

## Pro forma for referral of significant supply chain shocks to the food regulator

This pro forma is for businesses to request consideration of supply chain disruptions in compliance with labelling, compositional and packaging requirements of the Australia New Zealand Food Standards Code (the Code) as a result of significant supply chain shocks. Significant supply chain shocks are those that are beyond the reasonable control of a business and there are reasonable grounds why the business is not able to secure access through other channels.

The pro forma is intended as a guide to businesses and jurisdictions and to promote consistency in how jurisdictions respond to requests for advice. The existence of the pro forma does not override each jurisdiction's statutory responsibilities or how to exercise those responsibilities.

### Key points for consideration by food regulators and businesses:

- As a result of global and domestic supply chain shocks, food businesses may be impacted in a number of ways, including loss of access to regular ingredient supplies, reduced availability of packaging, or supply shortages for certain retail food products.
- Stakeholder groups have requested that the food regulatory system consider a flexible approach to extraordinary and unforeseen circumstances that businesses face as a result of the COVID-19 pandemic, global unrest, and national domestic issues (e.g. natural disasters). In New Zealand companies have requested consideration around export-intended products in response to unprecedented pressure on the domestic supply chain.
- **Critically, any request by business(es) must not**
  - **pose a risk to consumers' health and safety, or**
  - **appreciably reduce information required for consumers' informed choice.**
- **Requests will not be considered where these:**
  - **Seek the use of an unapproved processing aid or food additive;**
  - **Include a novel food or nutritive substance; or**
  - **Involves a defining ingredient, subject to a claim, or would impact an existing rating/ranking (e.g. Health Star); or**
  - **Include a variation to a Maximum Residue Limit (MRL); or**
  - **Involve complex or sensitive foods (such as infant formula or other foods covered under Standard 2.9 of the Code).**
- Also of importance are the following considerations:
  - In seeking this consideration of supply chain disruption, businesses should:
    - employ their best endeavours to comply with all regulations wherever possible;
    - use due diligence in assessing all alternative approaches to enable compliance with regulations;
    - where labelling or packaging issues arise, consider the practicality of over-sticking (preferred), by seeking approval from the relevant authority; and
    - use all appropriate communication channels to ensure consumers are not misled by any temporary changes to products or packaging (i.e. through social media, mass media, corporate websites and already-established consumer enquiry call centres). Ideally, the communication program would be able to demonstrate an alternative method of compliance where consumers are appropriately informed.

- Requests will only be sought while the significant supply shock impacts the Australian and New Zealand food and grocery supply chain, including imported products (noting that some products may have an extended shelf-life).
- Any requests by businesses will need to indicate a length of time any non-compliance is likely to apply for (noting that 6 months would be the usual maximum time to allow for resolution e.g. supply chain planning and logistics), and will be subject to review by regulators.
- Appropriate records are to be maintained by the business and made available upon request by the regulators.
- Requests will be reviewed by the [home regulator](#)<sup>1</sup>, subject to businesses completing the information on this pro forma. Further information may be requested by the [home regulator](#) in order to make an informed decision.
- Any information submitted as part of the request will be held within the Food Regulation System and not disseminated further.
- It is incumbent on businesses to find a solution that suits their consumer and business needs. Food regulators are not able to act in a consultancy role.
- Details of any non-compliance will be made available to all food regulators to ensure transparency of the process.

### **How to submit this pro forma**

Businesses are expected to complete this pro forma in full and submit to their [home regulator via email](#).

Any questions around the use of the pro forma should also be directed to the [home regulator](#).

---

<sup>1</sup> **Home Jurisdiction Rule:** The home jurisdiction is the state or territory in which a food business is based or, in the case of a national chain, where the home company's head office is located.  
<https://foodregulation.gov.au/internet/fr/publishing.nsf/Content/publication-Home-Jurisdiction-Rule-Fact-Sheet>

## Pro forma for businesses to request flexibility

The information in this pro forma is private and confidential and is not for further release beyond the Food Regulation System.

In-confidence submissions may be subject to release under the provisions of the *Freedom of Information Act 1991* (Commonwealth), the *Official Information Act 1982* (NZ), or equivalent state/territory legislation. You may want to keep only parts of your submission confidential. If this is the case, this should be indicated in your submission.

Name of the person(s) completing this form, and organisation/company represented	
Home state/country (head office location) and address of the company/organisation	
Contact details of applicant (phone and email)	
Name and address of CEO or Managing Director of applicant business (for approval purposes)	
Nature of the issue (e.g. unavailability of particular ingredient; unable to access packaging)	
What product/products are implicated? - Include brand, product type (e.g. breakfast cereal), batch code (if known)	
Are there any other products under different brands that need to be considered? - Has the product been manufactured and sold under retail and proprietary brands?	
In which states/territories is the product available? Is this also available in New Zealand?	
Nature of discretion sought by the business (include the relevant standard or clause in the Food Standards Code (the Code))	

<p>Businesses should provide information to consumers about any changes to formulation or labelling issues.</p> <p>Outline what communication is planned (e.g. social media, website, point of sale information)</p> <p>Please provide:</p> <ul style="list-style-type: none"> <li>• a copy of the proposed communication and the method/s proposed</li> <li>• reasons why over stickering was not considered suitable</li> </ul>	
<p>A standard timeframe for compliance arrangements is 6 months. Outline any reasoning why a flexible compliance arrangement should last beyond this time (if sought).</p>	
<p>What is the intended shelf life of the product, and is this indicated by Best Before or Use-By dates?</p>	
<p>Does the request relate to a change of ingredients or packaging supply issues?</p>	
<p>Does the request relate to a food or ingredient which is imported?</p>	
<p>If the request relates to a change of ingredients, outline the assessment undertaken by the business to determine any safety issues or cross contamination from undeclared allergens</p>	
<p>Will the change of supply/product significantly affect characteristics such as water activity or pH and introduce pathogens or allow microbial growth?</p>	
<p>Will the proposed change result in any unacceptable chemical hazards?</p>	
<p>Can the business provide any further information on its systems/processes to ensure ongoing food safety?</p>	
<p>Can the business confirm that the proposed change has no impact on any claims or Health Star Rating of the product(s)</p>	

**Business declaration:**

The information in this pro forma is true and correct at the date indicated.

With the exception of the non-compliance under consideration, all other aspects of the product in question comply with the Code and Food Acts.

**Signature**

**Date**