

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Minister for Industry and Innovation and Minister for Science, for the Assistant Minister for Productivity, Competition, Charities and Treasury**

#### *Competition and Consumer Act 2010*

#### *Competition and Consumer (Australian Consumer Law—Country of Origin Information for Seafood for Immediate Consumption) Information Standard 2025*

Section 134 of the Australian Consumer Law (ACL) provides that the Commonwealth Minister may, by written notice published on the internet, make an information standard in relation to the provision of information for goods or services of a particular kind. Section 134 is contained in Schedule 2 to the *Competition and Consumer Act 2010* (the Act).

The purpose of the *Competition and Consumer (Australian Consumer Law—Country of Origin Information for Seafood for Immediate Consumption) Information Standard 2025* (the Seafood Information Standard) is primarily to set out country of origin information disclosure requirements for seafood products for immediate consumption in hospitality settings.

Seafood products for immediate consumption may be offered for supply, or supplied, with little or no information about where it comes from. As a result, a consumer may not be able to make an informed choice as to its origin. The Seafood Information Standard addresses this by establishing country of origin information disclosure requirements for:

- seafood products intended for immediate consumption after supply, that are marketed as being or containing seafood and supplied under certain conditions, and
- seafood products supplied under certain conditions throughout the supply chain in Australia, to ensure that a person who is required to comply with the country of origin information disclosure requirements mentioned above is able to obtain the necessary information in order to do so.

This is intended to ensure that consumers:

- have access to information about whether the seafood was harvested in Australia, outside of Australia, or is of mixed origins (that is, the Australian, Imported or Mixed (AIM) model);
- are able to make more informed purchasing decisions, based on consistently available, accurate information, and in line with their personal preferences; and
- are able to better differentiate between goods offered for sale and make confident choices when purchasing seafood products for immediate consumption.

In October 2022, the Australian Government announced it would work closely with the seafood and hospitality sectors to improve seafood labelling and help consumers make informed decisions about the seafood they buy.

The Australian Government considered a number of policy options to achieve this goal, and the Department of Industry, Science, and Resources (DISR) published a discussion paper in December 2022 and a Consultation Regulation Impact Statement in July 2023 to obtain stakeholder feedback. Over the two consultation processes, 291 submissions were received from stakeholders via the DISR website. Most responses to the discussion paper were in favour of further country of origin information disclosure requirements for seafood.

The AIM model was selected as a result of the consultation feedback and Cost Benefit Analysis, and was found to best achieve the following objectives:

- improve consumer information;
- minimise costs and impact on affected businesses;
- be practical to enforce; and
- align with trade principles.

On 24 November 2023, State and Territory Consumer Ministers voted unanimously in support of the Australian Government's proposal to make a new information standard under the ACL which would require country of origin labelling for seafood in hospitality settings using the AIM model. The Seafood Information Standard implements this proposal.

The Act does not specify any conditions that need to be satisfied before the power to make the Seafood Information Standard may be exercised.

The Seafood Information Standard was drafted in consultation with State and Territory government officials and other key stakeholders. An exposure draft Seafood Information Standard was published on 20 March 2025 for a 4 week public consultation period, with 55 submissions received from stakeholders in the hospitality industry, seafood industry, small business commissions, and from industry associations, government organisations and consumers via the DISR website. Updates were made to the Seafood Information Standard based on feedback from these stakeholders.

The discussion paper, Consultation Regulation Impact Statement and exposure draft Seafood Information Standard were also provided to World Trade Organization partners through the Department of Foreign Affairs and Trade as notification of a potential regulatory change. No responses were received from World Trade Organization partners.

The Seafood Information Standard is a legislative instrument for the purposes of the *Legislation Act 2003*.

The ACL is made pursuant to the Intergovernmental Agreement for the ACL. The ACL therefore facilitates the establishment or operation of an intergovernmental scheme involving the Commonwealth and all States and Territories, while authorising the Seafood Information Standard to be made for the purposes of the scheme. Accordingly, the Seafood Information Standard is not subject to disallowance by virtue of subsection 44(1) of the *Legislation Act 2003*, or sunseting by virtue of subsection 54(1) of that Act.

A review of this instrument is proposed to begin in 2028.

The Seafood Information Standard commenced on the later of the day after the instrument is registered on the Federal Register of Legislation, and 1 July 2026.

Details of the Seafood Information Standard are set out in Attachment A.

The Office of Impact Analysis (OIA) has been consulted (OIA ref: OBPR22-03728) and agreed that a Decision Regulatory Impact Statement (DRIS) was required. The measure is estimated to have a low impact on compliance costs. The DRIS was published in November 2023 and assessed as adequate to inform a final decision in accordance with the requirements of the Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies.

**Details of the *Competition and Consumer (Australian Consumer Law—Country of Origin Information for Seafood for Immediate Consumption) Information Standard 2025***

**Part 1 – Preliminary**

Section 1 – Name

Section 1 provides that the name of the legislative instrument is the *Competition and Consumer (Australian Consumer Law—Country of Origin Information for Seafood for Immediate Consumption) Information Standard 2025* (the Seafood Information Standard).

References in this Attachment are to the Seafood Information Standard unless otherwise stated.

Section 2 – Commencement

Section 2 provides that the Seafood Information Standard will commence on the later of the day after it is registered on the Federal Register of Legislation, and 1 July 2026.

Section 3 – Authority

Section 3 provides that the Seafood Information Standard is made under section 134 of the Australian Consumer Law (ACL), which is contained in Schedule 2 to the *Competition and Consumer Act 2010* (the Act).

Section 4 – Definitions

Section 4 contains definitions of key terms used in the Seafood Information Standard, including the following.

**Seafood** means aquatic vertebrate or aquatic invertebrate animals (including shellfish but excluding mammals, amphibians or reptiles), or the eggs, larvae or spat of such animals (such as caviar). To avoid doubt, an aquatic vertebrate or invertebrate animal is intended to be within the scope of this definition whether or not it is a saltwater or freshwater animal, it is alive or dead, or whether it was harvested from the wild or as part of an aquaculture process.

The definition is intended to include fish, molluscs, crustaceans, jellyfishes, sea urchins, sea cucumbers, eels and other aquatic animals.

The definition of seafood is not intended to include artificially created seafood (for example, seafood created in a laboratory setting).

‘Seafood’ is relevant to the definition of ‘seafood product’.

**Seafood product** means a good that is food that is seafood, or that contains seafood, with certain exceptions. The exceptions are as follows:

- food in which no portion of the seafood remains solid, including condiments, flavourings, sauces, oils, marinades, and stocks. For example, XO sauce that contains

dried shrimp and dried scallop would not be a seafood product as no portion of the seafood product remains solid in the sauce. Other examples include liquid or powdered fish stock, anchovy paste, oyster sauce and fish sauce;

- shelf stable food that consists of, or contains, chopped, diced, minced, pureed or shaved seafood. For example, a tin of tuna in spring water would not be a seafood product as it is shelf stable, and the tuna has been chopped into chunks;
- food that contains seafood only because one of the above two categories of food is used as an ingredient; or
- food for special medical purposes.

The definition of seafood product informs the kind of goods for which there are country of origin information disclosure requirements under section 5 and 6.

***Harvested in Australia*** means seafood that has been harvested:

- within Australia;
- from the territorial sea of Australia; or
- from the exclusive economic zone of Australia.

Seafood harvested ‘within Australia’, is intended to include seafood harvested from land-based aquaculture operations as well as in waters within Australia.

***Harvested outside Australia*** means all seafood that is not harvested in Australia. For example, tuna that has been wild caught from within New Zealand’s territorial seas is harvested outside Australia.

The definitions of ‘harvested in Australia’ and ‘harvested outside Australia’ are particularly relevant to the country of origin information disclosure requirements prescribed under subsection 5(2).

The note to section 4 makes it clear that expressions have the same meaning as in the Act as in force from time to time.

## **Part 2 – Information requirements**

### **Section 5 – Information requirement for supplies of seafood for immediate consumption**

Section 5 establishes country of origin information disclosure requirements for seafood products intended for immediate consumption after supply, that are marketed as being or containing seafood and are supplied under certain conditions. This is intended to ensure that consumers can make informed choices based on consistently available and accurate country of origin information when purchasing seafood products in hospitality settings.

Specifically, section 5 prescribes an information standard, pursuant to subsection 134(1) of the ACL, for a seafood product that meets the conditions prescribed in subsection 5(1). If those conditions are met, the supplier must comply with the country of origin information disclosure requirements in subsection 5(2).

## Conditions

Section 5 applies to a seafood product if the following five conditions are met.

The first condition is that the seafood product is intended for immediate consumption after it is supplied. This is intended to cover circumstances where the seafood product is ready to eat without the need for any further preparation or processing at the time of supply; whether the consumer chooses to eat it in-store, take it away or have it delivered. Typical examples of seafood products would be fish and chips, seafood marinara, and oysters kilpatrick. Seafood products that require further preparation or cooking by the consumer before the product is ready to eat are not intended to meet this condition.

The second condition is that the seafood product is marketed as being or containing seafood. Civil penalties in relation to information standards under the ACL apply to supply and offer to supply. Marketing forms part of an offer to supply. A seafood product may be marketed as containing seafood in a range of ways, such as on a menu or at the location where the seafood product is displayed for sale. If a seafood product is marketed as being or containing seafood in multiple locations (such as online and in-store), the country of origin information disclosure requirements must be met in each location.

A seafood product may be marketed as being or containing seafood if the name of the product refers to seafood, or the name of the product is commonly associated with food that is, or contains, seafood. For example, a seafood product marketed as surf ‘n’ turf would satisfy this condition, as the name is commonly associated with a serving of steak and prawns. This condition is not intended to cover seafood products that contain an incidental amount of seafood, unless the product is marketed as being or containing seafood. For example, a seafood product marketed as a “Supreme Pizza”, that incidentally includes pieces of anchovy, would not satisfy this condition.

The third condition is that the seafood product is supplied within 24 hours after purchase. This is intended to ensure that country of origin information disclosure requirements do not apply to seafood products that are marketed and pre-purchased more than 24 hours ahead of supply, when suppliers may not have sourced the product or have the necessary country of origin information for the product.

The fourth condition is that the seafood product is not supplied by a canteen, school, prison, hospital, or medical institution, and is not supplied at a fund raising event (a number of these terms are defined in subsection 4(1)).

The fifth condition is that the seafood product is not supplied in circumstances where labelling is required by the *Country of Origin Food Labelling Information Standard 2016* (CoOL Information Standard). This is intended to reduce regulatory burden because, in such circumstances, the CoOL Information Standard applies.

The CoOL Information Standard has limited application to seafood products supplied, or intended for supply, for immediate consumption in retail hospitality setting. The Seafood Information Standard is intended to address this. Suppliers of seafood products for immediate consumption that may be required to comply with the country of origin information disclosure requirements in section 5 include restaurants, pubs, cafes, take-away and fast-food venues, hotels, casinos, and amusement parks. However, this will depend on the specific circumstances.

### **Example 1 – marketed as being or containing seafood**

A winery offers visitors the option of pairing a wine tasting session with a selection of small canapés. One of these canapé dishes is listed on the menu as including caviar. Caviar is the salted roe of sturgeon fish (i.e. fish eggs). This satisfies the condition under paragraph 5(1)(b) that the seafood product is marketed as being or containing seafood. Subject to other conditions in subsection 5(1) being met, the winery would need to comply with the country of origin information disclosure requirements under subsection 5(2).

### **Example 2 – fund raiser event**

A stall sells fish tacos at a fund raising event operated by a school. Since the seafood product is supplied at a fund raising event operated by a school, the condition under paragraph 5(1)(d) is not met, and the country of origin information disclosure requirements under subsection 5(2) would not apply.

### **Example 3 – supplied more than 24 hours after purchase**

A casino markets a meal of fish and chips as part of an event that they will cater. Tickets go on sale online 3 months ahead of the event and customers are provided the option to choose from Australian or Imported fish. The last ticket is purchased 2 weeks ahead of the event. As no seafood product would not be supplied within 24 hours of the last customer purchase, the condition under paragraph 5(1)(c) is not met, and the country of origin information disclosure requirements under subsection 5(2) would not apply.

### *Information requirements*

Subsection 5(2) sets out the country of origin information that must be provided for seafood products that meet the conditions under subsection 5(1). The specific requirements are determined by where a specific seafood product is harvested (such as seafood only harvested in Australia, or seafood only harvested outside Australia).

The minimum country of origin information requirements align with the Australian-Imported-Mixed (AIM) model. If the A, I or M acronyms are used to provide the required information, it must be clear what the acronyms represent. For example, the information could be accompanied by a legend to explain that the acronyms mean Australian, Imported or Mixed. To address stakeholder concerns about the limited amount of available space on menus and boards, the legend may be displayed separately, on the basis that it is clear what the acronyms represent.

Specifically, where a seafood product is or contains seafood that is only harvested in Australia, the information must be given in one of 2 ways.

- The word ‘Australia’ may be provided alongside the name of the seafood product (e.g., ‘*Oysters kilpatrick (Australia)*’).
- An abbreviation of the word ‘Australia’ may be provided, in conjunction with further information to explain the meaning of the abbreviation (e.g., ‘*Oysters kilpatrick (A)*’ and a legend stating ‘*Australia (A)*’).

Where the seafood product is or contains seafood that is only harvested outside Australia, the information must be given in one of 2 ways.

- The word ‘Imported’ may be provided alongside the name of the seafood product (e.g., ‘*Fish and chips (Imported)*’).
- An abbreviation of the word ‘Imported’ may be provided, in conjunction with further information to explain the meaning of the abbreviation (e.g., ‘*Fish and chips (I)*’ and a legend stating ‘*Imported (I)*’).

Where the seafood product is or contains seafood that is both harvested in Australia and outside of Australia, the information must be given in one of 4 ways.

- The word ‘Mixed’ may be provided alongside the name of the seafood product (e.g., ‘*Seafood platter (Mixed)*’).
- An abbreviation of the word ‘Mixed’ may be provided in conjunction with further information to explain the meaning of the abbreviation (e.g., ‘*Seafood platter (M)*’ and a legend stating ‘*Mixed (M)*’).
- Seafood within the seafood product may be separately identified by the words ‘Australian’ and ‘Imported’ (e.g., ‘*Seafood platter (with Imported Cod & Australian prawns)*’).
- Seafood within the seafood product may be separately identified by abbreviations of the words ‘Australia’ and ‘Imported’ (e.g., ‘*Seafood platter (with Cod (I) & Prawns (A))*’ and a legend stating ‘*Australia (A); Imported (I)*’).

Additional information about the location the seafood is harvested from may be used. It can be broad (for example, the State or Territory in Australia, or the country from which the seafood is harvested) or specific (for example the town, the city or the region from which the seafood is harvested), but the information *must* include the relevant A (Australian), I (Imported) or M (Mixed) origin label. For example:

- Balmain bugs that are harvested off the coast of New South Wales can be identified as ‘*Balmain bugs (Australian)*’ or either ‘*Balmain bugs (A)*’ or ‘*NSW Balmain bugs (A)*’ and a legend stating ‘*Australian (A)*’.
- Clams imported from Cloudy Bay in New Zealand can be identified as ‘*Cloudy Bay Clams (Imported)*’ or either ‘*New Zealand Clams (I)*’ or ‘*Cloudy Bay Clams (I)*’ and a legend stating ‘*Imported (I)*’.

All required information must be:

- in writing; and
- clearly visible, prominent and legible; and
- in English

To be prominent, the required information should be very noticeable. For example, in the case of a seafood product marketed at a restaurant on a menu board, the information should be placed closest to the point of sale and be visible to all customers. The information may be provided in digital or physical form; however, the required information must be provided wherever the relevant seafood product is marketed. That means that if a seafood product is marketed online and in-store, the relevant information must be provided in both locations.



For online customers, information could be provided against each seafood product via the online menu or app, with the information being updated as required. For an in-person sales, the information could be provided on physical menus with a statement against a listing of a seafood product. In cases where a seafood product is marketed in a permanent way, temporary signage may be suitable over short periods if it is clear the temporary signage replaces any permanent signage. A single statement about all the seafood products for immediate consumption offered for supply, or supplied, by a supplier may be suitable where either:

- all the seafood was harvested in Australia; or
- all the seafood was harvested outside of Australia.

Sections 136 and 137 of the ACL apply to this section, meaning a person may be subject to a significant pecuniary penalty if they breach the information standard requirements under section 5. A person may also be liable to a criminal offence under Part 4-4 of the ACL. This penalty is appropriate to ensure country of origin information is provided for seafood products for immediate consumption so that consumers can make informed choices.

#### **Example 4 – AIM model**

*Seafood product is or contains seafood harvested in Australia only*

A food truck sells fish tacos that contain flathead harvested within Australia. The food truck includes the text ‘Fish tacos (Australian)’ in a clearly visible, prominent and legible manner on their menu. This would comply with the country of origin information disclosure requirements under subsection 5(2).

*Seafood product is or contains seafood harvested outside Australia only*

A café sells tuna mornay as part of a special, which is made with tuna that was imported from Thailand. The café includes a clearly visible, prominent and legible statement on the specials board providing ‘Tuna Mornay (I)’ with an accompanying legend explaining that the acronym means ‘Imported’. This would comply with the country of origin information disclosure requirements under subsection 5(2).

*Seafood product is or contains seafood harvested in Australia and outside Australia*

A restaurant offers seafood marinara pasta for delivery online, which contains a mix of different types of seafood from imported and Australian origins. The restaurant ensures that the online menu states ‘seafood marinara pasta—contains seafood of mixed origins’ in a way that is clearly visible, prominent and legible. This would comply with the country of origin information disclosure requirements under subsection 5(2).

#### **Example 5 – single information statement**

A fish and chip shop only sells imported fish for immediate consumption. The fish and chip shop have a menu displayed on a painted board above the service counter. A clearly visible, prominent and legible statement on the painted board states ‘All seafood products served in our shop are imported’. This would comply with the country of origin information disclosure requirements under subsection 5(2).

### Example 6 – prominence

A cafe only accepts payments at a single cash register and displays a typed sign in large font that is visible to paying customers and states that the seafood product used in the Fish of the Day menu item is Australian salmon. This would comply with the country of origin information disclosure requirements under subsection 5(2).

### Example 7 – temporary signage

A restaurant chose to invest in hardcopy laminated menus to display country of origin information for seafood products offered all year round, as its usual supply arrangement is very reliable. However, due to an unexpected event, the supply of Australian snapper has been replaced with New Zealand snapper for one week. The restaurant uses temporary, removable stickers on their permanent menus to display ‘imported’ over the top of references to “Australia” for all seafood products containing snapper until normal supply is restored, in a clearly visible, prominent and legible way. This would comply with country of origin information disclosure requirements under subsection 5(2).

### Section 6 – Certain information must be made available on request

Section 6 establishes country of origin information disclosure requirements for seafood products supplied under certain conditions throughout the supply chain in Australia, to ensure that a person who is required to comply with country of origin information disclosure requirements under section 5 is able to obtain the necessary information in order to do so. To minimise the regulatory burden, section 6 is only intended to cover seafood products if section 5 does not apply to the product, and country of origin labelling information is not required for the product under the CoOL Information Standard. As such, it is expected that section 6 will primarily cover seafood products that are whole seafood, such as fish.

Specifically, section 6 prescribes an information standard pursuant to subsection 134(1) of the ACL for seafood products that meet the following conditions:

- the product is supplied by a person (the **supplier**) to another person in Australia (the **purchaser**);
- section 5 does not apply to the product;
- the product is not supplied by a canteen, school, prison, hospital, medical institution or a fund raising event; and
- the product is not supplied in circumstances where labelling is required by the CoOL Information Standard.

If the purchaser requests information about the origin of the seafood product, the supplier must provide the information to the purchaser in writing. However, the country of origin information disclosure requirements in section 6 only apply in circumstances where the information is for the purposes of enabling the purchaser, or another person to whom the product is subsequently supplied, to comply with section 5 in relation to:

- supplying the product to another person, or

- supplying food that uses the product as an ingredient to another person.

For example, in a supply chain where a fishery supplies a wholesaler with a seafood product who in turn supplies a person that is required to comply with section 5 (in this case, a restaurant) with the product, the restaurant can request country of origin information on the product from their wholesaler. This could be at the time of supply, or after supply. If the wholesaler does not have that information, they could request the country of origin information for the seafood product from the fishery that supplied the product to them. The wholesaler could also request the necessary information from the fishery at the time of supply, on the basis that the wholesaler intends to supply the seafood product to the restaurant, who is required to comply with section 5.

Section 137AA of the ACL applies to this section, meaning a pecuniary penalty of up to \$50,000 for a body corporate and \$10,000 for an individual may be imposed for contravention of the requirements in section 6. This penalty is appropriate as it is important that suppliers that are required to comply with section 5 have access to country of origin information for relevant seafood products in order to do so. The civil penalties under sections 136 and 137 of the ACL do not apply to a contravention of section 6.

### **Example 8 – information requests**

A club runs out of squid during the dinner service and the chef decides to purchase more squid from the local fish wholesaler when the market opens the next day. At the time of purchase, the chef did not check whether the squid was Australian or imported. Later, the chef contacts the wholesaler to request the country of origin information so the menu can be updated before the squid is marketed to customers. When making the request to the wholesaler, the chef states when the squid was purchased. The wholesaler locates details of the sale and confirms the squid was harvested within Australia. The wholesaler provides the chef with the requested information (specifying that the squid was harvested in Australia) in writing (such as email). The wholesaler has met its obligations under section 6 and the club can use the information to meet its obligations under section 5.

### **Section 7 – Record keeping**

Section 7 establishes record keeping requirements for a person that offers to supply seafood products for immediate consumption.

If a person offers to supply seafood products to which section 5 applies (for example, an offer to supply may be made by marketing a seafood product on a cafe menu) and that person, in making that offer, has provided a written statement that includes the information required by the table to subsection 5(2) (that is, the AIM information), the person must keep the records the person relied on for that information. Evidence of records could include invoices or emails from seafood product wholesalers, supermarket receipts, or photos of packaging.

The information must be kept for 3 months after the food is last offered for supply. The 3 month period is consistent with food safety record-keeping requirements for category one businesses under Food Standards Australia New Zealand's Standard 3.2.2A Food Safety Management Tools. This time frame is intended to minimise the regulatory burden on businesses.

Section 137AA of the ACL applies to this section, meaning a pecuniary penalty of up to \$50,000 for a body corporate and \$10,000 for an individual may be imposed for contravention of the requirements in section 7. This penalty is appropriate to ensure suppliers keep relevant records to inform compliance activities by the regulator. Relevantly, a person may be required to give the regulator information or documents on written request so the regulator can determine whether the person has complied with the Seafood Information Standard, pursuant to section 137B of the ACL. The civil penalties under sections 136 and 137 of the ACL do not apply to a contravention of section 7.