

DECEMBER 2021

Origin of Food Regulations

a guide for traders



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Introduction

These guidelines aim to help traders understand their obligations to label certain foods with their country of origin under the Consumer Information Standards (Origin of Food) Regulations 2021.

The Consumer Information Standards (Origin of Food) Regulations 2021 (Regulations) were passed by Parliament on 10 May 2021. The Regulations introduce mandatory origin disclosure for certain foods. These guidelines provide information about what you need to do if you supply or offer to supply foods covered by the Regulations.

You can use the self-check questionnaire at the back of these guidelines to help assess whether the Regulations apply to you.

This document provides general guidance about the Regulations. We may update it from time to time.

This document is not exhaustive and is not intended to be legally binding. As the enforcement agency, the Commission cannot provide legal advice to individual businesses or advice about specific scenarios. Ultimately, only the courts can decide if the Regulations have been breached. For specific advice about the application of the law, we recommend you seek legal advice. A relevant industry association may also be a source of useful information.

Background

The purpose of the Regulations is to ensure consumers have information about the origin of certain foods so that they can make informed purchasing decisions.

The Regulations apply to regulated food items that are fresh or thawed or frozen.

→ The Regulations apply to fresh or thawed food items from 12 February 2022.

→ The Regulations apply to frozen food items from 12 May 2023.

The Regulations describe the types of food that must have an origin disclosure, how disclosure can be made and the circumstances under which disclosure will be required.

The Commerce Commission enforces compliance with the Regulations under the Fair Trading Act.

What types of food are covered by the Regulations?

Food items covered by the Regulations are called “regulated food items”. [Regulation 5\(2\)](#) sets out the food types that are regulated food items:

- fruit, vegetables, meat, finfish or shellfish, that is
 - only one type
 - fresh, thawed (but would otherwise be fresh), or frozen, and
 - no more than minimally processed
- cured pork.

Any food that does not fall into either of the above categories is not covered by the Regulations – for example, eggs and dairy products.

Some of the terms used to describe the foods that fall within Regulation 5(2) are further defined in the Regulations and we discuss those in more detail in the next few sections.

EXAMPLES

Regulated food items that meet the “one type” criteria in Regulation 5(2)(a)

Apples, cabbage, beef, snapper, and mussels – all of these could be sold loose or in a package including only that one type of food item.

Regulated food items that do NOT meet the “one type” criteria in Regulation 5(2)(a)

Mixed bags of frozen peas and corn, a meat pack containing both beef steak and lamb chops, meatballs containing herbs, garlic and onion, a container of mixed green and red grapes.

What is considered a food “item”?

The word “item” is a defined term under [Regulation 4](#) and means “each separate unit or package” of food supplied, offered or advertised for supply.

An “item” can mean:

- each loose unit of food that might be sold by weight or by each piece (for example, a watermelon), and
- a package of multiple pieces of food (for example, a package of peas).

We do not consider it likely that meal boxes containing multiple ingredients, or mixed fruit and vegetable boxes (where the customer does not nominate the contents), for a fixed price are captured by the Regulations. Nevertheless, we encourage meal box and mixed fruit and vegetable box suppliers to disclose to customers the origin of the items included in the boxes, where it is practical to do so.

Delivered fruit and vegetable boxes that only contain fruit and vegetable items selected by the customer may be captured by the Regulations and the country of origin of each type of fruit and vegetable should be disclosed.

What does “fruit or vegetable” mean?

The words “fruit or vegetable” are defined terms under [Regulation 4](#) and mean “a plant, or part of a plant, that can be eaten as food”.

The following items are also **specifically included** as “fruit or vegetable” in Regulation 4:

- mushrooms or edible fungus
- sprouted legumes
- coconut
- green beans or peas
- snowpeas
- edamame beans
- broad beans
- sweetcorn.

The following items are excluded (unless they are specifically included as fruit or vegetables in the list opposite):

- nuts
- seeds
- legumes
- grains
- herbs growing in soil.

What is “fresh” food?

[Regulation 6\(1\)](#) sets out that a food is considered “fresh” if it has not been processed for the purpose of preserving it or extending the period during which it may be eaten.

Food can still be considered fresh if it has been through some types of processing set out in Regulation 6(2) – refrigeration or chilling, surface treatment, vacuum sealing, blanching before freezing. These examples are intended to expand on the meaning of Regulation 6(1), which could otherwise be interpreted quite narrowly. Likewise, food that has been frozen and then thawed before selling is considered fresh.

EXAMPLES

“Fresh” food

Chilled whole raw fish, vacuum sealed bag of raw garlic cloves.

Regulation 6(3) lists examples of processing where a food will no longer be considered as fresh. Some of these examples are drying, dehydration, pickling, smoking, canning, preserving (in salt, sugar, or oil), or cooking (other than blanching before freezing).

EXAMPLES

Foods that are not “fresh”

Smoked fish, canned oysters, olives in brine, dried mushrooms, kimchi, dried prunes.

What does “minimally processed” mean?

[Regulation 7](#) sets out the meaning of minimally processed. Minimally processed includes, for example, cutting, chopping, slicing, dicing, mincing, grating, mashing, juicing, blending, puréeing, filleting, deboning, shucking, peeling, shelling, washing, sanitising or irradiation.

Foods covered by the Regulations that have been through these processes will require country of origin disclosures. Cured pork will always require country of origin disclosures.

EXAMPLE

Food that is no more than “minimally processed”

A package of fresh sliced mushrooms, skinless and deboned chicken thighs, minced beef with no additives.

We consider single ingredient fruit juices may not be regulated food items because of the amount of processing required to make juice.

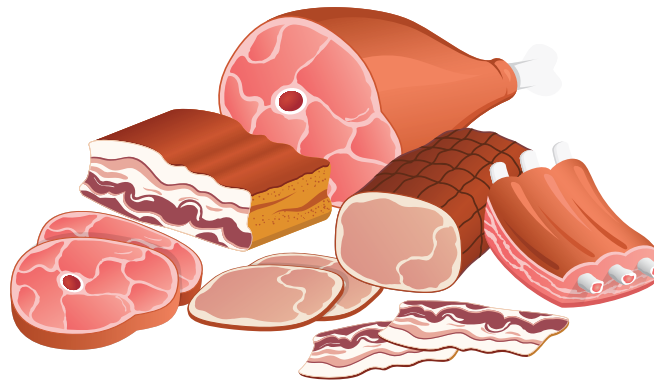
What does “cured pork” mean?

Cured pork is a defined term under [Regulation 8](#). It covers the following two types of processed pork products:

- Products described as bacon or ham that contain at least 30% of the products’ weight as pork flesh.
- Processed pork products that contain at least 66% pork flesh (by weight) and salt as a preservative. It may also include either nitrite or nitrate (or both) as preservatives. Examples of these include prosciutto and pickled pork.

If the definition of cured pork is relevant to you, we recommend you read the full definition in Regulation 8.

We consider that items that contain cured pork as one ingredient (such as frozen pizza topped with ham, or bacon and egg pie) are not likely to require origin disclosures.



Who do the Regulations apply to?

The Regulations apply to people who supply, offer or advertise for supply regulated food items to consumers in Aotearoa New Zealand, unless specific exceptions apply. The Regulations are focused on retail supply, rather than wholesale supply.

TIPS

‘Advertised for supply’ may include, physical stores, at a farmer’s market, on a website or on a flyer. It may also include other advertising, for example on billboards, in magazines or in social media.

[Regulation 5](#) sets out two circumstances under which the Regulations do not apply. These are where a regulated food item is supplied, offered or advertised for supply:

- at a fundraising event; or
- for immediate consumption, by a restaurant, cafeteria, takeaway shop, canteen, or similar place, or by a caterer.



What origin information must be provided?

The origin information required can differ depending on the type of regulated food item. [Regulation 9](#) sets out what origin information must be disclosed and these are set out in the table below.

Type of food item	Origin Information to disclose
Fruit or vegetable	The country or countries where the fruit or vegetables were grown.
Meat or cured pork	The country or countries where the animals were raised. In certain circumstances the countries where the animals were slaughtered can be used. Refer to Regulation 15 for more information.
Finfish	The country or countries in whose national fisheries jurisdiction, or oceans in whose high seas, the fish were caught.
Shellfish	The country or countries in whose national fisheries jurisdiction, or oceans in whose high seas, the shellfish were harvested.

Some of the words in the above table (like “grown”, “raised”, “high seas”, “national fisheries jurisdiction”, and “ocean”) are defined in Regulation 9 and the table should be read with those definitions in mind.

For cured pork, it is important to note that the origin information may be a different country from where the pork was cured.

TIPS

Disclosure of a region or a town without the country (for example, California, South Island) does not meet the requirements of the Regulations as those are not countries or oceans.

The European Union is also not sufficient disclosure because it is not a country.

How to disclose the origin information

The Regulations are generally not prescriptive about how the country or ocean of regulated food items should be disclosed. They do not prescribe:

- the exact words to use
- the format and style for the words – for example, font size and style, or
- location of the disclosure.

[Regulation 10](#) sets out some guiding principles about how information must be disclosed.

Clear and legible text

[Regulation 10](#) prescribes that the origin information must be disclosed “as clear and legible text in English or Māori”.

There are a few guiding principles we can take from this:

- **Clear and legible** – the origin information must be clearly displayed and in a legible manner, where it can be easily seen and read by consumers. Whether a disclosure is clear and legible must be assessed according to the specific circumstances under which the regulated food item is supplied, offered or advertised for supply.
- **Text** – the origin information must be disclosed in words.
- **English or Māori** – the origin information must be disclosed in at least one of these two languages and is particularly relevant where packaging of a regulated food item is in a different language.

TIP

A map or a flag of a country does not meet the requirements of the Regulations as these are not “text”.

Enable consumers to be informed

[Regulation 10](#) provides that the origin information must be disclosed in a manner that enables consumers of the regulated food item to be informed of how the item relates to the countries or oceans disclosed.

There is no requirement to use “grown”, “raised”, “harvested”, or “caught” with the origin information. Traders should carefully assess what content to use for disclosing the origin information.

EXAMPLES

Non-compliant disclosure

The use of an internet domain name (for example, .co.nz) does not meet the requirements of the Regulations as the disclosure does not inform consumers how the regulated food item relates to the country disclosed.

Displaying a physical address without providing any other information is also unlikely to meet the requirements of the Regulations as there is insufficient information provided to enable consumers to draw the connection between the address and the origin of the regulated food item.

TIPS

For the sale of loose apples, “Product of New Zealand” or “New Zealand Apples” might be examples of compliant disclosures under the Regulations. This same wording (or “Made in New Zealand”) might not work for the sale of ham as it does not inform consumers whether New Zealand is the country where the animal was raised or if it only refers to where it was processed.

For the sale of fish from a fish farm, “Farmed in New Zealand” might be an example of a compliant disclosure under the Regulations. “Caught in New Zealand” might not work for farmed fish as it could imply wild-caught fish from New Zealand waters. “Product of New Zealand” might be an appropriate disclosure for both wild-caught and farmed fish from New Zealand waters.

Use of abbreviations for countries, rather than full country names, may comply with the Regulations. The Commission would expect the abbreviation to make it clear to New Zealand consumers which country the food item is from.

EXAMPLES

Commonly known abbreviations for countries

NZ, AU or AUS, US, UK

Connection to the regulated food item is clear

[Regulation 10](#) requires traders to ensure that the connection between the regulated food item and the origin information is clear.

If the regulated food item is supplied, offered, or advertised for supply where the food item is located (for example, in a store, or at a market), the origin information might be disclosed in one of the following ways:

- on the food item
- on the packaging
- on signs located next to the item, or
- in a similar way.

EXAMPLES

Compliant disclosure where the regulated food item is located:

- a produce display board next to loose apples that has price, variety and origin information for loose whole apples
- pre-printed origin information on a wrapped box of sliced white button mushrooms
- origin information on a tag next to unpackaged ham at a deli counter
- a sticker label with origin information on pre-packaged beef.

If the regulated food item is supplied, offered, or advertised for supply where the food item is **not** located (eg, on a website or on a flyer), the origin information must be included as part of the offer or advertisement.

There is no requirement for the origin information to be on the item or on the packaging of regulated food items, as long as it is disclosed in one of the ways set out in [Regulation 10](#).

TIP

A label or packaging with “Product of New Zealand” on packaged ham alone might not comply with the Regulations, because it is unclear whether New Zealand is the country where the pig was raised or where the ham was processed. Compliant disclosure might look like this:



Modifications to the general disclosure requirement

[Regulation 11](#) requires that a regulated food item's origin information must be disclosed. However, there are a few modifications to the general requirement to disclose origin information. They are intended to cover special situations where the requirement for disclosure will be either impractical or impossible. These are set out in Regulations 12 to 15.

Some of the requirements under Regulations 12 to 15 are complex and all require additional statements to be disclosed. The additional statements to be disclosed are also not prescriptive as to the exact words, style, format, or location of disclosure to be used, but do require particular content to be covered. In addition, the guiding principles set out in [Regulation 10](#) will also apply.

We recommend that you seek legal advice if you want to find out more about how Regulations 12 to 15 work.

Regulation 12: Additional information if origin changes by time of supply

[Regulation 12](#) covers situations where the origin information for a regulated food item might change by the time of supply.

In those circumstances, the trader must also include a statement that makes it clear the origin information for the regulated food item may change by the time the item is supplied.

Regulation 13: Replacement information if origin differs between stores

[Regulation 13](#) covers situations where the origin information for the regulated food items differs between the trader's stores. An example might be strawberries, where some stores stock local strawberries but stores other stock imported strawberries.

In those circumstances, and instead of the disclosure required under Regulation 11(2), the trader might disclose both of the following as an alternative option:

- A list of countries or oceans for all of the items offered or advertised for supply from all of the trader's stores, and
- A statement to make clear that not all of the listed countries or oceans may be relevant to an item at a particular store.



Regulation 14: Optional replacement information if origin changes often

[Regulation 14](#) covers situations where the origin information of the regulated food items changes so often that it would be unreasonable to change that information for disclosure. An example of this food item might be a particular brand of baby peas.

In those circumstances and instead of the disclosure required under [Regulation 11\(2\)](#), the trader might disclose both of the following as an alternative option:

- A list of countries or oceans for all of the items, and
- A statement to make clear that not all of the listed countries or oceans may be relevant to a particular item.

EXAMPLES

Possible disclosure where the origin changes so often that it would be unreasonable to change that information for disclosure

Disclosure on a ham label — Made in New Zealand with pork raised in any one or more of the following countries: Canada, Denmark, Finland, Germany, NZ, Poland, Spain, USA.

Disclosure on a packet of frozen broccoli — From China and/or Spain.

Regulation 15: Optional replacement information if origin changes often for meat or cured pork

[Regulation 15](#) covers situations where the origin information for meat or cured pork changes so often that it would be unreasonable to change that information for disclosure. In those circumstances and instead of the disclosure required under [Regulation 11\(2\)](#), the trader might disclose both of the following as an alternative option:

- A list of countries from where the animals in all of the items are slaughtered, and
- A statement to make clear that:
 - not all of the listed countries may be relevant to a particular item, and
 - for each country for where animals are slaughtered, that animals might not have been raised in that country.

EXAMPLE

Made in Aotearoa with animals slaughtered in any one or more of the following countries: Canada, Denmark, Finland. Country of raising may differ from country of slaughter.

Exceptions to the general disclosure requirement

There are exceptions to the general disclosure requirement in [Regulation 16](#) and [Regulation 17](#).

Regulation 16 sets out that there is no requirement to disclose origin information when an item is supplied if origin information was disclosed when the offer was made and accepted where the item is not located, and the information has not changed.

EXAMPLE

Where Regulation 16 might apply

When a consumer purchases a regulated food item online, and the origin information is disclosed to the consumer online, then the origin information does not need to be disclosed again when the item is supplied in accordance with the offer.

Regulation 17 sets out that where regulated food items are offered or advertised for supply by an audio-only medium, there is no requirement to disclose origin information with the offer or advertisement.

EXAMPLE

Where Regulation 17 might apply

Radio advertising promoting the supply of regulated food items does not need to disclose origin information.

Commerce Commission enforcement

The Commerce Commission enforces compliance with the Regulations under the Fair Trading Act. As the enforcement agency, the Commission can investigate alleged breaches and take appropriate enforcement action. You can find out more about how we investigate and what traders can expect to happen during an investigation in the Commission's published [investigation guidelines](#).

The Commission cannot certify that any particular business' disclosure information complies with the Regulations. Ultimately only the courts can decide whether a breach of the law has occurred.

What might happen if you don't comply with the Regulations?

It is an offence under section 40(1B) of the Fair Trading Act to breach the provisions of section 28 of the Fair Trading Act by supplying, offering, or advertising for supply food that does not comply with the Regulations.

Following investigation, if the Commerce Commission believes on reasonable grounds that an infringement offence (as defined under [section 40B](#) of the Fair Trading Act) has been committed, the Commission may:

- issue an infringement notice under [section 40D](#) of the Fair Trading Act to a business requiring the payment of an infringement fee of up to \$1,000 per offence, or
- for serious non-compliance, choose to prosecute under [section 40](#) of the Fair Trading Act. Companies may be fined up to \$30,000 for each offence, and individuals can be fined up to \$10,000 for each offence.

False, misleading, or unsubstantiated representations about country of origin

It is an offence under sections 10, 12A and 13(j) of the Fair Trading Act to make false, misleading or unsubstantiated representations concerning the place of origin of goods, or to engage in misleading conduct in relation to goods. These provisions under the Fair Trading Act already exist and will continue to be enforced by the Commerce Commission alongside the Regulations.

On conviction of a breach of the above sections under the Fair Trading Act, companies may be fined up to **\$600,000** for each offence and individuals can be fined up to **\$200,000** for each offence.

It is important to remember that not only words can be misleading, and it is the overall impression that counts. Care should be taken when using symbols, such as kiwis, flags or other national emblems, which can convey false or misleading impressions as to place of origin.

Other information

This document provides general guidance about what to consider when selling, offering or advertising to supply certain food in Aotearoa New Zealand. We may update it from time to time.

This document is not exhaustive and is not intended to be legally binding. For specific advice about the application of the relevant law, we recommend you seek legal advice.

Making a complaint

To contact us about potential breaches of the Fair Trading Act:

- Call us on 0800 943 600
- Use the online complaint form on the [Commission's website](#)
- Email us at contact@comcom.govt.nz
- Write to us at Enquiries Team, Commerce Commission, PO Box 2351, Wellington 6140

Further information sources:

NZ Legislation: [Consumer Information Standards \(Origin of Food\) Regulations 2021](#)

NZ Legislation: [Fair Trading Act 1986](#)

Commerce Commission: [Country of Origin \(Labelling of Food\)](#)

Ministry of Business, Innovation and Employment: [Country of Origin labelling](#)

A relevant industry association may also be a source of useful information.

Self-check: Do the Regulations apply to you?

This questionnaire is intended to help you decide if the Regulations apply to you.

- 1 Do you supply, offer or advertise to supply food items?

Yes No

- 2 Are the food items supplied at retail (including online)?

Yes No

- 3 Do the food items fit into either of the following categories?

Category 1:

3.1 food that is only one type of fruit, vegetables, meat, finfish or shellfish, and

3.2 is fresh, or is frozen or thawed (but would otherwise be fresh), and

3.3 is no more than minimally processed.

Category 2: Cured pork

Yes No

- 4 Are the food items **only** sold at a fundraising event or for immediate consumption by a restaurant, cafeteria, takeaway shop, canteen, or a caterer?

Yes No

If you answered yes to questions 1-3 and no to question 4, the Regulations may apply to you. We recommend you read through our guidelines for further information.



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This is a guideline only and the Commission's view. It is not intended to be definitive and should not be used in place of legal advice. You are responsible for staying up to date with legislative changes.

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