



Australian Consumer Law (Free Range Egg Labelling) Information Standard 2017

I, Michael McCormack, Minister for Small Business, make the following information standard.

Dated 2017

Michael McCormack **DRAFT ONLY—NOT FOR SIGNATURE**
Minister for Small Business

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Part 1—Preliminary

1 Name

This instrument is the *Australian Consumer Law (Free Range Egg Labelling) Information Standard 2017*.

2 Commencement

Each provision of this information standard 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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Part 1	The day this information standard is published by written notice on the internet.	
2. Part 2	Twelve months after the day this information standard is published by written notice on the internet.	
3. Parts 3 and 4	On the later of: (a) the day this information standard is published by written notice on the internet; or (b) the same time as Schedule X to the <i>Treasury Laws Amendment (2017 Measures No Y) Act 2017</i> . However, the Part does not commence at all if the event mentioned in paragraph (b) does not occur.	

3 Authority

This instrument is made under section 134 of the *Australian Consumer Law*.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 4 of the Act, including the following:
Australian Consumer Law.

In this instrument:

egg means an egg laid by a hen.

free range egg has the meaning given by section 7.

hen means a female domestic fowl (*gallus gallus domesticus*).

laying cycle for hens means the period of a group of hens' lives across which the hens are kept together, managed in the same way and are able to lay eggs.

packaging for eggs means anything that completely or partly encloses, contains or packs the eggs.

stocking density for hens means the maximum number of hens per hectare that have access to an outdoor range on any day across the laying cycle.

5 Application

This information standard applies to packaging of eggs for wholesale or retail sale, and that are displayed for retail sale without packaging.

6 Inconsistency of State and Territory laws

This information standard is not intended to exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with the provisions of Part 2.

Part 2—Free range egg labelling and display requirements

7 Meaning of the term free range

- (1) *Free range eggs* are eggs laid by hens that:
 - (a) had meaningful and regular access to an outdoor range during daylight hours across the laying cycle; and
 - (b) were subject to a stocking density of 10,000 hens or less.
- (2) For the purpose of paragraph (1)(a):
 - (a) disregard occasions when hens were prevented from accessing the outdoor range because:
 - (i) the hens were undergoing nest box training; or
 - (ii) the weather conditions endangered the safety or health of the hens; or
 - (iii) the hens would have been exposed to predators; or
 - (iv) the hens were being medicated or otherwise cared for; or
 - (v) there were exceptional circumstances that prevented the hens from accessing the range; and
 - (b) have regard to the extent to which hens are able to roam, forage and display natural behaviours on the outdoor range to which the hens have access.

8 Labelling requirements

A person must not label packaging for eggs for wholesale or retail sale with the words 'free range' unless:

- (a) the eggs are free range eggs; and

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- (b) the words ‘free range’ are used in relation to the eggs; and
 - (c) the stocking density is prominently displayed on the packaging.

9 Display requirements

If eggs are being displayed for retail sale without packaging a person must not represent that the eggs are free range unless:

- (a) the eggs are free range eggs; and
- (b) the display has a sign containing the words ‘free range’; and
- (c) the sign is prominently displayed; and
- (d) the sign prominently displays the stocking density; and
- (e) if eggs other than free range eggs are being displayed at or near the display of free range eggs, the display of free range eggs must be separate from the display of other eggs, so that a person at or near the displays can reasonably distinguish between eggs to which the sign required by paragraph (b) relates and other eggs.

Part 3—Misleading or deceptive conduct

10 Safe harbour for free range egg representations

A person does not contravene section 18, paragraph 29(1)(a), section 33 or paragraph 151(1)(a) of the *Australian Consumer Law* merely by making a representation that complies with Part 2.

11 Proceedings relating to misleading or deceptive conduct or representations

If:

- (a) proceedings are brought against a person in respect of section 18, paragraph 29(1)(a), section 33 or paragraph 151(1)(a) of the *Australian Consumer Law*; and
- (b) the person seeks to rely on section 10 of this information standard in the proceedings,

the person bears an evidential burden in relation to whether they have made a representation in compliance with Part 2.

Part 4—Transitional provisions

- (1) The transitional period commences on the day this information standard is published by written notice on the internet and ends when Part 2 commences twelve months after that day.
- (2) During the transitional period, if a person makes a representation that would comply with the labelling or display requirements in Part 2 if they were in effect, they may rely on section 10 (safe harbour for free range egg representations) in relation to that representation.