



COUNTRY OF ORIGIN (CoOL) FOOD LABELLING FACT SHEET

Background

The Federal Government has amended the laws in relation to **Country of Origin Labelling (CoOL)** for retail food sales. The provisions commenced on 1 July 2016 preceding a two-year rollout.

Within this period the CoOL labelling rules are optional, but will become **mandatory from 1 July 2018**. AFMA has produced this introductory **FACT SHEET** which aims to provide farmers, and artisan food producers selling at farmers' markets an introduction to the new laws, how best to comply and where to seek additional information.

The old system 'Product of Australia', 'Made in Australia', and 'Made in Australia from local and imported ingredients', was simple but unsatisfactory. Its deficiencies were acknowledged by consumer advocates and regulators alike, sometimes resulting in misleading consumer information.

Under the new **CoOL** system these claims of origin will have very different legal meanings. It's not just a matter of adding a kangaroo.

The aim of the new labelling laws is to provide more transparency around whether all or part of product was manufactured or grown locally. Some may feel that the changes will come at the cost of simplicity. On balance however, it is expected that greater transparency and clarity of ingredient origin will benefit Australian growers and specialty food producers.

Disclaimer

AFMA wishes to stress that this **FACT SHEET** does not provide legal advice, and the information provided is necessarily generic. AFMA therefore takes no responsibility for and will not be liable in any way to anyone who relies on the information in this document.

All stallholders and market managers and their committees are recommended to follow the links provided below to seek additional information and advice **before** making any labelling and associated packaging decisions.

For a complete understanding of labelling laws you are advised to refer to all associated statutory instruments, such as:

- Standards set by Food Standards Australia New Zealand (FSANZ) relating to ingredients and the obligation to include a **Nutrition Panel** on all processed food labels
- National trade measurements (NTM) i.e. **weights and measures** compliance under the associated legislation, and now also under Australian Consumer Law.

This paper ONLY covers the new CoOL food labelling laws.

CoOL LABELLING EXEMPTIONS

If your product falls into any of the 'non-priority' categories below this **FACT SHEET** may not apply to you.

a) **Non-priority foods** including: Seasonings, Confectionery, Biscuits and Snack Food, Bottled Water, Soft Drinks and Sports Drinks, Tea and Coffee, Alcoholic Beverages including wine, cider, craft beer, spirits.

b) Foods only intended **for export**

c) Food sold **on site by a hospitality /catering business** – restaurants, pubs, canteens, schools, caterers, self-catering institutions, prisons, hospitals, medical institutions or at fund-raising events (e.g. a cake stall at a school fete) This includes food prepared on site at markets on market day.

d) Food **made and packaged on the premises where it is sold** (e.g. bread in a bakery)

e) **Food delivered, packaged and ready for consumption**, as ordered by the consumer, other than when sold from a vending machine (e.g. home delivered meals)

f) Food **not for human consumption** (e.g. pet food).

g) Goods that fall within the definition of a **'therapeutic food'** under the Therapeutic Goods Act 1989.

SMALL PACKAGES

The Standard provides that priority foods sold in **small packages** are partially exempt. i.e. exempt from displaying the graphical elements (logo and/or bar chart) that may otherwise be required for a food.

To understand what qualifies as a 'small package' businesses must consider the meaning of the term under the Food Standards Code. A small package is defined as 'a package with a surface area of less than 100cm²'.

In the ACCC's view, the surface area is a reference to the external or exposed face of the assembled package. Priority foods in small packages must still display the explanatory text of the relevant label in a clearly defined box on the label attached to the package but will not be required to display the graphical elements of the applicable label (i.e. the roo logo and/or bar chart).

DOES UNPACKAGED FRESH PRODUCE NEED TO COMPLY?

YES! Under the new laws unpackaged foods must have a label displayed on, or close to, the product e.g. on a shelf-talker, hanging sign or display card. This means that loose fruit or vegetables will **not** need to be individually labelled, but it will be required that the country of origin label is displayed **within reasonably close proximity to the product.**

Fresh fruit and vegetables in transparent packaging (e.g. plastic wrap, netting or citrus bags) can be regarded as either packaged or unpackaged.

For example, the following unpackaged foods **are required** to have Country of Origin labelling:

- a) Fresh and processed fruit and vegetables (e.g fresh *and* sun-dried tomatoes)
- b) Fresh and processed meat e.g. ham, bacon, sausages, jerky
- c) Fresh and processed fish e.g. fresh, smoked or crumbed fish fillets

DO READY TO EAT FOODS NEED TO COMPLY?

Stallholders preparing food for sale on the market site **DO NOT** need to incorporate labels on food (hot or cold) prepared and sold on market day.

WHAT DO FARMERS AND SPECIALTY PRODUCERS NEED TO DO TO COMPLY?

For packaged and unpackaged foods other than those excluded above, the new Country of Origin labelling scheme, aka CoOL applies. The new **CoOL Rules** require producers and sellers of food in Australia to incorporate **THREE MANDATORY** components to create a new CoOL chart.

These components are:

- 1) The new kangaroo logo*
- 2) A bar chart that indicates the % of Australian ingredients * and
- 3) Your product claim. e.g Made in, Grown in, Product of etc.

The new chart/logo **does not have to be green and gold**. It can be black and white – or any other colour scheme that matches your brand/label design. You can **choose a font** to match your existing label design, and you can set its size appropriate to the available label space.

All compliant labels **must include the specified three components** and these must be **kept together in a graphical box** on your packaging, or within the vicinity of your loose food items.

*Note: If your packaged product is small (i.e less than total area 100 square cm) you do not need to include the kangaroo logo and bar chart, but are required to apply text citing ingredients and traceability details.

PRODUCT CLAIM

The Product Claim replaces the old "Made in" "Product of" statements. The choices now are much broader.

The first on this list are called "Premium Claims". For Premium Claims **all the ingredients must be Australian** and **the majority of the processing** be carried out in Australia.

As most foods sold in farmers' markets are fresh produce of Australian origin, many labels will be **expected to include the kangaroo logo and state 'Grown in Australia' with a 100% bar chart**.

Processed foods will also most likely carry the same three elements, with the bar chart varying according to % ingredients sourced from Australia, or elsewhere.

PREMIUM CLAIMS

a) Australian Food with Specific Ingredient

e.g. 100% Australian Milk, Australian Jam, Australian Peas

b) Grown in Australia

Used for fresh produce e.g. fruit and vegetables, meat, poultry

Also note that theoretically a crop germinated and harvested in Australia grown from imported seed stock may still be entitled to the "Grown in Australia" claim.

c) Product of Australia

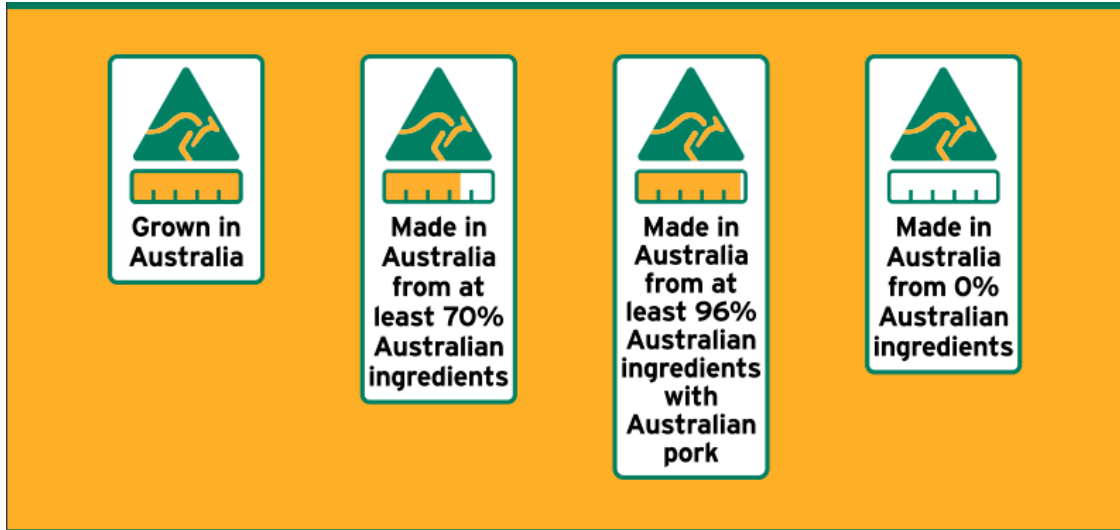
This means goods that, despite their initial origin, have been substantially transformed, grown or harvested here.

d) Made in Australia from at least x% Australian ingredients.

If the % varies seasonally for instance, you can make claims like "Made in Australia - ingredient sources vary - average 60% Australian ingredients" but you must also include a phone number in the box also and keep batch records to substantiate your claims. See example below.

e) Packed in Australia with less than x% Australian ingredients

LABEL EXAMPLES



NOTE: THE REQUIRED LABEL ELEMENTS – KANGAROO LOGO, % INGREDIENT BAR CHART, PRODUCT CLAIM MUST APPEAR WITHIN A BORDER AS APPROPRIATE TO YOUR PRODUCT.

WHAT IS AN INGREDIENT?

There remains some ambiguity in the CoOL laws. However, it really comes down to whether the inputs can be regarded as an ingredient or a processing aid. Here are three examples.

1. **Processing aids** (e.g., Rennet for cheese) Rennet is an enzyme required to make cheese. In this case both the Food Standards Code and the new CoOL Rules, state that rennet is not an ingredient and therefore does not have to either be listed as an ingredient or count as a non-Australian ingredient when claiming cheese is 100% Australian. Instead, it is considered a processing aid.
2. **What about cultures?** Cultures are found in everything from cheese, salami, sauerkraut yoghurts, kombucha etc. The starter cultures, are often, but not always, made overseas, like rennet. But unlike rennet, cultures are made up of living microbes, which don't stay put. They grow, die back and are joined by environmental bacteria and yeasts such as in open ferment situations.

So, is the answer to this conundrum that cultures, like rennet, are also processing aids rather than ingredients? That may well be the case. Certainly, the use of imported cultures hasn't stopped many using the higher Product of Australia claim. Currently the CoOL labeling rules and guidelines are silent on the question of cultures. Clearly, these new rules are still open to some interpretation.

3. **What about brine mix?** In the production of ham, the meat is brined. The ham may absorb anywhere up to 4% brine solids. The ACCC says that the addition of **brine to raw pork as a curing agent does not qualify** as a processing aid.

Therefore, the proportion by weight of the Australian ingredients in the ham would be 96% (the pork and water) The brine mix would be counted as an ingredient when calculating the relevant %.

Brining applies to other foods including table olives. The use of Australian salt maximizes the ingredient percentage; equally the use of Australian origin finishing vinegars or olive oil.

CoOL CHECK LIST FOR FARMERS' MARKET SALES

- **LOOSE FRUIT & VEG = CoOL SIGN WITHIN STALL**
- **BAGGED FRUIT & VEG & BREAD = CoOL LABEL ON BAG**
- **PACKED FRESH MEAT, FISH, CHEESE, EGGS, NUTS, HONEY etc = CoOL LABEL ON PACK**
- **PROCESSED SPECIALTY FOODS = CoOL LABEL ON JARS, PACKS, CARTONS**

EXEMPTED FOODS:

- ALCOHOLIC BEVERAGES
- TEA & COFFEE
- BISCUITS
- SEASONINGS
- CONFECTIONERY
- SNACK FOODS

ORIGIN LABEL ONLINE TOOL

The government has created an online tool to assist developing your labels. It works similarly to the Nutrition Panel (NIP) calculator. You key in your produce/ingredient data and it creates the required compliant **CoOL Label** that can be given to a graphic designer for adjustment and insertion into your label or to create stall signage artwork, or to print stickers.

Go to: <http://www.originlabeltool.business.gov.au>

Goods with non-compliant labels available for sale after 1 July 2018 MUST BE over-stickered with an appropriate CoOL label.

LABELLING RESPONSIBILITY

It is the stallholders' responsibility to ensure all goods offered for sale at a farmers' market comply with prevailing food labelling legislation. The ACCC are the agency responsible for monitoring compliance in all retail settings, including markets.

FURTHER INFORMATION

There are numerous agencies involved in the rollout of the CoOL Labeling provisions. And clearly still some gremlins in the interpretation of the CoOL rules. AFMA recommends you undertake a comprehensive survey of the available information. Here are some useful links:

- www.business.gov.au/foodlabels
- <http://www.foodlabels.industry.gov.au/>
- <http://www.originlabeltool.business.gov.au/>
- <https://industry.gov.au/industry/IndustrySectors/FoodManufacturingIndustry/Documents/Factsheet-DIIS-CoOL.pdf>
- <https://www.business.gov.au/info/run/goods-and-services/selling-goods-and-services/selling-goods/country-of-origin-food-labelling>
- https://www.accc.gov.au/system/files/764_2014_Country%20of%20origin%20and%20the%20Australian%20Consumer%20Law_FA.pdf
- <http://www.foodstandards.gov.au/consumer/labelling/coo/Pages/default.aspx>
- <https://www.accc.gov.au/business/advertising-promoting-your-business/country-of-origin-claims/country-of-origin-labelling-faqs>