

# **Information Requirements for Foods Exempt from Bearing a Label**

**User guide to Information Requirements for Foods Exempt from Bearing a Label**

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## Background

**In this user guide, the ‘old Code’ means Volume 1 of the *Food Standards Code* (the *Australian Food Standards Code*). The ‘new Code’ means Volume 2 of the *Food Standards Code* (the *Australia New Zealand Food Standards Code*). The ‘New Zealand regulations’ means the *New Zealand Food Regulations 1984*.**

In adopting the new Code in November 2000, the Ministerial Council agreed to a two-year transition period. After this, the new Code will replace both the old Code and the New Zealand regulations.

During this two-year phase-in period, foods in Australia may comply with either the old Code or the new Code (but not a combination of these). In New Zealand, foods may comply with the old Code or the new Code or the New Zealand regulations (but not a combination of these).

After this, the old Code and New Zealand regulations will be repealed and all food sold in Australia and New Zealand will have to comply with the new Code.

The new Code will mean changes in the way manufacturers and retailers make and present food for sale.

The Australia New Zealand Food Authority (ANZFA) has developed this user guide, in consultation with Australian and New Zealand government and industry representatives, to help manufacturers and retailers interpret and apply provisions of standards in the new Code which apply to foods that are exempt from bearing a label. The guide may also be used by food officers to help interpret food standards in the new Code.

This user guide, unlike the standard itself, is not legally binding. If in any doubt about interpreting the standards, you should seek independent legal advice.

As well as complying with food standards requirements, you must also continue to comply with other legislation. In Australia, this legislation includes the *Trade Practices Act 1974*, the *Imported Food Control Act 1992*, and State and Territory Fair Trading Acts and Food Acts. In New Zealand, this legislation includes the *Food Act 1981* and *Fair Trading Act 1986*.

## **Purpose**

This user guide relates to provisions of the following standards that apply to foods that are exempt from bearing a label setting out all of the information prescribed in the new Code:

Standard 1.2.1 – Interpretation and Application of Labelling and Other Information Requirements

Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations

Standard 1.2.8 – Nutrition Information Requirements

Standard 1.2.10 – Characterising Ingredients and Components of Food

Standard 1.5.1 – Novel Foods

Standard 1.5.2 – Food Produced Using Gene Technology

Standard 1.5.3 – Irradiation of Food

Standard 2.2.1 – Meat and Meat Products

Standard 2.2.3 – Fish and Fish Products

Standard 2.6.3 – Kava.

This guide is intended to help retailers and manufacturers interpret and apply the standards they should consider when deciding which foods are exempt from bearing a label and providing information in other ways to consumers about those foods.

## **What has changed?**

The new Code places more emphasis on retailers providing information about the food they sell but there is flexibility in how they may do this.

The changes recognise that consumers have the right to adequate information for all food whether packaged or unpackaged, but exempt a wider range of food from bearing a label. The new approach allows information to be displayed on or in connection with the display of food, or given verbally to consumers on request in specific situations (except in special cases where advisory or warning statements are required, a nutrition claim is made, percentage labelling is required, genetic modification or irradiation is declared, the food is novel and specific

labelling is required, or certain provisions of standards in relation to meat, fish, or kava apply).

It is important that retailers and manufacturers take note of the types of questions that consumers ask and consider establishing a system for formalising communication of this information.

### **Which foods are exempt from bearing a label?**

The new Code generally requires foods for retail sale or catering purposes to bear a label setting out all the information prescribed in the Code. Foods for catering purposes means those foods for use in restaurants, canteens, schools, caterers or self-catering institutions, where food is offered for immediate consumption. There are exceptions to this labelling requirement, so that the following foods do not usually need to bear a label setting out all of the information prescribed in the Code (although they must comply with certain information requirements):

- food not in a package;
- food in inner packages not designed for sale without the outer package, other than individual portion packs which must bear a label containing a declaration of certain substances in accordance with clause 4 of Standard 1.2.3 (e.g. gluten, peanuts etc);
- food made and packaged on the premises from which it is sold (e.g. foods made, packaged and sold from display cabinets at cafes, delicatessens, butchers, and bakeries; pre-packaged filled rolls/sandwiches/bagels made, packaged and sold from a sandwich bar);
- food packaged in the presence of the purchaser (e.g. bulk bin food, delicatessen food, self-serve salads);
- whole or cut fresh fruit and vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables;
- food delivered packaged and ready for consumption at the express order of the purchaser (e.g. meals on wheels, ordered food delivered to work or home); and
- food sold at fund raising events.

There is also another category of food that is exempt from bearing a label. Food not for retail sale, not for catering purposes, or food that is supplied as an intra company transfer must generally bear a label containing the name of the food, its lot identification, and the name and business address in Australia or New Zealand of the supplier of the food (see clause 3 of Standard 1.2.1). However, this food does not have to bear such a label if it:

- is not in a package; or
- is in an inner package/s contained in an outer package where the label on the outer package includes the three kinds of information required; or
- is in a ‘transportation outer’ where the information that would otherwise be required on the outer is clearly discernable on the labels on or attached to the packages within the outer.

A ‘transportation outer’ is a package that encases packaged or unpackaged foods for the purpose of transportation and distribution and which is removed before the food is used or offered for retail sale or which is not taken away by the purchaser of the food.

It is also important to note that although food not for retail sale, not for catering purposes, or supplied as an intra-company transfer requires only limited or no labelling, it must be accompanied by sufficient information in relation to the food to enable the purchaser to comply with compositional, labelling, and other declaration requirements of the Code, should a purchaser or relevant authority request this.

*Clause 2(1)(a)–(g) of Standard 1.2.1 – Application of Labelling and Other Information Requirements lists foods for retail sale or catering purposes that are exempt from bearing a label setting out all the information prescribed in the new Code.*

## **What information must be provided in writing for foods exempt from bearing a label?**

Foods for retail sale or catering purposes that are exempt from bearing a label setting out all the information prescribed in the new Code are exempt from the general labelling requirements of the new Code. However, for reasons of health and safety and to provide consumers with important facts about some foods, certain information must be provided in relation to these foods.

***Prescribed warning statements that must be written and displayed on or in connection with the display of the food***

Foods that require prescribed written warning statements must still provide them even if they are otherwise exempt from bearing a label. These prescribed statements must always be written and displayed on or in connection with the display of the food. All such statements and the wording that must be used are listed in the following table.

<b>Food</b>	<b>Reference in new Code</b>	<b>Mandatory prescribed statement</b>
Foods containing royal jelly	Clause 4 of Standard 1.1.3 applies Standard K2 of the old Code & New Zealand regulations mandatory food standard	ANZFA is still considering the warning statement in relation to royal jelly in Proposal P154. In the interim, in Australia, Standard 1.1.3 of the new Code applies the warning statement prescribed in clause 8 of Standard K2 of the old Code to foods under the new Code. This means that this warning statement from the old Code must be included on the label of the food. In New Zealand, the mandatory food standard remains in force.
Kava	Standard 2.6.3	'Use in moderation'; 'May cause drowsiness'; and 'The sale and distribution of kava in Australia is subject to the National Code of Kava Management'.

***Are there any other exempt foods that must have written information?***

There are five situations where information must **always** be written. They are:

1. If a genetically modified food is displayed for retail sale unpackaged, all the information that is required on the label of a genetically modified food sold in a package must be displayed on or in connection with the display of the food, except where the unpackaged food is intended for immediate consumption and is prepared and sold for immediate consumption from food premises and vending vehicles, including restaurants, take-away outlets, caterers, or self-catering institutions.

The information required on the label on a package of genetically modified food includes the statement ‘genetically modified’ in conjunction with the name of the food, ingredient or processing aid displayed on or in connection with the display of the food.

*Standard 1.5.2 – Food Produced Using Gene Technology defines ‘genetically modified food’, ‘novel DNA and/or novel protein’ and ‘altered characteristics’ and lists labelling requirements and exemptions for food produced using gene technology.*

For more information on the declaration of genetically modified foods see the user guide on labelling genetically modified food.

2. Irradiated food that is otherwise exempt from general labelling requirements must have a written statement that the food, or an ingredient or component of the food, has been treated with ionising radiation, e.g. ‘Treated With Ionising Radiation’; ‘Treated With Ionising Electrons; or ‘Irradiated (name of food)’.

*Standard 1.5.3 – Irradiation of Food contains specific labelling provisions for irradiated food.*

3. The prescribed name of the food must be displayed in connection with the food where a fermented comminuted manufactured meat or a fermented comminuted processed meat product is offered for sale unpackaged.
4. The presence of offal in a food must always be declared in writing.

*Standard 2.2.1 – Meat and Meat Products contains specific labelling provisions for meat and meat products.*

For more information on the labelling of meat and meat products see ANZFA’s user guide on meat and meat products.

5. Individual portion packs not designed for separate retail sale (i.e. those sold inside a fully labelled outer package) must bear a label containing the declaration of the presence of any substance required to be declared under clause 4 of Standard 1.2.3 because it may cause reactions in susceptible people (see *Declaration of certain substances*).

*Standard 1.2.1 – Interpretation and Application of Labelling and Other Information Requirements lists exemptions and exceptions to exemptions for general labelling requirements.*

For further information on warning and advisory statements and declarations see ANZFA’s user guide on warning and advisory declarations.

## **What other information is required for foods exempt from bearing a label and how should it be given?**

Information about the following foods for retail sale or catering purposes that are exempt from bearing a label setting out all the information prescribed in the new Code may be either:

- displayed on or in connection with the display of the food; or
- provided (verbally or in writing) to the purchaser on request.

### *Information required for certain foods*

<b>Food</b>	<b>Reference in new Code</b>	<b>Information requirement</b>
Unpasteurised milk and liquid milk products.	Table to clause 2 of Standard 1.2.3 – Mandatory Advisory Statements and Declarations.	Statement to the effect that the product has not been pasteurised.
Food containing aspartame.	Table to clause 2 of Standard 1.2.3 – Mandatory Advisory Statements and Declarations.	Statement to the effect that the product contains phenylalanine.
Unpasteurised egg products.	Table to clause 2 of Standard 1.2.3 – Mandatory Advisory Statements and Declarations.	Statement to the effect that the product is unpasteurised.
Food containing quinine.	Table to clause 2 of Standard 1.2.3 – Mandatory Advisory Statements and Declarations.	Statement to the effect that the product contains quinine.
Kola beverages containing	Table to clause 2 of Standard	Statement to the effect that

<b>Food</b>	<b>Reference in new Code</b>	<b>Information requirement</b>
added caffeine.	1.2.3 – Mandatory Advisory Statements and Declarations.	the product contains caffeine.
Food containing guarana or extracts of guarana.	Table to clause 2 of Standard 1.2.3 – Mandatory Advisory Statements and Declarations.	Statement to the effect that the product contains caffeine.
Foods containing lactitol, maltitol, maltitol syrup, mannitol or xylitol above specified limits.  (Clause 5 of Standard 1.2.3 provides details of limits)	Clause 5 of Standard 1.2.3 – Mandatory Advisory Statements and Declarations.	Advisory statement that excess consumption of the food may have a laxative effect.
Meat and meat products.	Standard 2.2.1 – Meat and Meat Products.	Declaration of the maximum proportion of fat in minced meat (expressed in g/100g) wherever express or implied reference is made in relation to the fat content of minced meat.  Declaration that meat is either formed or joined, in conjunction with cooking instructions indicating how the microbiological safety of the product can be achieved, wherever raw meat which has been formed or joined in the semblance of a cut of meat using a binding system without the application of

Food	Reference in new Code	Information requirement
		heat, whether coated or not. <b>This information has to be provided to the purchaser whether requested or not, e.g. via information leaflets.</b>
Fish and fish products.	Standard 2.2.3 – Fish and Fish Products.	Declaration that the fish is either formed or joined, in conjunction with cooking instructions indicating how the microbiological safety of the product can be achieved, where raw fish has been formed or joined in the semblance of a cut or fillet of fish using a binding system without the application of heat, whether coated or not.  <b>This information has to be provided to the purchaser whether requested or not, e.g. via information leaflets.</b>

### ***Declaration of certain substances***

The presence of any of the following substances in a food as an ingredient, an ingredient of a compound ingredient, a food additive, or a processing aid or component of a processing aid, must be displayed on or in connection with the display of the food or provided verbally or in writing to the purchaser on request as they may cause reactions in susceptible people:

- cereals containing gluten and their products, namely, wheat, rye, barley, oats and spelt and their hybridised strains other than where these substances are present in beer and spirits standardised in Standards 2.7.2 and 2.7.5 respectively;
- crustacea and their products;
- egg and egg products;
- fish and fish products;
- milk and milk products;
- nuts and sesame seeds and their products;
- peanuts and soybeans and their products;
- added sulphites in concentrations of 10 mg/kg or more;
- royal jelly presented as a food or royal jelly present in a food;
- bee pollen; and
- propolis.

*The table to clause 4 of Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations lists substances that must be declared.*

For more information on statements and declarations for foods that may cause adverse reactions in susceptible people see ANZFA’s user guide on warning and advisory declarations.

### **What nutrition information must be given verbally or in writing?**

Foods exempt from bearing a label setting out all the information prescribed in the Code are exempt from nutrition information requirements **unless** a nutrition claim is made in relation to that food (e.g. ‘good source of vitamins’ or ‘high in iron’).

If a nutrition claim is made in relation to this food, the same information required for a nutrition information panel on packaged food (as set out in clause 5 of Standard 1.2.8 – Nutrition Information Requirements) must be declared in a nutrition information panel

displayed on or in connection with the display of the food, or provided to the purchaser on request.

For more information on the requirements for nutrition information panels see ANZFA's user guide on nutrition information requirements, which explains Standard 1.2.8 – Nutrition Information Requirements.

### **What percentage labelling information must be given verbally or in writing?**

Apart from the exempt foods described below, whenever a food for retail sale that requires percentage labelling is either:

- unpackaged; or
- made and packaged on the premises from which it is sold;

a declaration of the percentage of the characterising ingredients and characterising components of the food must be displayed on or in connection with the display of the food, or provided to the purchaser on request.

### **Are any foods exempt from percentage labelling?**

The following foods are exempt from percentage labelling:

- single ingredient foods;
- foods comprising a single category of ingredients;
- food assembled in the presence of the purchaser;
- food for catering purposes;
- food delivered packaged and ready for immediate consumption at the express order of the purchaser;
- prepared filled rolls, sandwiches, bagels and similar products;
- food sold at fund raising events;

- food in a small package;
- infant formula products; and
- cured and/or dried meat flesh in whole cuts or pieces.

There are also many foods that do not require percentage labelling because they do not have a characterising ingredient or component.

*Subclauses 1(f)–(i) & paragraphs 2(3)(a)–(h) of Standard 1.2.10 – Characterising Ingredients and Characterising Components of Food list foods exempted from percentage labelling.*

For more information on the requirements for percentage labelling see ANZFA’s user guide on percentage labelling.

## **Where can I get more information?**

For more information on the new standards call the:

### **Standards Information Unit**

**1300 652 166** (Australia)

**0800 441 571** (New Zealand), or

Email: [advice@anzfa.gov.au](mailto:advice@anzfa.gov.au)

### **See also**

ANZFA’s user guides on:

- Percentage Labelling
- Nutrition Information Requirements
- Warning and Advisory Declarations
- Meat and Meat Products

See also the user guide on Labelling Genetically Modified Food.