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## **New Zealand**

### **Food and Agricultural Import Regulations and Standards - Narrative**

#### **FAIRS Country Report**

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**Report Highlights:**

This report outlines regulatory requirements for food and agricultural products exported to New Zealand. The sections on labeling requirements, copyright and trademark laws have been updated since the last report.

## **SECTION I: FOOD LAWS**

### **Food Legislation**

In New Zealand the Food Act defines relevant terms, such as, food and sale; outlines prohibitions on sale (including unfit food); prohibits misleading labeling and advertising; provides powers of enforcement and offences; and, contains provisions to make regulations and food standards.

In March 2014, the Food Act became law, and will come into force as of March 1, 2016. The [Food Act 2014](#) will replace the [Food Act 1981](#) when it is enforced in March 2016. There is a three-year transition period in the Act, which will start from March 1, 2016. The new [Food Act 2014](#) introduces some fundamental changes to New Zealand's domestic food regulatory regime. The Act aims to provide an efficient, effective and risk-based food regulatory regime that manages food safety and suitability issues, improves business certainty and minimizes compliance costs for business. <http://www.foodsafety.govt.nz/policy-law/food-act-2014/>

Other important legislation and international agreements include:

- The Joint Food Standards Treaty, which committed the Australian and New Zealand Governments to a joint food standards system;
- The Agricultural Compounds and Veterinary Medicines Act of 1997;
- Animal Products Act 1999 and Animal Products Amendment Act 2002;
- Wine Act 2003
- The Trans Tasman Mutual Recognition Act, which allows products made or imported into New Zealand that meet New Zealand's legal requirements, to also be sold in Australia and vice versa. (Some products are currently exempted from the agreement, including each country's high-risk food list.)
- The Sanitary and Phytosanitary Agreement and World Trade Organization Agreements; and,
- Codex Alimentarius, which is the international body for setting food standards.

### **Australia New Zealand Joint Food Standards Code**

Australia and New Zealand signed an agreement in 1995 that resulted in the formation of a joint food regulation agency, Food Standards Australia New Zealand (FSANZ), and development of the Australia New Zealand Food Standards Code (otherwise known as [the Code](#)). The Code was adopted in New Zealand in February 2001 and took full effect in December 2002.

The Code, which is administered by FSANZ, contains requirements relating to food composition, including foods requiring premarket assessment such as novel foods, irradiated foods and foods produced using genetic modification. It is broken down into four chapters: general food standards; commodity standards; food safety standards (Australia only); and primary product and processing standards (Australia only). Only the chapters on general food standards and commodity standards are applicable to New Zealand. In New Zealand, the standards in the Code are enforced by the Ministry for Primary Industries (MPI).

A number of areas are outside the scope of the joint food standards system and are covered under the [New Zealand Food Standards](#). These include:

- Maximum residue limits of agricultural compounds in food;
- Food hygiene and food safety provisions (including high risk imported foods);
- Export requirements relating to third country trade; and,
- Supplemented food.

The Supplemented Food Standard, which regulates food-type dietary supplements came into effect on March 31, 2010. These foods were previously regulated under the New Zealand Dietary Supplement Regulations 1985. A supplemented food is defined as a "product that is represented as a food that has a substance or substances added to it or that has been modified in some way to perform a physiological role beyond the provision of a simple nutritive requirement." The standard makes it clear that several types of products are not supplemented foods. Those products include therapeutic type dietary supplements, medicines, controlled drugs or restricted substances, formulated meal replacements or formulated supplementary foods and formulated caffeinated beverages. Most of the regulatory requirements that apply to food generally under the Food Standards Code also apply to supplemented food. The main difference is that there are fewer restrictions associated with the use of vitamins, minerals and bio-active substances in supplemented food. The Supplemented Food Standard does not permit the addition of substances that are prohibited or restricted in the Food Standards Code or that have been recognized as having negative health effects when consumed. The Standard also prohibits the use in supplemented food of any substance that is intended to have an intoxicating effect on any person who consumes it. Therapeutic claims are not permitted on Supplemented Food.

## **Key Organizations**

New Zealand organizations that play key roles in regulating the food supply include: Ministry for Primary Industries and Food Standards Australia New Zealand (FSANZ). In 2011, the New Zealand Food Safety Authority (NZFSA) and Biosecurity New Zealand (BNZ) merged with the Ministry of Agriculture and Forestry (MAF). In April 2012, the Ministry of Fisheries was then merged with expanded MAF to create the Ministry for Primary Industries (MPI)

## **Ministry for Primary Industries**

The Ministry for Primary Industries (MPI) is responsible for food safety in New Zealand. Part of MPI's responsibilities is to maximize export opportunities and improve sector productivity while protecting consumers of New Zealand food, whether in New Zealand or overseas. Additionally, MPI has responsibility to provide effective food regulation for food produced or consumed in New Zealand including imported and exported food products.

An estimated 80% of all food produced in New Zealand is exported, which provides just over half of the country's export earnings. New Zealand often plays a leadership role in international standard setting bodies, such as the Codex Alimentarius Commission (the standard setting agency for trade in food) and the OIE (the international organization for animal health).

The Ministry for Primary Industries administers the following legislation:

- Food Act 1981 (the [Food Act 2014](#) will replace the 1981 Act in March 2016)
- The Animal Products Act 1999
- The Agricultural Compounds and Veterinary Medicines Act 1997
- The Wine Act 2004

A significant MPI initiative has been the Domestic Food Review which commenced in 2003. It was initiated to update and stream-line New Zealand's decades-old regulatory program. Among other things, it was intended to address inequities in the way the food industry is regulated across the country; clarify the roles of the regulators, including the New Zealand Food Safety Authority (now MPI) and the Public Health Units and Local Councils; and stem the continued rise in the number of reported food borne illnesses.

The Domestic Food Review initiated the Food Bill. The Food Bill became law on March 2014, and is called the [Food Act 2014](#). It proposes to move food regulation from an inspection-based system to a risk-based approach. This means that instead of the responsibility for food safety being placed on inspectors to find any problems, responsibility is moved to the food operators and food importers, who must take primary responsibility for providing safe and suitable food. It aims to improve business certainty and minimize compliance costs for businesses. The [Food Act 2014](#) includes an 18 month period between enactment and commencement to allow for development of regulations that will implement the framework established by the Act. The [Food Act 2014](#) will eventually replace the Food Act 1981 and the Food Hygiene Regulations 1974 and will amend the Animal Products Act 1999 and the Wine Act 2003.

In concert with the Domestic Food Review, the former NZFSA implemented the outcomes of the Imported Food Review, which was completed in 2004. The Imported Food Review covered all imported foods and beverages, agricultural compounds (including fertilizers and animal feeds), veterinary medicines and pet foods. Under the new regime, New Zealand will move away from a system that relies on inspection and testing as the primary way of ensuring food safety, to a system that includes assessment and recognition of controls in place overseas that ensures imported food meets or is equivalent to New Zealand's standards for domestic food. The new regime categorizes food according to risk; places greater emphasis on importers in taking steps to ensure food safety; and recognizes exporting country systems and assurances to ensure they meet or are equivalent to New Zealand's standards for domestic food. New Zealand's objective is to place more responsibility for managing food safety on the importers to source food from countries that produce and export food that meets the New Zealand standard or equivalent. Implementation, which will take place in stages over the next five years, will require increased collaboration among agencies and, in some cases, legislative changes. The new system formally recognizes the role that the competent authority in exporting countries can be the "risk manager" for the importing country. Recommendations from the Imported Food Review are being implemented in the [Food Act 2014](#).

In April 2009, under the Food Act 1981 (In March 2016 it will be replaced by Food Act 2014), two standards were implemented relating to imports. One provides importers with a clear indication of what the Ministry for Primary Industries (MPI) expects importers to do to ensure the food they import for sale is safe and suitable for human consumption. The other standard requires importers to provide details such as their company's trading name and physical address, a contact person's name and postal address with MPI. They will also be required to keep, or have access to, records that show how the products they import for sale comply with all applicable New Zealand legislation, that their food products have been produced, transported and stored safely, as well as purchase records and relevant supplier information. This has enabled MPI to develop a contact database. The database allows MPI to communicate more effectively with all food importers and to assist importers to prepare for the future imported food regime (to be introduced under legislation arising from the Food Bill). The database also enhances the ability of MPI to respond to food incidents and emergencies.

Standards for high risk foods are being reviewed and three - bivalve molluscan shellfish, beef for BSE, and Roquefort and raw milk extra hard grating cheese - have been issued under the existing Food Act based on the new imported food regime. This acknowledges that the risks are best managed through the production and processing stages and therefore requires risks to be managed at origin.

In October 2009, the Minister for Food Safety approved a regulatory framework, which allows both New Zealand production of some raw milk products and the importation of a similar range of raw milk products, while maintaining an acceptable level of protection for consumers. Previously, only a small range of raw milk cheeses have been allowed to be imported into New Zealand, but could

not be made in New Zealand.

## **Food Standards Australia New Zealand**

[Food Standards Australia New Zealand \(FSANZ\)](#), a statutory authority operating under the (Australian Commonwealth) *Food Standards Australia New Zealand Act 1991*, was established in 2002. FSANZ develops standards that are contained within the Australia New Zealand Food Standards Code. FSANZ's primary objectives are: the protection of public health and safety; provision of adequate information to consumers to make informed choices; and the prevention of misleading or deceptive conduct. As such, FSANZ is responsible for setting food standards that govern the content and labeling of foods sold in both New Zealand and Australia. The standards cover food composition, labeling and contaminants, including microbiological limits. In New Zealand, MPI enforces these standards.

In March 2008, a standard developed by FSANZ requiring the mandatory replacement of non-iodized salt with iodized salt in bread was gazetted in New Zealand. FSANZ approved the mandatory replacement because there is a mild to moderate population-wide iodine deficiency in New Zealand particularly in new mothers and children's growth. FSANZ selected bread as the preferred food vehicle because it is eaten widely and consistently throughout the entire population. All organic bread will be exempt from mandatory iodine fortification. This standard was implemented in October 2009, which gave the New Zealand salt industry time to increase production of iodized salt.

The FSANZ board approved a draft food standard for nutrition, health and related claims in March 2008. The standard was notified to the Australia New Zealand Food Regulation Ministerial Council in April 2008. Under the standard, health claims relating to nutrients and biologically active substances can only be made on foods which are considered eligible on the basis of their overall nutrient profile. The nutrient profile is determined by the Nutrient Profile Scoring Criteria (NPSC), which was developed by FSANZ. The NPSC takes account of energy, saturated fat, sugar, sodium, protein, fruit, vegetable, nut and legume content. The review process is due to be finalized by December 2012.

In October 2009, the Council of Australian Governments (COAG) and the Australia and New Zealand Food Regulation Ministerial Council (the Ministerial Council) announced a comprehensive review of food labeling. An independent review panel has been established to:

- examine the policy drivers impacting on demands for food labeling;
- consider the role for government in the regulation of food labeling;
- consider what policies and mechanisms are needed to ensure that government plays its optimum role;
- consider principles and approaches to achieve compliance with labeling requirements, and appropriate and consistent enforcement;
- evaluate current policies, standards and laws relevant to food labeling and existing work on health claims and front of pack labeling; and,
- make recommendations to improve food labeling law and policy.

The report released on January 2011 can be found at <http://www.foodlabellingreview.gov.au/internet/foodlabelling/publishing.nsf/content/labelling-logic>. The report contains more than 60 recommendations across a broad range of labeling issues. In December 2011, the legislative and Governance Forum on Food Regulation agreed its response to Labelling Logic, the final report of the independence Panel for the Review of Food Labeling Law and Policy. The Government response can be found at [Governance Forum on Food](#)

## [Regulation response to the Food Labeling Law and Policy Review.](#)

### *Biosecurity in New Zealand*

New Zealand has strict biosecurity rules. Goods with the potential to harbor organisms, organic material, or other things that may cause unwanted harm to natural and physical resources or human health in New Zealand cannot be imported into New Zealand unless an import health standard has been developed.

Import Health Standards are put in place to manage the import of risk items into New Zealand that pose a biosecurity threat. These standards include the requirements that must be undertaken in the exporting country, during transit and during importation, before biosecurity clearance can be given. The standards exist in order to mitigate the risks associated with bringing items into New Zealand.

Briefly, the process for developing import health standards is as follows:

1. Every year, around December, MPI invites applications or reconfirmations of requests for import health standard work for the year starting next June, along with an indication of whether applicants would be willing to fund the work.
2. MPI compiles a list of all the "live" requests for import health standard work for the coming year.
3. MPI officials pre-screen the requests using a set of prioritization criteria. The pre-screen identifies those requests that clearly will not be prioritized high enough to be progressed during the year. The prioritization criteria include: strategic fit with the New Zealand Government's goals, net benefit for New Zealand, technical difficulty of the work, acceptability of the result for New Zealanders, and the availability of suitable resources.
4. Once MPI has a prioritized list of requests, the Crown-funded resources are matched to the highest priority items to form the Crown-funded portion of the work program.
5. The remaining applicants who indicated that they would be prepared to fund their application will then, in priority order and provided suitable contracted or staff resources are available, be invited to consider funding development of their standard.
6. The import health standard development work program is then finalized, comprising both Crown and privately funded resources.
7. Applicants are then advised of the result for their application and the prioritized list of all requests and the annual work program published on the MPI website.

Requests for the development of new import health standards can be submitted to MPI at any time, although MPI prefers official requests to be submitted via agreed official channels. Requests are reviewed at the time of receipt in case they can be covered within the existing work program. If not, the request is held until the next round of prioritization and work program update.

In September 2012, amendments were made to the Biosecurity Act under the "The Biosecurity Law Reform Bill 2012". The amendments are relevant across the whole of the biosecurity system, and are the most significant change to the Biosecurity Act since 1997.

Key amendments include:

- improving powers to gather information and use it for risk profiling so as to ensure that resources are allocated according to the level of risk;
- adding a new duty that requires importers to ensure that their goods comply with the

- applicable import rules;
- improving the compliance and enforcement options for dealing with non-compliance at the border and post-border;
- improving the tools for dealing with the biosecurity risks that are presented by craft;
- adding a new part to the Biosecurity Act to provide the legal framework for Government-Industry Agreement for readiness and response (GIA);
- adding new provisions relating to the FarmsOnline database to support incursion responses; and
- adding new provisions that allow the Biosecurity Act to be used to manage biosecurity risks in the Exclusive Economic Zone.

The Biosecurity Law Reform Bill 2012 also amended provisions around import health standard review. Previously, the section 22A independent review provision was available for any submitter to trigger where, in their view, MPI had not given adequate consideration of the relevant science.

Under section 24 of the amended Act, those consulted during the development of an import health standard can request a review to determine whether MPI gave sufficient regard to significant scientific concerns raised during the consultation process. If this happens, the Director-General must ensure a process is in place to establish an independent review panel to address the issue. Requests must be made in writing to the Director-General and must: (a) identify the part of the person's submission that explains the person's significant concern with the Chief technical officer's consideration of the scientific evidence; (b) explain why the person considers that there has been insufficient regard to the scientific evidence; and, (c) include any additional scientific information related to the concern that was not provided to the chief technical officer during consultation.

## **SECTION 11: LABELING REQUIREMENTS**

Food sold in New Zealand must be labeled in accordance with the Australia New Zealand Food Standards Code (otherwise known as the Code). The Code is available online at the FSANZ website: [www.foodstandards.gov.au](http://www.foodstandards.gov.au).

### **Food Labeling Requirements**

Most food for sale in New Zealand must be clearly labeled in English (other languages can be used in addition to English, as long as they do not contradict the information). Specific health and safety information about some food products must be given to consumers even when a complete label is not required (for example the presence of caffeine or allergenic substances). Additional labeling statements may be required under the individual food product standards specified in the Code. (See Standard 1.2.2 - 1.2.10 of the Food Code for specifics.)

### **Labels must include the following information:**

- **The name of the food:** Food products must be accurately named and/or described on the label. If a name is specified for the food in the Food Standards Code then this name must be used.
- **Lot identification:** This is information that clearly indicates the premises where the food was packaged and/or prepared and the batch from which it came, to assist should there be

- a food recall. A date mark and supplier's address may be sufficient.
- **Name and address:** The supplier's name and business (street) address in New Zealand or Australia. (Note: "Supplier" includes packer, manufacturer, vendor or importer of the food.)
  - **Mandatory warning statements, advisory statements and declarations for certain ingredients/substances:** Some products must have special advisory and warning statements about the food or ingredients/substances in a food (e.g. food containing unpasteurized egg must advise/state that the product contains unpasteurized egg and foods containing royal jelly must include a specific *warning* statement). This information must be available even where a complete label is not required. Warning statements must appear on labels on 3mm type (1.5mm for small packages).
  - **Mandatory declaration of certain ingredients/substances:** The presence of common food allergens and food/ingredients that commonly cause food intolerances (e.g. peanuts, gluten) must be declared on food labels, or where a complete label is not required, the information must be available to the consumer.
  - **Ingredient list:** All ingredients must be listed by their common name, a description or, where specified in the Food Standards Code, the generic name, in descending order of in-going weight. Ingredients are any substances used in the preparation, manufacture and handling of a food and include food additives, compound ingredients (any ingredient that is itself made up of two or more ingredients), and added water.
  - **Food additives:** The class name of the additive (where specified in the Food Standards Code) followed by the additive's specific name or code number must be declared. Where the additive is a vitamin or mineral the class name "vitamin" or "mineral" may be used.
  - **Date marking:** Most packaged foods with a shelf life of less than two years must have one of the following date marks:
    - **"Use By"** dates, which relate to food safety. Foods with a "Use By" date should not be consumed after the date indicated for health and safety reasons. Food cannot be sold beyond their "Use By" date.
    - **"Best Before"** dates, which relate to quality. Foods should be consumed by their "Best Before" date to ensure quality. Foods can be sold beyond their "Best Before" date provided it is still fit for consumption.
    - **"Baked On"** and **"Baked For"** dates can be used for breads with a shelf life of less than 7 days.
  - **Directions for use and storage:** Storage instructions must be provided where necessary to ensure that the food will keep for the period indicated by the date mark and/or where the consumer should be aware of any storage and use requirements necessary to ensure the food safety.
  - **Percentage labeling:** The percentage of the characterizing ingredients, and/or components of most food products must be indicated on the label.
  - **Net content** is required under the Weights and Measures Regulations 1999.

## Nutrition Labeling Requirement

The nutritional information panel (NIP) must be set out specifically as shown below and is required on most packaged food products. Where average quantities or minimum/maximum quantities are given this must be indicated in the NIP.

## Example of a Blank Nutrition Information Panel



NUTRITION INFORMATION		
Servings per package: (insert number of servings)		
Serving size: g (or mL or other units as appropriate)		
	Quantity per Serving	Quantity per 100g (or 100mL)
Energy	kJ (Cal)	kJ (Cal)
Protein	g	g
Fat, total	g	g
- saturated	g	g
Carbohydrate	g	g
sugars	g	g
Sodium	mg (mmol)	mg (mmol)
(insert any other nutrient or biologically active substance to be declared)	g, mg, µg (or other units as appropriate)	g, mg, µg (or other units as appropriate)

## Labeling Requirements for Food Produced using Gene Technology

Genetically modified ingredients and foods can only be sold in New Zealand if they have been assessed for safety and approved by FSANZ. New Zealand and Australia have one of the most comprehensive labeling regimes for genetically modified (GM) foods in the world. As of December 2001, wherever a GM ingredient, additive or processing aid is present in the final food, the food must be labeled. A typical ingredient list for a food containing a GM ingredient is as follows:

Ingredients: wheat flour, water added, yeast, soya flour (genetically modified), vegetable oil, sugar, emulsifiers (471, 472E), preservative (282), enzyme amylase.

Where ingredients derived from GM plants - such as sugars, oils and some GM additives and processing aids - have been refined to the extent that there is no residual genetic material or protein of the source plant in the final product, and the product does not have altered characteristics, special labeling is not required. Another exemption to the labeling requirements in processed foods are GM flavors, which are allowed to be present up to a level of one part in a thousand in the final food without being identified as GM. Foods prepared from GM ingredients, additives and processing aids, but sold unlabeled at the point of sale for immediate consumption - e.g. restaurants, hotels and take-outs - are also exempt from labeling requirements.

MPI is responsible for the enforcement of GM food labeling standards in New Zealand. For additional information, review Standard 1.5.2. This standard regulates the sale of genetically modified foods in Australia and New Zealand and was incorporated into the Food Standards Code on May 13, 1999 and amended on December 7, 2000.

## Nutrition content claims and health food claims

A new food standard to regulate nutrition content claims and health claims on food labels and in advertisements became law on 18 January 2013.

Food businesses must comply with the new standard ([Standard 1.2.7](#)) from 18 January 2016.

Nutrition content claims and health claims are voluntary statements made by food businesses on labels and in advertising about a food.

**Nutrition content claims** are claims about the content of certain nutrients or substances in a food, such as 'low in fat' or 'good source of calcium'. These claims will need to meet certain criteria set out in the Standard. For example, with a 'good source of calcium' claim, the food will need to contain more than the amount of calcium specified in the Standard.

Health claims refer to a relationship between a food and health rather than a statement of content. There are two types of health claims:

- **General level health claims** refer to a nutrient or substance in a food and its effect on a health function. They must not refer to a serious disease or to a biomarker of a serious disease. For example: **calcium is good for bones and teeth.**
- **High level health claims** refer to a nutrient or substance in a food and its relationship to a serious disease or to a biomarker of a serious disease. For example: **Diets high in calcium may reduce the risk of osteoporosis in people 65 years and over.** An example of a biomarker health claim is: **Phytosterols may reduce blood cholesterol.**

Food businesses wanting to make **general level health claims** will be able to base their claims on one of the more than 200 pre-approved food-health relationships in the Standard or self-substantiate a food-health relationship in accordance with detailed requirements set out in the Standard.

**High level health claims** must be based on a food-health relationship pre-approved by FSANZ. There are currently 13 pre-approved food-health relationships for high level health claims listed in the Standard.

All health claims are required to be supported by scientific evidence to the same degree of certainty, whether they are pre-approved by FSANZ or self-substantiated by food businesses. Food-health relationships derived from health claims approved in the European Union, Canada and the USA have been considered for inclusion in the Standard.

Health claims will only be permitted on foods that meet the nutrient profiling scoring criterion (NPSC). For example, health claims will not be allowed on foods high in saturated fat, sugar or salt.

**Endorsements** that are nutrition content claims or health claims will be permitted, provided the endorsing body meets requirements set out in the Standard.

Standard 1.2.7 – Nutrition, Health and Related Claims will:

- reduce the risk of misleading and deceptive claims about food
- expand the range of permitted health claims
- encourage industry to innovate, giving consumers a wider range of healthy food choices
- provide clarity for the jurisdictions enforcing the Standard.

## **SECTION III: PACKAGING AND CONTAINER REGULATIONS**

### **Food Packaging Materials**

Under the New Zealand Food Act of 1981, packaging material must not cause food to be unsafe or tainted. In addition, specific requirements in the Code, which relate to contaminants, must also be met (Standard 1.4.3 Articles and Materials in Contact with Food). It is the responsibility of food manufacturers and sellers to ensure their products are safe and that they comply with legislation. In practice, packaging suppliers will need to ensure their products are suitable for the

intended use. Compliance with recognized international food standards such as those of the European Union (EU) or the United States Food and Drug Administration would be reasonable evidence that materials are suitable for food use.

The Australia and New Zealand Food Regulation Ministerial Council is working with FSANZ to liaise with the industry to voluntarily phase out Bisphenol A (BPA) – a chemical used in the plastics industry in baby bottles and food containers. As per a FSANZ report, BPA exposure in New Zealand and Australia is well below the internationally established safe levels and poses no significant human health risk, however, FSANZ will continue to liaise with the industry to provide alternative packaging material such as stainless steel, glass or BPA-free plastics, and to be consistent with approaches taken by governments from other countries, including U.S. Food and Drug Administration.

### **Wood Packaging Materials Used for Shipping Products to New Zealand**

Under the Biosecurity Act (1993) importers must comply with an Import Health Standard (IHS) that outlines phytosanitary requirements for wood packaging material to be given biosecurity clearance into New Zealand. The IHS for [Wood Packaging Material from All Countries](#) has been developed under the requirements of the Biosecurity Act (1993) and New Zealand's obligations under the International Plant Protection Convention (1997). Wood packaging that is treated and certified as per "International Standard for Phytosanitary Measures (ISPM) 15 standard" will be compliant with the New Zealand standard.

### **Import Health Standard for Sea Containers**

This Import Health Standard covers only the shipping containers and does not include the contents which can be categorized as either "High Risk" or "Low Risk" goods. Import Health Standard on sea containers can be seen at: <http://www.biosecurity.govt.nz/imports/non-organic/standards/seaco.htm>

- For High Risk goods containing any risk material (i.e. of plant or animal origin, used vehicles, machinery etc), please see the appropriate Import Health Standard at <http://www.biosecurity.govt.nz/ihs/search>.
- Low risk goods may be released and the container may be given approval to move to Approved Transitional Facility (ATF), as long as the requirements are met as per the import health standard.

From September 1, 2003 onwards, every imported container must be delivered to a Biosecurity "Approved Transitional Facility" (ATF) within New Zealand and be inspected by a MPI Inspector or a trained "Accredited Person" (AP). All containers must have a Quarantine Declaration (a document signed by a manager of the packing or exporter facility that declares; that a container was inspected internally and externally and was found to be free of contaminants, and the type of packing materials and wood packaging used and information pertaining to the container number, Ship and voyage number it is shipped on). Failure to provide a Quarantine declaration will result in extra biosecurity requirements and costs.

Only ISPM15 (an international packaging standard) compliant packaging is allowed entry into New Zealand and any non-compliant packaging (timber etc) will be required to be treated either overseas, to New Zealand standards with approved methods; or inspected and treated in New Zealand (Fumigation with methyl bromide gas) prior to release of the container by the New Zealand Biosecurity Officer. If treated overseas, the original Fumigation certificate must be produced prior to release.

In addition to the above, some containers are deemed to be "high risk" (regardless of the contents). These must be subjected to either:

- Six-sided external inspection on the port area by an inspector within 48 hours of discharge,
- Treated wither fumigated with methyl bromide or heat treated
- Be accompanied by an official phytosanitary certificate attesting to the container's freedom from specific contamination
- Inspection under Biosecurity supervision at an ATF

To expedite clearance, additional certification of containers as free from restricted packaging and free of contamination of either the external or internal surfaces of the container or both is an option. In certain circumstances, certification may cover multiple arrivals of containers for periods of up to one year.

### **Import Health Standard for Air Containers**

Air containers used for the import of food products into New Zealand must meet a minimum standard of cleanliness. All parts of the container including the internal and external sides must be free of contamination. Every container must also be free of any of the following:

- Animals, insects or other invertebrates (any life cycle stage), egg casings or rafts, or any organic material of animal origin (including blood, bones, fiber, meat, secretions, excretions, etc);
- Plants or plant products (including fruit, seeds, leaves, twigs, roots, bark, saw dust, or other organic material); or
- Soil or water

For additional information, see the MPI import health standard: [Air Containers from any Country](#) (MAF Regulatory Authority 152.07.01I).

## **SECTION IV: FOOD ADDITIVES REGULATIONS**

FSANZ is responsible for the development and modification of food standards in the *Food Standards Code*. The section of the code that governs food additives, [Standard 1.3.1](#), has been in force for several years. It was developed on the basis of food additive provisions from the former Australia Food Standards Code and the former New Zealand Food Regulations, 1984. The Code addresses additives in two ways. Some additives have specific permissions and levels allowed in food; others are permitted at levels determined by GMP (Good Manufacturing Practice). Information regarding permitted use of food additives is listed in Schedule 1, of Standard 1.31. of the Code. A list of miscellaneous additives permitted in accordance with GMP in processed foods is

listed in Schedule 2 of Standard 1.3.1.

Information regarding applications for the approval of new food additive is available [here](#).

Special note should be taken for additives that are genetically modified. For more information on the declaration of genetically modified ingredients see [FSANZ labelling guideline](#).

## **SECTION V: PESTICIDES AND OTHER CONTAMINANTS**

### **Contaminants and Natural Toxicants**

FSANZ sets standards for the maximum levels (MLs) of specified metal and non-metal contaminants and natural toxicants in nominated foods. Information on Contaminants and natural Toxicants can be seen in [Standard 1.4.1](#) of the Code.

### **Pesticide Residues and Chemical Contaminants**

The upper limit of agricultural and veterinary chemical residue allowed in a food is known as the Maximum Residue Limit (MRL). FSANZ sets MRLs for Australia only, and these are in the Code. MPI has responsibility for setting and enforcing MRLs in New Zealand. All imported and domestically-produced food sold in New Zealand (except for food imported from Australia) must comply with the New Zealand (Maximum Residue Limits of Agricultural Compounds) Food Standards (the [MRL Standards](#)). Under MRL Standards, agricultural compound residues in food must:

- Comply with the specific MRLs listed in the [MRL Standard](#) (including the "default" MRL of 0.1 mg/kg where no specific MRL is listed; note that updates to this standard were made in 2010), or
- If the food is imported, it may comply with [Codex MRLs](#).

### **Microbiological Contaminants**

FSANZ sets microbiological limits for foods in both countries (see [Standard 1.6.1](#)).

## **SECTION VI: OTHER REGULATIONS AND REQUIREMENTS**

### **Inspection Requirements**

Foods covered by emergency or prescribed food standards are targeted for inspection using customs tariff codes. From September 1, 2009, Central Clearing House (CCH), part of MPI, is now responsible for processing applications for all high risk foods imported into New Zealand as referred from New Zealand Customs. Prior to CCH, Auckland Central Clearing House (ACCH) used to handle high risk foods imported into New Zealand. CCH is also the initial contact point for

information to importers and customs brokers. CCH is the part of the MPI that carries out the imports operational procedures. For more information on CCH, please see New Zealand's food [import clearance procedures](http://www.nzfsa.govt.nz/importing/fees-and-charges/). [http://www.nzfsa.govt.nz/importing/fees-and-charges/ - P109 3063](http://www.nzfsa.govt.nz/importing/fees-and-charges/)

## **Product Samples**

Trade/product samples will be subject to the same requirements as imported food for sale unless there is sufficient evidence that the samples will not be consumed.

Specific documentation and certification requirements

Please refer to FAIRS Export Certificates Report for specific import certification requirement for products entering New Zealand. This can be seen at:

<http://gain.fas.usda.gov/Lists/Advanced%20Search/AllItems.aspx>

## **SECTION VII: OTHER SPECIFIC STANDARDS**

### **Organic Foods**

There are two major organic certifying agencies in New Zealand for the certification of locally produced organic products, BioGro and AsureQuality New Zealand. Both agencies are accredited by International Federation of Organic Agriculture Movements (IFOAM).

In New Zealand, there is no official standard set for organic food products. Products certified by the National Organics Program (NOP) in the United States can be exported to New Zealand and sold as organic. Further information on importing organic products can be found here:

<http://www.foodsafety.govt.nz/industry/sectors/organics/importing/index.htm>. There are no mandatory labeling requirements for organic products imported into New Zealand, although the use of the term 'organic' is controlled through the Fair Trading Act 1986.

There are mandatory labeling requirements for products are intended to be further processed in New Zealand and re-exported.

The MPI Technical Rules under Section 12 (Imported Product and/or Ingredient) details the requirements for organic products/ingredients imported into New Zealand for further processing and re-exported (refer <http://www.foodsafety.govt.nz/elibrary/industry/nzfsa-standard-registration-documents/technical-rules.pdf>).

## **SECTION VIII: COPYRIGHT AND/OR TRADEMARK LAWS**

### **Patents**

The Patents Bill (introduced in 2008) received Royal assent in September to become the Patents Act 2013, replacing the Patents Act 1953. The first set of provisions that came into force include the establishment of the Intellectual Property Office of New Zealand for the purpose of communications to and from the public on matters arising under the Act; the power to appoint a Maori Advisory Committee; appointment of the Commissioner and Assistant Commissioners of patents; and the regulation-making powers of the Act. The second set of provisions state that the

remainder of the Act will be brought into force in September 2014.

The Act strengthens the criteria for granting a patent to ensure that patents are granted for genuine innovations that are a "manner of manufacture" and are novel, non-obvious and useful. It will serve to inhibit the grant of overly broad patents. As a net importer of technology, New Zealand faces increased costs and difficulty in implementing or adapting technologies covered by overly broad patents. The establishment of the Maori Advisory Committee will advise the Commissioner of Patents to address Māori concerns relating to the granting of patents for inventions derived from indigenous plants and animals or from Māori traditional knowledge.

Exclusions provided under the legislation include software, plant varieties, human beings and biological processes for their generation, inventions of methods for diagnosis practiced on human beings and for the treatment of human beings by surgery or therapy.

## **Trademarks**

Protection is provided to registered trademarks through the Trademarks Act 2002. The registration of trademarks is not essential. Owners of trademarks may rely on common law rights to protect their trademarks. As the rights of owners of registered trademarks are statutorily defined, however, registration is often desirable. Unlike other forms of intellectual property, such as patents and designs, trade mark registrations can be renewed indefinitely, thereby providing owners with the exclusive right to use their trade marks in perpetuity. Information on the Trade Marks Act is available at: [Trademarks Act 2002](#)

As a member of the World Trade Organization, New Zealand is a party to the Agreement on Trade-Related Aspects of Intellectual Property Rights 1994 (the TRIPS agreement).

All of the obligations relating to trade marks imposed under the TRIPS agreement have been incorporated into the Act. These obligations include those in Article 15(1) of the TRIPS agreement, which states that "signs, in particular words including names, letters, numerals, figurative elements and combinations of colors as well as combinations of such signs, shall be eligible for registration as trade marks".

## **Copyright**

The Copyright Act 1994 governs copyright law in New Zealand. These rights allow copyright owners to control certain activities relating to the use and dissemination of copyright works. New Zealand is party to various international agreements, including:

- The Agreement on the Trade-Related Aspects of Intellectual Property Rights (the [TRIPS Agreement](#)) (Annex 1C to the Agreement Establishing the [World Trade Organization](#) (WTO) 1994);
- The [Berne Convention for the Protection of Literary and Artistic Works 1928](#) (Rome Act revision);
- The [Universal Copyright Convention 1952](#).

For a "work" or type of material to qualify for copyright protection, four conditions must generally be satisfied:

- It must fall within one of the categories or subject matter in which copyright can exist;
- It must be sufficiently "original";
- The "author" must be a "qualified person"; and
- Certain works must be fixed either in writing or some other material form.

Copyright protection applies only for a limited period of time (mostly lasting 15-50 years). Once copyright expires, it falls into the 'public domain' and can be freely used.

On February 23, 2010, Commerce Minister Simon Power introduced the Copyright (Infringing File Sharing) Amendment into Parliament, repealing Section 92A of the Copyright Act. The bill puts in place a three-notice regime intended to deter illegal file sharing. The amendment was passed in April 2011, coming into force in July 2011. The first notices under this amendment were issued in November 2011, pertaining primarily to illegal downloads of music files.

## **APPENDIX I: GOVERNMENT REGULATORY AGENCY CONTACTS**

Ministry for Primary Industries  
PO Box 2526  
Wellington  
New Zealand  
Phone: (+64)-4-894-0100  
Fax: (+64)-4-894-0720  
Web: [www.mpi.govt.nz](http://www.mpi.govt.nz)

Food Standards Australia New Zealand  
PO Box 10559  
Wellington 6143  
New Zealand  
Phone: (+64)-4-978-5630  
Fax: (+64)-4-473 9855  
Email: [info@foodstandards.govt.nz](mailto:info@foodstandards.govt.nz)  
Web: [www.foodstandards.govt.nz](http://www.foodstandards.govt.nz)

Environmental Protection Authority  
Private Bag 63002 Wellington 6140  
New Zealand  
Phone: (+64)-4-916 2426  
Fax: (+64)-4-914 0433  
Email: [info@epa.govt.nz](mailto:info@epa.govt.nz)  
Web: [www.epa.govt.nz](http://www.epa.govt.nz)

New Zealand Customs Service  
(Wellington, Corporate Office)  
PO Box 2218  
Wellington, New Zealand  
Phone: (+64)-4-473 6099  
Fax: (+64)-4-473 7370  
Email: [feedback@customs.govt.nz](mailto:feedback@customs.govt.nz)  
Web: [www.customs.govt.nz](http://www.customs.govt.nz)

Ministry of Consumer Affairs  
PO Box 1473  
Wellington, New Zealand



Phone: (+64)-4-474 2750  
Fax: (+64)-4-473 9400  
Email: [mcainfo@mca.govt.nz](mailto:mcainfo@mca.govt.nz)  
Web: [www.consumeraffairs.govt.nz](http://www.consumeraffairs.govt.nz)

New Zealand Commerce Commission  
PO Box 2351  
Wellington  
New Zealand  
Phone: (+64)-4-924 3600  
Fax: (+64)-4-924 3700  
Email: [contact@comcom.govt.nz](mailto:contact@comcom.govt.nz)  
Web: [www.comcom.govt.nz](http://www.comcom.govt.nz)

Intellectual Property Office of New Zealand  
PO Box 30 687  
Lower Hutt  
Wellington  
New Zealand  
Phone: (+64)-4-569 4400  
Fax: (+64)-4-569 2298  
Web: [www.iponz.govt.nz](http://www.iponz.govt.nz)

The Commissioner  
Plant Variety Rights Office  
PO Box 24  
Lincoln  
New Zealand  
Phone: (+64)-3-325 2414  
Fax: (+64)-3-325 2946

Ministry of Health  
PO Box 5013  
Wellington  
New Zealand  
Phone: (+64)-4-496 2000  
Fax: (+64)-4-496 2340  
Email: [moh@moh.govt.nz](mailto:moh@moh.govt.nz)  
Web: [www.moh.govt.nz](http://www.moh.govt.nz)

Central Clearing House  
Ministry for Primary Industries  
Level 1, 96 New North Road, Eden Terrace, Auckland  
PO Box 3540, Eden Terrace, Auckland  
Phone: (+64) 9 909 6210 or (+64) 9 909 6211  
Fax: (+64) 9 909 6208  
Email: [imported.food@mpi.govt.nz](mailto:imported.food@mpi.govt.nz)

Department of Conservation  
PO Box 10420

Wellington, New Zealand  
Phone: (+64)-4-471 0726  
Fax: (+64)-4-471 1082  
Web: [www.doc.govt.nz](http://www.doc.govt.nz)

Auckland Regional Public Health Service  
Cornwall Complex, Floor 2  
Building 15, Greenlane Clinical Centre  
Private Bag 92605  
Symonds Street  
Auckland 1150  
Tel: +64-9-623-4600  
Email: [arphs@adhb.govt.nz](mailto:arphs@adhb.govt.nz)

### **SPS & TBT Contacts**

Coordinator, SPS New Zealand  
Ministry for Primary Industries  
PO Box 2526  
Wellington  
New Zealand  
Phone: (+64)-4-474 4226  
Fax: (+64)-4-470 2730

TBT Enquiry Point  
Trade Negotiations Division  
Ministry of Foreign Affairs and Trade  
Private Bag 18 901  
Wellington  
New Zealand  
Phone: (+64)-4-439 8000  
Fax: (+64)-4-472 9596  
Email: [tnd@mft.govt.nz](mailto:tnd@mft.govt.nz)  
Web: [www.mfat.govt.nz](http://www.mfat.govt.nz)

### **APPENDIX 11: OTHER IMPORT SPECIALIST CONTACTS**

Foreign Agricultural Service, U.S. Department of Agriculture  
U.S. Embassy  
PO Box 1190  
Thorndon  
Wellington  
New Zealand  
Phone: (+64)-4-462 6030  
Fax: (+64)-4-462 6016  
Email: [AgWellington@fas.usda.gov](mailto:AgWellington@fas.usda.gov)  
Web: <http://www.usembassy.org.nz>

American Chamber of Commerce  
PO Box 106 002  
Auckland  
New Zealand  
Phone: (+64)-9-309 9140  
Fax: (+64)-9-309 1090  
Email: [amcham@amcham.co.nz](mailto:amcham@amcham.co.nz)  
Web: <http://www.amcham.co.nz/>

New Zealand Grocery Marketers Association  
PO Box 1925  
Wellington  
New Zealand  
Phone: (+64)-4-473 9223  
Fax: (+64)-4-496 6550  
Email: [gma@businessnz.org.nz](mailto:gma@businessnz.org.nz)  
Web: [www.gma.org.nz](http://www.gma.org.nz)

Intellectual Property Policy Group  
Regulatory and Competition Policy Branch  
Ministry of Economic Development  
33 Bowen Street, PO Box 1473  
Wellington, New Zealand  
Phone: (+64)-4-472-0030  
Fax: (+64)-4-473-4638  
Email: [info@med.govt.nz](mailto:info@med.govt.nz)