



AUSTRALIAN MADE,  
AUSTRALIAN GROWN LOGO

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## CODE OF PRACTICE

INCORPORATING THE RULES AND CONDITIONS GOVERNING THE USE OF  
THE AUSTRALIAN MADE, AUSTRALIAN GROWN LOGO

JULY 2011

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## PART I

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### The Australian Made, Australian Grown Logo

The Australian Made logo certification trade mark was created by the Australian Government in 1986 to promote Australian made products in local and export markets. The triangular logo encasing a stylised kangaroo is the most recognised and trusted country of origin symbol in Australia, enjoying a 94 per cent recognition level amongst Australian consumers. (Roy Morgan Research, Nov. 2009)

In 2002, the logo was assigned to Australian Made Campaign Limited (AMCL), a not-for-profit public company established in 1999 by the Australian Chamber of Commerce & Industry (ACCI) and its network of State and Territory chambers to rejuvenate the Australian Made Campaign.

Under its original rules, the logo's use was focused on products which met a two-part compliance test consistent with the provisions of the Trade Practices Act 1974 that provide certain legal protections for claims that goods are "made in Australia".

In 2007, the logo was renamed the "Australian Made, Australian Grown logo" and its rules were revised to extend the use of the logo to cover fresh produce.

The logo may not be used by any person, other than as provided in Rule 47, without the express authority of AMCL.

## PART II

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### The Code of Practice

#### SCOPE OF THE CODE

This Code of Practice in its entirety constitutes the 'rules governing the use of the certification trade mark' prescribed by Section 173 of the Trade Marks Act 1995.

This Code of Practice applies to all licensees of the Australian Made, Australian Grown Campaign and to AMCL as licensor of the logo. The Code places a series of obligations on licensees, including compliance criteria that goods in specified categories must meet for licensees to be eligible to use the logo; record keeping obligations; and a complaints and dispute resolution process that all licensees must abide by. It is a condition of licence approval that applicants agree to be bound by all of the rules and conditions contained in this Code of Practice.

A licence to use the logo does not give any entitlement to be a shareholder of Australian Made Campaign Limited, and a licensee of the Australian Made, Australian Grown Campaign does not, by becoming a licensee, acquire any rights, interests or other entitlements with respect to the ownership, management, administration or control of Australian Made

Campaign Limited or the Australian Made, Australian Grown logo.

#### OBJECTIVES OF THE CODE

The objectives of the Code of Practice are to:

- ▲ provide information to licensees of the Australian Made, Australian Grown Campaign on their rights and obligations to ensure the consistent, correct usage of the Australian Made, Australian Grown logo;
- ▲ build consumer confidence that goods promoted in association with the Australian Made, Australian Grown logo comply with established legislative consumer information and country of origin labelling standards and promote the benefits of buying Australian goods; and
- ▲ raise the domestic and international profile of goods that are produced in Australia.

The Code of Practice does not take precedence over statutory requirements. It is the responsibility of licensees to ensure that their usage of the logo does not contravene any statutory requirements.

#### ADMINISTRATION OF THE CODE

Australian Made Campaign Limited is responsible for the administration of the logo and the maintenance of this Code of Practice. The contact details are:

**Attention:** Chief Executive  
Australian Made Campaign Limited  
Suite 105, 161 Park Street,  
South Melbourne Vic 3205

**Telephone:** 03 9686 1500 or 1800 350 520

**Facsimile:** 03 9686 1600

**Email:** [info@australianmade.com.au](mailto:info@australianmade.com.au)

**Website:** [www.australianmade.com.au](http://www.australianmade.com.au)

#### AMENDMENT AND REVIEW

This Code of Practice in its entirety including the rules and conditions at Part VII is subject to the approval of the Australian Government, as former owner of the logo. Consistent with its role under the Trade Marks Act 1995, the rules and conditions for use of the logo included in this code of practice have been considered by the Australian Competition and Consumer Commission having regard to and satisfying itself in relation to competition and consumer protection principles.

The Code of Practice is lodged with IP Australia and is available for public inspection during the hours that IP Australia is open for business. AMCL may make recommendations to the Australian Government regarding the efficiency and effectiveness of the Code of Practice. The Australian Government may also review the Code of Practice periodically to determine its efficiency and effectiveness in

guiding the correct usage of the logo, and the efficiency and effectiveness with which the Code of Practice has been administered.

## PART III

### Becoming a Licensee

Any individual, business or organisation can apply for a licence to use the logo. Licence fees are payable in relation to the use of the logo and are levied according to the annual budgeted sales turnover generated from goods promoted with the logo. These goods must be identified on a product list incorporated in the licence application.

All goods promoted in association with the logo must meet a compliance test and it is the obligation of the applicant or licensee to apply the compliance test to determine which goods can be promoted with the logo. All applicants for a licence are required to sign a statutory declaration stating that the goods identified on their product list meet the compliance test and that their use of the logo will be in strict accordance with the rules and conditions, and to permit audit activity by AMCL and its audit representatives to ensure that goods bearing the logo meet the compliance requirements. Licence applications are available from AMCL and its agents, and from the website. Applications are assessed by and subject to the approval of AMCL. In situations where an applicant does not agree to abide by the Code of Practice including the rules and conditions, or does not complete the associated statutory declaration, the application will be rejected.

In instances where a licence application is rejected by AMCL, the rules and conditions provide a mechanism for independent review of the decision.

## PART IV

### Obligations on Licensees

Becoming a licensee of the Australian Made, Australian Grown Campaign brings with it a range of obligations, as detailed in this Code of Practice. These obligations range from informational and procedural obligations that relate to the use of a certification trade mark to specific rules regarding the use of the logo which have been developed to promote compliance with underlying statutory obligations. The obligations on licensees in relation to the use of the logo are discussed in Part V of this Code of Practice. This section addresses informational and procedural obligations that apply to licensees of the Australian Made, Australian Grown Campaign.

## LICENSING REQUIREMENTS

As part of the licensing process, applicants must agree to be bound by the Code of Practice and the rules and conditions detailed therein. Applicants must also complete a statutory declaration in relation to the compliance of the goods identified on their product list with the rules and conditions contained in the Code. The statutory declaration is retained by AMCL.

Annual licence fees are levied on all licensees of the Australian Made, Australian Grown Campaign according to the annual budgeted sales turnover for those goods identified on the licensee's product list. Where a licensee exits the scheme voluntarily, or where their licence is suspended or revoked, these fees are forfeited to AMCL.

## SYSTEMS AND POLICIES FOR COMPLIANCE WITH THE RULES

In their application for a licence to use the Australian Made, Australian Grown logo, all applicants must agree to abide by a range of rules and conditions relating to record keeping, information provision, compliance monitoring and complaints and dispute resolution. Licensees of the Australian Made, Australian Grown Campaign should establish systems and policies to effectively meet their obligations and ensure that their employees and agents know their responsibilities in relation to the use of the logo.

Licensees should advise AMCL in writing of changes to their contact details or their product list, and must give written notice of intention to terminate a licence before its expiry date, or to not renew a licence.

## THE PRODUCT LIST

The licence application incorporates a product list. The product list is a list of those goods the applicant wishes to promote with the Australian Made, Australian Grown logo which meet the rules and conditions of the scheme, as well as all underlying statutory obligations. Upon acceptance of an application, AMCL retains the product list on file. If a licensee, for whatever reason, wishes to amend the product list, they should apply to AMCL. ***The Australian Made, Australian Grown logo can be used by licensees only in association with goods identified on the product list.***

## COMPLAINTS AND DISPUTE RESOLUTION PROCESSES

The rules and conditions include a complaints and dispute resolution process that AMCL and all licensees must abide by. Licensees should be aware that the complaints and dispute resolution process places obligations on them in relation to the provision of information to AMCL in the compliance investigation phase and, if necessary, their participation in the

conduct of an independent compliance audit. Part VI of this Code of Practice provides more detailed information on the operation of the complaints and dispute resolution processes.

## MAINTENANCE OF DOCUMENTARY RECORDS

It is a requirement of the licence that all licensees agree to maintain sufficient documentary records to substantiate the compliance of the goods identified on their product list with the compliance test contained in the rules and conditions. Under current legislative arrangements, a licensee may be required to provide these records to a court of law or to a regulatory agency to substantiate their compliance with underlying statutory obligations. Licensees may also be required to provide these records to an independent compliance auditor from time to time.

## COMPLIANCE MONITORING AND AUDITING

AMCL is required to undertake monitoring of the compliance of licensees with the rules and conditions contained in the Code of Practice. This includes an ongoing program of independent compliance auditing that places obligations on licensees in relation to the provision of documentary records. It also includes compliance investigation by AMCL and possible independent compliance auditing in relation to a dispute. Where a compliance investigation or independent compliance audit is undertaken, it must be conducted according to the rules and conditions contained at Part VII.

## PART V

### Obligations in relation to the logo

Licensees are subject to a range of obligations in relation to the use of the Australian Made, Australian Grown logo. These are detailed in the rules and conditions contained at Part VII of this Code of Practice. These obligations are identified and discussed below.

### RULES RELATING TO DESIGN, COLOUR & SIZE

The design of the Australian Made, Australian Grown logo cannot be altered under any circumstance. This means that licensees cannot make alterations to the graphic proportions of the logo or its individual elements. However, the logo can be sized to meet licensee requirements and any colour combination can be applied to the elements of the design.

### USE OF THE LOGO

Licensees may only use the logo in association with goods identified on the licensee's product list, as amended from time to time. These goods must meet the compliance test contained in Rule 18 in Part VII of this Code of Practice.

The logo must be used with one or more appropriate representations (words printed underneath the logo), as described in Rule 18 and 19.

There are five different groups of representations, each group having its own compliance criteria, which are detailed in Rule 18.

The five groups are:

1. "Product of Australia" and similar
2. "Australian Made", "Made in Australia" or "Manufactured in Australia"
3. "Australian Grown"
4. "Australian Grown" [qualified by the name/s of the ingredient/s to which the claim relates], e.g. "Australian Grown Peas and Carrots"
5. "Australian Seafood".

In addition to the above, when the product is to be sold only in export markets (i.e. outside Australia), the logo may be used with the representation "Australian" providing it satisfies the criteria set out in the Appendix at Part IX of this Code.

Where a claim of "Australian Made", "Made in Australia" or "Manufactured in Australia" is used, the good must be consistent with the safe harbour provisions of Part 5-3 of the *Australian Consumer Law* being Schedule 2 of the *Competition and Consumer Act 2010*, including requirements for substantial transformation and a minimum of 50% of production costs to be incurred in Australia. To assist licensees understand these concepts:

#### ***What is substantial transformation?***

The *Australian Consumer Law* (section 255(3)) states that for a substantial transformation to occur in a particular country, the goods must undergo a:

*fundamental change in that country in form, appearance or nature such that the goods existing after the change are new and different goods from those existing before the change.*

The Australian Competition and Consumer Commission has expressed the view that simple processes, such as reconstituting imported juice concentrate into fruit juice, may not constitute a substantial transformation. Similarly, the mere assembly of imported components into household or other items may not be considered to be a substantial transformation.

**In relation to food products, AMCL has a more restrictive definition of substantial transformation than the one set out in the ACCC guidelines. For the purposes of this Code of Practice, the following processes are not considered to be substantial transformation:**

- ▲ freezing, canning or simple preserving processes associated with packaging



- ▲ simple mixing or blending of food ingredients, where the resulting product is not substantially different to the separate ingredients
- ▲ juicing – extraction of juice from fruit
- ▲ homogenisation
- ▲ seasoning
- ▲ marinating
- ▲ coating – as in crumbing prawns or battering fish fillets
- ▲ curing – the treatment of meat with curing salts, as in ham or bacon
- ▲ roasting or toasting – e.g. of coffee beans, nuts or seeds.

### ***Elements which can be included in the cost of production/manufacture***

In relation to the compliance criteria for any of the representations, the Australian Consumer Law (Section 256) sets out three broad categories of cost that may be considered to determine whether 50 per cent of production or manufacturing costs are attributable to production or manufacturing processes that occurred in Australia. Costs that are eligible to be included in the calculation are:

- ▲ expenditure on materials incurred by the producer/manufacturer in the production or manufacture of the goods;
- ▲ expenditure on labour incurred by the producer/manufacturer that relates to the production or manufacture of the goods and can be reasonably allocated to the production or manufacture of the goods; *and*
- ▲ expenditure on overheads incurred by the producer/manufacturer that relates to the production or manufacture of the goods and can reasonably be allocated to the production or manufacture of the goods.

Country of origin labelling compliance guidelines have been produced by the Australian Competition and Consumer Commission that will assist licensees to make determinations about the compliance of goods with these criteria. The booklet *Country of origin claims and the Australian Consumer Law (2011)* is available from the ACCC website, [www.accc.gov.au](http://www.accc.gov.au), and from AMCL.

*The Australia New Zealand Food Standards Code* (the Code) contains standards to regulate food sold in Australia and in New Zealand. Standard 1.2.11 - Country of Origin Requirements sets out the requirements for country of origin labelling of packaged and certain unpackaged fish, fruit and vegetables, and pork.

The standard requires businesses to label all packaged and certain unpackaged food with their country of origin.

Packaged food must have a label with a statement on the package that clearly identifies where the food was made or produced, or a statement on the package that identifies

the country where the food was made, manufactured or packaged for retail sale and to the effect that the food is constituted from imported ingredients or from local and imported ingredients. For unpackaged foods that require country of origin labelling under the Code similar rules apply. A compliant country of origin statement is required regardless of any additional information provided on the label. Suppliers should exercise caution in their country of origin declarations to ensure that the representations that are made are not compromised by conflicting information.

The Country of Origin Standard and a guide to the Standard are available on the Food Standards Australia New Zealand (FSANZ) website at [www.foodstandards.gov.au](http://www.foodstandards.gov.au). Information can also be obtained from the FSANZ Information Officer on (02) 6271 2241, or email [info@foodstandards.gov.au](mailto:info@foodstandards.gov.au).

If applicants or licensees are in doubt about their compliance with these criteria, they should seek their own legal advice.

## **CHANGE OF PRODUCTION PROCESS OR SOURCING OF INPUTS**

Where there is a change to a production process or the cost or source of inputs so that a good listed on a licensee's product list no longer meets the compliance criteria, the licensee must advise AMCL immediately and cease using the logo in relation to that good.

## **COMPLIANCE WITH UNDERLYING STATUTORY OBLIGATIONS**

The extent of underlying statutory requirements may depend on the corporate structure of the licensee organisation, the State or Territory of operation of the licensee's business or the existence of statutory requirements that apply to firms in specific industry sectors. Licensees should seek their own legal advice to determine that their usage of the logo and any representations used with the logo complies with these underlying statutory obligations.

## **LIABILITY OF THE LICENSEE**

***Licensees of the Australian Made, Australian Grown Campaign are liable in relation to the compliance of their usage of the Australian Made, Australian Grown logo with underlying statutory requirements.***

## **PART VI**

### **Consumers, Complaints and the Logo**

#### **CONSUMERS ARE A KEY STAKEHOLDER**

Consumers who look for and purchase products promoted in association with the Australian Made, Australian Grown

logo are a key stakeholder in the Australian Made, Australian Grown Campaign. It is vital, therefore, that consumers are certain that the logo is being used according to the rules and conditions detailed in this Code of Practice, and that any consumer concern about the use of the logo is addressed in an appropriate manner.

## THE COMPLAINTS AND DISPUTE RESOLUTION PROCESS

Misuse of the logo, whether by a licensee or a non-licensee, is a serious matter which could undermine the integrity and reputation of the logo in the eyes of licensees and consumers.

AMCL undertakes to investigate all such complaints received, and to keep all parties to the complaint fully informed as to its progress and outcome.

The rules and conditions provided at Part VII of this Code of Practice establish a complaints and dispute resolution process that applies to AMCL and all its licensees. The process includes a compliance investigation phase, an appeals mechanism involving assessment of the complaint by AMCL and the possible initiation of an independent compliance audit to determine compliance with the rules and conditions.

## PART VII

### Rules and Conditions

#### Owner of certification trade marks and approved certifier

1. Australian Made Campaign Limited ("AMCL"), a not-for-profit company established by the Australian Chamber of Commerce and Industry, is the owner of the certification trade marks in the Australian Made, Australian Grown logo [hereinafter referred to as "the logo"] and is the only person who may certify goods in relation to the certification trade marks in the logo. In certain circumstances, the Australian Government, as the former owner of the certification trade marks in the logo, may, from time to time, exercise rights and perform obligations of AMCL in relation to the logo.

#### Licence to use the logo

2. Any individual, business or organisation can apply for a licence to use the logo by completing and lodging the licence application.

#### Approval of application for license or renewal

3. AMCL will approve an application for a new licence or renewal where AMCL is satisfied that:
  - i) the applicant has paid the necessary fees (as detailed in Part VIII of the Code);

- ii) the applicant has received a copy of the rules and conditions relating to the use of the logo and agreed to abide by the rules and conditions; and
  - iii) the applicant has signed a statutory declaration in relation to the compliance of the goods identified in the product list incorporated in the licence application with these rules and conditions including details of the listed products and how they meet the compliance criteria listed in Rule 18; and
  - iv) taking into account the information provided in the application and any other relevant information, the products listed in the application meet the appropriate compliance criteria listed in Rule 18; and
  - v) the granting of such a licence is not likely to bring the logo into disrepute (as per Rule 27).

#### Right to independent review of a decision not to grant or renew a licence

4. In instances where an application for a new licence or renewal is refused by AMCL, the applicant may request a review of the decision.
  - i) The principal executive officers of each party must confer within 7 days of receipt of the request for a review by AMCL to try to resolve the dispute.
  - ii) If the dispute is not resolved within 14 days, the dispute may be submitted to an independent review.
  - iii) The independent review will be conducted by a person or organisation selected by agreement between the applicant and AMCL or appointed by the Institute of Arbitrators and Mediators Australia.
  - iv) The independent reviewer's fees and charges will be borne by the applicant.
  - v) The independent reviewer will determine the capacity of the applicant to comply with these rules and conditions.
  - vi) Where the independent reviewer determines that the applicant meets these rules and conditions, the applicant will be granted a licence and AMCL shall reimburse the applicant for any fees and charges levied by the reviewer.
  - vii) Decisions of the independent reviewer are binding on all parties.

#### Licensee certificate

5. AMCL's approval of a licence application will be evidenced by issuing a certificate that is valid for the period specified on the certificate.
  - i) The certificate remains the property of AMCL and must be returned promptly to it on request or on termination of the licence.



### **Licensee register**

6. As required under the *Trade Marks Act 1995*, AMCL will maintain a register of the following details relating to each licensee:
- i) registered business name;
  - ii) trading name;
  - iii) Australian Business Number (where applicable);
  - iv) street address;
  - v) postal address;
  - vi) business telephone number;
  - vii) business facsimile number;
  - viii) nominated contact officer and title of that officer; and
  - ix) a product list – being a listing of all products identified on each licensee’s application, or as amended from time to time in accordance with these rules and conditions, that may be promoted in association with the logo.

### **Inspection of licensee register**

7. The licensee register, including each licensee’s product list, will be made available for inspection by any party, including members of the public, during normal business hours at the head office of AMCL.

Information on current licensees and registered products will also be made available on the Australian Made, Australian Grown Campaign website. The website can be found at [www.australianmade.com.au](http://www.australianmade.com.au)

### **Amendment to details on licensee register**

8. All licensees shall notify the Chief Executive of AMCL within 7 days of any change to the details relating to that licensee contained on the licensee register.

### **Application to remove a good from the product list**

9. Licensees may apply to the Chief Executive of AMCL to remove a good from the product list.
- i) Where a licensee applies to remove a good from the product list, all fees paid to AMCL in relation to that good are forfeited to AMCL.

### **Application to include a new good on the product list**

10. Licensees may apply to the Chief Executive of AMCL to include a new good on their product list. The application will be approved where AMCL is satisfied that:
- i) the licensee has paid the necessary fees (as detailed in Part VIII of the Code); and
  - ii) they have signed a statutory declaration in relation to the compliance of the new goods identified in their application with these rules and conditions; and

- iii) taking into account the information provided in the application and any other relevant criteria, the products listed in the application meet the appropriate compliance criteria listed in Rule 18; and
- iv) the granting of a licence for these products is not likely to bring the logo into disrepute (as per Rule 27).

### **Right of appeal against a decision not to include a new good on the product list**

11. In instances where an application for inclusion of a new good on a licensee’s product list is refused by AMCL, the applicant may request a review of the decision, to be conducted according to the procedures outlined in Rule 4.

### **Obligations on licensees**

12. Following approval of a licence application, that licensee shall:
- i) establish and maintain policies and systems to meet their obligations under these rules and conditions including, where appropriate, establishing compliance programs;
  - ii) ensure that these policies and systems recognise all underlying statutory obligations; and
  - iii) ensure that all employees and agents are aware of these rules and conditions; and
  - iv) permit AMCL and any auditor appointed by AMCL or the Australian Government to obtain access during normal working hours to such records as are necessary to establish whether the logo has been used in accordance with these rules and to information about the policies and systems maintained under rule 12(i) sufficient to establish their effectiveness.

### **Licensees not to misrepresent scope of license**

13. Licensees shall not misrepresent the scope of their licence or use the logo in any manner which contravenes the rules and conditions for its use.

### **Right to use the logo conferred by licence**

14. The logo is available for use by licensees in relation to the goods identified on their product list, as amended from time to time in accordance with the rules and conditions, and then only where the use of the logo is in accordance with these rules and conditions and where the use of the logo and associated representations does not conflict with any underlying statutory obligation.

### **Liability in relation to use of the logo**

15. Licensees are liable in relation to the compliance of their usage of the Australian Made, Australian Grown logo.

### **Termination of licence**

16. A licensee wishing to terminate or not renew a licence shall give AMCL six months notice in writing and shall

pay all licence fees due at the date such termination takes effect.

#### Use of logo to cease upon cancellation or termination

17. Upon expiry, cancellation or termination of a licence, the licensee shall immediately cease using the logo.

#### Compliance criteria relating to the use of the logo

18. Licensees may only use the logo in relation to a good in conjunction with one or more of the representations set out in 18 (a), 18 (b), 18 (c), 18 (d) or 18 (e) and where that good meets the compliance criteria set out in 18 (a), 18 (b), 18 (c), 18 (d) or 18 (e) and where the use of the logo or the representation does not conflict with any statutory requirement.

- a) For the logo to be used in conjunction with the representation **"Product of Australia"** or **"Australian Product"**:
  - (i) Australia must be the country of origin of each significant ingredient or significant component of the good (as defined in Section 255 of the *Australian Consumer Law*); and
  - (ii) all, or virtually all, processes involved in the production or manufacture of the good must have happened in Australia (as defined in Section 255 of the *Australian Consumer Law*).
- b) For the logo to be used in conjunction with the representations **"Australian Made"**, **"Manufactured in Australia"** or **"Made in Australia"**:
  - (i) the good must be substantially transformed in Australia (as defined in Section 255(3) of the *Australian Consumer Law* except for food products where a stricter definition as set out below applies); and
  - (ii) 50 per cent or more of the cost of manufacturing and producing the good must be attributable to production or manufacturing processes that occurred in Australia (consistent with Sections 256 to 257 of the *Australian Consumer Law*).
- c) For the logo to be used in conjunction with the representation **"Australian Grown"**,
  - (i) each significant ingredient or significant component of the good must be grown in Australia (as defined in Section 255 of the *Australian Consumer Law*) and not exported and re-imported; and
  - (ii) all, or virtually all, processes involved in the production or manufacture of the good must have happened in Australia (as defined in Section 255 of the *Australian Consumer Law*).

d) For the logo to be used in conjunction with the representation **"Australian Grown [insert name of ingredient/s eg peas and corn, or category of ingredients, eg vegetables]"**:

- (i) 50 per cent or more of the cost of manufacturing and producing the good must be attributable to production or manufacturing processes that occurred in Australia (consistent with Sections 256 to 257 of the *Australian Consumer Law*); and
  - (ii) 90 per cent or more of the total ingoing weight of the good must consist of ingredients or components which have been grown in Australia and/or water harvested in Australia; and
  - (iii) 50 per cent or more of the total ingoing weight of the good must consist of the ingredients, components or category of ingredients or components specified as "Australian Grown"; and
  - (iv) 100 per cent of each ingredient, component or category of ingredients or components specified as "Australian grown" must have been grown in Australia; and
  - (vi) the ingredients or components specified as "Australian Grown" must not have been exported from Australia and re-imported; and
  - (vii) the representation "Australian Grown [insert name of ingredient/s or components or category of ingredients or components]" must always be used with the appropriate descriptor identifying the Australian grown component/s of the good, eg "Australian Grown Apples and Pears".
- e) For the logo to be used in conjunction with the representation **"Australian Seafood"**,
- (i) the good must be a seafood product as defined below; and
  - (ii) the good must meet the compliance criteria set out in either 18 (c) or 18 (d) above.

#### For the purposes of these rules:

##### **The following processes are not considered to be substantial transformation:**

- ▲ freezing, canning or simple preserving processes associated with packaging
- ▲ simple mixing or blending of food ingredients, where the resulting product is not substantially different to the separate ingredients
- ▲ juicing – extraction of juice from fruit
- ▲ homogenisation
- ▲ seasoning
- ▲ marinating
- ▲ coating – as in crumbing prawns or battering fish fillets

- ▲ curing – the treatment of meat with curing salts, as in ham or bacon
- ▲ roasting or toasting – e.g. of coffee beans, nuts or seeds.

Goods, or ingredients or components of goods, are **grown** in Australia if they:

- (a) are materially increased in size or materially altered in substance in Australia by natural development; or
- (b) germinated or otherwise arose in, or issued in, Australia; or
- (c) are harvested, extracted or otherwise derived from an organism that has been materially increased in size, or materially altered in substance, in Australia by natural development.

For the purposes of rule 18(c) and 18(d) in relation to particular goods:

- (a) packaging materials are not treated as ingredients or components of the goods; and
- (b) disregard the weight of packaging materials in working out the weight of the goods.

**“reconstituted products”** means products ready for consumption that contain ingredients that have been dried or concentrated by the evaporation of water, to which water has subsequently been added.

In the case of reconstituted goods, the water used to reconstitute these ingredients must be included in the calculation of the ingoing weight of these ingredients. Any water (whether of Australian origin or not) which is added to reconstitute an ingredient that is not of Australian origin is deemed to have the same origin as the foreign ingredient.

**“seafood”** means all aquatic vertebrates and aquatic invertebrates intended for human consumption, but excluding amphibians, mammals and reptiles.

**“seafood product”** means a processed or unprocessed good of which the sole or principal or characterising ingredient is seafood.

#### Use of representations in association with the logo

19. a) Representations used in association with the logo must be located directly below the logo and must be legible (not less than 1.5 mm high).
- b) Notwithstanding Rule 18 and Rule 19 (a) the logo may be used without a representation:
  - (i) where the logo (without a representation) was, prior to May 2007, embedded into either the goods or the packaging in such a way as to render change difficult or unduly costly, or
  - (ii) where it would be impossible, due to the size of the product or other reasons, for the representation to be reproduced legibly (not less than 1.5 mm high)

and AMCL is satisfied that the continued use of the logo without a prescribed representation is not potentially misleading or confusing to consumers.

Licensees must seek approval from AMCL to use the logo without a representation in both cases.

In the case of 19 (b)(i) the absence of a representation must be redressed if changes to the manufacturing process or retooling occur.

In the case of 19 (b) (ii) a clear representation located elsewhere (than directly below the logo) on the product may be made.

#### Logo to be used in relation only to products included on the product list

20. Licensees shall only use the logo in relation to those goods that are identified on the product list as amended from time to time.

#### Change to production process of a good included on the product list

21. Where there is a change to a production process so that a good included on a licensee’s product list no longer meets the compliance criteria set out in Rule 18, that licensee must advise the Chief Executive of AMCL immediately and cease using the logo in relation to that good.

#### Change to origin or costs of inputs, or other changes in relation to a good included on the product list

22. Where:
  - (i) the sourcing of a component of production or manufacture of a good included on a licensee’s product list changes so that the good no longer meets the compliance criteria set out in rule 18; or
  - (ii) the costs of inputs change such that the good no longer meets the compliance criteria set out in rule 18; or
  - (iii) any other event occurs such that the good no longer meets the compliance criteria set out in rule 18; the licensee must advise the Chief Executive of AMCL immediately and cease using the logo in relation to that good.

#### Alteration of design of the logo not permitted

23. AMCL, its licensees and other authorised users of the logo are not permitted to alter or amend in any way the design elements of the logo.

#### Logo may be sized to meet users’ requirements

24. AMCL, its licensees and other authorised users of the logo may, subject to the requirements of Rule 19, alter the size, but not the relative proportions, of the logo to meet their individual requirements.

#### **Use of colour to meet users' requirements**

25. AMCL, its licensees and other authorised users of the logo may use any colour or colour combination in relation to the elements of the logo to meet their individual requirements.

#### **Maintenance of documentary records**

26. Licensees shall maintain sufficient documentary records to substantiate the compliance of the goods identified on the product list, as amended from time to time, with the compliance criteria provided at Rule 18. These records must be made available to AMCL and its audit representatives on request, in accordance with rule 12(iv), and under current legislative arrangements, these records may need to be provided in a court of law or to regulatory authorities to substantiate compliance with underlying statutory requirements.

#### **Registered products not to bring logo into disrepute**

27. AMCL may refuse to grant a licence, or may withdraw a licence previously granted, where it considers that the product or products concerned are likely to bring the logo into disrepute by virtue of their having been banned or recalled from sale or refused a censorship classification within Australia.

In such cases, the applicant or licensee may request a review of the decision, to be conducted according to the procedures outlined in Rule 4.

A licence would not be refused or withdrawn where the product is the subject of a voluntary recall resulting from faults or defects which are capable of being rectified or which involve particular batches of the product.

AMCL will include any such determinations in its annual report to the Australian Government.

#### **Logo not to be applied outside Australia without permission**

28. The logo may not be applied to products, packaging or point of sale material where the products are packed outside of Australia except with the express permission of AMCL.

The licensee must advise AMCL when a product is to be packed overseas and must be able to demonstrate that such products meet the compliance criteria set out in Rule 18.

#### **Independent compliance audit**

29. Licensees may be required, from time to time, to furnish relevant documentary records in accordance with rule 12 (iv) to an independent compliance auditor, who will independently determine the compliance of that licensee with these rules and conditions. Such documents may include sworn statutory declarations of compliance from time to time.

#### **Selection of companies for annual compliance audit**

30. AMCL shall conduct an annual compliance audit, to be carried out by an independent auditor and in accordance with arrangements agreed from time to time with the Australian Government, of a sample of licensees selected at random from its licensee register.

#### **Appointment and remuneration of independent compliance auditor**

31. The independent compliance auditor will be appointed and remunerated by AMCL.

#### **Appointment criteria for independent compliance auditor**

32. The independent compliance auditor must meet the following appointment criteria:

- i) the independent compliance auditor must hold appropriate tertiary or professional qualifications; and
- ii) the independent compliance auditor shall not be a member of the Australian Chamber of Commerce and Industry or a licensee of AMCL.

#### **Report of the independent compliance auditor**

33. The independent compliance auditor will report to the Chief Executive of AMCL in relation to the compliance of licensees with these rules and conditions.

#### **Decision of the independent compliance auditor is final**

34. The decisions of the independent compliance auditor are final and binding on all parties.

#### **Promotion of the logo**

35. AMCL will undertake such activities as it deems appropriate to promote the adoption, recognition and relevance of the logo in the Australian community and in export markets.

#### **Complaints and dispute resolution**

36. AMCL and all licensees shall abide by the procedures for complaints and dispute resolution as set out in these rules and conditions.

#### **Complaints received by AMCL**

37. Where AMCL receives a complaint about the use of the logo:

- i) it will inform the complainant, in writing or by email within 14 days of receiving the complaint, what actions the complainant may themselves take to pursue the matter, including their statutory consumer rights, and what actions will be taken by AMCL to investigate and resolve the complaint.
- ii) AMCL will then initiate a compliance investigation in relation to the complaint.

#### **Procedure for compliance investigation in relation to complaints**

38. AMCL shall follow the following procedures in relation to complaints:

- (a) Where the complaint involves use of the logo by a licensee:
  - i) AMCL will issue to that licensee a notice advising that a complaint has been received and describing the nature of the complaint together with a compliance investigation checklist.
  - ii) Upon receiving a compliance investigation checklist from AMCL, the licensee will respond to the Chief Executive of AMCL, in writing within 14 days, attaching the completed checklist.
  - iii) AMCL will evaluate the licensee's response to determine whether or not the complaint is valid.
  - iv) As part of the compliance investigation process, the Chief Executive of AMCL may require a licensee to undergo an independent compliance audit, conducted according to these rules and conditions.
  - v) Should the compliance investigation determine that the complaint against the licensee is valid, the sanctions detailed in these rules and conditions become available to AMCL.
- b) Where the complaint involves use of the logo by a non-licensee:
  - i) AMCL will write to the non-licensee in question setting out the circumstances under which the logo may legally be used, and requesting that the non-licensee take action to rectify the situation.
  - ii) if the complaint has not been resolved within one month of the initial notice, AMCL may have recourse to other action, including legal action and referral of the complaint to appropriate state or federal bodies.

#### **Complaints received by licensees**

39. Where a licensee receives a complaint about its use of the logo, it will respond to the complainant in writing within 14 days of receiving the complaint. The licensee will take all reasonable steps, in good faith, to resolve the complaint directly with the complainant.
- i) In its response to the complainant, the licensee will explain the basis upon which the claim in question is or is not justified and what corrective action (if any) has been taken to remedy the complaint.
  - ii) A copy of the response must be provided to the Chief Executive of AMCL.

#### **Complainant to notify AMCL of failed direct negotiation**

40. If a complainant is dissatisfied with the outcome of their direct negotiation with a licensee in relation to a dispute, the complainant may advise the Chief Executive of AMCL that the dispute remains unresolved.

#### **Compliance investigation in relation to an unresolved dispute**

41. When a complainant advises the Chief Executive of AMCL that direct negotiation with a licensee has failed, AMCL will initiate a compliance investigation in relation to the unresolved dispute in accordance with the procedures set out in Rule 36.

#### **AMCL to report to all parties on compliance investigation**

42. The Chief Executive of AMCL will, in writing and within 14 days of receiving a compliance investigation response, indicate to all parties to the dispute whether it is satisfied that the licensee is complying with these rules and conditions, what actions have been taken as a result of the compliance investigation and whether AMCL intends to pursue the matter further.
- i) If AMCL does not intend to pursue the matter further, its response to the complainant should indicate that statutory consumer rights of action may be available.

#### **Imposition of sanctions**

43. A breach of these rules and conditions by a licensee constitutes immediate grounds for the imposition of appropriate sanctions by AMCL.

#### **Sanctions available to AMCL**

44. The following sanctions are available to AMCL:
- i) withdrawal of offending representations and/or publication of corrective statements, at the expense of the licensee and as directed by the Chief Executive of AMCL;
  - ii) naming and publication of details of a breach of these rules and conditions in the annual report of AMCL;
  - iii) suspension of a licence for a specified period; and
  - iv) revocation of a licence.

#### **Right of appeal against a decision to impose a sanction**

45. In instances where a sanction is imposed on a licensee by AMCL, the licensee may request a review of the decision, to be conducted according to the procedures outlined in Rule 4.

#### **Licence fees forfeited if licence terminated, suspended or revoked**

46. In any instance where AMCL suspends or revokes a licence in accordance with these rules and conditions, or where a licensee voluntarily terminates their licence, all licence fees are forfeited to AMCL.

#### **Use of the logo by non-licensees for purposes other than certification of products**

47. The logo may be used by the following non-licensees for purposes other than certification of products:



- a) AMCL, its Foundation Members and Australian Government agencies may use the logo for administrative, educational, advertising and promotional purposes (provided that Australian Government agencies may not use the logo for promotion of the sale of goods except where its use for this purpose has been licensed in accordance with this Code of Practice);
- b) The Board of AMCL may authorise the use of the logo for similar purposes by specified persons or organisations including sponsors or sponsored organisations on terms determined from time to time by the Board, consistent with the objectives of the Code of Practice.
- c) The Board of AMCL may authorise the reproduction of the logo in publications such as textbooks and newspaper or magazine articles.

**Rules and conditions do not take precedence over statutory obligations**

48. These rules and conditions do not take precedence over any Commonwealth, State or Territory statutory requirement.

**Lodgement of rules and conditions with IP Australia**

49. These rules and conditions are lodged with IP Australia and are available for inspection by any person during the hours when IP Australia is open for business, as required under the *Trade Marks Act 1995*.

**Approval by Australian Competition and Consumer Commission**

50. Consistent with its role under the *Trade Marks Act 1995*, the rules and conditions for use of the logo included in this code of practice have been considered by the Australian Competition and Consumer Commission having regard to and satisfying itself in relation to competition and consumer protection principles.

**Amendment to rules and conditions at initiation of the Australian Government**

51. These rules and conditions can only be amended with the written approval of the Australian Government as former owner of the certification trade marks in the logo.

**Amendment must be approved by Australian Competition and Consumer Commission**

52. Any amendment to these rules and conditions must be approved by the Australian Competition and Consumer Commission and subsequently lodged with IP Australia and made available for public inspection.

**Advice of amendment to rules and conditions**

53. AMCL will advise all licensees of any change to these rules and conditions as soon as is practical.

## PART VIII

### Fee Schedule

Annual licence fees for the Australian Made, Australian Grown logo are based on the aggregated budgeted annual sales turnover for all products identified on the product list, as amended from time to time, that qualify for use of the logo.

The fee schedule will be determined from time to time by the Board of AMCL and licensees will be given six months' notice of any proposed changes.

AMCL will always publish and make available the fee schedule, and will publish six months' advance notice of changes to the fee schedule, including advice to the Australian Government.

The Board of AMCL may at its discretion waive or vary a licence fee in individual cases. Where AMCL seeks a licence fee greater than the scheduled amount, the applicant or licensee has the right to a review in accordance with Rule 4 (i), (ii), (iii), and (iv).

Licence fees will normally be payable for a twelve month period, but a licence for a period other than twelve months may be granted at the discretion of the Board. In such cases the licence fee shall be calculated on a pro rata basis.

## PART IX

### Appendix: Use of logo with the representation "Australian"

The logo may be used in conjunction with the representation "Australian" where:

- (i) the good on which the logo is used is exported and not re-imported; and
- (ii) the good meets all the criteria set out in at least one of 18 (a), 18 (b), 18 (c) or 18 (d); and
- (iii) where the good meets the criteria under Rule 18 (b) (i.e. to use an 'Australian Made' representation), use of the 'Australian' representation does not give a misleading impression as to the origin of the major ingredients or components of the product.

Where a product using this representation is returned to Australia, the good must be relabelled so that it bears the appropriate representation under Rule 18.

Marketing material specific to a particular product or products and carrying the logo with the 'Australian' representation must not be used in Australia.





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Revised July 2011