

Imported Food Control Amendment (Risk Foods) Order 2020

made under the

Imported Food Control Regulations 2019

**Compilation No. 1**

**Compilation date:** 1 December 2021

**Includes amendments up to:** F2021L01659

**Registered:** 5 January 2022

**About this compilation**

**This compilation**

This is a compilation of the *Imported Food Control Amendment (Risk Foods) Order 2020* that shows the text of the law as amended and in force on 1 December 2021 (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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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 Amendment (Risk Foods) Order 2020*.

2 Commencement

 (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table | The day after this instrument is registered. | 10 November 2020 |
| 2. Schedule 1 | The day after this instrument is registered. | 10 November 2020 |
| 3. Schedule 2, items 1 to 3 | 9 November 2023. | 9 November 2023 |
| 4. Schedule 2, items 4 and 5 | 9 November 2022. | 9 November 2022 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

 (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

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

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 commencing day after registration

Imported Food Control Order 2019

1 Section 4 (note 1 to the heading)

After “including”, insert “the following”.

2 Section 4 (paragraph (c) of note 1 to the heading)

Repeal the paragraph, substitute:

(c) recognised food safety management certificate;

(d) recognised foreign government certificate.

3 Section 4 (note 2 to the heading)

After “including”, insert “the following”.

4 Section 4 (definition of *beef*)

Omit “cattle”, substitute “an animal in the subfamily *bovinae*”.

5 Section 4 (at the end of the definition of *beef*)

Add:

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

6 Section 4

Insert:

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

***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).

***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.

7 Section 4 (definition of *ready‑to‑eat*)

Repeal the definition, substitute:

***ready‑to‑eat***: see section 4A.

8 Section 4

Insert:

***retorted***: see section 4B.

***shelf‑stable***: see section 4C.

9 After section 4

Insert:

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.

10 Subsections 5(1) and (3)

Omit “mentioned”, substitute “described in an item of the table”.

11 Subsection 6(1)

Omit “mentioned in any of items 1, 2, 5, 13 and 25”, substitute “described in item 1, 2, 7 or 23”.

12 Subsection 6(2)

Omit “mentioned in item 1 or 2”, substitute “described in item 1”.

13 Schedule 1 (note to Schedule heading)

Repeal the note, substitute:

Note: See subsections 5(1) and 6(1).

14 Clause 1 of Schedule 1 (table)

Repeal the table substitute:

| 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 *Listeria monocytogenes* 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 *Carangidae*;(b) all fish in the family *Clupeidae*;(c) all fish in the family *Coryphaenidae*;(d) all fish in the family *Engraulidae*;(e) all fish in the family *Pomatomidae*;(f) all fish in the family *Scomberesocidae*;(g) all fish in the family *Scombridae* |
| 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 *Phaeophyceae* class |
| 14 | Food and food products of the following kinds:(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).

15 Schedule 2 (note to Schedule heading)

Repeal the note, substitute:

Note: See subsections 5(3) and 6(2).

16 At the end of clause 1 of Schedule 2

Add:

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

17 Clause 1 of Schedule 2 (table items 1 to 4)

Repeal the items, substitute:

|  |  |
| --- | --- |
| 1 | Beef and beef products |
| 2 | Brown seaweed in the *Phaeophyceae* class |
| 3 | Cassava chips that are ready‑to‑eat |

Schedule 2—Amendments commencing later

Imported Food Control Order 2019

1 Subsection 6(1)

Omit “Food”, substitute “Subject to subsection (1A), food”.

2 Subsection 6(1)

Omit “7 or 23”, substitute “7, 12 or 23”.

3 After subsection 6(1)

Insert:

 (1A) Subsection (1) does not apply to bivalve molluscs and bivalve mollusc products that are:

 (a) both retorted and shelf***‑***stable; or

 (b) dried.

4 After section 6

Insert:

7 Risk food that must be covered by a recognised food safety management certificate

 Food of a kind to which the Act applies that is described in item 17 or 18 of the table in clause 1 of Schedule 1 must be covered by a recognised food safety management certificate.

5 Schedule 1 (note to Schedule heading)

Repeal the note, substitute:

Note: See subsections 5(1) and 6(1) and section 7.

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

Endnote 3—Legislation history

| Name | Registration | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- |
| Imported Food Control Amendment (Risk Foods) Order 2020 | 9 Nov 2020 (F2020L01414) | 10 Nov 2020 (s 2(1) item 2) |  |
| Imported Food Control Legislation Amendment (Risk Foods) Order 2021 | 30 Nov 2021 (F2021L01659) | Sch 1 (items 1, 2): 1 Dec 2021 (s 2(1) item 1) | — |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| s 2  | am F2021L01659 |
|  | rep LA s 48D |
| **Schedule 2** |  |
| Schedule 2 heading  | am F2021L01659 |