



## AUSTRALIAN CUSTOMS NOTICE NO. 2006/39

### Commerce Markings on Imported Goods

#### General

Customs administers the *Commerce (Trade Descriptions) Act 1905* (the Act) and the subordinate *Commerce (Imports) Regulations 1940* (the Regulations) that set out labelling requirements for certain goods imported into Australia.

Goods imported contrary to the legislation may be forfeited to the Crown.

This Notice is intended as a guide to the legislation but is not intended to substitute for that legislation. Importers should refer to the legislation in order to determine whether their imported goods will comply with the legislation.

#### Goods bearing a false trade description may not be imported or exported

The Act prohibits the import or export of any goods bearing a false trade description, or not bearing a prescribed trade description. There are currently no prescribed trade descriptions for goods exported from Australia.

A false trade description means a trade description applied to goods which is false or likely to mislead in a material respect, whether because of what it says, or what it does not say. The definition of a false trade description includes one that has been altered in a way that makes the description false or likely to mislead in a material respect.

#### Goods which are required to have a prescribed trade description

The *Commerce (Imports) Regulations 1940* prescribe both the imported goods to which trade descriptions must be applied and the required trade description for such goods. Importation of goods not marked in accordance with the regulations is prohibited.

Goods required to be marked with the name of the country in which they were made or produced are listed in the Regulations (7(1)(a) to (s)), and in the table below. They include goods imported in the packages in which they are customarily offered for sale (Regulation 7(1)(s)).

Some of these goods (see Regulation 8c(ii)) are also required to be marked with a true description of the goods. A factual description that will help inform purchasers about the nature of the goods, for example, a description such as 'Genuine Cowhide' on a leather wallet or '100 % cotton' on a shirt, would be acceptable, provided that description is correct.

Marking requirements for goods listed in Regulation 7(1)(a) to (s) are listed in greater detail in the section headed "Goods requiring labelling" below.

Where required the trade description must be:

- in the English language,
- in prominent and legible characters, and
- on a principal label or brand affixed in a prominent position and in as permanent a manner as practicable to the goods, or if marking of the goods themselves is impracticable, to the coverings containing the goods.

Any matter included on the label, brand or package that is in addition to the required trade description must not tend to contradict or obscure the trade description.

Where goods, except for those goods listed in regulation 7(1)(a) to (r), are imported in the packages in which they are customarily exposed or offered for sale, the trade description should be applied to the packaging.

For those goods listed in regulation 7(1)(a) to (r), the trade description should be on the goods themselves, or if this is impracticable, applied to the coverings containing the goods. For example, where olives are imported in large containers or jars, the trade description cannot be on individual olives and therefore should be on the container. In addition, if goods listed in regulation 7(1)(a) to (r) can not easily be inspected prior to purchase (for example, due to hygiene considerations, or tamper-proof packaging) the required trade description should also be included on such packaging. Any label that is affixed to an imported product should be in a position that is readily accessible to the purchaser.

## Goods requiring labelling

The following goods are required to be labelled with a trade description in accordance with the Regulations, regardless of whether they are imported in the packages in which they are exposed or offered for sale.

|   | <u>Goods</u>  | <u>Marking Requirements</u>   |
|---|---|---|
| r.7(1)(a)   | Articles used for food or drink by humans, or from which food or drink for use by humans is manufactured or prepared. | Country in which the goods were made or produced and a true description on each article.  |
| r.7(1)(b)   | Medicines or medicinal preparations for internal or external use.   | Country in which the goods were made or produced and a true description on each article and tamper-proof packaging if applicable. |
| r.7(1)(c)   | Fertilizer.   | Country in which the goods were made or produced and a true description on each article.  |
| r.7(1)(d)   | Agricultural seeds.   | Country in which the goods were made or produced and a true description on each article.  |
| r.7(1)(e)   | Plants.   | Country in which the goods were made or produced and a true description on each article.  |
| r.7(1)(f)   | Textile products and articles of apparel including shoes.   | Country in which the goods were made or produced and a true description on each article.  |
| <p><i>Note: Labels in clothing should be located in the centre back of garments and not obscured by any other label. See also Fact Sheet on Labelling of Clothing</i></p>   |   |   |
| <p><b>Additional marking requirements for shoes</b></p> <p>The material of which the sole, uppers and quarter linings are made is to be marked in letters not less than 2.5mm in height. The marking is to be positioned in one of the following places:</p> <ul style="list-style-type: none"> <li>• on the waist of the outer sole of the shoe; or</li> <li>• on the inside of the upper above the waist of the shoe; or</li> <li>• on the heel seat or waist area of the sock lining or, if there is no sock lining, on the heel seat or waist area of the inner sole; or</li> <li>• on the tongue of the shoe.</li> </ul> <p><i>Any person intending to import footwear should refer to regulation 15B for full details of the required markings. See also Fact Sheet on Labelling of Shoes</i></p> |   |   |
| r.7(1)(h)   | Jewellery.  | Country in which the goods were made or produced and a true description on each article.  |
| <p><i>Note: The number of carats is not a required trade description. Labelling requirements apply equally to costume and imitation jewellery as well as jewellery composed of precious metals and/or stones.</i></p>   |   |   |

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| r.7(1)(ha)  | Goods, the total outside area of which is not less than one hundred and fifty-five square centimetres, specified in the Fourth Schedule to the regulations, being: (i) goods made from leather or a material resembling leather: (ii) goods made from fibre or vulcanite or a material resembling fibre or vulcanite; or (iii) goods made from plastic. | Country in which the goods were made or produced and a true description on each article.   |
| <p><i>Note: Goods specified in the Fourth Schedule of the Regulations are: attaché cases, bicycle saddles, boxing gloves, bridles, brief cases, cases for gramophones, musical instruments, television sets or wireless sets, document cases, folio cases, footballs, gloves, golf bags, harness, hat boxes, hat cases, horse collars, kit bags, ladies' handbags, leggings, machine belting, men's belts, pouches, punching bags, punching balls, purses, razor strops, saddles, schoolbags, school cases, shopping bags, sporting goods, suit cases, trunks, wallets. See also Fact Sheet on Labelling Requirements for Surfboards and Fact Sheet on Labelling Requirements for Goods Made from Leather, Vulcanite or Plastic and their Imitations.</i></p> |   |  |
| r.7(1)(i)   | Brushware   | Country in which the goods were made or produced and a true description on each article.   |
| r.7(1)(j)   | China, porcelain, earthenware and enamelled hollowware of the following kinds: (i) articles of a description commonly used in connection with the serving of food or drink for humans; and (ii) kitchenware and kitchen utensils.   | Country in which the goods were made or produced on each article.  |
| <p><i>Note: Markings on ceramic ware must be permanent, i.e. indelible print, etching or under the glaze and applied to each article. Where this is not practicable, Customs will also accept high quality adhesive labels that are of a durable nature, do not obscure any other markings and will remain on each item until the goods are past the point of retail sale. Please also refer to ACN 2006/10 for further information.</i></p>  |   |  |
| r.7(1)(k)   | Electrical appliances, apparatus and accessories, including electric incandescent lamps.  | Country in which the goods were made or produced and a true description on each article.   |
| r.7(1)(l)   | Powder puffs.   | Country in which the goods were made or produced on each article.  |
| r.7(1)(m)   | Toys.   | Country in which the goods were made or produced on each article.  |
| r.7(1)(n)   | Cigars, cigarettes, manufactured tobacco, cigarette papers and cigarette tubes.   | Country in which the goods were made or produced and a true description on each article (one packet of cigarettes being an article). |
| r.7(1)(o)   | Portland cement.  | Country in which the goods were made or produced on each article.  |
| r.7(1)(p)   | Sanitary and lavatory articles of earthenware, fireclay, vitreous china or similar substances or materials.   | Country in which the goods were made or produced on each article.  |
| r.7(1)(q)   | Wall, hearth and floor tiles.   | Country in which the goods were made or produced on each article.  |
| r.7(1)(r)   | Watches and clocks and movements for watches and clocks.  | Country in which the goods were made or produced on each article.  |
| <p><i>Note: The following markings are acceptable on imported watches; "cased in" [country], "made in" [country], "assembled in" [country], "movement/cased in" [country], the word [country] provided the entire item is manufactured and cased in that country. See also Fact Sheet on Labelling Requirements for Watches.</i></p>  |   |  |

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| r.7(1)(s) | Goods that are imported in the packages in which they are customarily exposed or offered for sale, other than: (i) goods of a kind referred to in a preceding paragraph; [ie Reg 7(1)(a)-(r)] (ii) goods of a kind specified in Part 1 of the Fifth Schedule; or (iii) goods contained in packages included in a class of packages specified in Part II of that Schedule. | Country in which the goods were made or produced and a true description on the packaging containing the goods. |
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*Note: Part 1 of the Fifth Schedule of the Regulations lists the goods that are not considered to be pre-packed articles. Part 2 of the Fifth Schedule of the Regulations lists the goods that do not contain pre-packed articles.*

## Additional Information

Although the Act and Regulations specify certain requirements for labelling imported goods, some goods may require specific labelling not covered by this legislation and administered by agencies other than Customs. You should seek further information about additional labelling requirements that may apply to the goods including those listed below from the relevant organisation.

| Product   | Labelling requirements administered by:  |
|---|--|
| Food and beverages                              | Food Standards Australia New Zealand   |
| Medicines/pharmaceuticals and therapeutic goods | Department of Health and Ageing<br>Therapeutic Goods Administration  |
| Textile, clothing and footwear products         | Australian Competition and Consumer Commission   |
| Agricultural and veterinary chemicals           | Department of Agriculture, Fisheries and Forestry<br>Department of Health and Ageing<br>(National Industrial Chemicals Notification and Assessment Scheme) |

This ACN replaces ACN No 2002/44 and refers to additional ACN 2006/10.

In addition to this ACN, Fact Sheets on a range of marking and labelling issues are available on the Customs website [www.customs.gov.au](http://www.customs.gov.au) (follow the links > Imports Exports > Intellectual Property).

Inquiries concerning this notice may be directed to Manager Intellectual Property Rights on telephone number (02) 6275 6445 or fax number (02) 6229 3840 or email [iprights@customs.gov.au](mailto:iprights@customs.gov.au)

Tim Chapman  
National Manager  
Cargo Branch

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