

# DRAFT FOR CONSULTATION

## Consumer Information Standards (Origin of Food) Regulations 2019

Governor-General

### Order in Council

At Wellington this                      day of                      2019

Present:  
in Council

These regulations are made under section 27 of the Fair Trading Act 1986—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Commerce and Consumer Affairs made in accordance with that section and with section 5 of the Consumers' Right to Know (Country of Origin of Food) Act 2018.

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**Transitional, savings, and related provisions**

**Regulations**

**1 Title**

These regulations are the Consumer Information Standards (Origin of Food) Regulations 2019.

**2 Commencement**

These regulations come into force on [*to insert fixed date that is exactly 6 months after date of notification in Gazette*].

**3 Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

**4 Interpretation**

In these regulations, unless the context otherwise requires,—

**cured pork** has the meaning given by regulation 8

**fish or seafood** means a finfish or a shellfish, as those terms are defined by section 2 of the Fisheries Act 1996

**fresh** has the meaning given by regulation 6

**fruit or vegetable**—

(a) means a plant, or the part of a plant, that can be eaten as food; and

- (b) includes a mushroom or edible fungus, coconut, green bean or pea, snowpea, edamame bean, or sweetcorn; but
- (c) excludes all of the following that are not covered by paragraph (b): a nut, seed, legume, or grain, or a herb growing in soil

**fundraising event** means an event where food is supplied solely to raise money for a charitable, benevolent, philanthropic, or cultural purpose

**origin information** has the meaning given by regulation 9

**regulated food** has the meaning given by regulation 5.

## **Part 1**

### **Food that is regulated**

#### **5 Meaning of regulated food**

- (1) In these regulations, **regulated food** means an item of food that—
  - (a) is a type of food listed in subclause (2); and
  - (b) is supplied, or offered or advertised for supply, at retail (including on an Internet site or by mail-out); and
  - (c) is not covered by the exception in subclause (3).
- (2) The types of food are as follows:
  - (a) food that—
    - (i) is only 1 type of fruit or vegetable, fish or seafood, or meat; and
    - (ii) is fresh, or is frozen (but would otherwise be fresh); and
    - (iii) is no more than minimally processed:
  - (b) cured pork.
- (3) The exception is an item of food that is supplied, or offered or advertised for supply,—
  - (a) at a fundraising event; or
  - (b) by any of the following for immediate consumption: a restaurant, cafeteria, takeaway shop, canteen, or similar place, or a caterer.

#### **6 Meaning of fresh**

- (1) A food is **fresh** if it has not been processed for the purpose of preserving it or extending the period in which it may be eaten.
- (2) The following are examples of processing that do not prevent a food from being **fresh**:
  - (a) refrigeration or chilling:

- (b) surface treatment, which means applying a substance to the food's surface without changing the food's essential character, taste, or nutritional content:
  - (c) vacuum sealing:
  - (d) blanching before freezing:
  - (e) freezing followed by thawing.
- (3) The following are examples of processing that mean a food is not **fresh**:
- (a) drying, freeze-drying, or dehydration:
  - (b) curing:
  - (c) fermentation:
  - (d) pickling:
  - (e) preservation in salt, sugar, or oil:
  - (f) canning:
  - (g) cooking, baking, roasting, or grilling (other than blanching before freezing):
  - (h) smoking:
  - (i) reconstitution.

#### 7 **Meaning of minimally processed**

The following are examples of processing that do not prevent a food from being only **minimally processed**:

- (a) cutting, chopping, slicing, dicing, mincing, grating, or mashing:
- (b) juicing, blending, or pureeing:
- (c) filleting, deboning, or shucking:
- (d) peeling or shelling:
- (e) washing or sanitising:
- (f) irradiation.

#### 8 **Meaning of cured pork**

In these regulations, **cured pork** means—

- (a) a processed pork product that—
  - (i) contains pork flesh that is at least 30% of the product's weight; and
  - (ii) is represented as bacon or ham; or
- (b) a processed pork product that—
  - (i) contains pork flesh that is whole pieces or cuts of pork muscle and is at least 66% of the product's weight; and

- (ii) contains salt alone, or salt and 1 or both of nitrite and nitrate, for the primary purpose of preserving the product.

## Part 2 Information must be disclosed

### *Information that must be disclosed*

#### 9 Information that must be disclosed

- (1) This table sets out the information that must be disclosed for a type of regulated food (the **origin information**):

Type of regulated food	Origin information
Fruit or vegetable	The 1 or more countries in which the food was grown
Meat or cured pork	The 1 or more countries in which the animal that became the food was raised
Fish or seafood	The country in whose national fisheries jurisdiction, or ocean in whose high seas, finfish was caught or shellfish was harvested

- (2) A fruit or vegetable was **grown** in a country if—
- (a) it was materially increased in size, or materially altered in substance, in that country by natural development; or
- (b) it germinated or otherwise arose in that country.

- (3) An animal was **raised** in a country if it was materially increased in size in that country by natural development.

- (4) In this regulation,—

**high seas** means the waters outside the national fisheries jurisdiction of any country

**national fisheries jurisdiction** means a country's internal waters, territorial sea, and exclusive economic zone, as determined by its domestic law and consistently with international law

**ocean** means the Pacific Ocean, Atlantic Ocean, Indian Ocean, Southern (Antarctic) Ocean, or Arctic Ocean.

### *How information must be disclosed*

#### 10 General requirements for disclosing information

- (1) The rest of this Part determines how origin information must be disclosed in different cases.
- (2) But, in all cases, the origin information must be disclosed—
- (a) as clear and legible text in English or Māori; and

- (b) to enable each person to whom the food is supplied, offered, or advertised to be informed of the relevant country, countries, or ocean.

## 11 Disclosure in most cases

*Supply, or offer or advertisement, where food is located*

- (1) **Subclause (2)** applies if the regulated food is supplied, or offered or advertised for supply, where the food is located.
- (2) The origin information must be disclosed so that its connection to the regulated food is clear, for example,—
  - (a) on the food or its packaging; or
  - (b) on signs located next to the food.

*Offer or advertisement where food is not located*

- (3) **Subclause (4)** applies if the regulated food is offered or advertised for supply where the food is not located (for example, on an Internet site or by mail-out).
- (4) The origin information must be disclosed as part of the offer or advertisement so that its connection to the regulated food is clear.

*Special cases prevail*

- (5) However, this regulation is subject to the special cases in the rest of this Part, and the requirements of the special cases are cumulative if more than 1 apply.

## 12 Disclosure for change in origin by time of supply

- (1) This regulation applies if—
  - (a) the regulated food is offered or advertised for supply where the food is not located (for example, on an Internet site or by mail-out); and
  - (b) the person offering or advertising the food has reason to believe that, by the time of supply, the origin information of the food supplied will differ from when the food was offered or advertised.
- (2) The origin information of the food offered or advertised—
  - (a) must be disclosed as part of the offer or advertisement so that its connection to the regulated food is clear; and
  - (b) must include a statement that, by the time of supply, the origin information of the food supplied may have changed from when the food was offered or advertised.

## 13 Disclosure if origin differs between stores

- (1) This regulation applies if—
  - (a) the regulated food is offered or advertised for supply where the food is not located (for example, on an Internet site or by mail-out); and
  - (b) the origin information of the food differs between any of the stores of the person offering or advertising the food.

- (2) The origin information of the food—
  - (a) must be disclosed as part of the offer or advertisement so that its connection to the regulated food is clear; and
  - (b) must list the origin information of the food from all of the person's stores (but need not specify which store has which food).
- (3) In this section, **store** means a place of business from which the food is supplied.

**14 Disclosure if origin differs between or within items of food**

- (1) This regulation applies if—
  - (a) the regulated food is supplied or offered or advertised for supply; and
  - (b) the origin information differs—
    - (i) between any items of the food (for example, between different packages of peas); or
    - (ii) for different parts of any item of the food (for example, for different peas in a package).
- (2) The origin information of the food—
  - (a) must be disclosed so that its connection to the regulated food is clear and, for an offer or advertisement, as part of the offer or advertisement; and
  - (b) must list the origin information of all parts of all items of the food.

*When information need not be disclosed*

**15 No disclosure for supply in accordance with accepted offer**

- (1) This regulation applies if—
  - (a) an offer for supply of the regulated food is accepted where the food is not located (for example, on an Internet site); and
  - (b) the regulated food is supplied in accordance with the accepted offer.
- (2) The origin information of the food need not be disclosed with the supply.

**16 No disclosure for offer or advertisement by audio-only medium**

- (1) This regulation applies if the regulated food is offered or advertised for supply by an audio-only medium (for example, radio).
- (2) The origin information of the food need not be disclosed as part of the offer or advertisement.

## Schedule 1

### Transitional, savings, and related provisions

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#### Part 1

#### Provisions relating to these regulations as made

##### 1 Frozen food not regulated for first 18 months

Despite regulation 5, any food that is frozen is not a regulated food during the 18-month period that starts on the commencement of these regulations.

Clerk of the Executive Council.

#### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations come into force on [to insert fixed date that is exactly 6 months after date of notification in Gazette]. They prescribe a consumer information standard that requires the disclosure of information about the origin of a regulated food.

The regulated foods cover certain simple foods and cured pork that are supplied, or offered or advertised for supply, at retail. But frozen food is excluded for the first 18 months.

In general, the origin information of regulated food must be disclosed when it is supplied or offered or advertised for supply. The origin information is generally a country (but sometimes an ocean). There are some special cases that have special requirements or do not require disclosure.

#### Regulatory impact assessment

The Ministry of Business, Innovation, and Employment produced a regulatory impact assessment on 11 September 2019 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of the regulatory impact assessment can be found at—

- [Insert URL link(s) to the RIA on the agency's Internet site]
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Business, Innovation, and Employment.