pinewood

3. Bringing pinewood into RMZ

(1) An authorised person may, by written notice, prohibit a person from bringing pinewood into a RMZ if the authorised person is of the opinion that the presence of the pinewood in the RMZ will increase the risk of the spread of EHB.

(2) A person given a notice under subregulation (1) must comply with it.

Penalty: a fine of \$1 000.

[Regulation 3 amended in Gazette 5 Feb 2010 p. 242.]

4. Removing seasoned pinewood from RMZ

(1) A person must not remove from a RMZ seasoned pinewood that has been in the RMZ for a period of 72 hours or more unless —

(a) the volume of the pinewood is less than 100 cm³; or

(b) at all times while it was in the RMZ (other than while it was being transported), the pinewood was stored in accordance with subregulation (2); or

(c) the pinewood has been treated in accordance with regulation 12(1)(a); or

(d) the pinewood has been treated in accordance with regulation 12(1)(b) or (c) and is removed from the RMZ within 72 hours after being treated; or

(e) in the case of pinewood that is being transported through the RMZ — the pinewood has not remained stationary (whether on a stationary vehicle or having been offloaded) for a period of, or periods totalling, more than 72 hours; or

(f) removal of the pinewood other than in accordance with paragraphs (a) to (e) has been authorised and the pinewood is removed in accordance with the authorisation.

Penalty: a fine of \$2 000.

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- (1a) A person purporting to remove seasoned pinewood from an RMZ in accordance with subregulation (1) must, if requested by an authorised person to do so, provide to the authorised person documentary or other evidence that the relevant paragraph of that subregulation has been complied with.
Penalty: a fine of \$2 000.
- (2) Pinewood is stored in accordance with this subregulation if —
- (a) the pinewood is stored in a suitable building; or
 - (b) where compliance with paragraph (a) is impractical, the pinewood is kept fully enclosed in plastic wrapping or any other authorised material.
- (3) An authorised person may, by giving written notice to the owner or occupier of a building or structure, declare a building or structure to be —
- (a) unsuitable for the storage of pinewood; or
 - (b) unsuitable for the storage of pinewood unless alterations or modifications specified in the notice are made to the building or structure within such reasonable time as is specified in the notice.
- (4) In subregulation (2)(a) —
suitable building means a building or other enclosed structure —
- (a) in respect of which no notice has been given under subregulation (3); or
 - (b) in respect of which a notice has been given under subregulation (3)(b) if the specified alterations or modifications were made within the specified time.

*[Regulation 4 amended in Gazette 28 Dec 2007 p. 6481;
5 Feb 2010 p. 242-3.]*

5. Removing unseasoned pinewood from RMZ

A person must not, during a control period, remove from a RMZ unseasoned pinewood unless the removal has been authorised and the pinewood is removed in accordance with the authorisation.

Penalty: a fine of \$2 000.

[Regulation 5 inserted in Gazette 5 Feb 2010 p. 243.]

6. Removing seasoned pinewood from PMZ

(1) A person given a notice under regulation 17 must not remove seasoned pinewood from a PMZ unless —

- (a) the pinewood has been treated in accordance with regulation 12(1)(a); or
 - (b) the pinewood has been treated in accordance with regulation 12(1)(b) or (c) and within 72 hours after being treated is removed from —
 - (i) the PMZ; and
 - (ii) if the PMZ is located within a RMZ, the RMZ;
- or
- (c) removal of the pinewood without treatment has been authorised and the pinewood is removed in accordance with the authorisation.

Penalty: a fine of \$2 000.

(2) A person purporting to remove seasoned pinewood from a PMZ in accordance with subregulation (1) must, if requested by an authorised person to do so, provide to the authorised person documentary or other evidence that the relevant paragraph of that subregulation has been complied with.

Penalty: a fine of \$2 000.

*[Regulation 6 inserted in Gazette 28 Dec 2007 p. 6481-2;
amended in Gazette 5 Feb 2010 p. 243.]*

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7. Causing pinewood to be moved into or from RMZ or PMZ

The owner or person in possession of pinewood must not cause it to be brought into or removed from a RMZ or PMZ in contravention of this Part.

Penalty: a fine of \$2 000.

[Regulation 7 amended in Gazette 5 Feb 2010 p. 244.]

8. Authorisations

- (1) An authorisation for the purposes of regulation 4, 5 or 6 is to be given in writing by an authorised person.
- (2) An authorisation may be given generally or in relation to a particular case or number or class of cases or for a particular period or otherwise as the authorised person considers appropriate.
- (3) An authorisation may be given subject to such conditions, as to the treatment or transportation of the pinewood or otherwise as the authorised person considers appropriate.

[Regulation 8 amended in Gazette 5 Feb 2010 p. 244.]

Part 3 — Destruction and treatment of pinewood

9. Unwanted pinewood in RMZ

A person in possession of unwanted pinewood in a RMZ must, as soon as practicable after coming into possession of the pinewood —

- (a) destroy it in accordance with regulation 11;
- (b) dispose of it through the domestic waste disposal programme of a local government or regional local government; or
- (c) remove it from the RMZ in accordance with regulation 4 or 6 as the case requires.

Penalty: a fine of \$2 000.

10. Directions to store, treat or destroy pinewood in RMZ

- (1) If there is pinewood on a property in a RMZ an authorised person may give a direction under subregulation (2) if —
 - (a) the property is in a PMZ; or
 - (b) the authorised person is of the opinion that the pinewood is, might be, or is likely to become, infested with EHB.
- (2) An authorised person may direct the owner or occupier of the property to do any or all of the following —
 - (a) store the pinewood in a specified manner;
 - (b) treat the pinewood in accordance with regulation 12;
 - (c) destroy the pinewood in accordance with regulation 11,as the authorised person considers appropriate.
- (3) A direction under subregulation (2) is to be given in writing to the owner or occupier of the property.

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- (4) A person given a direction under subregulation (2) must comply with it within the time specified in it, or if no time is specified, within a reasonable time of the direction being given.

Penalty: a fine of \$2 000.

[Regulation 10 amended in Gazette 28 Dec 2007 p. 6482.]

11. Manner in which pinewood to be destroyed

Pinewood required to be destroyed in accordance with this regulation is to be —

- (a) chipped so that the volume of no piece is greater than 100 cm³; or
- (b) burned; or
- (c) buried more than one metre below the surface of the ground at —
 - (i) a local government or regional local government waste disposal site; or
 - (ii) any other site approved by an authorised person.

[Regulation 11 amended in Gazette 5 Feb 2010 p. 244.]

12. Manner in which pinewood to be treated

- (1) Pinewood required to be treated in accordance with this regulation is to be —
- (a) treated with a preservative in accordance with the Australian Standard AS/NZS 1604 series of Standards relating to the preservative treatment of timber products; or
 - (b) fumigated with methyl bromide in accordance with subregulation (2); or
 - (ba) fumigated with another fumigant chemical in a manner approved by an authorised person; or
 - (c) heated to a core temperature of more than 60°C for not less than 30 minutes.

- (2) Fumigation with methyl bromide is in accordance with this subregulation if —
- (a) it is carried out —
- (i) at a temperature of not less than 10°C; and
- (ii) for not less than 24 hours;
- and
- (b) the concentration of methyl bromide during the fumigation period is not less than that specified in the Table to this subregulation.

Table

Temperature	Concentration (g/m ³)				
	At start	After 2 hours	After 4 hours	After 12 hours	After 24 hours
≥ 21°C	48	36	31	28	24
≥ 16°C but <21°C	56	42	36	32	28
≥ 10°C but <16°C	64	48	42	36	32

*[Regulation 12 amended in Gazette 28 Dec 2007 p. 6482-3;
5 Feb 2010 p. 244.]*

13. Authorised person may carry out work and recover cost

- (1) If an authorised person is of the opinion that a person given a direction under regulation 10 has not complied with it, the authorised person may enter the property and carry out all or any of the requirements of the direction.
- (2) All expenses incurred by an authorised officer under subregulation (1), together with interest at the rate prescribed for the purposes of section 52(2) of the Act, are a debt due by the person to whom the direction was given to the State, and may be sued for and recovered by the Director General on behalf of the State in a court of competent jurisdiction.

[Regulation 13 amended in Gazette 17 Dec 2010 p. 6418.]

Part 4 — Structural pinewood

14. Terms used

In this Part —

builder, in relation to a building under construction, means a person who is engaged to build, or carry out building work on, the building or where no person is so engaged, the owner of the building;

building includes a temporary structure;

building inspector means a person employed or engaged by —

- (a) the owner of a building or a person engaged by the owner;
 - (b) a builder or a person engaged by a builder;
 - (c) a Minister of the Crown;
 - (d) an agency or an organisation as those terms are defined in the *Public Sector Management Act 1994*;
 - (e) a body, corporate or unincorporate, that is established or continued for a public purpose by the State, regardless of the way it is established; or
 - (f) a local government or regional local government,
- to —
- (g) assess the structural integrity of the building;
 - (h) value the building; or
 - (i) inspect the building for the purposes of a written law relating to the construction, safety or use of buildings or to planning;

pest controller means —

- (a) a fumigator as defined in the *Health (Pesticides) Regulations 1956* regulation 32(1); or
- (b) a pesticide operator as defined in the *Health (Pesticides) Regulations 1956* regulation 63;

structural pinewood means pinewood —

- (a) forming part of a building; or
- (b) in the case of a building under construction, that is on the building site and is to be used to form part of the building.

15. EHB infestation to be reported

- (1) If —
 - (a) the owner of a building;
 - (b) a builder in the course of his or her work; or
 - (c) a pest controller or building inspector in the course of his or her work,

discovers signs of EHB infestation in structural pinewood, he or she must report the discovery to an authorised person as soon as practicable after making the discovery.

Penalty:

- (a) for a pest controller or building inspector — a fine of \$500;
 - (b) for a builder or owner — a fine of \$2 000.
- (2) A builder who is not the owner of the building must also report the discovery to the owner.
- (3) A pest controller or building inspector must also report the discovery to the owner of the building and, if the building is under construction, the builder.

Penalty: a fine of \$500.

16. Treatment of infested structural pinewood

A builder or owner who is informed by an authorised person that structural pinewood is infested with EHB must, as soon as practicable after being so informed —

- (a) remove the infested pinewood and destroy it in accordance with regulation 11; or
- (b) if removal of the pinewood is not practicable, fumigate all structural pinewood forming, or to be used to form, part of the building in accordance with regulation 12(1)(b) or (ba).

Penalty: a fine of \$2 000.

[Regulation 16 amended in Gazette 5 Feb 2010 p. 244.]

Part 5 — General

17. Authorised person to notify owner or occupier of certain properties of infestation

- (1) As soon as practicable after becoming aware that pinewood is infested with EHB an authorised person must give written notice to the owner or occupier of —
 - (a) the property on which the pinewood is located; and
 - (b) each property on which there is pinewood that, because of its proximity to the infested pinewood, is likely to become infested with EHB.
- (2) The notice must —
 - (a) identify the property to which it relates; and
 - (b) inform the owner or occupier of the restrictions imposed by these regulations.

[Regulation 17 inserted in Gazette 5 Feb 2010 p. 245.]

18A. Notification of RMZ

- (1) As soon as practicable after becoming aware of a site where pinewood is infested with EHB the Director General may, by notice published in the *Gazette* and in a newspaper circulating in the area, determine an area to be an area within which, because of its proximity to the infested pinewood, the movement of pinewood is to be restricted.
- (2) The notice must —
 - (a) identify the area to which it relates; and
 - (b) provide details of the restrictions imposed by these regulations.

*[Regulation 18A inserted in Gazette 5 Feb 2010 p. 245;
amended in Gazette 17 Dec 2010 p. 6418.]*

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18. Information as to source and supply of pinewood

- (1) An authorised person may make a request for information under subregulation (3) in relation to any pinewood —
 - (a) that is, or in the opinion of the authorised person might have been, in an RMZ; or
 - (b) that, in the opinion of the authorised person, is or might be infested with EHB.
- (2) A request for information under subregulation (3) may be made to —
 - (a) the person in possession of the pinewood; or
 - (b) a person who, in the opinion of the authorised person, has been or might have been, in possession of the pinewood.
- (3) An authorised person may request a person to provide to the authorised person information as to —
 - (a) the origin of the pinewood;
 - (b) whether the pinewood has been treated and if so, how and when; and
 - (c) in a request to a person who is no longer in possession of the pinewood, who took possession of it from the person.
- (4) A person given a request under subregulation (3) must comply with it.

Penalty: a fine of \$1 000.

[Regulation 18 amended in Gazette 5 Feb 2010 p. 245-6.]

19. Record keeping by dealers may be required

- (1) An authorised person may, by written notice, require a pinewood dealer to keep written records of pinewood in the dealer's possession in a RMZ.

- (2) The notice is to specify the information that is to be recorded and for how long the records must be kept.
- (3) A person given a notice under subregulation (1) —
 - (a) must comply with it; and
 - (b) must produce the records for inspection when requested to do so by an authorised person.

Penalty: a fine of \$1 000.

*[Regulation 19 amended in Gazette 28 Dec 2007 p. 6483;
5 Feb 2010 p. 246.]*

20. RMZ or PMZ notification signs

- (1) The Director General may erect signs in or near a RMZ or PMZ advising the public of the restrictions that apply in the RMZ or PMZ in relation to pinewood.
- (2) A person must not, without lawful authority, remove, obscure, damage or otherwise interfere with a sign erected under this regulation.

Penalty: a fine of \$500.

[Regulation 20 amended in Gazette 17 Dec 2010 p. 6418.]

21. Surveillance poles, traps and lures

- (1) The Director General or an authorised person may, in any part of the State, erect or install poles, insect traps, lures or other devices for use in detecting the presence of EHB.
- (2) A person must not, without lawful authority, remove, damage, or otherwise interfere with a pole, insect trap, lure or other device erected or installed under this regulation.

Penalty: a fine of \$500.

*[Regulation 21 amended in Gazette 28 Dec 2007 p. 6484;
17 Dec 2010 p. 6419.]*

Notes

- ¹ This is a compilation of the *Agriculture and Related Resources Protection (European House Borer) Regulations 2006* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Agriculture and Related Resources Protection (European House Borer) Regulations 2006</i>	7 Feb 2006 p. 639-56	7 Feb 2006
<i>Agriculture and Related Resources Protection (European House Borer) Amendment Regulations 2007</i>	28 Dec 2007 p. 6477-84	r. 1 and 2: 28 Dec 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 29 Dec 2007 (see r. 2(b))
<i>Agriculture and Related Resources Protection (European House Borer) Amendment Regulations 2010</i>	5 Feb 2010 p. 241-6	r. 1 and 2: 5 Feb 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 6 Feb 2010 (see r. 2(b))
Reprint 1: The Agriculture and Related Resources Protection (European House Borer) Regulations 2006 as at 9 Apr 2010 (includes amendments listed above)		
<i>Agriculture and Related Resources Protection (Repeals and Amendments) Regulations 2010 Pt. 6</i>	17 Dec 2010 p. 6403-32	18 Dec 2010 (see r. 2(b) and <i>Gazette</i> 17 Dec 2010 p. 6349)

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
builder	14
building	14
building inspector.....	14
control period.....	2(1)
EHB	2(1)
pest controller	14
pinewood.....	2(1)
pinewood dealer	2(1)
PMZ	2(1)
priority management zone.....	2(1)
restricted movement zone	2(1)
RMZ.....	2(1)
seasoned pinewood	2(1)
structural pinewood.....	14
suitable building.....	4(4)
unseasoned pinewood	2(1)
unwanted pinewood	2(1)