



Australian Government

Australian Quarantine and Inspection Service

TRADE DESCRIPTION

**A Guideline to compliance with the
*Export Control (Fish & Fish Products) Orders
2005***

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Background

The *Export Control (Fish & Fish Products) Orders 2005* (the Orders) together with the *Export Control (Prescribed Goods General) Order 2005* (the PGGOs) and the *Export Control Act 1982* (the Act) provide conditions and restrictions on the export of fish and fish products.

Prior to the 1st of October 2005, fish and fish products for export were regulated under the *Export Control (Dairy, Eggs and Fish) Orders 2005* – these Orders have now been separated into the *Export Control (Fish & Fish Products) Orders 2005*, the *Export Control (Egg & Egg Products) Orders 2005* and the *Export Control (Dairy & Dairy Products) Orders 2005*.

Objectives

The objectives of the Orders are to facilitate trade based on effective food safety and suitability procedures and accurate descriptions of product.

This guideline specifically addresses the requirements of registered establishments to meet objective 3.1 (b) and (d) of the objectives of the Orders.

Export Control (Fish & Fish Products) Orders 2005 – Part 1 – Order 3

3. Objectives of these Orders

3.1 The objectives of these Orders are to facilitate trade by ensuring the following:

- (b) that fish and fish products for export as food have a complete and accurate trade description and their integrity is assured;
- (d) that fish and fish products for export as food are accurately identified and there can be effective traceability and recall if required.

Trade Descriptions

This guide explains what a trade description is, and what needs to be included in a trade description. The guide also includes requirements for additional information included in trade descriptions, specific information for canned food, and foods that are imported into Australia, repacked and then exported (these are referred to as “re-exports”).

A checklist is provided at the end of this guide as a tool for industry to use in assessing compliance with their legislative requirements.

1.0 Introduction

There are a range of conditions and restrictions on the export of fish and fish products, including the requirement for a trade description (see Order 49 of the *Export Control (Fish & Fish Products) Orders 2005*) – this means that fish and fish products cannot be exported unless they meet the requirements for trade descriptions detailed in Schedule 7.

2.0 What is a trade description?

A trade description is the information that must be included on the label / packaging of fish and fish products. The requirements of a trade description are detailed in Schedule 7 of the *Export Control (Fish & Fish Products) Orders 2005*. There are also some overarching requirements with respect to trade descriptions, which are set out in the *Trade Practices Act 1974* (TPA):

TPA Section 52 – Misleading or deceptive conduct

- (1) A corporation shall not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.

TPA Section 75AZC – False or misleading representations, states:

- (1) A corporation must not, in trade or commerce, in connection with the supply or possible supply of goods or services, or in connection with the promotion by any means of the supply or use of goods or services, do [any of the following]:
 - (a) falsely represent that goods are of a particular standard, quality, value, grade, composition, style or model, or have had a particular history or particular previous use.

The TPA also contains requirements for country of origin labelling (refer to sections 65AA to 65AF). The Australian Competition and Consumer Commission (ACCC) provides explanatory material about the TPA on its website – see www.accc.gov.au. The ACCC can answer questions in relation to the TPA – phone them on 1300 302 502.

3.0 General requirements

The general requirements for trade descriptions are detailed in clauses 12 – 16 of Schedule 7 of the *Export Control (Fish & Fish Products) Orders 2005* Orders and includes the following requirements:

3.1 Trade description must be accurate, legible, conspicuous and secure

Export Control (Fish & Fish Products) Orders 2005 – subclause 12.1 of Schedule 7

- 12.1 Information required under these Orders to be contained in the trade description must:
- (a) be accurate; and
 - (b) be legible; and
 - (c) be prominent, conspicuous and not obscured in any way; and
 - (d) be securely applied.

3.2 Trade description applied to packaging material, liners, outer containers etc

Export Control (Fish & Fish Products) Orders 2005 – subclause 14.1 of Schedule 7

- 14.1 A trade description applied to:
- (a) packaging material such as carton liners, wraps or sheets within blocks to separate fish and fish products; or
 - (b) an outer container containing a number of immediate containers of fish and fish products;

must not be inconsistent with any part of the trade description required to be applied under these Orders.

Note For traceability and integrity requirements that may require information to be specified on outer containers see clause 6 of Schedule 8.

3.3 Languages other than English

A trade description is allowed to include information in languages other than English, however this information must not be inconsistent with any part of the trade description applied as required by the Orders. A translation of any information in languages other than English will need to be provided to AQIS for audit purposes (Order 82).

3.4 Alterations and interference with trade descriptions

A trade description cannot be altered or interfered with unless it is done by, or under the direction of, or written approval is given by an authorised AQIS officer or the applicable Approved Arrangement provides for the alteration in the circumstances in which the alteration is made (subclause 16.1 of Schedule 7).

3.5 Compositional claims and implied compositional claims

Where additional information is applied, and that information makes a claim (or implied claim) as to composition of fish or fish products, then quantitative information must be included on the trade description that supports this claim (subclause 8.1 of Schedule 7).

Example

There are two types of compositional claims that are commonly made on food labels – nutritional claims or contents claims. Many importing countries have specific requirements for compositional claims, so it is suggested that exporters liaise with importers for specific requirements.

Nutritional claims

As implied by the name, nutritional claims relate to the presence of a nutrient within the food, for example, the presence of omega-3 fatty acids, or “low fat”. Nutritional claims are generally represented on food labels in a nutrition information panel.

Contents claims

A content claim relates to the amount of a particular constituent in a food – for example, a trade description of fish soup might include a claim such as “now with added prawns”. This is an implied contents claim, and should be accompanied by a quantitative statement. This can be represented in several ways, however the most common is to include the percentage of the ingredient in the trade description.

4.0 What must be included in a trade description?

A summary of the trade description requirements in Schedule 7 of the *Export Control (Fish & Fish Products) Orders 2005* is provided below.

4.1 Description of the food

The description of the food must include the scientific name and/or the Australian Fish Name of the fish and the cut and preservation type of the fish.

Example 1

Chilled whiting fillet

- ⇒ “Chilled” is the preservation type
- ⇒ “whiting” is the Australian Fish Name
- ⇒ “fillet” is the cut

Example 2

Frozen whole prawns (*Metapenaeus endeavouri*)

- ⇒ “Frozen” is the preservation type
- ⇒ “whole” is the cut
- ⇒ “*Metapenaeus endeavouri*” is the scientific name for Endeavour prawns

4.2 List of ingredients

Where the food comprises more than one ingredient, a list of ingredients is required. The list of ingredients must be in accordance with the domestic legislation – Standard 1.2.4 Labelling of Ingredients.

Food Standards Australia New Zealand (FSANZ) provides explanatory material on the domestic food legislation on its website. FSANZ have prepared a “User guide for ingredient labelling” – see:

<http://www.foodstandards.gov.au/assistanceforindustry/userguides/ingredientlabelling.cfm>.

FSANZ can answer questions in relation to domestic food legislation – phone them on 1300 652 166 or email them at advice@foodstandards.gov.au.

4.3 Net contents

The net contents must be included on the trade description. An international standard known as “Average System of Net Quantity Determination” provides three rules for net contents declarations:

Rule 1 – The declared quantity on a package should accurately reflect the quantity being supplied, so the average net contents of the packages in a lot may not be less than the declared quantity.

Rule 2 – No more than 2.5% of the packages in a lot may have negative errors more than the prescribed tolerable negative error.

Rule 3 – No package shall have a negative error by more than twice the prescribed tolerable negative error.

AQIS does not prescribe a tolerable negative error (TNE) in the Orders, however the following are generally accepted internationally:

- For goods that weigh less than 50g or mL, TNE = 9g or mL

For goods that weigh more than... (g or mL)	and less than... (g or mL)	the TNE equals... (g or mL)
50	100	4.5
100	200	4.5
200	300	9
300	500	3
500	1,000	15
1,000	10,000	1.5
10,000	15,000	150
15,000	no upper limit	1

Reference:

http://www.consumer.gov.au/html/TradeMeasurementIssues/aqs_discussionpaper.htm

Example

Canned fish product that states a net content of 425g

- ⇒ There should be at least 425g of the edible fish product in the can (i.e. if brine is included, and it is not intended for the brine to be consumed, the weight of the brine is not included in the net contents declaration).
- ⇒ However, up to 2.5% of the lot cans contain slightly less than 425g – so if the lot contained 2500 cans, then this equates to 62 cans.
- ⇒ These cans must contain at least 422g of edible fish product, if rule 2 is applied
- ⇒ TNE for 300 – 500g is 3g; $425\text{g} - 3\text{g} = 422\text{g}$
- ⇒ No one can should contain less than 419g of edible fish product (rule 3)
- ⇒ TNE for 300 – 500g is 3g; $3 \times 2 = 6$; $425\text{g} - 6\text{g} = 419\text{g}$

NOTE: You will need to indicate the system that you will be using for determining net weights in your Approved Arrangement.

4.4 Country of origin

See information above on the Trade Practices Act 1974. The ACCC provides advice regarding country of origin – see:

www.accc.gov.au/content/index.phtml/itemId/12222/fromItemId/3669

[http://www.accc.gov.au/Country of Origin Fact Sheet](http://www.accc.gov.au/Country_of_Origin_Fact_Sheet)

4.5 Registration number

The AQIS registration number for the establishment that last *prepared* (other than handled, loaded or stored), the fish and fish products prior to being exported must be included on the label. The *Export Control Act 1982* defines preparation, and this definition includes processing, packing, storage, treatment, handling or loading of fish and fish products.

Therefore, the registration number of the establishment that processed or packed the fish and fish products should be included on the trade description. The registration number of the establishment must be clearly distinguishable as being the registration number (subclause 9.1 of Schedule 7).

4.6 Name and address of the processor / exporter

There are two ways that this requirement can be met:

Scenario 1 – processor

The name and address of the establishment that last *prepared* (other than handled, loaded or stored) the fish and fish products must be included on the label (see section above on registration number for discussion of “last prepared”). This establishment may also be the exporter of the goods.

Scenario 2 – exporter who is not a processor

The name and address of the exporter who is not the processor (that is, someone who did not *prepare* the fish and fish products) can be included on the label instead of the processor's name and address. However, the words “packed for” (or a statement of similar meaning) must precede the name and address of the exporter.

Example 1

Company ABC,
Reg Est No 0123
1 AQIS Avenue, Canberra Australia

⇒ Company ABC packed the fish products, and have therefore included their registered establishment number as well as their name and address.

Example 2

Packed for:
Company DEF
2 Export St, Brisbane Australia
by Reg Est No 0123

⇒ Company ABC (Reg. Est. No 0123) have packed the fish products on behalf of company DEF. Company DEF have opted to include their name and address on the trade description. However company ABC is still required to include their establishment number (0123) on the trade description as well.

Regardless of which scenario is used, the business address included on the trade description must be the street address in Australia at which the processor or exporter conducts business in relation to the food.

4.7 Lot identity

The lot identity must be included in the trade description.

Export Control (Fish & Fish Products) Orders 2005 – Order 8

Definition of “lot”

Lot when used in relation to fish and fish products means a quantity of fish and fish products of the same type processed or packed under essentially the same conditions during a particular time interval generally not exceeding 24 hours, and usually from a particular processing or packing line or other identifiable processing or packing unit.

Note: For the meaning of a lot when used in relation to shellfish in particular circumstances see clause 4.3 of Schedule 5.

How a lot is identified in the trade description is up to the processor. However, as the purpose of the lot identity is to assist in tracing the product back to a specific processing period, this should be kept in mind when determining the lot identity.

4.8 Directions for use and storage

When directions for use and storage are required for food safety purposes, these directions are required to be included in the trade description.

Examples of directions for use and storage

Store at between -1°C and 5°C

Keep frozen at or below -18°C

Use by 01.07.06

It is important to remember that validation of the preservation method is required to be included in the Approved Arrangement * For example: This means that if you recommend storage at temperatures at or below -18°C , you must have valid information to demonstrate that storing product at this temperature will be effective in controlling the identified hazards.

Additionally, if the food is of a nature as to warrant directions for use and storage on the Trade Description (subclause 4.1 (h) of Schedule 7) for reasons of food safety then there must be valid information to demonstrate that any directions, when complied with by the consumer will be effective in controlling identified hazards.

For example: Hazard Analysis may identify *Listeria Monocytogenes* as a potential hazard in some ready to eat fish and fish products. *Listeria Monocytogenes* can grow at temperatures as low as -0.4°C under both aerobic and anaerobic conditions (including vacuum and conditions of modified atmosphere) and as such may not be controlled by prescribed chilling temperatures. Additional control of cumulative exposure time (shelf life) is then required – that is, the processor may control the shelf-life of the product by applying a “Use by Date” to the Trade Description.

It is the processors responsibility to ensure that the product will meet the required microbial standards and be safe to be consumed at the end of the products shelf-life as stated in the Trade Description. The processor must also maintain information which may include appropriate microbiological test results to validate the determination of the stated shelf life.

4.9 Additional information

Any additional information or pictures applied to the fish and fish products must not be inconsistent with the trade description required by the *Export Control (Fish & Fish Products) Orders 2005*. Notably, any additional information must comply with the TPA (see section above on the TPA).

* For further information see AQIS guideline - “Approved Arrangement”

5.0 Canned fish products

Export Control (Fish & Fish Products) Orders 2005 – Order 8

Definitions of “canned” and “can”

Canned means thermally processed and enclosed in a hermetically sealed can.

Can means an immediate container made of metal, glass or other material suitable as a hermetically sealed container.

Canned fish products are sometimes exported without trade descriptions, so special requirements for canned fish products have been included in the *Export Control (Fish & Fish Products) Orders 2005* – subclauses 2.1, 5.1 and 5.2 of Schedule 7.

At the time of filling...

Canned fish products need not have a full trade description, provided that an “EX” followed by the registered establishment number is applied (either embossed or otherwise permanently marked) to the can at the time of filling.

Upon despatch...

If the canned fish products still do not have a full trade description, the following information must be applied (either embossed or otherwise permanently marked) to the can (in addition to the already embossed “EX” followed by the registration number):

- Product cypher or code that can be used to identify the product
- The country of origin of the food
- The lot identity.

Country of origin and lot identity is explained elsewhere in this guide (see above). A product cypher differs from a lot identity in that the cypher should identify the product within the can, whereas the lot identity relates to the processing period. However, one system incorporating both product cypher and lot identity is often used by the canned food industry.

6.0 “Re-exports”

There are specific requirements for imported fish and fish products that are repacked in Australia without being altered, and then exported. These products are known as re-exports. The trade description on re-exports is required to include the words ‘Packed by’ followed by the name and registration number of the establishment where the repacking took place. All other information must stay the same, for example the country of origin cannot be changed to Australia.

If you are importing goods into Australia, repacking and altering them, then there are different requirements – please contact an AQIS Fish Inspector.

7.0 What must be documented in the Approved Arrangement

The Approved Arrangement must document the controls used to ensure that the applicable requirements of Schedule 7 are complied with (subclause 2.1(b) of Schedule 2).

This may be documented in the form of a procedure describing how the content and application of Trade Descriptions will be controlled. Labelling procedures are typically monitored through finished product inspection or assessment and verified through Internal Audit or Management Review.

This requirement may include procedures to ensure that:

- Trade Descriptions for labels or packaging are reviewed for compliance with the Schedule before being first applied.
- Copies of Trade Descriptions are held on file with Product Descriptions
- Procedures document how “Lot No’s” are defined (For example: Lot Numbers may be in the form of Julian Code – where day 1 of the year is “001”)
- Procedures document who will apply Trade Descriptions and how, when and where Trade Descriptions will be applied
- Procedures document how and when Trade Descriptions may be altered
- A sample of finished product is inspected or assessed to ensure the trade descriptions are accurate – this should include a method of confirming the accuracy of statements of net weight.

Procedures for the application of Trade Descriptions may also cross reference procedures for Product Traceability.

More information...

This guide is intended to provide general information on trade descriptions. The information in this guide, unlike the *Export Control (Fish & Fish Products) Orders 2005*, is not legally binding.

If you require assistance, please contact your local AQIS Fish Inspector

AQIS

Adelaide	08 8305 9741	Hobart	03 6233 2502
Brisbane	07 3246 8746	Launceston	03 6391 9313
Bundaberg	07 4152 2511	Melbourne	03 8318 6752
Cairns	07 4030 7831	Perth	08 9334 1572
Canberra	02 6272 4543	Sydney	02 8334 7488
Darwin	08 8999 2063	Townsville	07 4789 7802

www.aqis.gov.au/fish or email <mailto:fish@aqis.gov.au>

For a copy of the *Export Control (Fish & Fish Products) Orders 2005* see www.aqis.gov.au/legislation

8.0 Trade description checklist

Requirement	Reference in Trade Description Guide	Yes / No
<ul style="list-style-type: none"> ▪ Description of the food, including: <ul style="list-style-type: none"> - preservation type; - cut; and - either Australian Fish Name or the scientific name 	Page 6	
<ul style="list-style-type: none"> ▪ List of ingredients 	Page 7	
<ul style="list-style-type: none"> ▪ Net contents 	Page 7	
<ul style="list-style-type: none"> ▪ Country of origin 	Page 8	
<ul style="list-style-type: none"> ▪ AQIS registration number of Reg. Establishment where product last <i>prepared</i> 	Page 8	
<ul style="list-style-type: none"> ▪ Name and address of processor or exporter ▪ “Packed by” or “Packed for” 	Page 8	
<ul style="list-style-type: none"> ▪ Lot identity 	Page 9	
<ul style="list-style-type: none"> ▪ Directions for use and storage (if required) 	Page 10	
<ul style="list-style-type: none"> ▪ Additional information consistent with Trade Practices Act and requirements of the F&FP Orders <ul style="list-style-type: none"> - nutritional claim - compositional claim - other 	Page 5	
<ul style="list-style-type: none"> ▪ Is the trade description: <ul style="list-style-type: none"> - Accurate; - Legible; - Prominent and conspicuous - Not obscured in any way; and - Securely applied? 	Page 5	
<ul style="list-style-type: none"> ▪ Is any information on packaging material, liners, outer containers etc. consistent with Trade Practices Act and requirements of the Orders? 	Page 5	
<ul style="list-style-type: none"> ▪ Is any information on the trade description in a language other than English? <ul style="list-style-type: none"> - if yes, have you provided a translation to AQIS for audit purposes? 	Page 5	
<ul style="list-style-type: none"> ▪ Have controls to ensure that Trade Descriptions are accurate and correctly applied been documented in the Approved Arrangement? 	Page 12	