

REPLACEMENT EXPLANATORY STATEMENT

Country of Origin Food Labelling Information Standard 2016

Authority

This *Country of Origin Food Labelling information Standard 2016* (Information Standard) is made under section 134 of the Australian Consumer Law (ACL).

Background

Consumers have been confused about country of origin food labelling for a long time. They have been calling for changes to simplify origin claims on foods and to make them clearer, more meaningful and easier to find. Businesses, though recognising the value of country of origin labelling, have often struggled to understand labelling requirements and/or to meet consumer expectations. Public concern has resulted in numerous inquiries, reports and proposals on this matter over several decades, but few regulatory changes have been made.

This Information Standard is part of a suite of regulatory changes aimed at addressing this consumer dissatisfaction with the current country of origin labelling framework. It builds on consumer research, stakeholder consultations and an analysis of regulatory options and their costs and benefits.

Purpose and operation

The purpose of the *Country of Origin Food Labelling Information Standard 2016* is to provide clearer, more consistent, more informative and easier to find country of origin labels for food—so that consumers can make more informed choices about the food they buy, in line with their personal preferences. This Information Standard also aims to provide businesses with greater certainty and clarity about the claims they can make about the country of origin of the food they supply, and to do so without imposing excessive costs on those businesses.

The Information Standard commenced on 1 July 2016, with a two year transition period (including a stock in trade provision), and will be amended with effect from registration of the Country of Origin Food Labelling Amendment (Packed in Australia) Information Standard 2016. The amendments include corrections to typographical errors, changes to sections 22 and 23 (dealing with imported food packaged in Australia), and section 26 (dealing with imported foods with Australian content) to better reflect the decision made by the Legislative and Governance Forum on Consumer Affairs on 31 March 2016.

The revised country of origin labelling framework sees the continuation of the scope of mandatory country of origin labelling for most food offered for retail sale in Australia, as has been applied through the Australia New Zealand Food Standards Code (Food Standards Code). The country of origin provisions in the Food Standards Code will be removed from 1 July 2018. The exemptions to mandatory country of origin food labelling set out in the Food Standards Code generally apply under the Information Standard. For example, the Information Standard does not require country of origin labelling for food sold in places like restaurants, cafes, take-aways or schools.

Online sales

All food covered by the Information Standard that is sold online in Australia must be labelled in accordance with the Information Standard.

The online sale of packaged food will comply with the Information Standard if the packaging bears a label in accordance with the requirements of section 15 of the Information Standard.

In relation to the sale of fresh fruit and vegetables in transparent packaging (section 16) or unpackaged meat, fish, fruit and vegetables (section 17), the Information Standard requires that the food bears a label, or has labelling that accompanies it, or labelling must be displayed in connection with its sale. In relation to online sales of such food, the obligation to “display” a country of origin label will be satisfied if:

- the food, as delivered to the consumer, bears the relevant label,
- the food, as delivered to the consumer, is accompanied by the relevant label e.g. on a separate form, or
- the label is visible to the consumer online at the point of sale.

To this end, in relation to online sales, the Information Standard does not impose obligations on online retailers to display country of origin labelling on their digital sales platforms that are additional to what is required for ‘bricks and mortar’ sales. However, as continued growth is expected in online grocery sales, online retailers are encouraged to display the appropriate country of origin statement or standard mark on their websites as a service to their customers. Retailers who voluntarily choose to adopt the kangaroo logo or use a bar chart in relation to the online sale of food should be aware that they will be required to comply with the Information Standard regarding the use of those graphics (section 29).

The issue of whether the Information Standard should expressly require labels to be displayed on webpages featuring food to be sold online may be revisited when these reforms are evaluated. Evaluation is expected to be undertaken in 2020-21, two years after full implementation of the Information Standard.

Label text and visual requirements

There are different labelling requirements depending on whether the food is classified as priority or non-priority for the purposes of country of origin labelling, and whether it is:

- grown, produced or made in Australia
- packaged in Australia
- grown, produced or made in another country
- packaged in another country.

Meaning and use of ‘grown in’, ‘produced in’, ‘made in’ and ‘packed in’ claims

Food can claim to be ‘grown in’, ‘produced in’ or ‘made in’ a country only if it meets specific conditions. A food that does not meet the requirements of at least one of these claims will only be able to claim to have been ‘packed in’ a country.

Under the Information Standard, a food can only claim to have been:

- ‘Grown in (Country)’ or ‘Produced in (Country)’ if all of the significant ingredients of the food are from, and virtually all the processing occurred in, the country claimed as origin.
- ‘Grown in Australia’ or ‘Produced in Australia’ (featuring the kangaroo logo and bar chart) if all of its ingredients (not merely the ‘significant ingredients’) were grown or wholly obtained in Australia and virtually all the processing occurred in Australia.
 - Example: Ham is made in Australia using Australian pork, water collected in Australia and an imported brine mix (comprising 5% of the ingoing weight of ingredients). Although the significant ingredients are Australian, the food would be unable to carry a ‘Produced in Australia’ standard mark label because the food is not made from exclusively Australian ingredients. Under the Information Standard, a standard mark label such as ‘Produced in Australia from at least 95% Australian ingredients’ is not an available option.

- ‘Made in’ means that the food underwent its last substantial transformation in the country claimed as origin.

A food is said to have been substantially transformed in a country if the end product is fundamentally different from its ingredients. Even if a food is partially or totally comprised of imported ingredients, it can claim a country as its origin if it was last substantially transformed in that country. For example: a cake made in Australia from wholly imported ingredients could claim to be ‘Made in Australia’.

Consequently, a ‘Made in Australia’ claim cannot be used where imported ingredients are only subjected to minor processes, such as: slicing, freezing, canning, bottling, crumbing, reconstituting or packing. For example: imported mozzarella cheese that is shredded and packaged for resale would not qualify for a ‘Made in Australia’ claim.

Where foods from different countries are packaged together without undergoing substantial transformation (for example, a bag of mixed nuts of different origins), they cannot be claimed to have been ‘grown in’, ‘produced in’ or ‘made in’ any one country. Accordingly, as a minimum, the label on the pack is required to indicate the country in which it was packed, and that it is of multiple origins or is comprised of imported ingredients. Where the food was packed in Australia, the label will need to indicate the proportion of Australian ingredients, as required by section 22.

Where food from a single country is packed in a second country without undergoing substantial transformation, the country of origin statement must indicate that the food was grown, produced or made in the originating country. A supplementary claim that it was packed in the second country is permitted. Where the label states that such food was packed in Australia, it will also need to indicate the proportion of Australian ingredients, as required by section 22.

For the purposes of this Information Standard, ‘country’ refers to any distinctive, demarcated geographical region or place that identifies a particular food’s origin and would be recognised as such by a reasonable person. It would not include regional groupings such as South America, European Union, the Gulf Cooperation Council or Association of South East Asian Nations. For some places, a range of descriptors might be accepted as identifying the location of a particular food’s origin. The use of commonly recognisable abbreviations of a country name would also be acceptable, for example USA or US for the United States of America or UK for the United Kingdom. The identification of a country of origin in the context of this Information Standard for food labelling purposes does not signify Australia’s recognition of that place as a sovereign state. For guidance on what regions or places a reasonable person might recognise as a ‘country’, businesses could view the United Nations Code for Trade and Transport Locations (<https://www.unece.org/cefact/locode/service/location.html>).

Priority and non-priority foods

Research has shown that consumer concern about country of origin varies across food categories. This Information Standard defines a set of non-priority foods – foods for which Australian consumers are least concerned about origin information – and applies lesser country of origin labelling requirements on these foods.

Non-priority foods comprise seven food categories:

- Seasonings
- Confectionery
- Biscuits and snack food
- Bottled water

- Soft drinks and sports drinks
- Tea and coffee
- Alcoholic beverages.

This Information Standard requires non-priority foods to carry a text statement of their country of origin on their labels. Use of the more detailed country of origin marks specified in the Information Standard, which are mandatory for most other foods (hereafter termed *priority foods*), is voluntary for non-priority foods. Where the country of origin marks are used voluntarily on non-priority food, they must comply with the requirements of the Information Standard.

Country of origin labelling requirements for priority foods

Priority foods are food products for which consumers care most about when it comes to origin information.

Priority foods that are produced, grown or made in Australia will be required to carry a mark consisting of a clearly defined box containing:

- a logo to assist the consumer to easily identify the food's Australian origin;
- a bar chart to provide a visual indication of the proportion, by ingoing weight, of the food's Australian content; and
- a statement indicating that the food was grown, produced or made in Australia and that indicates the proportion, by ingoing weight, of the food's Australian ingredients.

Priority foods that are produced, made or grown in an overseas country will require a statement in a clearly defined box, indicating that the food was grown, produced or made in that country.

For priority foods that are packaged in Australia – without having undergone substantial transformation here—requirements vary depending on the source of the food:

- if some – but not all – of the food in the package was grown, produced or made in Australia, or if the food was imported from more than one country, the labelling must include a mark consisting of a clearly defined box containing a statement indicating that the food was packed in Australia, and a bar chart and statement that indicates the proportion, by ingoing weight, of the food's Australian ingredients;
- if the food originates in a single overseas country, the label must state in a clearly defined box that it was grown, produced or made in that country. The label may also include a statement that the food was packed in Australia – but, if so, the label must then also include a bar chart and text indicating the proportion of Australian ingredients.

'Packed in Australia' claims cannot include the kangaroo logo, because the food is not wholly of Australian origin, nor was it substantially transformed in Australia.

Where food that is grown, produced or made in Australia is exported, processed overseas without substantial transformation or the addition of non-Australian ingredients, and then reimported, the label will have to state, in brackets, what processing occurred overseas. For example, the label for Australian macadamias exported to Fiji for shelling and roasting and then re-imported into Australia for packaging and sale would be required to state that the shelling and roasting occurred overseas as part of the country of origin statement. Where non-Australian ingredients are added to Australian food during minor processing overseas, a grown, produced or made in Australia claim would not be appropriate. In such cases, the label will need to indicate that the food is of multiple origins.

Where the sources of ingredients vary, the Information Standard allows the label to include an average proportion of the food's Australian ingredients – rather than a minimum proportion. This average may be calculated over a one, two or three year period, and may be relied upon for labelling purposes for the following two years. The period over which the average is calculated must be comprised of 12, 24 or 36 contiguous months to minimise seasonal distortion.

When such an average content claim is made, the label must also provide a way for consumers to get more information on the proportion of Australian ingredients that is in the actual food they have purchased or are considering purchasing. This information can be made available online or over the phone – by reference to the product's batch number or best before date – or by scanning a bar code or similar device printed on the package.

The Information Standard makes provision for the label to include a statement about the country of origin of one or more specific ingredients – provided any ingredient specified comes exclusively from the country nominated as the origin of that ingredient. This would enable, for example, a producer to highlight the exclusive use of Canadian maple syrup in a processed food product that is made in Australia, or an importer to highlight that the strawberries in a food made overseas are exclusively Australian.

Legibility of labels

For packaged foods, country of origin statements or standard marks must be legible and prominent so as to contrast distinctly with the background of the label.

The text on labels that accompany, or are displayed in connection with, the sale of unpackaged food remains subject to the same minimum type size requirements that are currently set out in the Food Standards Code.

Further guidance on the placement and other characteristics of the standard mark can be found in the Country of Origin Labelling Style Guide.

Other country of origin claims

In addition to the mandated labels, businesses can make other country of origin representations about food sold in Australia, on or off the food or its packaging or display (for example, in advertising material or on websites). Any such representation must be consistent with the mandated label, and must not be false or misleading. The kangaroo logo and bar chart cannot be used on food sold in Australia other than as part of a standard mark appropriate for that food under the Information Standard. Use of the kangaroo logo on goods other than food sold in Australia is subject to licensing arrangements administered by Australian Made Campaign Limited.

Consultation

The Information Standard is based on extensive research and consultations with consumers, food producers, manufacturers and interested stakeholders.

Industry roundtables with around 200 participants were conducted in metropolitan and regional cities between April and June 2015 to ascertain business attitudes to possible reforms to country of origin labelling.

Market research was undertaken in early to mid-2015 to identify community views, perceptions, knowledge of, and attitudes to country of origin labelling for food and to seek community feedback on options for changes to the existing country of origin labelling framework. The research included a qualitative study with 18 consumer focus groups held in all capital cities (other than Canberra) and a questionnaire directed to over 1220 nationally representative participants. An online community self-selected questionnaire also received over 17 800 responses. The research also included face-to-face interviews with 20 businesses.

On 21 July 2015, the government announced its preferred country of origin labelling reforms, to be taken to states and territories for agreement. The proposed reforms were based on feedback from initial consultations and the outcomes of the 2014 House of Representatives Standing Committee on Agriculture and Industry inquiry into country of origin labelling for food (as well as submissions to and reports on a number of earlier reviews and inquiries dating back to 2006).

A consultation Regulation Impact Statement (RIS) on the proposed reforms was released on 4 December 2015, together with a package of supporting documents (including draft legislation). Trading partners were notified of the proposed reforms through the World Trade Organization on 7 December 2015.

Following release of the RIS, 58 face-to-face meetings were held with stakeholders, and over 380 people attended information sessions conducted in all capital cities and some regional centres. Over 240 submissions on the proposed reforms were received from a broad range of stakeholders, including consumers, consumer bodies, businesses, industry bodies, state and territory governments and trading partners.

Decision

Based on feedback on the December 2015 consultation package, as well as the submissions to and outcomes of earlier consultations, reviews and inquiries, a decision RIS was prepared to guide a final decision on the proposed reforms to the country of origin labelling framework. The Decision RIS was approved by the Office of Best Practice Regulation on 3 March 2016, and can be found at www.industry.gov.au/cool.

The RIS canvassed three labelling options:

- maintaining the status quo (Option 1)
- adopting a mandatory system with visual aids and a revised origin statement (Option 2)
- a mandatory system with a revised origin statement only (Option 3).

The decision RIS was presented to the Legislative and Governance Forum on Consumer Affairs (the Forum) on 31 March 2016.

The Forum agreed to the implementation of Option 2, which the decision RIS assessed as the preferred option, representing the greatest net benefit to the community. Option 2 took into account a range of considerations aimed at delivering the country of origin information consumers most wanted in a manner that would be feasible for businesses to comply with, without imposing excessive regulatory cost.

Option 2 involved introducing a mandatory Information Standard on country of origin labelling for food under the *Competition and Consumer Act 2010* – with a transition period of 24 months. This Information Standard gives effect to this element of Option 2.

Option 2 also involved complementary changes to other regulatory instruments, including:

- revoking Standard 1.2.11 – Country of origin labelling – from the Australia New Zealand Food Standards Code 24 months after the commencement of the Information Standard, and
- simplifying and clarifying the country of origin safe harbour defences (including the definition of substantial transformation), in Part 5-3 of the Australian Consumer Law (Schedule 2 to the *Competition and Consumer Act 2010*); and
- aligning border legislation relating to country of origin labelling.

These other changes will be introduced through separate regulatory processes.

Detailed explanation of the Information Standard’s provisions

Part 1—Preliminary

Section 1—Name of Regulation

This section provides the title of the Information Standard: *Country of Origin Food Labelling Information Standard 2016*.

Section 2—Commencement

This section provides that the Information Standard commenced on 1 July 2016.

Section 3—Authority

This section provides that the Information Standard is made under section 134 of the Australian Consumer Law.

Section 4—Purpose

This section states that the purpose of the Information Standard is to set out the requirements for providing country of origin information on labelling of food for human consumption sold (including on offer or display) in Australia.

Section 5—Limit of application

This section provides that the Information Standard does not operate to limit the exercise of a right given by or under the *Trade Marks Act 1995*, in relation to a registered trademark. In particular, this provision will allow the kangaroo logo referenced in subsection 10(1) to continue to be used for non-food products and for food products that are not for sale in Australia, as part of the Australian Made Australian Grown certified trade mark (see also section 29).

Section 6—Outline

This section provides an overview of the broad scope and structure of the Information Standard and summarises specific provisions, including when and how to use the logo, bar chart and/or statement to create standard marks.

Section 7—Interpretation

This section provides that certain terms used in the Information Standard have the meanings provided in the Dictionary of terms that is included at the end of the Information Standard.

Section 8 - Meaning of grown, produced and made

This section defines ‘grown’, ‘produced’ and ‘made’ for the purposes of the Information Standard. These definitions are based on the country of origin safe harbour defences in Part 5-3 of the Australian Consumer Law.

In essence, food that is *grown* in a particular country must have been germinated, materially increased, harvested, extracted or otherwise derived from a living organism in that country. Alternatively, food is grown in a country if all of its significant ingredients were grown in that country and virtually all of its processing occurred in that country.

Food that is *produced* in a particular country includes all food grown in that country. It would also include other food in which all of the significant ingredients were not grown, but were still wholly obtained in that country, for example salt or water, provided virtually all of the processing occurred in that country.

Food that is *made* in a particular country must have undergone its last substantial transformation in that country. For the purposes of the Information Standard, the definition of *substantially transformed*, is provided in the Dictionary at the end of the Information Standard and is the same as that provided in Australian Consumer Law country of origin safe harbour defences (Part 5-3 of Schedule 2 to the *Competition and Consumer Act 2010*).

Subsection 8(2) allows for the use of the terms ‘grown’, ‘produced’ and ‘made’ where a food meets the requirements of more than one of those terms. For example, a food that meets the requirements to use the claim ‘Grown in (Country)’ would also meet the requirements to claim to have been ‘Produced in (Country)’ or ‘Made in (Country)’. This subsection permits use of any of those claims in that circumstance.

Section 9 – Meaning of non-priority foods

This section defines certain categories of foods as being non-priority foods for the purposes of the Information Standard. There are seven non-priority food categories:

1. seasonings;
2. confectionery;
3. biscuits and snack food;
4. bottled water;
5. soft drinks and sports drinks;
6. tea and coffee; and
7. alcoholic beverages.

Market research indicates that consumers care less about origin information for these foods. Definitions for these and other foods are provided in the Dictionary at the end of the Information Standard.

Section 10 - References to the logo and appropriate bar chart

Section 10 provides the logo and a table of bar charts to be used in the standard marks required or permitted by the Information Standard.

The logo is a stylised representation of a kangaroo on triangular background.

The bar chart is a rectangular element with four evenly spaced internal markers. It is used to indicate the minimum or average percentage of Australian ingredients, by ingoing weight, of the food product. For percentages less than 10 per cent, the bar chart is filled to the five per cent level. For percentages of 10 per cent to 94 per cent inclusive, the bar chart is filled to the decile below the nominated percentage of Australian content.

If the nominated percentage is from 95 to 99 per cent, the bar chart is filled to the 95 per cent level. This restriction recognises the difficulty for consumers in distinguishing between bar charts with increments of 1 per cent. The exact (whole number) percentage of Australian ingredients may be highlighted in the accompanying text statement.

A full bar chart is used to indicate the food contains 100 per cent Australian ingredients.

Example: A food with 26 per cent Australian ingredients would have a bar chart filled to the 20 per cent level. The accompanying text can state the product is at least 26 per cent Australian ingredients.

A food with 97 per cent Australian ingredients would have a bar chart filled to the 95 per cent level. The accompanying text can state the product is at least 97 per cent Australian ingredients.

Section 11 – Meaning of proportion and of average proportion of ingredients by weight

Subsection 11(1) provides the method to be used for calculating the proportion by weight of the Australian ingredients of a food (subject to the provisions for the treatment of water as an ingredient specified in section 12).

In calculating the proportion by weight of the Australian ingredients of a food, the ingoing weight of ingredients is to be determined before cooking, baking, frying or any other method of conserving, curing or preparing the end product. That is, the ingoing weight is calculated as per the recipe of the product, and not according to the final weight of ingredients in the product after cooking or other processing.

Example: A tomato sauce is made from: 1 kg tomatoes (Australian), ¼ cup of olive oil (170g, Australian), 1 large brown onion (130g, imported), 3 garlic cloves (20g, imported), 1 table spoon of sugar (20g, Australian), a handful of torn basil and chopped oregano (10g, Australian), and water (150g, Australian). The proportion of the Australian ingredients is the sum of the ingoing weights of all Australian ingredients (1350g) divided by the sum of the ingoing weights of all ingredients (1500g) expressed as a percentage (90%).

Subsection 11(2) defines the average proportion by weight of the Australian ingredients of a packaged food and provides that it be calculated over a 1, 2 or 3 year period. It further provides that it can be used, for the purposes of claims that rely on that average proportion, for a period of no more than two years after the end of that 1, 2 or 3 year period.

This methodology provides a practical solution to the challenges faced by businesses who routinely rely on variable ingredient sources (for seasonality or other reasons) and would otherwise have to repeatedly relabel their products to meet this Information Standard—while also reflecting relatively recent production or manufacturing conditions.

Sections 21 and 23 set out the conditions applicable to average proportion labels, including the requirement to provide consumers with information about the actual proportion of Australian ingredients in the food they are buying through some other means (see section 13).

Subsection 11(3) provides that a substance or a food used as a processing aid is not an ingredient of a food for the purpose of these calculations. Subsection 11(5) provides that the term ‘used as a processing aid’ has the meaning given by section 1.1.2—13 of the Food Standards Code.

Example: Rennet used to separate curds and whey in the making of cheese would be considered to be a processing aid and, therefore, not an ingredient that needs to be included in the calculation of the proportion by weight of the Australian ingredients in the cheese.

Subsection 11(4) effectively provides that, for the purpose of calculating the proportion by weight of the Australian ingredients of a food, an Australia grown or produced ingredient is from Australia, and only the Australian proportion of a compound ingredient of mixed origin is from Australia.

The Australian proportion of a compound ingredient is calculated by taking the sum of the ingoing weights of each sub-ingredient that is from Australia and dividing it by the sum of the ingoing weights of all sub-ingredients in the compound ingredient. That proportion must then be applied to the ingoing weight of the compound ingredient used in the final food when working out the proportion of Australian ingredients in that food.

Example: Calculating how much of a compound ingredient (pasta sauce) counts towards the proportion by weight of Australian ingredients in a food product (lasagne):

A pasta sauce is made in Australia from 70% Australian ingredients by ingoing weight.

If the pasta sauce is then used to make a lasagne in Australia for sale in Australia, 70% of the ingoing weight of the pasta sauce used in the lasagne is attributed to Australia and 30% to other countries.

The final Australian content of the lasagne will subsequently depend on the origin of its remaining ingredients. These ingredients may be Australian and/or imported (for example lasagne sheets, mince, milk, flour, cheese, seasoning).

The proportion of Australian ingredients in the lasagne would be the sum of all of the ingoing weights of ingredients attributable to Australia (including 70% of the ingoing weight of the pasta sauce) divided by the sum of the ingoing weights of all ingredients, expressed as a percentage.

Section 12 – Accounting for water when determining country of origin and proportion of Australian ingredients

Subsection 12(1) describes the purpose of the section—that is, to explain how to account for water for the purposes of the calculation of the proportion by weight of the Australian ingredients of a food or the average proportion by weight of the Australian ingredients of a packaged food.

Subsection 12(2) determines that water added to food for the purposes of rehydration or reconstitution of a dried, concentrated or dehydrated ingredient or component of a food is deemed to take on the origin of that ingredient or component, regardless of its actual country of origin.

Subsection 12(3) provides that any water otherwise added as an ingredient of a food is taken to have the country of origin in which it was collected or harvested.

Example: Where water is added to imported fruit juice concentrate in Australia (together with any other ingredients), the water is considered to be imported to the extent that it reconstitutes the concentrate. If the fruit juice drink contained more water than necessary to reconstitute the imported fruit juice concentrate, the additional water would be taken to be Australian (if it was collected or harvested in Australia).

Subsection 12(4) describes how to account for water that forms part of a liquid packing medium of a food. Where the packing medium is not generally consumed, water that is an ingredient of the liquid packing medium is not included in the calculation of the proportion by weight of specified ingredients.

Examples: Pickling brine in a jar of pickled onions, and fruit syrup in a can of peaches. The brine is generally not consumed, whereas the syrup is or can be. The water in the brine is therefore excluded from the calculation of the proportion by ingoing weight of Australian ingredients, but is taken into account in the case of the calculation for the canned peaches.

Subsection 12(5) provides a non-exhaustive list of examples of liquid packing mediums in which water may or may not be considered when calculating the proportion by weight of specified ingredients, in accordance with subsection (4).

Section 13 – Varying Australian content – methods for providing consumers with content information

Section 13 applies to optional standard marks for packaged food products set out in sections 21 and 23. These marks include statements about the average proportion by weight of Australian ingredients. This section outlines methods and identifying phrases by which businesses can communicate to consumers more accurate information about the percentage of Australian ingredients by ingoing weight in the actual food they are buying.

Methods include a contact telephone number, a website, or a barcode or similar device that can be scanned by a smartphone app or other software.

Part 2 - Country of origin labelling requirements

Division 1 - Application of this Part

Division 1 sets out the circumstances in which this Information Standard applies, and exemptions to the standard, including the types of food and places of sale to which the standard does or does not apply. The application and exemption provisions are intended to closely mirror those applying in the Food Standards Code at the time the information standard commences.

Section 14 – Application of this part – retail sales and other sales for which labelling is required

Subsection 14(1) provides that foods for retail sale in Australia and foods suitable for retail sale in Australia without any further processing, packaging or labelling are covered by this Information Standard.

Subsection 14(2) provides exemptions to the application of this Part for certain foods and certain types of retail sale.

Exemptions are provided for:

- food sold to the public for immediate consumption by restaurants, canteens, schools, caterers or self-catering institutions, prisons, hospitals or medical institutions;
- food that is made and packaged on the premise where it is sold or delivered (for example, bread prepared and baked in a bakery);
- food that is delivered, packaged and ready for consumption, as ordered by the consumer, other than sold from a vending machine (for example, home delivered pizza);
- food sold at a fund-raising event (for example a cake stall at a school fete); and
- food that is food for special medical purposes as defined by section 1.1.2—5 of the Food Standards Code.

However, subject to section 29, such food can still be labelled with its country of origin voluntarily.

Subsection 14(3) provides that foods sold in small packages—defined as packages with a surface area of less than 100 cm² in section 1.1.2—2 of the Food Standards Code—are exempted from the graphical elements (logo and bar chart) otherwise required by the Information Standard.

Division 2 – Labelling requirements

Product Type	Description	Relevant Section
Packaged	All food products that are wholly or partly encased, covered, enclosed, contained or packaged for sale in any container or wrapper (excluding unprocessed fresh fruit or vegetables)	Section 15
In transparent packaging	Unprocessed fresh fruit or vegetables, whole or cut, displayed for sale in packaging that does not obscure the quality or nature of the fruit or vegetables.	Section 16

Product Type	Description	Relevant Section
Unpackaged	Fish; pork; beef; veal; lamb; hogget; mutton; chicken; fruit and vegetables; or any mix of the former which is displayed for sale without packaging.	Section 17

Section 15 – Packaged food, other than fresh fruit and vegetables in transparent packaging

Subsection 15(1) applies to food that is for sale – whether or not the sale is a retail sale – and is in a package that requires a label under a standard in the Food Standards Code. These foods may be priority or non-priority foods.

Section 15(2) provides that if Division 3 applies (that is, sections 18 – 25 for food that is grown, produced, made or packaged in Australia), the label must meet the requirements of that Division. This subsection does not apply to imported food ready for retail sale without further processing or packaging.

Subsection 15(3) provides that in all other cases – that is, imported packaged food ready for retail sale in Australia – the label on the package must state the overseas country of origin of the food in the package or, if the food was packaged using food from more than one country, a statement indicating the country where the food was packaged and that the food is of multiple origins or is comprised of ingredients imported into that country.

This subsection represents the minimum requirement for country of origin statements on imported foods. Section 26 allows for a standard mark that includes a bar chart (but not a kangaroo logo) to be used voluntarily where an imported food was not grown, made or produced in Australia but does include Australian ingredients.

Subsection 15(4) provides that, for food to which subsection 15(3) applies, excluding non-priority foods, the requisite statement must be in a clearly defined box. This will assist consumers to find country of origin statements more easily on food about which they most wish to know origin information, enabling them to make informed purchasing decision.

Section 16 – Fresh fruit and vegetables in transparent packaging

This section provides for these foods to be treated as either packaged or unpackaged food in regards to the placement of the mandated country of origin labelling statements and marks. As per current requirements under the Food Standards Code, such statements or marks may be on a label on the package or, alternatively, accompany the food or be displayed in connection with its sale.

Subsection 16(1) specifies that the section applies to food for retail sale that is solely unprocessed fruit and vegetables, whether whole or cut, and that are displayed in a transparent packaging that does not obscure the nature or the quality of the products. All of these foods are priority foods.

Note that subsection 28(4) describes the size requirements for labels displayed in connection with food in transparent packaging.

Subsection 16(2) provides that if Division 3 (that is, sections 18 – 25 for food grown, produced, made or packaged in Australia) apply, the labelling must meet the requirements of those provisions.

Subsection 16(3) provides that for all other food – i.e. imported food – the labelling must state the (overseas) country of origin of the fruit or vegetable or, if the fruit or vegetables are from more than one country, must indicate that the fruit or vegetables are of multiple origins or are imported into that country.

Subsection 16(4) requires that country of origin statements on packages of imported priority foods must be in a clearly defined box. Where the statement is on a label displayed in connection with food, it need not be in a box. This is because placing the country of origin statement in a box on labels for displays would not make the statement easier to find.

Section 17 – Unpackaged meat, fish, fruit and vegetables

Subsection 17(1) applies country of origin labelling requirements to a list of foods – fruit and vegetables, certain meats, or a mix of any of those foods – for retail sale that are displayed for sale other than in a package, for example on display in a cabinet. All of these foods are priority foods.

Subject to subsection 17(5), the Information Standard does not require unpackaged foods other than those listed in this subsection to be labelled with their countries of origin. However, subject to section 29, such food can still be labelled with its country of origin voluntarily.

Note that subsection 28(4) describes the size requirements for labels displayed in connection with unpackaged food.

Subsection 17(2) provides that if the provisions of Division 3 apply to the food (grown, produced or made (but not packaged) in Australia – that is, sections 18, 19, 20, or 24), the food must bear a label, or have labelling that accompanies the food or is displayed in connection with its sale, which satisfies those provisions.

Subsection 17(3) provides that labelling for all other food not grown, produced or made in Australia – that is, imported unpackaged foods – must state the (overseas) country of origin of the food or, if it is from more than one (overseas) country, must indicate that the product is of multiple origins or is comprised of ingredients imported into that country.

Subsection 17(4) provides that, notwithstanding subsection (2) or Division 3, when a single ingredient food (for example, a fruit or a vegetable) is displayed for sale in mixed bins that contain Australian and imported items, then the food complies with this section if the labelling that is displayed in connection with its sale indicates the mixed origin of the produce. This means the logo and bar chart are not required for mixed bins that include some unpackaged Australian food. This is because there is no guarantee that the proportion of Australian food would remain constant.

Where the seller chooses to label individual items of unpackaged food with the country of origin, rather than the display, the label on each item of food will need to meet the requirements of subsection 2 or subsection (3), as appropriate.

Example: A basket in a shop with lemons from both Australia and Chile could indicate that the fruit in the basket is of mixed origins, or that it contains Australian and Chilean lemons. Alternatively, each lemon would need to be labelled with its country of origin in accordance with subsection (2) or (3), as appropriate.

Country of origin statements for imported unpackaged food covered by section 17 need not be in a clearly defined box. This is because placing the country of origin statement in a box on the food or on its display would not make the statement easier to find.

Subsection 17(5) clarifies that this section also applies to the unpackaged foods listed in subsection 17(1) if they have been processed in certain ways, including having been cut, filleted, sliced, minced, pickled, cured, dried, smoked, frozen, or preserved by other means, or marinated or cooked.

Division 3 – Labelling requirements for food grown, produced, made or packaged in Australia

This division provides specific country of origin marks that must be applied to food that has been grown, produced, made or packaged in Australia. Where certain criteria are met, it also provides for alternatives to those marks, and for additional information that must or that may be added to those marks. Each provision sets out which elements of the standard marks—kangaroo logo, bar chart and/or text statements—must or may be used in the mark. Where a mark does not require or permit an element, such as the kangaroo logo, that element must not be included in the mark.

Type of Claim	Relevant Section
Grown in Australia/Product of Australia/Made in Australia from 100% Australian ingredients	Section 18
Made in Australia from between 0 - 99% Australian ingredients	Section 19
Grown in Australia/Product of Australia/Made in Australia – exported for minor processing and re-imported	Section 20
Made in Australia – varying Australian content	Section 21
Packed in Australia	Section 22
Packed in Australia – varying Australian content	Section 23

The table below provides a key to the descriptors used in the Information Standard.

Descriptor	Meaning
X	The phrase ‘Grown in’, ‘Product of’, ‘Produce of’ as appropriate
Y	The word ‘Grown’, ‘Product’, ‘Produce’ or ‘Made’ or kind of food, as appropriate
C	The country name, or adjectival form of the country name
BC	Appropriate Bar Chart
P%	Percentage of Australian content, expressed as a whole number equal to or lower than the actual percentage of Australian content

Section 18 – Food grown, produced or made in Australia exclusively from Australian ingredients

Section 18 provides four choices of standard mark—each combining all three elements, in either a vertical or horizontal format—for food grown, produced or made in Australia from exclusively Australian ingredients, where all or virtually all processing has occurred in Australia. For food that is grown or produced in Australia a number of variations of those terms are permitted.

Example: Tasmanian grown salmon would carry the kangaroo logo, the full (100%) bar chart and any one of the following text statements: ‘Grown in Australia’, ‘Australian Grown’, ‘Produced in Australia’, ‘Product of Australia’, ‘Produce of Australia’, ‘Australian Produce’, ‘Made in Australia from 100% Australian ingredients’, ‘Made in Australia from Australian ingredients’ or ‘Australian Salmon’.

Section 19 Other food made in Australia

Section 19 provides standard marks for food grown, produced or made in Australia where not all the ingredients are exclusively of Australian origin. There are four types of standard mark, dependent on the extent to which the food contains Australian ingredients. Each mark combines all three elements in either a vertical or horizontal format. The kangaroo logo is required to indicate that the food was made in Australia. The bar chart and text statement reflect the extent to which the ingredients are of Australian origin.

Subsection 19(2) applies if at least some of the food's ingredients are of Australian origin. It requires that the bar chart from Section 10 that appropriately represents the proportion of the food's Australian ingredients be displayed; and that the text statement be in the form 'Made in Australia from at least P% Australian ingredients', where P is a whole number, ranging from 1–99, that is not more than the proportion of the food's Australian ingredients calculated according to subsection 11(1).

Subsection 19(3) provides alternatives to the standard marks set out in subsection (2) for food that is made in Australia but that has less than 10 per cent Australian ingredients. In this case, the bar chart is filled to the five per cent level and the text statement is in the form 'Made in Australia from less than 10% Australian ingredients'.

Subsection 19(4) applies to food that is made in Australia but has no Australian ingredients. In this case, an empty bar chart is required, and the text statement must either state that the food is 'Made in Australia from 0% Australian ingredients' or 'Made in Australia from imported ingredients'.

Subsection 19(5) permits an addition to the text statement that identifies the country of origin of one or more specific ingredients of the food, provided each such ingredient is exclusively from the country indicated.

Examples: A frozen pecan pie made in Australia from local ingredients except for American pecan nuts might state: 'Made in Australia from at least 95% Australian ingredients' (according to subsection 19(2)). The statement might also include the addition 'with pecan nuts from the USA' (according to subsection 19(5)).

An oriental stir-fry sauce made in Australia that has 6 per cent Australian ingredients has two options. The label can either state 'Made in Australia from at least 6% Australian ingredients' (according to subsection 19(2)) or 'Made in Australia from less than 10% ingredients' (according to subsection 19(3)). In either case, the label might include the addition 'with peas, corn and carrots from New Zealand' (according to subsection 19(5)).

Pork sausages made in Australia from fully imported ingredients, including Danish pork, could state 'Made in Australia from imported ingredients' or 'Made in Australia from 0% Australian ingredients' (according to subsection 19(4)). The label might include the addition 'with pork from Denmark' (according to subsection 19(5)).

Section 20 – Food grown, produced or made in Australia that is exported and re-imported

Section 20 mandates additional labelling for food to which sections 18 or 19 apply, where that food has been exported and re-imported after having undergone minor processing overseas. In these cases, the processing that occurred overseas must not qualify as substantial transformation and must not include the addition of non-Australian ingredients to the food. The text statement in the standard mark is required to include a description, in brackets, of the processing that occurred overseas, in addition to the logo, bar chart and statement of proportion of Australian ingredients, as appropriate.

If a product last substantially transformed in Australia is exported for minor processing, that includes the addition of non-Australian ingredients, and is then re-imported for sale in Australia, section 26 would apply.

Example: The label for Australian macadamias that are sent to Fiji for shelling, sorting and packaging and are then returned to Australia for sale need to include in the statement that they were '(shelled, sorted and packaged in Fiji)'.

Section 21 – Varying Australian content – food made in Australia

Section 21 provides alternative labelling options for foods where there is variability in the proportion of Australian ingredients. For example, fluctuating prices or availability may lead a producer to regularly switch between Australian and overseas suppliers of an ingredient.

To allow for such variability without imposing frequent label changes on the food producer, this section permits claims of Australian origin that include a statement of the average proportion of the food's Australian ingredients based on a defined period (1–3 years – see subsection 11(2)). The claim is valid for two years after the period used in the calculation. The provision includes a requirement for lot-specific information to be available off-label, with information on how to access such information provided to consumers in the standard mark (see section 13) to avoid misleading consumers.

Subsection 21(1) specifies that the section applies to foods where the proportion by ingoing weight of the food's Australian ingredients varies over time.

Subsection 21(2) provides that the requirements of sections 18 and 19 are satisfied if the labelling includes: one of the standard marks described in this section; any information that is needed to enable a consumer to obtain information on the food's actual proportion of Australian ingredients, (such as a barcode or other device, batch number, lot, date of manufacture or date mark, in accordance with section 13); and the period used to calculate the average (if not provided on the labelling).

Subsection 21(3) details the appropriate standard marks for food where the average proportion by weight of the Australian ingredients is not less than one per cent. These labels include the kangaroo logo, an appropriate bar chart in accordance with section 10, a statement that the food was made in Australia, a statement that reflects the average proportion of Australian ingredients calculated in accordance with subsection 11(2), and a statement about how to find details on the actual proportion of Australian food in accordance with section 13.

Subsection 21(4) details optional standard marks for food where the average proportion by weight of the Australian ingredients is less than 10 per cent. These labels include the kangaroo logo, bar chart filled to the five per cent level, a statement that the food was made in Australia and contains less than 10 per cent Australian ingredients (calculated in accordance with subsection 11(2)), and a statement about how to find details on the actual proportion of Australian food in accordance with section 13.

Example: A pasta sauce containing 50% tomatoes (by ingoing weight) is made in Australia exclusively from Australian ingredients for nine months of the year, but uses imported tomatoes for three months of the year due to the seasonal availability of tomatoes.

Based on a 1 year 87.5% average Australian content, subsection 21(3) allows the producer to label the product with a standard mark that includes an average Australian content statement along the following lines: "Made in Australia – ingredient sources vary – average 87% Australian ingredients. Visit [website] for details".

The standard mark would also include the kangaroo logo and a bar chart filled to the 80% level.

The website address would enable a consumer to find out that the particular batch of the product they purchased, or were considering purchasing, had either 100% or 50% Australian ingredients, as the case may be, and would indicate the time period upon which the average content statement was based.

Section 22 – Food packaged in Australia that includes food not grown, produced or made in Australia

Section 22 was omitted and replaced through the Country of Origin Food Labelling Amendment (Packed in Australia) Information Standard 2016. This is because the original section did not fully reflect the 31 March 2016 Forum decision on reforms to country of origin labelling. In particular, it did not require food that was made in a single overseas country with ingredients from one or more other countries, and subsequently packaged in Australia, to state first and foremost where it was made. It required a standard mark that included a statement that the food was packed in Australia and an indication of the proportion of Australian ingredients through text and a bar chart – but did not include the country in which the food was made. The amendment rectifies this oversight. Stakeholders were notified of the need for amendment in June 2016, before the Information Standard commenced.

Section 22 provides for the use of a standard mark on the labels of food packaged in Australia where some of the food in the package has not been grown, produced or made in Australia. The standard mark can state that the food is packed or packaged in Australia, but it cannot include the kangaroo logo because it contains food that was not grown, produced or made in Australia.

Package contains	Ingredients	Relevant provision
Food grown, produced or made entirely in a single overseas country	No Australian ingredients	Subsections 5 and 9
Food made in a single overseas country with Australian ingredients	All Australian ingredients	Subsection 2
	Some Australian ingredients	Subsections 3, 4 and 9
Food from two or more different countries that is combined for packing without substantial transformation	Some Australian ingredients	Subsections 6, 7 and 9
	No Australian ingredients	Subsections 8 and 9

Subsection 22(1) limits the application of this section to food products packaged in Australia that are not covered by sections 18 and 19.

Subsection 22(2) applies to products packed in Australia but made in a single overseas country (not Australia), the ingredients of which are exclusively of Australian origin. The labelling for these products must include a statement, in a clearly defined box, that the food was made in that country. Alternatively, a standard mark can be used, consisting of a full bar chart from section 10 and the text statement ‘Made in (Country) from Australian ingredients’ or ‘Made in (Country) from 100% Australian ingredients’. The phrase ‘Packed in Australia’ may be added, and ‘Packaged’ may be used in place of ‘Packed’.

Example Australian fruit is exported to Singapore and converted into juice before being shipped back to Australia in bulk for packaging here. The label could state in a clearly defined box that it was ‘Made in Singapore’. Alternatively, a standard label could be used that includes a fully shaded bar chart and a statement like ‘Made in Singapore from 100% Australian ingredients Packaged in Australia’, all in a clearly defined box. The label would **not** include the kangaroo logo – even though all of the ingredients are Australia, the juice was made in Singapore.

Subsection 22(3) applies to products packed in Australia but made in a single overseas country (not Australia), where some of the ingredients are of Australian origin. The labelling for these products must include a statement, in a clearly defined box, that the food was made in that country. Alternatively, a standard mark may be used, consisting of a bar chart filled to the appropriate mark (see section 10) and the text statement ‘Made in (Country) from at least P% Australian ingredients’. The phrase ‘Packed in Australia’ may be added, and ‘Packaged’ may be used in place of ‘Packed’.

Example: Australian wheat exported to Malaysia where it is used to manufacture dried noodles before being returned to Australia for packaging could use a label stating ‘Made in Malaysia’ in a clearly defined box. Alternatively, the label could include a bar chart filled to 90% and the text statement ‘Made in Malaysia from at least 90% Australian ingredients. Packed in Australia’. The label would **not** include the kangaroo logo.

Subsection 22(4) provides an alternative standard mark for products packed in Australia but made in a single overseas country (not Australia), with less than 10 per cent Australian ingredients. This mark includes a bar chart filled to five per cent (see section 10) and the statement ‘Made in (Country) from less than 10% Australian ingredients’. The phrase ‘Packed in Australia’ may be added, and ‘Packaged’ may be used in place of ‘Packed’.

Subsection 22(5) applies to products packed in Australia but grown, produced or made in a single overseas country (not Australia), where all of the significant ingredients are from that country and/or one or more other overseas countries (not Australia). The labelling must include a statement, in a clearly defined box, that the food was grown, produced or made in that country. Alternatively, a standard mark can be used, including an empty bar chart and the statement ‘Grown/Produced/Made in (Country)’, ‘Product/Produce of (Country)’, ‘(Country) Grown/Produce/Product/Produced/Made’, or ‘(Country) (type of foods)’, as appropriate, with the statement ‘Packed in Australia’. ‘Packaged’ may be used in place of ‘Packed’.

Example: For quinoa grown in Peru and imported in bulk and packaged in Australia, the text statement could read ‘Peruvian quinoa, packaged in Australia’, as long as the standard mark included the empty bar chart. The label would **not** include the kangaroo logo.

Subsection 22(6) applies to products packed in Australia but *not* grown, produced or made exclusively in a single country, where some of the ingredients are of Australian origin – that is, where food from two or more different countries, including Australia, are combined and packaged without substantial transformation. Subject to subsection 22(7), the labelling must include a bar chart filled to the appropriate level (see section 10) and the statement ‘Packed in Australia from at least P% Australian ingredients’. ‘Packed’ may be replaced by ‘Packaged’.

Example: For rice grown in Australia that is packaged in Australia together with less than 10 per cent imported wild rice, the text statement in the standard mark may state ‘Packaged in Australia from at least 90% Australian ingredients’. The label would **not** include the kangaroo logo – the imported rice in the package was not substantially transformed in Australia by simply combining it with Australian rice and packaging it in Australia.

If the packaged food contains less than 10 per cent Australian ingredients, subsection 22(7) provides an alternative standard mark option. The labelling may include a standard mark, consisting of a bar chart filled to five per cent (see section 10) and the statement ‘Packed in Australia from less than 10% Australian ingredients’. ‘Packed’ may be replaced by ‘Packaged’.

Example: A pack of frozen lightly battered fish is packed in Australia using 8% Australian tempura batter and 92% imported fish by ingoing weight. The label could carry a standard mark that includes, within a clearly defined box, a bar chart filled to 5% and a statement like ‘Packed in Australia from less than 10% Australian ingredients’ (rather than a similar standard mark with a statement like ‘Packed in Australia from at least 8% Australian ingredients’, as would otherwise apply under subsection 22(6)).

Subsection 22(8) applies to products packed in Australia but *not* grown, produced or made in a single country, and none of the ingredients are of Australian origin – that is, the package contains food that was grown, produced or made in two or more different countries, and none of the food is Australian or contains Australian ingredients. The labelling must include a standard mark consisting of an empty bar chart (see section 10) and the text statement ‘Packed in Australia from 0% Australian ingredients’ or ‘Packed in Australia from imported ingredients’. ‘Packed’ may be replaced by ‘Packaged’.

Example: A frozen mixed vegetables is packed in Australia using vegetables grown in New Zealand and the United States. The label must carry a standard mark that includes, within a clearly defined box, an unfilled bar chart and a statement like ‘Packed in Australia from imported ingredients’. The label would **not** include the kangaroo logo.

Subsection 22(9) permits an addition to the text statement in the standard mark required or permitted under section 22, other than marks in subsection 22(2) that identifies the country of origin of one or more specific ingredients of the food, provided each such ingredient is exclusively from the country indicated.

Example: ‘Packed in Australia from at least 80% Australian ingredients with peanuts, almonds and macadamias from Australia and walnuts from the United States of America’. The label would **not** include the kangaroo logo.

‘Packed in Australia from imported ingredients with mangoes from the Philippines and cranberries from Canada’. The label would **not** include the kangaroo logo.

Section 23 – Varying Australian content – food packaged in Australia

Section 23 provides alternative labelling options to those imposed by subsections 22(6), (7) for foods packaged in Australia, *not* grown, produced or made in Australia or a single overseas country, and where the proportion by weight of the food’s Australian ingredients varies over time. The labelling options are similar to the alternative marks provided in section 21 for food made in Australia.

Subsection 23(1) specifies that the section applies to food to which section 22 applies but for which the proportion by weight of the Australian ingredients varies over time, with the exception of food grown, produced or made in a single overseas country. This is because section 23 provides for ‘average’ label alternatives to section 22 labels that require a statement that the food was packed in Australia and an indication of the minimum proportion of Australian ingredients through text and a bar chart. For food grown, produced or made in a single overseas country and packed in Australia, section 22 requires, as a minimum, that the label include a statement about where it was grown, produced or made – a statement that the food was packed in Australia and an indication of the proportion of Australian ingredients through text and a bar chart are optional.

Subsection 23(2) provides that requirements of section 22 are satisfied if: the labelling includes one of the standard marks described in this section; any information that is needed to enable a consumer to obtain information on the food’s actual proportion of Australian ingredients (such as a barcode or other device, batch number, lot, date of manufacture or date mark, in accordance with section 13); and the period used to calculate the average (if not provided on the labelling).

Section 23(3) details the appropriate standard marks for food where the average proportion by weight of the Australian ingredients is at least one per cent. These labels include an appropriate bar chart in accordance with section 10, a statement that the food was packed or packaged in Australia, a statement that reflects the average proportion of Australian ingredients calculated in accordance with subsection 11(2), and a statement about how to find details on the actual proportion of Australian food in accordance with section 13. The kangaroo logo is not permitted.

Subsection 23(4) details optional standard marks for food where the average proportion by weight of the Australian ingredients is less than 10 per cent. These labels include a bar chart filled to the five per cent level, a statement that the food was packed or packaged in Australia, a statement that the food contains ‘less than 10% Australian ingredients’ (calculated in accordance with subsection 11(2)), and a statement about how to find details on the actual proportion of Australian food in accordance with section 13. The kangaroo logo is not permitted.

Section 24 – Non-priority food grown, produced or made in Australia

Section 24 provides that non-priority food (as defined in section 9) grown, produced or made in Australia is taken to comply with a requirement under section 18 or 19 if the labelling includes a statement that the food was grown, produced or made in Australia, as appropriate. There is no need to: indicate the proportion of Australian ingredients; provide a logo or bar chart; or provide the statement in a clearly defined box.

Example: Anzac biscuits made in Australia from any combination of Australian and/or imported ingredients need only include a legible statement on the label that indicates that the biscuits were ‘Made in Australia’.

However, non-priority food can still carry standard marks that would be required or permitted by section 18 or 19 for other foods.

Section 25 – Non-priority food packaged in Australia

Section 25 provides that non-priority food packaged in Australia using food that was not exclusively grown, produced or made in Australia is taken to comply with a requirement under section 22 if the labelling includes:

- a statement of the country of origin of the food – if the package contains food from a single overseas country (it may optionally include a statement that the food was packaged in Australia); or
- a statement that the food was packaged in Australia and that indicates the food or its ingredients are from multiple origins or was imported – if the package contains food from two or more different countries.

There is no need to: indicate the proportion of Australian ingredients; or provide bar chart; or provide the statement in a clearly defined box. The kangaroo logo is not permitted on these products.

However, non-priority food can still carry statements or standard marks that would be required or permitted by section 22 for other foods.

Division 4 – Imported foods with Australian ingredients

Section 26 – Imported foods with Australian ingredients

As specified in subsection 26(1), section 26 provides for optional labelling of imported foods – that is, foods that cannot claim to have been grown, produced, made or packaged in Australia – which contain Australian ingredients. The labelling is a standard mark that, in addition to a statement about the country in which the food was grown, produced, made or packaged, displays a bar chart and statement of the proportion by ingoing weight of the food’s Australian ingredients. This standard mark cannot include the kangaroo logo because the food was not grown, produced or made in Australia.

Subsection 26(2) permits the standard mark on the label, where the food is made overseas from 100 per cent Australian ingredients, to include a full bar chart and a statement that the food is ‘made in the [specified country] from 100 per cent Australian ingredients’.

Example: Cheese made in New Zealand from 100% Australian ingredients may carry a standard mark with a full bar chart and a statement that reads ‘Made in New Zealand from 100% Australian ingredients’.

Subsection 26(3) provides for the standard mark on the label for food made or packaged overseas with at least 1 per cent Australian ingredients by weight to include the bar chart from Section 10 that appropriately represents the proportion of the food’s Australian ingredients; and a text statement that indicates that the food was made (or packaged, as appropriate) in the specified country from at least P% Australian ingredients, where P is a whole number, ranging from 1–99, that is not more than the proportion of the food’s Australian ingredients calculated according to subsection 11(1).

Example: Mixed nuts packaged in Indonesia using 20 per cent Australian macadamias may carry a standard mark with a bar chart filled to 20 per cent and a statement that reads ‘Packed in Indonesia from at least 20% Australian ingredients’.

Section 26(4) provides an alternative labelling option for food grown, produced, made or packed overseas where less than 10 per cent of the ingredients by weight is Australian. The labelling may include a standard mark including the bar chart filled to five per cent and a text statement indicating that the food has been grown, produced, made or packed in the relevant country from ‘less than 10% Australian ingredients’.

Section 26(5) permits an addition to the text statement in a standard mark under section 26, other than marks in subsection 26(2) that identifies the country of origin of one or more specific ingredient of the food, provided each such ingredient is exclusively from the country indicated.

Example: A text statement included as part of a permitted standard mark under section 26 may state that the product is ‘Produced in New Zealand from less than 10% Australian ingredients with New Zealand lamb and Australian rosemary and mint’.

Part 3 – Other sales where country of origin information must be provided

Section 27 – Sales for which labelling is not required but in relation to which information must be made available

Section 27 requires suppliers to provide information, on request, about the origin of a food or its ingredients needed by purchasers to comply with their obligations under this Standard.

Part 4 – Legibility requirements, prohibitions and providing additional information

Section 28 – General legibility requirements

Section 28 outlines general legibility requirements for marks and statements required or permitted under this Information Standard, including minimum type sizes for such information when it accompanies unpackaged food for sale or is displayed in connection with its sale.

The section notes that, to assist businesses, a style guide has been published on the website of the Department of Industry, Innovation and Science. The Style Guide provides guidance on how the labels should be placed on products, their packaging or displays, and how those labels should look.

This guidance is based on the requirements of this Information Standard.

Section 29 – Restrictions on other uses of logo and bar chart in relation to food sold in Australia

Section 29 protects the use of the kangaroo logo and the bar chart in relation to food sold in Australia, including in off-label uses such as displays, brochures and websites. It requires the use of the bar chart and/or logo in these circumstances to comply with Part 2 of the Information Standard, whether or not Part 2 applies.

For example, if the kangaroo logo or a bar chart is used voluntarily:

- on a website or in a brochure when advertising food for sale in Australia;
- on unpackaged food sold in Australia that is not required to carry a country of origin label under subsection 17(1); or
- on a menu relating to food sold in a restaurant in Australia (exempted from the application of Part 2 of this Information Standard under subsection 14(2)),

the kangaroo logo or bar chart must be used as part of a standard mark that complies with the requirements of Division 3 or Division 4 of the Information Standard.

The Information Standard does not seek to restrict the use of the kangaroo logo or bar chart on food that is not sold in Australia. Such food may still carry a standard mark that meets the requirements of Division 3 or Division 4 of this Information Standard.

Where the kangaroo logo is used on a food product sold overseas, but it does not meet the requirements set out in Division 3 of this Information Standard, it must meet the requirements for the Australian Made Australian Grown certification trade mark and be subject to a licensing agreement managed by Australian Made Campaign Limited (see also section 5).

The use of the kangaroo logo on non-food products is governed by the Australian Made Australian Grown certification trade mark scheme managed by Australian Made Campaign Limited. This Information Standard does not restrict the use of the kangaroo logo or bar chart on non-food products (see also section 5).

Section 30 – Provision of additional material not prevented

Section 30 provides that additional information on country or region of origin can be provided on food labelling or in other ways, as long as such representations and claims comply with Australian Consumer Law provisions regarding false or misleading representations and misleading or deceptive conduct.

Section 31 – Record keeping

Section 31 requires businesses selling food in Australia to keep the records they relied on to support country of origin representations about the food or its ingredients for at least 12 months after the sale of the food. Unpackaged single ingredient food (for example, unpackaged apples, carrots or cuts of meat) is exempted from this requirement (although they may be subject to other laws that require the retention of such records).

If the food sold in Australia carries an average proportion of Australian ingredients label, the records used to calculate the average under subsection 11(2) (as well as the actual proportion of Australian ingredients provided to consumers in accordance with sections 13 and 21 or 23) will need to be kept for 12 months from the sale of that food (not just the from the date the average is calculated).

Section 32 – Provision of information to the regulator

Section 32 mandates that, on request, the seller of the food must provide to the regulator – the Australian Competition and Consumer Commission (ACCC) or a state and territory consumer affairs regulator – any information relevant to an assessment of whether the sale complied with this Information Standard and that the seller holds or is able to access at the time of the request. This requirement includes, but is not limited to, records that must be kept under section 31, if any.

Note: See section 2 of the Australian Consumer Law for the meaning of ‘regulator’.

Part 5 – Transition provisions

Section 33 – Food that complies with the Food Standards Code country of origin labelling requirements

Section 33 provides that, during the transitional period of 24 months, foods that fall under sections 15, 16 or 17 are allowed to continue to be labelled under the Food Standards Code as they stood immediately before the day of commencement of this Information Standard.

Subsections 33(2) and (3) permit food that is labelled and already in stock or trade before the end of the transition period to be sold after the cessation of the transition period (30 June 2018) if labelled correctly according to the Food Standard Code.

Subsection 33(4) allows the kangaroo logo to be used during the transition period (until 30 June 2018) in accordance with a licence provided by the Australian Made Campaign Limited.

Subsection 33(5) provides the interpretation of the term ‘commencement day’ (1 July 2016) and for when a label is considered to have been attached to food.

Dictionary

The Dictionary provides general definitions, the meaning of medical institutions and the definitions of particular foods—that is, non-priority foods and other foods.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Country of Origin Food Labelling Information Standard 2016

This Information Standard is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Instrument

The Instrument prescribes country of origin labelling requirements for food for human consumption sold in Australia.

Human rights implications

This Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Instrument is compatible with human rights as it does not raise any human rights issues.

The Minister for Industry, Innovation and Science, the Honourable Greg Hunt MP