

THIS IS A DRAFT OF A BILL PROPOSED FOR INTRODUCTION IN THE SENATE, CIRCULATED TO STIMULATE DISCUSSION ON THE SUBJECT. COMMENTS ARE WELCOME AND SHOULD BE ADDRESSED TO:

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**D R A F T**

**Food Labelling Bill 1992**



1990-91-92

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

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(SENATOR LEES)

## A BILL

FOR

An Act relating to food labelling

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### PART 1—PRELIMINARY

#### Short title

5       1. This Act may be cited as the *Food Labelling Act 1992*.

#### Commencement

2. This Act commences on the day on which it receives the Royal Assent.

#### Interpretation

10       3.(1) In this Act, unless the contrary intention appears:  
“Australian company” means a corporation that is controlled by persons who are Australian citizens;

“class A food” means a food that:

- 15       (a) is made in Australia; and  
      (b) is made from things that are produced in Australia; and  
      (c) is made by:  
          (i) a person who is an Australian citizen; or  
          (ii) a partnership all of the partners in which are Australian citizens; or  
          (iii) an Australian company;

**“class B food”** means a food that:

- (a) is made in Australia; and
- (b) is made from things that are produced in Australia; and
- (c) is made by:
  - (i) a person who is not an Australian citizen; or
  - (ii) a partnership all of the partners in which are not Australian citizens; or
  - (iii) a company that is not an Australian company;

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**“class C food”** means a food that:

- (a) is made from things at least 50% of which are produced in Australia; and
- (b) is processed and packaged in Australia;

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**“commercially unavailable foods”** means foods that are prescribed, being foods that are not able to be made in Australia in commercially available and affordable quantities;

**“food”** includes:

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- (a) any substance or thing of a kind used or capable of being used as food or drink by human beings; and
- (b) any substance or thing of a kind used or capable of being used as an ingredient or additive in, or substance used in the preparation of, a substance or thing referred to in paragraph (a);

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**“trading corporation”** means a trading corporation to which paragraph 51(xx) of the Constitution is applicable.

(2) For the purposes of this Act, the question whether a person is in a position to exercise control of a corporation is to be decided in the same manner as it is under the *Broadcasting Services Act 1992*.

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#### Application

4.(1) This Act applies to:

- (a) trading corporations doing things for the purposes of their trading activities; and
- (b) persons doing things for the purposes of:
  - (i) trade and commerce between Australia and another country, between a State and another State, between a State and a Territory or between a Territory and another Territory; or
  - (ii) the supply of food to the Commonwealth or to its authorities or instrumentalities; and
- (c) all persons in a Territory.

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(2) A reference in this Act to a person is, unless the contrary intention appears, a reference to a person to whom this Act applies.

**PART 2—OFFENCES**

**Person not to manufacture or sell food without label**

5. (1) A person must not manufacture food for sale in a package, or sell or display for sale food in a package, unless the package includes a label, in letters at least 4mm high, that describes all of the ingredients in the food, the percentage by volume of each ingredient and the country of origin of each ingredient.

Penalty: \$5,000.

(2) The description is to be in a form along the lines set out in the Schedule.

(3) The description may describe flavourings and stabilisers that are included in the food by reference to a number specified in the regulations.

**Foods not to be described as "Made in Australia"**

6. A person must not apply a label to a package containing a food, or sell or display for sale a food that is in a package and that has a label, that describes the food as being "Made in Australia" or "Australian Made".

Penalty: \$5,000.

**Improper description of food**

7. (1) A person must not apply a label to a package containing a food, or sell or display for sale a food that is in a package and that has a label, that describes the food as being a product of Australia, or that contains a description of a similar kind, unless:

- (a) all of the things that make up the food are grown or produced in Australia; or
- (b) at least 90% of the things that make up the food are grown or produced in Australia and the remainder are things that are commercially unavailable foods.

Penalty: \$5,000.

(2) A person must not apply a label to a package containing a food, or sell or display for sale a food that is in a package and that has a label, that describes the food as being made by:

- (a) Australians; or
- (b) an Australian company;

or that contains a description of a similar kind unless all of the steps that have gone into making up the food have been done by Australian citizens or by an Australian company.

Penalty: \$5,000.

**Descriptions of class A, B and C foods**

8. (1) The label on a package containing a food that is a class A food may include, in letters not more than 9mm high, the letter A or the expression "class A food".

(2) The label on a package containing a food that is a class B food may include, in letters not more than 9mm high, the letter B or the expression "class B food".

(3) The label on a package containing a food that is a class C food may include, in letters not more than 9mm high, the letter C or the expression "class C food".

### **PART 3—REGULATIONS**

#### **Regulations**

9. The Governor-General may make regulations prescribing matters:

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- (a) required or permitted to be prescribed by this Act; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
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## SCHEDULE

Subsection 5(2)

The following is an example of a description of the ingredients of a food that is to be included in a label:

Contents	% by volume in product	Country of origin
Apricots	70%	Australia
Water	20%	Australia
Sugar	8%	Australia
Flavouring 769A	1%	U.S.A.
Stabilisers 29 and 33	1%	Netherlands



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