IMPORTED FOOD

Monitoring imported food

We are responsible for administering the regulation of food imported into Australia. These requirements are designed to:

- protect Australia against biosecurity risks (Biosecurity Act 2015)
- address food safety (Imported Food Control Act 1992).

All imported food must meet Australia’s biosecurity requirements. Once it enters the country, it is monitored for compliance with the Australia New Zealand Food Standards Code. The Imported Food Control Act 1992 provides for inspection and control of imported food using the Imported Food Inspection Scheme (IFIS), a risk-based border inspection program. Eligible businesses can participate through the Food Import Compliance Agreement Scheme. The scheme reduces regulatory burden by providing an alternative to the routine inspection and testing of food products. Figure 1 summarises our food import regulatory activities in 2017–18.

Figure 1 Imported food regulatory activities, 2017–18

![Figure 1](image)

Source: Department of Agriculture and Water Resources

Food Standards Australia New Zealand (FSANZ) provides advice to the department on food that poses a medium or high risk to human health and safety. It is then classified as ‘risk food’ under the IFIS. State and territory regulators are responsible for monitoring all food (including imported food) at point of sale.

We are strengthening Australia’s imported food safety system to better protect consumer health. The changes will reduce the regulatory burden for compliant food importers and uphold Australia’s international obligations. The Imported Food Control Amendment Act, was given Royal Assent in September 2018. The new legislation is designed to:
IMPORTED FOOD

- increase importer accountability for food safety
- strengthen importer sourcing of safe food
- improve monitoring and management of new and emerging food safety risks
- improve incident response.

These changes have been developed in consultation with food importers, industry representatives and trading partners. They will enable a response through the IFIS to risks posed by the growing complexity of globalised food supply chains and increasing consumer demand for imported food.

We work extensively with industry and other jurisdictions to ensure the changes achieve the right balance and that business is not burdened with unnecessary regulation. We consulted domestically and internationally on the regulation impact statement and the proposed legislative changes. Our approach to compliance falls within the Compliance Plan discussed under biosecurity regulation above.
# IMPORTED FOOD

## KPI 1—We do not unnecessarily impede the efficient operations of regulated entities

**Objective:** We understand the operating environment of our regulated entities and stakeholders.

<table>
<thead>
<tr>
<th>Performance Measures</th>
<th>Targets</th>
<th>Results</th>
</tr>
</thead>
</table>
| New and amended regulations are supported by regulatory impact analysis. | **Rating:** Optimal | ✓ Where the regulatory impacts are deemed significant by the Office of Best Practice Regulation (OBPR) we prepare regulation impact statements (RISs) and consult with stakeholders and regulated entities on the impacts of the proposed changes.  
✓ A preliminary assessment RIS has been completed for each proposed Imported Food Control Order amendment. Discussions with OBPR have been held following submission of these preliminary assessments.  
✓ The *Imported Food Control Amendment Act 2018* was tabled in the House of Representatives on 1 June 2017 and received Royal Assent on 21 September 2018.  
✓ Consultation on these proposed changes to our completed food regulation are discussed with the Imported Food Consultative Committee and through publication of Imported Food Notices and the making of World Trade Organisation Sanitary and Phyto-Sanitary (WTO SPS) notifications. |
| We engage with our stakeholders on implementation and compliance approaches. | **Rating:** Optimal | ✓ We routinely consult stakeholders and regulated entities on a range of regulatory matters, even where a RIS is not required. This takes account the impact of regulations on our regulated entities. Information on changes to the Imported Food Inspection Scheme is published on the department’s website and notification of these changes is emailed to subscribers.  
✓ Consultation with industry representatives has occurred through the department’s Cargo Consultative Committee and the Imported Food Consultative Committee. Wider consultation has occurred through industry roundtable events held in Sydney and Melbourne.  
✓ Public calls for submissions on changes to the Imported Food Control Regulations and Imported Food Control Act amendments occurred through the department’s website.  
✓ The department also consulted internationally on changes through the WTO SPS notification process. |
**IMPORTED FOOD**

KPI 2 & 5—Our communication with regulated entities is clear, concise and targeted; we are effective, accountable and transparent.

**Objective:** Our communication with regulated entities and stakeholders is effective.

<table>
<thead>
<tr>
<th>Performance Measures</th>
<th>Targets</th>
<th>Results</th>
</tr>
</thead>
</table>
| Our guidance and information is tailored to the needs of regulated entities and accessible. | Risk-based frameworks, strategies and service standards are available on our website and the information is regularly reviewed to ensure currency. | Rating: Managed  
➢ The department publishes information on requirements of the *Imported Food Control Act* on the department’s website.  
➢ The website is complex and was subject to an internal review which identified how it may be improved to enable ease of access to relevant information. These changes will be considered and implemented in 2019.  
➢ Our compliance plans and strategies for biosecurity are available on our website and periodically reviewed. |

We engage with regulated entities on potential changes to regulatory policies, practices or services.

<table>
<thead>
<tr>
<th>Performance Measures</th>
<th>Targets</th>
<th>Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advice notices and guidance material are up to date, accurate, accessible and in plain English.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
➢ We routinely consult with stakeholders on administration of regulation, and seek their advice on significant changes and explain our decisions. | Rating: Managed  
➢ At the start of 2017–18 we launched *Have Your Say*, an online platform to support engagement with external stakeholders. We used the platform to consult stakeholders about changes to policies, programs and regulations, and to seek their feedback on our services.  
➢ The department publishes industry notices specific to activities under the *Imported Food Control Act* as *Imported Food Notices*. These are up to date, accurate and accessible. The department’s email notification process is used to advise registered stakeholders when these notices are published. |

Rating: Optimal  
➢ The department holds two meetings of the Imported Food Consultative Committee each year. This committee is the primary industry consultative committee on issues associated with the administration of the *Imported Food Control Act*.  
➢ The department commenced a new initiative during 2017, holding industry roundtable events in the major cities. These events provide an opportunity for food importing businesses and service providers to meet directly with department officials to discuss issues associated with the administration of the *Imported Food Control Act*. Roundtable events have been held in Sydney, Melbourne and Brisbane.
**IMPORTED FOOD**

**Objective:** We make decisions in a manner that is timely, consistent and supports predictable outcomes.

<table>
<thead>
<tr>
<th>Performance Measures</th>
<th>Targets</th>
<th>Results</th>
</tr>
</thead>
</table>
|                      | ❖ Our advice to regulated entities explains the reasons for decisions and provides information about avenues for review or complaint (as provided for in relevant legislation). | Rating: Managed  
➢ As noted, the department advises industry of changes to import requirements through the Imported Food Consultative Committee, the department’s Cargo Consultative Committee, imported food website and Imported Food Notices. The department also provides officials to attend industry association meetings to present on changed import requirements and answer questions.  
➢ Regulated entities are informed in writing of outcomes of food inspections. Where an inspection identifies non-compliant or unsafe food, the entity is provided with the reasons for why the department has made that decision.  
➢ The department has published information on how industry participants may seek a review of an initial decision where they are directly affected by the regulatory decision. This information is available on the department’s website.  
➢ The department provides a means for submitting a suggestion, compliment or complaint through the department’s website. This process is subject to tracking and timelines to ensure each submission is assessed and actioned appropriately. |

**Objective:** Our performance measurement results are published in a timely manner to ensure accountability to the public.

<table>
<thead>
<tr>
<th>Performance Measures</th>
<th>Targets</th>
<th>Results</th>
</tr>
</thead>
</table>
|                      | ❖ We publish an annual self–assessment of our performance by the required timeframes. | Rating: Sound  
➢ We report on imported food management. In addition, our Regulator Performance Framework report provides a high level assessment of our performance as a regulator. The department’s annual report also provide significant performance information on imported foods and related biosecurity activities. |
|                      | ❖ Our regulators publish performance information specific to their regulatory frameworks. | Rating: Managed  
➢ The department publishes summaries of inspection data on a regular basis to keep industry and the wider community informed on activities under the Import Food Control Act. These are available from the department’s website.  
➢ The department publishes monthly failing food reports to advise of foods that have failed border inspection processes for food safety or non-compliance with Australian food standards. These are available from the department’s website.  
➢ The department’s annual self-assessment of regulatory performance contains measures for the administration of the Imported Food Control Act. |
KPI 3—Our actions are proportionate to the regulatory risk being managed.

**Objective:** We apply a risk-based, proportionate approach to compliance, engagement and enforcement activities.

<table>
<thead>
<tr>
<th>Performance Measures</th>
<th>Targets</th>
<th>Results</th>
</tr>
</thead>
</table>
| Our regulatory frameworks are supported by best practice compliance strategies that are risk based. | We employ intelligence-based approaches to determine risk, and consider the circumstances of regulated entities. | **Rating: Optimal**
  ➢ We have compliance plans and strategies in place. These are explicitly risk-based, mandating a differentiated approach to identified risks. Our compliance strategies have been reviewed within the past two years.
  ➢ Our approach to compliance management involves recognising regulated client behaviours and adjusting our compliance posture accordingly. The principles underpinning our approach are set out in our compliance plans.
  ➢ The Imported Food Inspection Scheme is a risk based inspection scheme informed by the science based food safety risk assessments conducted by Food Standards Australia New Zealand. |
| Our regulators appropriately employ a range of graduated compliance and enforcement tools. | Our staff are provided with appropriate training and guidance materials to support their compliance roles. | **Rating: Managed**
  ➢ We offer a range of online training courses to staff, including introduction to risk management, biosecurity risk, export food requirements and specific training on various legislation and regulations. Detailed work instructions and guidelines are available to all staff and these are reviewed periodically to ensure relevance. We seek to recruit staff with relevant expertise and ensure training needs are identified. We recognise that maintaining the currency of our guidelines can be challenging in meeting all requirements.
  ➢ We conduct imported food surveys to estimate industry compliance with Australian food standards or to gather evidence as to whether there is a food safety issue that requires a specific border response. The department conducted a survey for evidence of gas flushing with carbon monoxide in imported tuna in response to claims that this was occurring to change the colour of the tuna flesh. Results of the survey were used to educate industry on the need to comply with the Australia New Zealand Food Standards Code and that carbon monoxide is not permitted as a food additive to change the colour of fish flesh. Border testing was then implemented following a transition period to allow industry to voluntarily comply. |
| Eligible regulated entities receive tailored approaches based on an understanding of their operating environment and risk profile. | We apply a graduated approach to compliance activities that provides for earned autonomy, within legislative parameters. | **Rating: Optimal**
  ➢ We adopt a risk-based approach to regulation where it is feasible and supported by evidence. This means our inspection regimes may vary with the risk of a regulated activity. The broad principles are set out in our compliance plans and relevant statements published on our website.
  ➢ We use compliance and enforcement tools tailored to the identified risks and behaviour of our regulated entities. These include inspections, audits, fit and proper person tests, warrants and investigations. Enforcement tools such as compliance audits, infringement notices or court action are only employed when a cooperative approach has been unsuccessful.
  ➢ We adopt a regulatory approach that takes into account compliance history and overall risk of the activities. This is set out in our regulatory compliance plans and operating procedures.
  ➢ Food importing businesses that have demonstrated their capability and competence to import safe and compliant food may apply to the department to enter into a food import compliance agreement. Where approved, the department may recognise this capability and competence and no longer subject the food business’ consignments to a border inspection under the... |
IMPORTED FOOD

<table>
<thead>
<tr>
<th>Performance Measures</th>
<th>Targets</th>
<th>Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>Imported Food Inspection Scheme. The department will conduct audits of the food business to verify their ongoing capacity and compliance with importing safe and compliant food.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

KPI 4- Our compliance and monitoring approaches are streamlined and coordinated

**Objective:** We base our monitoring and inspection approaches on assessed risk and where possible, we take into account the operating context

<table>
<thead>
<tr>
<th>Performance Measures</th>
<th>Targets</th>
<th>Results</th>
</tr>
</thead>
</table>
| Demonstrated benefits to regulated entities from our efforts to streamline and coordinate our regulatory activities. | We regularly review our business processes with a view to streamlining where possible. | Rating: Managed

- The department continues to review use of electronic systems to provide efficiencies in delivery of services. One example is where the department has transitioned to enabling field inspection staff to be connected to various IT systems for clearance of goods. This has enabled inspection staff to action inspection outcomes whilst in the field, negating the need for in office data entry activities enabling efficiencies in the release of compliant consignments.

- The department has considered how to facilitate importer’s requests to have their imported food inspected and cleared for requirements under the *Biosecurity Act* 2015 and *Imported Food Control Act* 1992 in one inspection. To achieve this outcome, assessment and inspection officers are being trained in both import requirements to allow improved coordination of these services.

Our published service standards are met or exceeded. | Rating: Managed

- Our service charter outlines our service commitments and establishes benchmarks for delivering biosecurity related services. The quality of service we provide to our clients is measured against client service standards. In 2017–18 we expanded the range of client service standards beyond our client contact services to include our import and export services.
**IMPORTED FOOD**

**Objective:** We share information and coordinate our compliance activities within the department and with other regulators as appropriate, to minimise duplication and increase efficiency.

<table>
<thead>
<tr>
<th>Performance Measures</th>
<th>Targets</th>
<th>Results</th>
</tr>
</thead>
</table>
| Business processes and services are improved through the better use of modern technology, and agreed service standards. | We analyse complaints information and other feedback from our regulated entities to understand trends and make improvements where possible. | Rating: Managed
| | We collaborate with other relevant regulators to reduce compliance costs and improve efficiency where possible. | ➢ We engage in a number of collaborative arrangements that promote engagement with relevant domestic and international regulators. We seek to address regulatory impacts that are unnecessary and/or disproportionate. We inform ourselves regarding adverse impacts on stakeholders and regulated entities through regular stakeholder consultation. We seek to apply international standards and risk assessments where they meet regulatory requirements. ➢ The department has published information on how industry participants may seek a review of an initial decision where they are directly affected by the regulatory decision. This information is available from the website. ➢ The department provides a means for submitting a suggestion, compliment or complaint through the department’s website. This process is subject to tracking and timelines to ensure each submission is assessed and actioned appropriately. |
| | | Rating: Managed
| | | ➢ We engage with relevant domestic and international regulators to address relevant impacts that are unnecessary and/or disproportionate. We inform ourselves regarding adverse impacts on stakeholders and regulated entities through regular stakeholder consultation. For example, the department regularly consults state food authorities on regulation of food businesses through the Implementation Sub-committee for Food Regulation. We also sit on working groups that report to this body to support consistent food regulation. ➢ The department has regular meetings with Food Standards Australia New Zealand to discuss application of food standards to imported food and whether food safety risk assessment advice requires review to address food hazards. ➢ We engage overseas government authorities on the regulation of food for food safety and compliance with Australian food standards. Where satisfactory equivalence with Australia’s food regulatory system is established, reduced border interventions for food imported from that country may be implemented given these additional assurances. Examples include certification arrangements with the Thai Department of Fisheries and an arrangement with the US Food and Drug Administration. |
**IMPORTED FOOD**

**KPI 6—We actively contribute to the continuous improvement of our regulatory frameworks.**

**Objective:** We establish cooperative and collaborative relationships with regulated entities and stakeholders to promote trust and improve the efficiency and effectiveness of our regulatory frameworks.

<table>
<thead>
<tr>
<th>Performance Measures</th>
<th>Targets</th>
<th>Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>We take into account feedback from our regulated entities and performance information to improve operations of our regulatory frameworks.</td>
<td>We routinely consult with stakeholders on administration of regulation, and seek their advice on significant changes and explain our decisions (this target also applies for KPIs 2&amp;5).</td>
<td>Rating: Managed</td>
</tr>
<tr>
<td></td>
<td>We have a program of review for our regulatory frameworks and we suggest legislative change / implement operational change as appropriate, as a result of these reviews.</td>
<td>Rating: Managed</td>
</tr>
<tr>
<td></td>
<td>Our RPF self-assessment reports identify areas for improvement in our systems and processes.</td>
<td>Rating: Managed</td>
</tr>
</tbody>
</table>

We operate with a continuous improvement program, discussed in other parts of this report. This self-assessment provides an overarching assessment of progress.

As noted above, we maintain commodity based industry consultative committees (ICCs) as a key engagement process. We also use Have Your Say, an online platform to support engagement with external stakeholders. We will use this new platform to consult stakeholders about changes to policies, programs and regulations.

Our work to build the Biosecurity Integrated Information System and Analytics initiative is establishing an integrated, forward-looking system to help us identify and plan for risks and respond more quickly to incursions and more effectively target our compliance activities under the Biosecurity Act. The department undertakes reviews of the imported food legislation and implements changes to improve the management of imported food for food safety. In September 2018, the Imported Food Control Amendment Act 2018 was passed by the Australian Government and received Royal Assent. This introduced a range of changes to improve management of imported food.

Imported food legislation is amended where necessary in response to new or emerging hazards based on risk assessment reviews conducted by Food Standards Australia New Zealand.
CASE STUDY

Imported Food Control Amendment Act 2018

The safety of food imported to Australia is regulated by the department through its administration of the *Imported Food Control Act* 1992. This Act requires food imported to Australia to be safe for human consumption and to comply with Australian food standards. The frozen berries incident in 2015 showed there were limitations with the existing regulatory framework.

To address these limitations the Australian Government made legislative and non-legislative changes to strengthen the management of imported food safety risks to better protect the health of Australian consumers, while reducing the regulatory burden for compliant food importers.

These changes will:

- require a food safety management certificate for certain food where at-border testing alone is insufficient to provide assurance of food safety
- require all importers to provide documents on request, demonstrating the traceability of imported food, one step forward and one step backward along the food supply chain
- establish differentiated enforcement provisions to enable regulatory interventions at a lower threshold to prevent noncompliance escalating, and to align with the *Regulatory Powers Act* 2014
- broaden Australia’s emergency powers to allow food to be held at the border for up to 28 days where there is uncertainty about the safety of a particular food
- provide capacity to monitor and manage new and emerging imported food safety risks through the application of a variable rate of inspection or inspection and analysis for a period of up to six months
- enable recognition of a foreign country’s food safety regulatory system where there is equivalence with Australia’s food safety system. Food imported from these countries will be subject to a reduced rate of inspection.

The changes were developed in consultation not only with industry representatives, but also state and territory food authorities, trading partners and key Commonwealth agencies and departments. A decision regulatory impact statement (RIS) was completed in October 2016 following a public consultation period that commenced in August 2016.

The *Imported Food Control Amendment Act 2018* was tabled in the House of Representatives on 1 June 2017 and received Royal Assent on 21 September 2018.

We are currently developing implementation plans for the new measures and will continue to consult with the food importing industry and overseas trading partners as the new measures take effect. Information will continue to be made available through the department’s website.