

EXPOSURE DRAFT



Australian Government
**Department of Industry,
Innovation and Science**



Country of Origin Labelling Consultation package - Item 5

Draft safe harbour defence amendments

Country of Origin Labelling Taskforce
4 December 2015

<https://consult.industry.gov.au/cool-taskforce/cool>

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2013-2014-2015

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES/THE SENATE

EXPOSURE DRAFT (26/11/2015)

Competition and Consumer Amendment (Country of Origin) Bill 2015

No. , 2015

(Industry, Innovation and Science)

**A Bill for an Act to amend the *Competition
and Consumer Act 2010*, and for related
purposes**

EXPOSURE DRAFT

Contents

1	Short title.....	1
2	Commencement	1
3	Schedules	2
	Schedule 1—Amendments	3
	<i>Competition and Consumer Act 2010</i>	3

EXPOSURE DRAFT

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A Bill for an Act to amend the *Competition and Consumer Act 2010*, and for related purposes

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5 The Parliament of Australia enacts:

5

1 Short title

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This Act may be cited as the *Competition and Consumer Amendment (Country of Origin) Act 2015*.

8

2 Commencement

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10

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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Commencement information

Column 1

Column 2

Column 3

Provisions

Commencement

Date/Details

1. The whole of this Act

The day this Act receives the Royal Assent.

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

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(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

EXPOSURE DRAFT

1 **3 Schedules**

2 Legislation that is specified in a Schedule to this Act is
3 amended or repealed as set out in the applicable items in the
4 Schedule concerned, and any other item in a Schedule to
5 this Act has effect according to its terms.

1 **Schedule 1—Amendments**

2 ***Competition and Consumer Act 2010***

3 **1 Subsection 2(1) (definition of *substantially transformed*) of**
 4 **Schedule 2**

5 Omit “section 255(3)”, substitute “section 255(2)”.

6 **2 Subsections 255(1) to (4) of Schedule 2**

7 Repeal the subsection, substitute:

8 (1) A person does not contravene section 18, 29(1)(a) or (k) or
 9 151(1)(a) or (k) only by making a representation of a kind
 10 referred to in an item in the first column of this table, if the
 11 requirements of the corresponding item in the second
 12 column are met.

13

Country of origin representations

Item	Representation	Requirements to be met
1	A representation that goods were grown in a particular country	(a) each significant ingredient or significant component of the goods was grown in that country; and (b) all, or virtually all, processes involved in the production or manufacture of the goods happened in that country.
2	A representation that goods are the produce of a particular country	(a) the country was the country of origin of each significant ingredient or significant component of the goods; and (b) all, or virtually all, processes involved in the production or manufacture of the goods happened in that country.
3	A representation that goods were made or manufactured in, or otherwise originate in, a particular country	(a) the goods were last substantially transformed in that country; and (b) the representation is not a representation to which item 1 or 2 of this table applies.

EXPOSURE DRAFT

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- 1 (2) Goods were ***substantially transformed*** in a country if:
2 (a) the goods met, in relation to that country, the
3 requirements of item 1 or 2 in the second column of the
4 table in subsection (1); or
5 (b) the goods:
6 (i) were subjected in that country to one or more
7 processes that materially changed the identity or
8 essential character of all of their ingredients or
9 components that were imported into that country;
10 and
11 (ii) were new and fundamentally different from all of
12 their ingredients or components that were imported
13 into that country.
- 14 (3) Without limiting subsection (2), the regulations:
15 (a) may prescribe (in relation to particular classes of goods
16 or otherwise) processes or combinations of processes
17 that, for the purposes of that subsection, do not
18 materially change the identity or essential character of
19 any ingredients or components of goods; and
20 (b) may include examples (in relation to particular classes
21 of goods or otherwise) of processes or combinations of
22 processes that, for the purposes of that subsection,
23 materially change the identity or essential character of
24 any ingredients or components of goods.

3 Subsection 255(6) of Schedule 2

25 Repeal the subsection.
26

4 Subsections 255(8) and (9) of Schedule 2

27 Repeal the subsections, substitute:
28

- 29 (8) For the purposes of item 1 in the table in subsection (1) in
30 relation to particular goods, packaging materials are not
31 treated as ingredients or components of the goods.

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- 1 (9) For the purposes of item 1 in the table in subsection (1) in
2 relation to an ingredient or component, water added to the
3 ingredient or component is treated as having the same origin
4 as the ingredient or component, regardless of its actual
5 origin, if:
6 (a) the ingredient or component has been dried or
7 concentrated by the evaporation of water; and
8 (b) the added water returns the water content of the
9 ingredient or component to no more than its natural
10 level.

11 **5 Sections 256 and 257 of Schedule 2**

12 Repeal the sections.