

THE SENATE

(Presented and read a first time, 27 May 1993)

(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 1993*.

Commencement

2. This Act commences at the end of 6 months after 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;
“**category A food**” means a food:
15 (a) that complies with one of the following subparagraphs:
 (i) all of the ingredients of the food are grown or produced in Australia;

- (ii) ingredients of the food that make up at least 90% by volume of the food are grown or produced in Australia and the remaining ingredients are commercially unavailable foods; and
- (b) all of the steps that have gone into the making of which occurred wholly within Australia; and 5
- (c) all of the steps that have gone into the making of which have been done by one or more of the following:

- (i) a person who is an Australian citizen; or
- (ii) a partnership all of the partners in which are either Australian citizens or Australian companies; or 10
- (iii) an Australian company;

"category B food" means a food:

- (a) that complies with one of the following subparagraphs:
 - (i) all of the ingredients of the food are grown or produced in Australia; 15
 - (ii) ingredients of the food that make up at least 90% by volume of the food are grown or produced in Australia and the remaining ingredients are commercially unavailable foods; and
- (b) all of the steps that have gone into the making of which occurred wholly within Australia; and 20
- (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 either Australian citizens or Australian companies; or
- (iii) a company that is not an Australian company; 25

"category C food" means a food:

- (a) ingredients of which that make up at least 50% by volume of the food are grown or produced in Australia; and
- (b) that is processed and packaged in Australia;

"commercially unavailable foods" means foods that are prescribed, being foods that are not able to be made in Australia in commercially available quantities; 30

"food" includes:

- (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); 35

"trading corporation" means a trading corporation to which paragraph 51(xx) of the Constitution applies.

(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*.

Application

5 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:
 - 10 (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.

15 (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

20 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: 50 penalty units.

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

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

(4) A person who sells or displays for sale food in a package that includes a label that describes any of the ingredients in the food, or the country of origin of any ingredient, in a way that is false or misleading in a material particular is guilty of an offence.

30 Penalty: 50 penalty units.

Foods not to be described as “Made in Australia” or “Australian Made”

35 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: 50 penalty units.

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, symbol or other depiction that indicates the food is a product of Australia, unless:

- (a) all of the ingredients of the food are grown or produced in Australia; or
- (b) ingredients of the food that make up at least 90% by volume of the food are grown or produced in Australia and the remaining ingredients are commercially unavailable foods;

and all of the steps that have gone into making up the food occurred wholly within Australia.

Penalty: 50 penalty units.

(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 Australians or made by 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 one or more of the following:

- (a) a person who is an Australian citizen;
- (b) a partnership all of the partners in which are either Australian citizens or Australian companies;
- (c) an Australian company.

Penalty: 50 penalty units.

(3) 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 from Australian ingredients, or that contains a description of a similar kind, unless:

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

Penalty: 50 penalty units.

Descriptions of category A, B and C foods

8.(1) The label on a package containing a food that is a category A food may include, in letters not more than 9mm high:

- (a) the letter "A"; or
- (b) the expression "category A Food"; or
- (c) the expression "100% Australian"; or
- (d) the expression "Processed and packaged in Australia, from Australian materials by Australians" [or "by an Australian company"].

(2) The label on a package containing a food that is a category B food may include, in letters not more than 9mm high:

- (a) the letter "B"; or
- (b) the expression "category B Food"; or
- (c) the expression "Processed and packaged in Australia, from Australian materials by a [insert country of control] controlled company".

(3) The label on a package containing a food that is a category C food may include, in letters not more than 9mm high:

- (a) the letter "C"; or
- (b) the expression "category C Food"; or
- (c) the expression "Processed and packaged in Australia, from more than 50% Australian materials".

Misdescription of category B or C food

9. A person must not:

- (a) apply a label to a package containing a category B food or a category C food, or sell or display for sale a category B food or a category C food, that is in a package and that has a label, if the label contains a description that, under section 8, can only be applied to a category A food; or
- (b) apply a label to a package containing a category C food, or sell or display for sale a category C food, that is in a package and that has a label, if the label contains a description that, under section 8, can only be applied to a category B food.

Penalty: 50 penalty units.

PART 3—MISCELLANEOUS

Penalties

10.(1) If a person is convicted of an offence against this Act (the "current offence") and the person has previously been convicted of one other offence against this Act, the maximum penalty that may be imposed for the current offence is 100 penalty units.

(2) If a person is convicted of an offence against this Act (the "current offence") and the person has previously been convicted of 2 or more other offences against this Act, the maximum penalty that may be imposed for the current offence is 250 penalty units.

Regulations

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

- (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

Section 5

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 food	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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