



Imported Food Control Order 2019

made under section 10 of the

Imported Food Control Regulations 2019

Compilation No. 2

Compilation date: 10 November 2020

Includes amendments up to: F2020L01414

Registered: 25 November 2020

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Imported Food Control Order 2019* that shows the text of the law as amended and in force on 10 November 2020 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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1 Name

This instrument is the *Imported Food Control Order 2019*.

3 Authority

This instrument is made under section 10 of the *Imported Food Control Regulations 2019*.

4 Definitions

Note 1: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) compliance agreement;
- (b) food;
- (c) recognised food safety management certificate;
- (d) recognised foreign government certificate.

Note 2: A number of expressions used in this instrument are defined in the *Imported Food Control Regulations 2019*, including the following:

- (a) Act;
- (b) compliance agreement food;
- (c) risk food;
- (d) Scheme;
- (e) surveillance food.

In this instrument:

beef means the flesh, bone, offal or any other tissue of an animal in the subfamily *bovinae*.

Note: The subfamily *bovinae* includes cattle, buffaloes and bison.

beef products means food prepared from or containing beef, but does not include gelatine, collagen, rendered fats, tallow or di-calcium phosphate.

dried meat means meat that has been dried but does not include slow cured dried meat.

hermetically sealed container means a container that is airtight when sealed.

New Zealand product means food to which the Act applies that is produced in or imported into New Zealand, being food to which the Trans-Tasman mutual recognition principle set out in Part 2 of the *Trans-Tasman Mutual Recognition Act 1997* applies.

poultry:

- (a) subject to paragraph (b), includes fowls, ducks, geese, turkeys, pigeons, pheasants, quails, guinea fowls, muttonbirds and other avian species ordinarily consumed as food by humans; and
- (b) does not include ratites (for example, emus or ostriches).

Section 4A

poultry meat means the parts of a poultry carcass intended for human consumption.

processed meat means a food that:

- (a) has, either singly or in combination with other foods, undergone a method of processing other than boning, slicing, dicing, mincing or freezing; and
- (b) contains no less than 300 grams per kilogram of meat.

prohibited plants and fungi means prohibited plants and fungi specified in Schedule 23—Prohibited plants and fungi of the Australia New Zealand Food Standards Code, as in force at the commencement of this definition.

raw milk cheese means cheese that has been made using milk that has not, or dairy products that have not, been processed in accordance with subclause 16(1) or (2), or paragraph 16(3)(a), of Standard 4.2.4 – Primary Production and Processing Standard for Dairy Products of the Australia New Zealand Food Standards Code, as in force at the commencement of this definition.

ready-to-eat: see section 4A.

retorted: see section 4B.

sausage means a food that:

- (a) consists of meat that has been minced, meat that has been comminuted, or a mixture of both, whether or not mixed with other foods, and which has been encased or formed into discrete units; and
- (b) is not formed or joined into the semblance of cuts of meat.

shelf-stable: see section 4C.

4A Meaning of *ready-to-eat*

- (1) Food is **ready-to-eat** if it is ordinarily consumed in the same state as that in which it is sold.
- (2) To avoid doubt, food is not ordinarily consumed in the same state as that in which it is sold if, before it is consumed, it requires further processing (such as cooking) in order to reduce any pathogenic microorganisms potentially present in the food to safe levels.

4B Meaning of *retorted*

- (1) Animal products are **retorted** if they are heated in a hermetically sealed container to a minimum core temperature of 100°C, obtaining an F₀ value of at least 2.8.
- (2) Goods (other than animal products) are **retorted** if they are heated in a hermetically sealed container for a time, and to a temperature, sufficient to make the contents commercially sterile.

4C Meaning of *shelf-stable*

Goods are *shelf-stable* if:

- (a) the goods have been commercially manufactured; and
- (b) the goods have been packaged by the manufacturer; and
- (c) the goods are in that package; and
- (d) the package has not been opened or broken; and
- (e) the goods are able to be stored in the package at room or ambient temperature; and
- (f) the goods do not require refrigeration or freezing before the package is opened.

5 Identification and classification of food

Risk food

- (1) Food of a kind to which the Act applies that is described in an item of the table in clause 1 of Schedule 1:
 - (a) is classified as risk food; and
 - (b) is required to be inspected, or inspected and analysed, under the Scheme as risk food.
- (2) Subsection (1) does not apply to:
 - (a) food that is New Zealand product; or
 - (b) compliance agreement food.

Risk food—New Zealand product

- (3) New Zealand product of a kind to which the Act applies that is described in an item of the table in clause 1 of Schedule 2:
 - (a) is classified as risk food; and
 - (b) is required to be inspected, or inspected and analysed, under the Scheme as risk food.
- (4) Subsection (3) does not apply to compliance agreement food.

Compliance agreement food

- (5) Food to which a compliance agreement applies is classified as compliance agreement food.

Surveillance food

- (6) Food to which the Act applies:
 - (a) is classified as surveillance food; and
 - (b) is required to be inspected, or inspected and analysed, under the Scheme as surveillance food.
- (7) Subsection (6) does not apply to:

Section 6

- (a) risk food; or
- (b) compliance agreement food; or
- (c) food that is the subject of a holding order.

Note: See section 7 of the Act for food to which the Act applies.

6 Risk food that must be covered by recognised foreign government certificate

Risk food—general

- (1) Food of a kind to which the Act applies that is described in item 1, 2, 7 or 23 of the table in clause 1 of Schedule 1 must be covered by a recognised foreign government certificate.

New Zealand product

- (2) New Zealand product of a kind to which the Act applies that is described in item 1 of the table in clause 1 of Schedule 2 must be covered by a recognised foreign government certificate.

Schedule 1—Risk food

Note: See subsections 5(1) and 6(1).

1 Kinds of food

For subsection 5(1), the kinds of food are each kind of food that is described in 1 or more items of the following table. Each item of the table is to be read separately and in addition to each other item.

Kinds of food that are classified as risk foods and are required to be inspected, or inspected and analysed

Item	Kinds of food
1	Beef and beef products
2	Meat of the following kinds that is ready-to-eat: (a) uncooked dried meat; (b) uncooked sausages; (c) uncooked spreadable sausages
3	Processed meat that is cooked and ready-to-eat, but is not: (a) both retorted and shelf-stable; or (b) dried
4	Poultry meat that is cooked and ready-to-eat, but is not both retorted and shelf-stable
5	Poultry paté and poultry livers that are cooked and ready-to-eat, but are not both retorted and shelf-stable
6	Cheese in which growth of <i>Listeria monocytogenes</i> can occur
7	Raw milk cheese
8	Crustaceans and crustacean products that are cooked and ready-to-eat, but are not: (a) both retorted and shelf-stable; or (b) dried
9	Fish of the following kinds: (a) all fish in the family <i>Carangidae</i> ; (b) all fish in the family <i>Clupeidae</i> ; (c) all fish in the family <i>Coryphaenidae</i> ; (d) all fish in the family <i>Engraulidae</i> ; (e) all fish in the family <i>Pomatomidae</i> ; (f) all fish in the family <i>Scomberesocidae</i> ; (g) all fish in the family <i>Scombridae</i>
10	Fish products that contain more than 300 grams per kilogram of all or any of the kinds of fish in the families mentioned in item 9
11	Finfish that is ready-to-eat
12	Bivalve molluscs and bivalve mollusc products
13	Brown seaweed in the <i>Phaeophyceae</i> class
14	Food and food products of the following kinds:

Schedule 1 Risk food

Clause 1

Kinds of food that are classified as risk foods and are required to be inspected, or inspected and analysed

Item	Kinds of food
	(a) peanuts; (b) pistachios; (c) peanut products other than peanut oil; (d) pistachio products other than pistachio oil
15	Food containing more than 300 grams per kilogram of all or any of the foods listed in item 14
16	Sesame seeds and sesame seed products of the following kinds: (a) sesame seeds that are ready to eat; (b) sesame seed products (other than sesame oil) that are ready to eat, but are not: (i) both retorted and shelf-stable; or (ii) cooked or baked
17	Berries that are ready-to-eat
18	Pomegranate arils, and pomegranate seeds, that are ready-to-eat
19	Paprika that is dried
20	Pepper that is dried
21	Prohibited plants and fungi
22	Cassava chips that are ready-to-eat
23	Human milk and human milk products
24	Food in which caffeine is present at a concentration of: (a) 5% or greater, if the food is a solid or semi-solid food; or (b) 1% or greater, if the food is a liquid food

Note: A number of items in the table are also relevant for the purposes of subsection 6(1).

Schedule 2—Risk food that is New Zealand product

Note: See subsections 5(3) and 6(2).

1 Kinds of food

For subsection 5(3), the New Zealand product is each kind of food that is described in 1 or more items of the following table. Each item of the table is to be read separately and in addition to each other item.

Kinds of New Zealand product that are required to be inspected, or inspected and analysed

Item	Kinds of New Zealand product
1	Beef and beef products
2	Brown seaweed in the <i>Phaeophyceae</i> class
3	Cassava chips that are ready-to-eat

Note: A number of items in the table are also relevant for the purposes of subsection 6(2).

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Imported Food Control Order 2019	20 Sept 2019 (F2019L01233)	1 Oct 2019 (s 2(1) item 1)	
Imported Food Control Amendment (Pure and Highly Concentrated Caffeine Products) Order 2019	16 Dec 2019 (F2019L01619)	17 Dec 2019 (s 2(1) item 1)	—
Imported Food Control Amendment (Risk Foods) Order 2020	9 Nov 2020 (F2020L01414)	Sch 2: 9 Nov 2022 (s 2(1) item 3) Remainder: 10 Nov 2020 (s 2(1) items 1, 2)	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s 2	rep LA s 48D
s 3	am F2019L01619
s 4	am F2020L01414
s 4A	ad F2020L01414
s 4B	ad F2020L01414
s 4C	ad F2020L01414
s 5	am F2020L01414
s 6	am F2020L01414 (Sch 2 items 1–3)
s 7	ad F2020L01414
Schedule 1	
Schedule 1	am F2019L01619; F2020L01414 (Sch 2 item 5)
Schedule 2	
Schedule 2	am F2020L01414