



Country of Origin Food Labelling Amendment (Packed in Australia) Information Standard 2016

I, Greg Hunt, Minister for Industry, Innovation and Science, make the following amendment to an information standard under section 134 of Schedule 2 of the Competition and Consumer Act 2010.

Dated 28 November 2016

GREG HUNT

Greg Hunt
Minister for Industry, Innovation and Science

Contents

1. Name of Instrument	1
2. Commencement	1
3. Authority	1
4. Schedules	1
Schedule 1 – Amendments.....	2
<i>Country of Origin Food Labelling Information Standard 2016...Error! Bookmark not defined.</i>	

1. Name of Instrument

This instrument is the *Country of Origin Food Labelling Amendment (Packed in Australia) Information Standard 2016*.

2. Commencement

This instrument commences the day after it is registered.

3. Authority

This information standard is made under section 134 of the Australian Consumer Law.

4. Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Country of Origin Food Labelling Information Standard 2016

1. Section 6

Repeal the section, substitute:

Overview

This information standard provides for mandatory country of origin labelling requirements for food that is sold (including offered or displayed for sale) in Australia. It does not impose labelling requirements on food sold outside Australia.

Under this information standard, most food for retail sale in Australia must be labelled with a country of origin. There are different labelling requirements depending on whether the food was:

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

Most food grown, produced, made or packaged in Australia will need to carry a standard mark. There will generally be two or more marks from which to choose. In addition to a country of origin statement, the marks include an indication of the proportion of Australian ingredients by ingoing weight through text and a bar chart. If all of the food in a display or package was grown, produced or made in Australia, the mark will also include a kangaroo logo. In some circumstances, more detailed information can be voluntarily added to the text in a standard mark.

For most imported food (food grown, produced, made or packaged in a country other than Australia), the country of origin statement will need to be in a clearly defined box. Where imported food includes Australian ingredients, a standard mark showing the proportion of Australian ingredients by ingoing weight through text and a bar chart may be used voluntarily.

For non-priority foods, the requirements for standard marks and the placement of origin statements in a box are voluntary, rather than mandatory. Non-priority foods are set out

in section 9, and are foods for which Australian consumers are least concerned about origin information.

General provisions

The terms ‘grown’, ‘produced’ and ‘made’ are defined in section 8.

A food can be described as grown or produced in a country only if virtually all of its content is from, and virtually all of the processing is undertaken in, that country. Any food that can be described as grown or produced in a country can also be described as made in that country. A food can be described as made in a country if it was last substantially transformed into the final food through one or more processes that occurred in that country.

All standard marks in the information standard include a bar chart showing the proportion of Australian ingredients by ingoing weight. Section 10 includes a table listing bar charts and the ranges of percentages of Australian ingredients to which they apply. Section 11 sets out the methods for calculating the percentages of Australian ingredients by ingoing weight. Section 12 sets out how water is to be treated when calculating the percentages. Section 13 sets out the methods by which businesses can communicate more accurate information when the average percentage of Australian ingredients by ingoing weight is used in a standard mark in accordance with sections 21 and 23.

The labelling requirements are set out in Part 2. With some exceptions, Part 2 applies to retail sales of food. The labelling requirements vary depending on whether the food falls within one of the following three categories of food:

- packaged food, other than fresh fruit and vegetables in transparent packaging
- fresh fruit and vegetables in transparent packaging
- unpackaged meat, fish, fruit and vegetables.

These categories align with the categories of food required to be labelled with a country of origin under the Australia New Zealand Food Standards Code (Food Standards Code) at the time the information standard commenced. This means there has been no change to the range of foods that must be labelled with a country of origin. Particular foods or classes of foods are defined in Part 3 of the Dictionary at the end of this information standard.

Food grown, produced or made in Australia

If the **food was grown, produced or made in Australia exclusively from Australian ingredients**, the information must be in the form of one of the standard marks set out in section 18. These marks include the following features:

- a logo to assist the consumer to easily identify that the food was grown, produced or made in Australia:



- a full bar chart to indicate that the food's ingredients are exclusively Australian:



- a statement indicating that the food was grown, produced or made in Australia and that its ingredients are exclusively Australian.

If the **food was grown, produced or made in Australia and some of its ingredients are not Australian**, the information must be in the form of one of the standard marks set out in section 19 (subject to section 21). The marks include the following features:

- a logo to assist the consumer to easily identify the food was grown, produced or made in Australia:



- one of the following bar charts to provide a visual indication of the proportion, by ingoing weight, of the food's Australian ingredients:



- a Made in Australia statement, together with a statement that aligns with the bar chart and clearly states the minimum proportion, by ingoing weight, of the food's Australian ingredients.

Where a particular ingredient is sourced exclusively from a particular country, text

naming the origin of that ingredient can be added to the standard mark.

If food grown, produced or made in Australia is exported and re-imported without substantial transformation, but with some processing overseas (for example, cleaning, shelling, packaging or re-packaging), then the processing that occurred overseas will have to be declared in the standard mark from section 18 or 19, as appropriate.

If the food was grown, produced or made in Australia and the proportion by ingoing weight of Australian ingredients varies over time, the information may be in the form of a mark that includes a statement of the average content of Australian ingredients and a means for consumers to access further details off-pack, in accordance with section 21. The mark includes the following features:

- a logo to assist the consumer to easily identify the food was grown, produced or made in Australia:



- one of the following bar charts to provide a visual indication of the average proportion, by ingoing weight, of the food's Australian ingredients:



- a Made in Australia statement, together with a statement aligned with the bar chart that indicates the average proportion by ingoing weight of the food's Australian ingredients and how to get further details about the Australian content of the food.

Food packaged in Australia

If the **food was packaged in Australia** (but not all of the food in the package was exclusively grown, produced or made in Australia), the labelling must include one of the standard marks set out in section 22 (subject to section 23). These marks do not include the kangaroo logo, but do include a bar chart, a Packed in Australia statement and an Australian ingredient statement, aligned with the bar chart, similar to that for food that was made in Australia. Where a particular ingredient is sourced exclusively from a particular country, text naming the origin of that ingredient can be added to the standard

mark.

If all the food is from a single country, the label must at least state that the food in the package was grown, produced or made in that country, and may include a standard mark that also includes a statement that it was packed in Australia, together with an unfilled bar chart.

If the **food was packaged in Australia and the proportion by ingoing weight of the food's ingredients varies over time**, the information may be in the form of a standard mark set out in section 23. These marks do not include the kangaroo logo, but do include a bar chart and a statement indicating the average proportion, by ingoing weight, of the food's Australian ingredients and how to get further details about the Australian content of the food.

Non-priority food grown, produced, made or packaged in Australia

For non-priority foods (foods set out in section 9), the use of the standard marks in accordance with sections 18 to 23 is voluntary rather than mandatory. Where the kangaroo logo and/or a bar chart is used on non-priority food, they must be used as part of a standard mark in accordance with those sections.

Imported food

If the **food was not grown, produced, made or packaged in Australia**, the labelling will be required to meet the requirements in sections 15, 16 or 17. Briefly, it must identify:

- the country of origin of the food, if it is from a single country (it may also identify where the food was packaged if this was a different country), or
- if the food is from more than one country:
 - the country where the food was packaged, if applicable; and
 - that the food is of multiple origins.

Unless the packaged food is non-priority (see section 9), the country of origin information must be in a clearly defined box.

As an alternative to a simple statement about the origin of the food, if the **food was produced, made or packaged in a country other than Australia but with Australian ingredients**, the labelling may include one of the standard marks set out in section 26. These marks do not include the kangaroo logo, but do include a bar chart and a statement indicating the proportion, by ingoing weight, of the food's Australian content.

Where a particular ingredient is sourced exclusively from a particular country, text naming the origin of that ingredient can be added to this standard mark.

Other requirements

Part 3 applies to sales other than retail sales. It enables a food processor or retailer who purchases wholesale foods or ingredients to obtain from the seller the country of origin information that will be needed to comply with this information standard.

Part 4 sets out:

- general legibility requirements in relation to labelling
- certain prohibitions on the use of the logo and bar chart
- the provision of additional information about the country of origin of a food
- record keeping requirements for certain food
- requirements to provide information to regulators when requested.

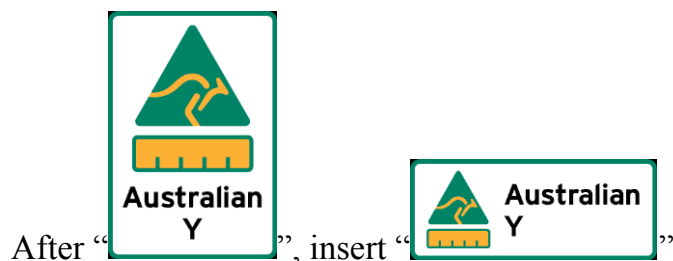
Part 5 sets out transitional provisions to deal with foods that have already been labelled or are labelled within two years of the commencement of this information standard.

A Dictionary is included that defines certain words and expressions used in this information standard. The Dictionary is divided into general definitions, definitions relating to medical institutions and food related definitions.

2. Example in subsection 8(2)

In the Example, after “ ‘Made in Australia from Australia from Australian ingredients’”, omit ””, substitute “ ’”.

3. Subsection 18(2)



4. Example in section 19

After “Thailand” delete “.”.

After “Malaysia” delete “.”.

After “Australian beef” delete “.”

5. Note in section 20

Omit “e.g.”, substitute “for example,”

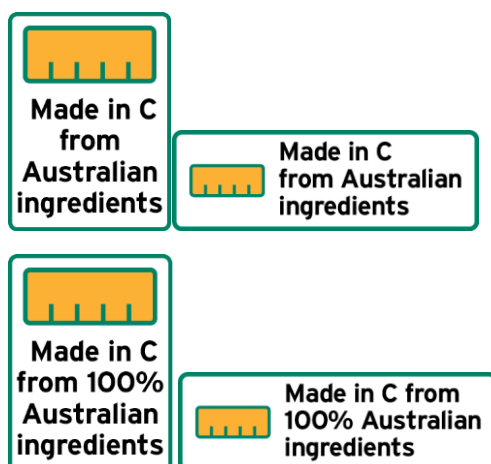
6. Section 22

Repeal the section, substitute:

- (1) This section applies to food that:
 - (a) was packaged in Australia; and
 - (b) is not food to which section 18 or 19 applies.
- (2) If:
 - (a) the food in the package was made in a single country other than Australia; and
 - (b) the ingredients of the food are exclusively of Australian origin,

the labelling must include:

- (c) a statement that the food was made in that country, in a clearly defined box; or
- (d) one of the following marks:





where:

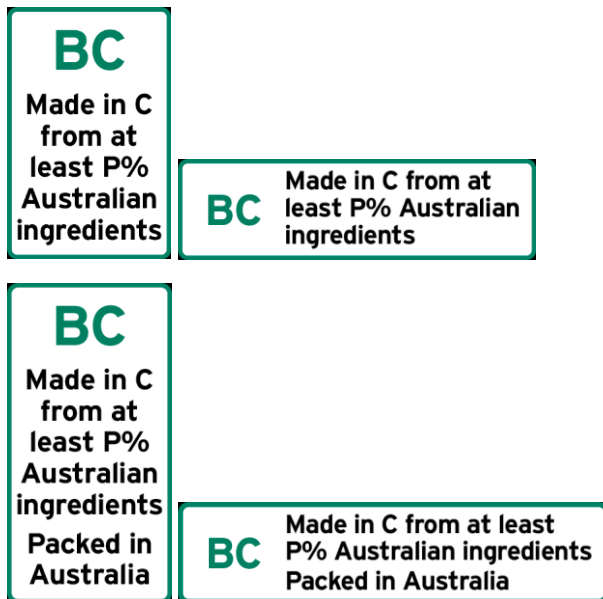
- (e) 'C' is the name of the relevant country; and
- (f) 'Packed' may be replaced by 'Packaged'.

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.

- (3) Subject to subsection (4), if:
 - (a) the food in the package was made in a single country other than Australia; and
 - (b) some of the ingredients of the food are of Australian origin,

the labelling must include:

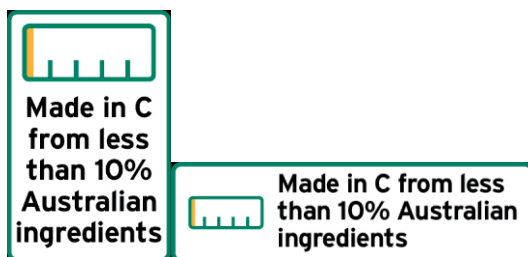
- (c) a statement that the food was made in that country, in a clearly defined box; or
- (d) one of the following marks:



where:

- (e) ‘BC’ is the appropriate bar chart to represent P% of Australian ingredients (see section 10); and
 - (f) ‘C’ is the name of the relevant country; and
 - (g) ‘P%’, in which P is a whole number, is not more than the proportion by weight of the Australian ingredients of the food; and
 - (h) ‘Packed’ may be replaced by ‘Packaged’.
- (4) If:
- (a) the food in the package was made in a single country other than Australia; and
 - (b) some but less than 10% of the ingredients of the food by weight is of Australian origin,

the labelling may include one of the following marks:



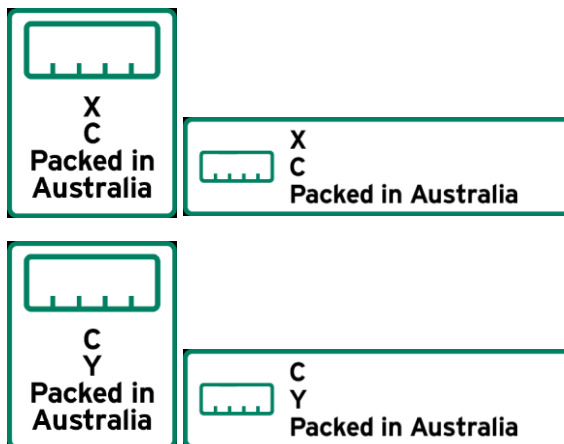


where:

- (c) 'C' is the name of the relevant country; and
 - (d) 'Packed' may be replaced by 'Packaged'.
- (5) If:
- (a) the food in the package was grown, produced or made in a single country other than Australia; and
 - (b) none of the ingredients of the food is of Australian origin,

the labelling must include:

- (c) a statement that the food was grown, produced or made in that country, as appropriate, in a clearly defined box; or
- (d) one of the following marks:



where:

- (e) 'X' is:
 - (i) the phrase 'Made in'; or

-
- (ii) if all significant ingredients are from a single overseas country, the phrase ‘Grown in’, ‘Produced in’, ‘Produce of’, ‘Product of’, as appropriate (see section 8);
- (f) ‘Y’ is:
- (i) the word ‘Made’;
- (ii) the word ‘Grown’, ‘Produced’ or ‘Product’, as appropriate (see section 8); or
- (iii) the kind of food;
- (g) ‘C’ is the name of the relevant country, or the adjectival form of that name, as appropriate; and
- (h) ‘Packed’ may be replaced by ‘Packaged’.
- (6) Subject to subsection (7), if:
- (a) the food in the package was not grown, produced or made in a single country; and
- (b) some of the ingredients of the food are of Australian origin,

the labelling must include one of the following marks:



where:

- (c) ‘BC’ is the appropriate bar chart to represent P% of Australian ingredients (see section 10); and
- (d) ‘Packed’ may be replaced by ‘Packaged’; and
- (e) ‘P%’, in which P is a whole number, is not more than the proportion by weight of the Australian ingredients of the food.

Note: This Subsection applies to packaged food of multiple origins that contains Australian food or ingredients.

For example, Australian fruit or vegetables mixed with imported fruit or vegetables; Australian nuts mixed with imported nuts.

- (7) If:
- (a) the food in the package was not grown, produced or made in a single country; and

-
- (b) some but less than 10% of the ingredients of the food by weight is of Australian origin,

the labelling may include one of the following marks:



where 'Packed' may be replaced by 'Packaged'.

- (8) If:
- (a) the food in the package was not grown, produced or made in a single country; and
 - (b) none of the ingredients of the food is of Australian origin,

the labelling must include one of the following marks:



where 'Packed' may be replaced by 'Packaged'.

Note: This subsection applies to packaged food of multiple origins that contains no Australian food or ingredients.

For example, mixed fruit, vegetables or nuts imported from two or more countries not including Australia.

Reference in mark to an ingredient from a particular country

- (9) In a mark required or permitted under this section other than subsection 22(2), a phrase may be added at the end that names one or more of the ingredients of the food and specifies the country of origin of each ingredient named, provided:
- (a) the phrase starts with the word ‘with’; and
 - (b) each ingredient named originates exclusively in the country specified as the origin of that ingredient.

Examples: ‘Packed in Australia from at least 80% Australian ingredients with walnuts from the United States of America’

‘Packed in Australia from imported ingredients with lychees from Thailand, pineapples from Malaysia and mangoes from the Philippines’

‘Packed in Australia from 0% Australian ingredients with Canadian blueberries’

7. Subsection 23(1)

Omit:

- (1) This section applies to food to which section 22 applies if the proportion by weight of the ingredients of the food varies over time.

Substitute:

- (1) This section applies to food to which section 22 applies (other than food grown, produced or made in a single overseas country) if the proportion by weight of the ingredients of the food varies over time.

8. Subsection 23(3)

After “(3) If the average proportion by weight of the Australian ingredients of the food is at least” omit “10%” substitute “1%”.

In (3)(b) insert “ ‘ ” before the word Packed.

9. Subsection 26(3)

After “where: (a) ‘BC’”, insert “is”.

After “where: (e)” insert “ ‘ ”.

After “(5) In a mark required or permitted under this section”, insert “other than subsection 26(2)”.

10. Example in subsection 26(5)

After “Packed in Mexico from at least 20% Australian ingredients with”, delete “Almonds”, substitute “almonds”.

After “Thailand”, delete “.”.

11. Subsection 29(2)(a)

Omit:

(ii) in relation to a sale to which Part 2 does not apply, the use would be required or permitted by Part 2 if Part 2 applied to the sale; and

Substitute:

(ii) in relation to a sale to which Part 2 does not apply, the use would be permitted by Part 2 if Part 2 could be applied to the sale; and

12. In section 1 of the Dictionary

food

Omit:

“food has the same meaning as in s 3A of the Food Standards Australia New Zealand Act 1991.”,

Substitute:

“food has the same meaning as in the Food Standards Australia New Zealand Act 1991.

Note: Food therefore includes (among other things) anything declared under section 6 of the *Food Standards Australia New Zealand Act 1991* by the Minister administering that Act to be food for the purposes of that Act.”

In the Note following the definition of ***sell***

Omit second reference to:

“food Standards Code”,

Substitute:

“Food Standards Code”.

13. In section 2 of the Dictionary

Omit:

“**nursing home* for the aged”,

Substitute:

“**nursing home for the aged*”.

After “**respite care establishment for the aged* means an establishment that provides short”, omit “-”.

14. In section 3 of the Dictionary

confectionery

In subsection (a)(v) omit “glace”, substitute, “glacé”

soft drinks and sports drinks

Omit:

“water based”

Substitute:

“water-based”

sugars

After “(i) sorbitol, mannitol, glycerol, xylitol, polydextrose, isomalt, maltitol, maltitol syrup or lactitol” add “.”.