

THIS Bill originated in the House of Representatives and, having this day passed, is now ready for presentation to the Senate for its concurrence.

ARTHUR ROBINSON & HEDDERWICKS
LIBRARY

L. M. BARLIN

Clerk of the House of Representatives

House of Representatives,
Canberra, 1 February 1995

A BILL

FOR

An Act to amend the *Trade Practices Act 1974*, and for related purposes

The Parliament of Australia enacts:

Short title etc.

1.(1) This Act may be cited as the *Trade Practices Amendment (Origin Labelling) Act 1995*.

5 **(2)** In this Act, “**Principal Act**” means the *Trade Practices Act 1974*¹.

Commencement

2. This Act commences on the first day of the nineteenth month after the month in which this Act receives the Royal Assent.

Insertion of new Division

3. After Division 1A of Part V of the Principal Act the following Division is inserted:

“Division 1B—Representations about the origin of goods

“Subdivision 1—Definitions

5

Definitions

“65VA. In this Division:

‘**Australian origin representation**’, in relation to goods, means a representation that the place of origin of the goods is Australia;

‘**pre-production step**’ includes design; 10

‘**production step**’ means a step in manufacture or production, and includes finishing and packing.

Note: Section 4 has other definitions that are relevant to this Division (for example, the definitions of ‘corporation’; ‘goods’; ‘supply’ and ‘trade or commerce’).

Place of origin of marine produce

15

“65VB. For the purposes of this Division, Australia is to be regarded as the place of origin of all marine produce that was first landed in Australia, regardless of where it was caught or taken.

When goods “carry” a representation

“65VC. For the purposes of this Division, goods ‘**carry**’ a 20 representation if the representation is applied to the goods or to their packaging or labelling. For this purpose, ‘**applied to**’ includes printed on, woven in, impressed on, worked into or attached to.

“Subdivision 2—Scope of this Division

Scope of this Division

25

“65VD.(1) This Division applies to a supply by a corporation, in trade or commerce, of consumer goods. For this purpose, goods are ‘**consumer goods**’ if, and only if:

(a) the goods are of a kind ordinarily acquired for personal, domestic or household use or consumption; or 30

(b) the price paid to the corporation for the goods is not more than the amount that is the prescribed amount for the purposes of subsection 4B(1).

“(2) This Division does not apply to the supply if:

(a) the supply happens outside Australia; or 35

(b) the goods are intended for export; or

(c) the goods were manufactured or produced in Australia, or were imported into Australia, before the day on which the *Trade Practices Amendment (Origin Labelling) Act 1995* commenced.

5 “(3) For the purposes of paragraph (2)(b), goods are presumed to be ‘intended for export’ if the goods carry a representation in words that the goods are for export only. This presumption does not apply if the contrary is established.

“Subdivision 3—Representations about origin

10 **Supply of goods that carry an express Australian origin representation in words**

“65VE.(1) The corporation must not supply goods that carry an express and unambiguous Australian origin representation in words except as authorised by subsection (2).

15 Note: The following are examples of express and unambiguous Australian origin representations: ‘made in Australia’; ‘product of Australia’; ‘produce of Queensland’s Darling Downs’; ‘produced in Tasmania’; ‘manufactured in New South Wales’; ‘processed in Wollongong’.

20 “(2) Goods may carry a representation set out in the following Table if the goods meet the corresponding conditions set out in the Table. A representation in the Table may be followed by words that identify a particular place in Australia or a particular part of Australia.

Category	Representations	Conditions
A	‘Produce of Australia’ or ‘Product of Australia’	Australia was the place of origin of each major ingredient or component of the goods and all operations involved in the manufacture or production of the goods happened in Australia.
B	‘Made in Australia’	The goods acquired their essential character or qualities in Australia.

Note: The following are examples of circumstances in which goods acquire their essential character or qualities in Australia:

- 25
- (1) The goods were given their essential function, shape or appearance in Australia.
 - (2) The major processes which transformed the goods from their component parts into the finished goods happened in Australia.
 - (3) If the goods are promoted as having certain characteristics or functions, the goods were given the characteristics or functions in Australia.

Supply of goods that carry the Australian Made Certification Mark

30 “65VF.(1) Section 65VE does not apply to a supply of goods that carry the representation ‘Australian made’ as part of the Australian Made Certification Mark.

“(2) The corporation must not supply goods that carry the Australian Made Certification Mark unless the goods also carry a representation authorised by subsection 65VE(2).

“(3) In this section:

‘**Australian Made Certification Mark**’ means the certification mark whose use is licensed by the Advance Australia Foundation. 5

Supply of goods that carry a representation in words about an Australian production step

“65VG. The corporation must not supply goods that carry an express representation in words that a production step happened in Australia unless the goods also carry a representation in words that identifies: 10

- (a) the place of origin of the goods; or
- (b) the place or places of origin of the components or ingredients of the goods.

Note: The following are examples of representations that are sufficient for this section: ‘Assembled in Australia from imported components’; ‘Packed in Australia. Imported and Australian ingredients’; ‘Carved in Australia from imported wood’; ‘Built in Australia from Australian steel and Malaysian rubber’; ‘Packed in Australia. Product of India’. 15

Supply of goods that carry a representation in words about an Australian pre-production step 20

“65VH. The corporation must not supply goods that carry an express representation in words that a pre-production step happened in Australia unless the goods also carry at least one of the following:

- (a) a representation authorised by subsection 65VE(2);
- (b) a representation in words that identifies one or more of the production steps that happened in Australia; 25
- (c) a representation in words that indicates that the place of origin of the goods is outside Australia.

Note: The following are examples of representations that are sufficient for paragraph (c): ‘made in Korea’; ‘manufactured outside Australia’; ‘produced overseas’; ‘processed in Tokyo, Japan’; ‘produce of foreign countries’. 30

Supply of goods that carry a representation likely to be regarded as an Australian origin representation

“65VJ. The corporation must not supply goods that carry a representation in words, pictures or symbols that is likely to be regarded as an Australian origin representation unless the goods also carry at least one of the following: 35

- (a) a representation authorised by subsection 65VE(2);
- (b) a representation in words that identifies one or more of the production steps that happened in Australia; 40

- (c) a representation in words that identifies one or more of the pre-production steps that happened in Australia;
- (d) a representation in words that indicates that the place of origin of the goods is outside Australia.

5 Note 1: The following are examples of representations that might be regarded as Australian origin representations: '100% Australian'; 'Australian'; representations of kangaroos; representations of the Australian flag; representations of the map of Australia or an Australian State or Territory.

10 Note 2: The following are examples of representations that are sufficient for paragraph (d): 'made in Korea'; 'manufactured outside Australia'; 'produced overseas'; 'processed in Tokyo, Japan'; 'produce of foreign countries'.

Supply of goods that carry composite or multiple representations

15 "65VK.(1) The corporation must not supply goods that carry an Australian connection representation and a foreign origin representation unless:

- (a) the foreign origin representation is as prominent as the Australian connection representation; and
- (b) the representations are as close to each other as possible.

"(2) In this section:

20 '**Australian connection representation**' means:

- (a) a representation in words that a production step happened in Australia;
- (b) a representation in words that a pre-production step happened in Australia;
- 25 (c) a representation in words, pictures or symbols that is likely to be regarded as an Australian origin representation.

'**foreign origin representation**' means:

- (a) a representation that the place of origin of the goods is outside Australia;
- 30 (b) a representation that the place of origin of any of the ingredients or components of the goods is outside Australia."

Further amendments of the Principal Act

4. The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 4

CONSEQUENTIAL AMENDMENTS

Subsection 5(1):

Omit “Parts IV, IVA and V”, substitute “Part IV, Part IVA and Part V (other than Division 1B)”.

Subsection 6(3):

Omit “and 1A”, substitute “,1A and 1B”.

Subsection 6(4):

Omit “Division 1 of Part V (other than sections 53A, 55 and 61)”, substitute “Division 1 (other than sections 53A, 55 and 61) and Division 1B of Part V”.

Paragraph 75AS(b):

Omit “or 1A”, substitute “,1A or 1B”.

Subsection 86(2):

Omit “or 1A”, substitute “,1A or 1B”.

Paragraph 86A(1)(b):

Omit “or 1A”, substitute “,1A or 1B”.

Paragraph 86A(4)(b):

Omit “or 1A”, substitute “,1A or 1B”.

Paragraph 86A(5)(b):

Omit “or 1A”, substitute “,1A or 1B”.

Paragraph 86B(1)(b):

Omit “or 1A”, substitute “,1A or 1B”.

NOTE

1. No. 51, 1974, as amended. For previous amendments, see Nos. 56 and 63, 1975; Nos. 88 and 157, 1976; Nos. 81, 111 and 151, 1977; Nos. 206 and 207, 1978; No. 73, 1980; Nos. 61 and 176, 1981; No. 80, 1982; No. 39, 1983; Nos. 63, 73 and 165, 1984; No. 65, 1985; Nos. 8, 17 and 168, 1986; Nos. 23 and 141, 1987; Nos. 8, 20, 87 and 120, 1988; Nos. 28 and 34, 1989; Nos. 11, 70 and 108, 1990; Nos. 49, 122, 136, 173 and 180, 1991; Nos. 22, 104, 105, 106 and 222, 1992; and No. 98, 1993.