

## A CoOL Reminder: Are your food products compliant with the new Australian Country of Origin Labelling (CoOL) standard?



From **1 July 2018**, food and drink products supplied retail in Australia must bear the correct labels. By now businesses that manufacture, process, supply or import food and drink products should be well into the process of moving non-complying stock and designing and rolling-out compliant packaging.

### A little history

In Australia, it has always been mandatory for packaged food products to indicate their source. Despite this, it is often difficult for consumers to clearly identify country of origin.

*Did you know products labelled 'Made in Australia' may not contain ingredients sourced from Australia? This label is also used for food mixed and packaged in Australia, even if it is processed overseas from imported ingredients.*

The confusion stems from the fact that 'country of origin' is a term used to refer to country of production, country of processing and country of packaging (which may be different from the source of the ingredients). Confusion is especially likely if there are several ingredients coming from more than one country or if the product goes through several countries before it arrives in its pre-retail form.

The new laws were introduced after the 2014 frozen berries Hepatitis A scare and are designed to provide consumers with two kinds of information:

- whether the food was grown, produced or made in Australia; and
- the percentage of the ingredients in the food that come from Australia.

### 7 Steps to compliance

To comply with the new laws, follow these 7 practical steps:

#### **1 Consider whether the food product is required to comply with the new standard. If so, is it a 'priority' or 'non-priority' food?**

Not all food products need country of origin labels. The laws only apply to food and drink products sold retail. They do not apply to food or drinks:

- made in restaurants, cafes or takeaway outlets;
- intended to be exported or supplied overseas;
- not made for human consumption such as pet or animal feed; or
- made and sold in the same premises (for example, gelato from a gelateria or a meat pie from

a bakery).

There are also different rules depending on whether food is categorised as ‘priority’ or ‘non-priority’. Non-priority products include:

- tea and coffee;
- alcoholic drinks including spirits and wine;
- soft drinks, sports drinks and bottled water;
- seasonings such as salt, dry herbs, spices and flavourings;
- confectionery including chocolate products, lollies and ice creams; and
- biscuits and snack foods such as chips, crackers and cookies.

## 2 Familiarise yourself with the terminology and the symbols

Before deciding which label to use, it is important to understand the following terms and symbols:

**Grown in Australia** – food products where the ingredients were planted, germinated, grown or harvested in Australia (e.g. packaged fruit and vegetables such as canned tomatoes and tinned fish products).

**Product of Australia** – food items where all the ingredients are Australian sourced and all major processing happened in Australia.

**Produced in Australia** – food products containing significant ingredients that were grown or otherwise wholly obtained in Australia and processed in Australia. The term ‘wholly obtained’ refers to food ingredients that originate in a country but are not necessarily or practically grown (e.g. milk from Australian cows).

**Made in Australia** – food that was last substantially transformed (processed) in Australia. Substantial transformation happens when fresh ingredients, regardless of where they are sourced, are combined and processed to create a fundamentally different food product (eg. eggs, flour, sugar and butter are substantially transformed when baked to make cake).

**Packed in Australia** – food packaged in Australia. If the food has been exported overseas, processed and then reimported back into Australia without further substantial transformation in Australia, the label will have to state, in brackets, the kind of processing that happened to the food overseas.

### Kangaroo logo and bar chart



The kangaroo logo is a registered trade mark but can be used by anyone for free as long as they comply with certain requirements. The kangaroo logo can only be used on food if the product was either **grown, produced or made** in Australia. The logo cannot be used in relation to food products that were merely packed in Australia.

## Ingredients Bar Chart



The bar chart shown above is used to indicate the percentage of Australian ingredients included in the product. It can be accompanied by the kangaroo logo or just by itself. When accompanied by the Kangaroo logo, it means that the food item is either grown, produced or made in Australia.

### 3 Apply country of origin labelling requirements for non-priority foods

Non-priority food products are only required to indicate where the food was **grown, produced or made**. The statement must be legible and obvious. Some examples:

*Prawn crackers with ingredients from Vietnam and Indonesia that were transformed into crackers in Malaysia only need to include a statement on the label such as: 'Made in Malaysia from imported ingredients'*

*Non-priority food products that were packed in Australia with ingredients from Australia and other countries may say something like 'Packed in Australia from 50% Australian ingredients'*

For non-priority food grown or produced in Australia a statement to this effect is sufficient. However, the producer could choose to use the kangaroo logo, the ingredients bar chart and the statement – for example:

Product of Australia or



### 4 Apply country of origin labelling requirements for priority foods

For priority food products, **in addition** to a statement indicating where the food was either grown, produced or made, other requirements apply. For example:

- imported items must carry a country of origin statement in a **clearly defined box**; and
- priority food products grown, produced or made in Australia **must** label the food products with the three-component mark which includes:
  - the kangaroo logo to indicate that the product is of Australian origin;
  - the bar chart to indicate the percentage of Australian ingredients; and
  - an explanatory text which indicates whether the food was grown, produced or made in Australia and in most instances, the percentage of Australian ingredients.

*Examples:*

Chicken nuggets processed in Australia from Australian-grown chickens can use this label:



Frozen dumplings made in Australia with imported ingredients can be labelled with:



## 5 If applicable, determine the percentage of Australian ingredients

Once the type of label has been identified according to whether the food is a priority or a non-priority product and whether the food was grown, produced or made in Australia, the percentage of Australian ingredients must be determined by **weight**. For food products that contain one main ingredient, this is a simple exercise. This process, however, can be complicated for items that contain multiple products from different countries.

## 6 Rules that apply to imported food

Imported food products must also carry country of origin text statements in a clearly defined box. If the importer of the product cannot claim that the product was grown, produced or made in a single overseas country, it must instead carry a "Packed in" statement which must indicate where the product was packed and where the ingredients came from.

*Examples:*

Passata imported from Italy can be labelled with:



Mixed nuts packed in Australia from imported ingredients can be labelled with:



## 7 Consider other claims made in food packaging and how to use the new country of origin labelling requirements to differentiate your products in the market

If complying with the new country of origin labelling standards means printing new labels or packaging, consider whether it is a good time to refresh food packaging to meet branding goals.

Other things to consider include:

- whether statements or representations in the food packaging would comply with various food labelling rules such as those in relation to health and nutritional claims;
- whether including statements about the food being grown, produced or made in specific Australian regions known for great produce such as Tasmania, Yarra Valley or Barossa Valley can be used to indicate quality or uniqueness; and
- whether some slogans or taglines or secondary markings such as colours and an aspect of packaging have become sufficiently recognisable and valuable to warrant trade mark

registration and protection.

The new country of origin labelling requirements will make it easier for regulators to detect and investigate misleading or deceptive conduct in relation to representations made about food. For this reason, it is also important to consider broader marketing and advertising campaigns about food products to ensure that they do not contain any misleading or inaccurate claims.

### What happens if you don't comply?

Failure to observe food labelling requirements may be a breach of the Australian Consumer Law. The ACCC has the power to impose infringement notices (essentially, on the spot fines) of \$10,800 for corporations (\$108 000 for listed corporations) and \$2,160 for individuals. If the matter goes to Court, penalties of up to \$1.1 million per contravention apply as well as personal liability for managers involved in the contravention.

These penalties may pale in comparison to the reputational damage which may result from the contravention.

### Winners and losers

The new system is a win for Australian consumers. Although compliance with the new rules may inconvenience Australian food manufacturers and producers in the short term, it may ultimately benefit them in helping to differentiate Australian products from cheaper imported products.

Food products grown, produced or made in Australia are often perceived to be of higher quality than imported goods, not only by Australians but also by consumers in larger overseas markets such as China and Indonesia. Research shows that consumers use country of origin as a proxy for product quality and safety and that some consumers are willing to pay a premium for Australian food not only to support Australian businesses but also because there is comfort in knowing where the food comes from.

If you have any questions about these issues, please contact:

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