

Free Range Eggs Labelling Bill 2013

Explanatory Memorandum

Clause 1: Short title

The short title is the Free Range Eggs Labelling Act 2013.

Clause 2: Commencement

The Act comes into operation on the day on which it receives Royal Assent.

Clause 3: Terms used

Clause 3 defines relevant terms.

Code means the *Code of Practice for Poultry in Western Australia*, published in 2003 by the Department of Local Government and Regional Development, as amended from time to time. Eggs sold as free range are to match the specifications laid out in Appendix 2 – Fowls: Non-cage systems – Minimal Acceptable Standards.

Clause 4: Labelling of egg packages

Packages containing eggs that are not free range eggs may not be labelled as free range. The bill seeks to prevent the misappropriation of the label 'free range' to sell eggs that have not been laid in free range conditions.

Free range eggs packaging may be labelled in any manner, no style is prescribed. This addresses concerns that previous proposed legislation was overly prescriptive about text size.

The penalty of \$220 000 for non-compliance for an individual is the same as the penalty for having made a false or misleading representation about goods under s 151(1)(a) of the *Australian Consumer Law (WA)*. This is referred to in the *Fair Trading Act 2010*, Chapter 4 on Offences. As per WA's *Sentencing Act 1995 s. 40(5)*, which provides, in summary, that if a fine of a certain amount would apply to a natural person (ie an individual) for an offence, the corresponding fine that applies to a body corporate that commits the same offence is 5 times that amount. In this case, that would produce a fine of \$1 100 000 for a body corporate.

Clause 5: Regulations

Clause 5 is the regulation-making power.

Schedule

Schedule 1 sets out the conditions in which free range hens are kept for the purposes of the definition of "free range hen."

Points (a) to (d) of the Schedule follow the Code of Practice, including a limit on the stocking density of up to 1500 hens per hectare.

Point (e) allows for a higher stocking density of 2500 hens per hectare where there is regular rotation of birds onto fresh range and close management is undertaken, as specified in the Code of Practice. This is also the free-range production standard recommended by the RSPCA to maintain high standards of animal welfare.