

# CERTIFICATION RULES FOR THE VEGAN AUSTRALIA CERTIFIED LABEL



## 1. Vegan Australia and the Vegan Australia Certified Label

- 1.1. Vegan Australia (ABN 21 169 219 854) is an organisation which campaigns nationally for veganism. Vegan Australia supports the Australian vegan community, informs the public about the principles of veganism and presents a strong voice for veganism to governments, institutions, corporations and the media. Vegan Australia is dedicated to making a difference for animals, people and our planet through the promotion of veganism and a vegan Australia. Vegan Australia is a registered charity under the ACNC.
- 1.2. Vegan Australia envisions a world in which people treat animals with respect, ensure justice for them and enable them to live their lives free of human exploitation, use and ownership. Vegan Australia strives to be a respected and credible organisation that gains the trust of both individuals and institutions, so they change their attitude and behaviour, resulting in the end of production and consumption of animal products and the abolition of the use of animals for any purpose, including food, clothing and entertainment. Vegan Australia campaigns for veganism as the basis of a just and ethical society and promotes the benefits of veganism to human health, the natural environment and social justice.
- 1.3. Vegan Australia is founded on the following considerations:
  - (a) Sentient animals value their own life and body and have an interest in continuing their existence and avoiding suffering.
  - (b) Animals have the right to be treated with respect and justice and not to be treated as property.
  - (c) Production of animal products necessarily results in suffering or death of animals.
  - (d) Humans have no need for any animal products and in particular are able to live healthily on a vegan diet.
  - (e) Many people who adopt a nutritious vegan diet will enjoy significant health improvements by reducing the risk of major killers such as heart disease, stroke, cancer and diabetes.
  - (f) Raising and processing of animals for food is a major cause of environmental damage, including land degradation, water shortage, deforestation, ocean degradation, air pollution and climate change.
  - (g) Veganism is an ethical response to many urgent social justice issues. The negative consequences of animal production impact heavily on the poor, the disempowered and the hungry.
  - (h) Issues of race, culture, gender and class are important factors to consider in the promotion of veganism.
  - (i) Humans should reduce the harm caused indirectly to animals due to the extraction of natural resources, transportation, development and other human activities as much as possible including harm due to agriculture.
- 1.4. In order to achieve these aims, Vegan Australia provides the right to use its Vegan Australia Certified Label (Certification Mark) on any food or beverage which an Applicant has applied for and that meets the certification rules set out in this document. The aim of the Vegan Australia Certified

program is to ensure that products bearing the Vegan Australia Certified Label do not contain any ingredients of animal origin and that animal products have not been used during the manufacturing process. Vegan certification helps both vegan businesses and non-vegan businesses promote their vegan products. It also provides assurance to those looking for vegan products.

- 1.5. The Vegan Australia Certified Label may only be used on specific food and beverages applied for by the Applicant which has been certified by Vegan Australia (the **Certifier**) in accordance with the criteria set out in these rules.

## 2. Definitions

**“Applicant”** means any entity (whether a sole proprietor or trader, partnership, trust, company, franchise, joint venture, holding company or any other business venture which operates for a profit or not-for-profit) that has applied to Vegan Australia for Certification;

**“Certification”** means the result of the process by which an Applicant is determined by Vegan Australia to satisfy all requirements for Certification set by Vegan Australia in these rules;

**“Product”** means any food or beverage submitted by an Applicant for certification under these rules;

**“Vegan Australia”** means Vegan Australia (ABN 21 169 219 854) and its board of directors, employees, agents and officers;

**“Vegan Australia Certified Label”** means the trade mark which is the subject of Australian Trade Mark Application 1944358 as depicted in the **Annexure** to these rules;

**“Vegan Australia Certified Product”** means a food or beverage product which has been deemed by Vegan Australia to satisfy the Certification criteria and therefore the business who sells such food or beverage is permitted to use the Vegan Australia Certified Label.

## 3. Application of Rules

These rules shall apply to:

- (a) Vegan Australia; and
- (b) Applicants.

## 4. Certification process

- 4.1. Applicants are required to submit to Vegan Australia’s Certification process which consists of the following four (4) stages:

- (a) Qualification;
- (b) Assessment;
- (c) Determination; and
- (d) Audit.

- 4.2. Applicants may elect to withdraw its Products from the Certification process at any time.

## 5. Qualification

- 5.1. Any Applicant who wishes to apply for Certification on its Products shall lodge its request by following the instructions on <http://veganaustralia.org.au/certification>
- 5.2. Vegan Australia will provide to the Applicant an invitation pack which includes information on Certification and the documentation and information required by the Applicant during the assessment of their application.

## **6. Assessment**

- 6.1. The first stage of the assessment phase of Certification requires the Applicant to submit information and documentation to Vegan Australia to demonstrate that the Products are vegan products for the purposes of Certification.
- 6.2. Vegan Australia may require additional documentation from the Applicant to confirm the ingredients and method of creation of the Products meet the conditions of Certification. Such requests will be provided to the Applicant during the Qualification and/or Assessment phase of Certification.
- 6.3. The Applicant must provide documentation to Vegan Australia which confirms that:
  - (a) the Products do not contain any ingredients derived from animals;
  - (b) the method of creation of the Products adhere to Standards prescribed in **Attachment A** to these rules;
  - (c) the Applicant is competent and experienced in their type of business, with good repute and financial standing; and
  - (d) the Applicant is willing and able to achieve and maintain the Standards prescribed in **Attachment A** to these rules.
- 6.4. The nature of the documentation required under rule 6.3 will be advised to the Applicant during the Qualification phase of Certification.

## **7. Determination**

- 7.1. Once the Applicant has submitted the relevant documentation required under the assessment phase of Certification, the Applicant's application in its entirety will be considered by Vegan Australia in order to make a determination as to whether the Products qualify as Vegan Australia Certified Products. The determination will be based on the documented evidence provided by the Applicant, including ingredients lists, recipes and procedures to minimise cross contamination. If any ingredients may be of animal origin or are compound ingredients, Applicants must confirm the sub-ingredients and non-animal sources. Vegan Australia will advise how this confirmation is to be done, which may include declarations by the Applicant or statements from the Applicant's suppliers. Applicants must also supply a declaration stating that the submitted products meet and, during the period of Certification will continue to meet, the conditions of Certification and that any changes to ingredients or processes will be notified to Vegan Australia.
- 7.2. If Products satisfy the criteria for Certification, Vegan Australia will conditionally approve the application of the Applicant.
- 7.3. Applicants will be advised of Vegan Australia's determination of their application within 3 business days of the decision being made and formal notification, including the Licence Agreement will be sent to the Vegan Australia Certified Business within ten (10) business days of the initial notification.
- 7.4. Vegan Australia will notify the Applicant in writing where the Applicant's Products fail to meet Certification criteria. The written notification will include the reasons for the decision and the grounds upon which the decision is founded.
- 7.5. Applicant's whose Products do not qualify for Certification may re-apply three (3) months after the date of denial once changes are made to the Products which may positively affect the Certification criteria.

## **8. Right to Use Vegan Australia Certified Label**

Vegan Australia shall authorise the use of the Vegan Australia Certified Label in connection with Products by the grant of a licence to Applicants whose application for such licence is made in accordance with these rules and whose Products meet the Standards prescribed in **Attachment A** to these rules.

## **9. Auditing**

- 9.1. Vegan Australia may at any time audit an Applicant's use of the Vegan Australia Certified Label and request Applicants make available evidence and information regarding the use of the Vegan Australia Certified Label to ensure that the Vegan Australia Certified Products satisfy the conditions of Certification.
- 9.2. If Vegan Australia audit determines that the Vegan Australia Certified Product no longer qualifies for Certification, written notice of the recommended action or request for further information will be sent to the Applicant within fourteen (14) days upon completion of the audit.
- 9.3. The Applicant has thirty (30) days from the date of the written notification described in rule 9.2 to take the recommended action or to comply with requests for further information in order to maintain its certified status. Failure to comply with the recommendation may lead to revocation of Certification of the Vegan Australia Certified Product.
- 9.4. An Applicant whose Vegan Australia Certified Product Certification is terminated by Vegan Australia during the course of the audit procedure may reapply for Certification three (3) months after the date of termination once changes are made to the Products which may positively affect the Certification criteria.

## **10. Conditions of Licence and Requirements of use for the Vegan Australia Certified Label**

- 10.1. The following shall be conditions of each licence to use the Vegan Australia Certified Label granted in accordance with these rules:
  - (a) Products are normally certified for one year, but other periods may be granted at Vegan Australia's discretion. After this period, certification must be renewed. To renew Certification, Applicants must reapply for each product, stating whether the ingredients and methods are the same as the previous period. If not, any changes must be notified to Vegan Australia. A new declaration from the applicant is also required, stating that the submitted products meet and, during the new period of Certification will continue to meet, the conditions of Certification and that any changes to ingredients or processes will be notified to Vegan Australia.
  - (b) the licensee shall pay to Vegan Australia an annual Licence Fee determined in accordance with **Attachment B** (which may be subject to annual increases at the discretion of Vegan Australia and shall be payable to Vegan Australian upon acceptance of the grant of the licence, by way of entering into the Licence Agreement);
  - (c) the label is only used on Vegan Australia Certified Products during the term of the Licence;
  - (d) the licensee may use the Vegan Australia Certified Label on its Vegan Australia Certified Products packaging and in menus, as well as associated promotional materials and online.
  - (e) Where a licensee only manufactures or supplies Vegan Australia Certified Products and no other products, the Vegan Australia Certified Label may also be placed anywhere their business name appears.
  - (f) the licensee may use the Vegan Australia Certified Label on their Vegan Australia Certified Products and refer to themselves as 'Vegan Australia Certified' suppliers in the following approved ways: marketing, promotion and sales related to the Vegan Australia Certified Products, including on the websites, social media pages, business cards, brochures and

other branding of the applicant, provided always that the marketing, promotion and sales relate only to products that are Vegan Australia Certified Products;

- (g) the Vegan Australia Certified Label may not be edited, cropped, modified or changed in any way, or used other than in accordance with this clause, without the prior written consent of Vegan Australia;
- (h) the licensee is not permitted to pass, transfer or issue the Vegan Australia Certified Label to third parties to use. Third parties wishing to use the Vegan Australia Certified Label must contact Vegan Australia directly for permission.

## **11. Ownership of the Vegan Australia Certified Label and powers of Vegan Australia**

- 11.1. Vegan Australia is the owner of the Vegan Australia Certified Label and is the only entity empowered to authorise the use of the Vegan Australia Certified Label.
- 11.2. The Vegan Australia Certified Label may only be used by:
  - (a) Vegan Australia;
  - (b) Applicants on Vegan Australia Certified Products in accordance with rule 10.1; and
  - (c) Any other organisation or individual who is permitted by Vegan Australia to use the Vegan Australia Certified Label on Vegan Australia Certified Products for promotion or marketing purposes.
- 11.3. Use of the Vegan Australia Certified Label in accordance with these rules will not affect the property or other rights in the Vegan Australia Certified Label.
- 11.4. If any Applicant is or becomes aware of any unauthorised use of the Vegan Australia Certified Label or similar mark, it will immediately bring this to the attention of Vegan Australia which may take any action it deems appropriate in the circumstance to protect and enforce its rights in that mark.
- 11.5. No Applicant may commence any infringement or other legal action in connection with the use of the Vegan Australia Certified Label or similar mark by a third party without the prior written consent of Vegan Australia.
- 11.6. Vegan Australia has the right to delegate any one or more of its powers in relation to these rules to an appropriately qualified and independent nominee appointed in writing. The decision of any such delegate will be binding and effective in the same way as any decision made by Vegan Australia in accordance with these rules.

## **12. Dispute Resolution**

- 12.1. An Applicant may request reconsideration of any decision which relates to any act or application in connection with these rules, by providing written notification to Vegan Australia.
- 12.2. Where the dispute relates to a decision made by Vegan Australia in relation to the failure of an application for Certification:
  - (a) written notification of an intention to appeal the decision must be sent to the Chairperson of the Vegan Australia board of directors within ten (10) business days of receipt of the initial refusal; and
  - (b) an appeals committee established by Vegan Australia will be convened within ten (10) business days to hear the matter upon receipt of the letter notifying intention to appeal.
- 12.3. The decision of the committee described in rule 12.2(b) is final and binding upon both Vegan Australia and the Applicant.
- 12.4. Where the dispute relates to any other matter, one or more Vegan Australia representatives will meet with the disputant within ten (10) business days of receiving the written notice under rule

12.1 to try to resolve the dispute. A meeting between the parties will either be held at the regular business offices of Vegan Australia, a location as agreed by the parties, or via teleconference.

12.5. If the dispute is not resolved at the meeting described in rule 12.4, the parties agree to appoint, within one month of that meeting, an appropriately qualified independent person or body to hear and make a determination on the dispute. In the event that the parties cannot agree on a person to determine the dispute, the Chairperson of the Vegan Australia board of directors will be given the authority to nominate and appoint such a person. The parties agree that any decision made by the independent person appointed to resolve the dispute will be confidential and be binding on the parties.

### **13. Revocation of Vegan Australia Certified rights**

13.1. Vegan Australia may revoke the Certification of a Vegan Australia Certified Product on reasonable grounds.

13.2. Reasonable grounds for revocation include, but are not limited to:

- (a) Breach of any of these rules by an Applicant;
- (b) Failure of the Applicant to maintain the criteria upon which the Certification was granted for the Products including payment of licence fees;
- (c) Submission of false or misleading information by an Applicant to Vegan Australia relating to its application for Certification or in the course of regular correspondence or any Audit;
- (d) Failure to submit required documentation as part of an Audit in the time frame specified by Vegan Australia;
- (e) Any real and serious reputational risk to Vegan Australia, Vegan Australia Members and affiliated partner organisations and individuals.

13.3. Applicants which have had their Certification revoked in accordance with these rules may after twelve (12) months reapply for Certification in accordance with the standard Certification process.

### **14. General**

14.1. Vegan Australia does not warrant or represent that the use of the Vegan Australia Certified Label is guaranteed to confer any financial or other benefit on an Applicant, and to the full extent permitted by law, Vegan Australia excludes all liability for loss, damage or liability suffered or incurred by an Applicant in reliance on the Vegan Australia Certified Label. To the extent that any liability of Vegan Australia is not excluded by this rule it is limited, to the full extent permitted by law, to an obligation to supply the relevant services that it has provided under these rules.

14.2. While Vegan Australia will use reasonable efforts to ensure that all uses of the Vegan Australia Certified Label are made in accordance with these rules, it will not be held responsible for any damage, loss or liability suffered or incurred by any Applicant by the breach of these rules by another Applicant or by any use of the Vegan Australia Certified Label by any other party.

14.3. Vegan Australia shall establish and maintain a register which shall contain details of all licensed users of the mark. The register shall be kept at the principal office of Vegan Australia and shall be open to the inspection of the public during the normal business hours of the said principal office.

14.4. Applicants who use the Vegan Australia Certified Label pursuant to these rules do not do so as agents or actors of Vegan Australia. Vegan Australia accepts no responsibility for the acts or omissions of any use by the Applicant or any other party.

14.5. Vegan Australia may amend these rules from time to time with the prior consent of the Australian Competition and Consumer Commission. Any changes which have an effect on Applicants will be

advised by Vegan Australia in writing to all Applicants within ten (10) business days of the amended rules coming into operation.

**Annexure - Certification Trade Mark**





## **Attachment A – Vegan Australia Certified Standard**

This standard specifies the criteria products must meet for compliance with the Vegan Australia Certified program (CTM Standards).

This standard covers both manufactured vegan products and vegan menu items in restaurants.

For a product to meet this standard:

- the product must not contain any ingredients derived from animals;
- animal products must not be used in the manufacturing process;
- the product and its ingredients must not be tested on animals by the manufacturer or a related entity;
- any ingredient that may be of animal origin must have a traceable supply chain; and
- reasonable steps must be taken to minimise cross contamination.

For products made in facilities that also handle non-vegan products, reasonable steps must be taken to minimise cross contamination. If there is a risk of contamination with animal products, the product packaging should include an appropriate statement, such as "may contain ...". No animal ingredients are to be deliberately added at any point during production.

Products are certified for one year (or other period as granted at Vegan Australia's discretion), after which certification must be renewed.

## **Attachment B – Licence Fee**

An annual licence fee is charged to use the Vegan Australia Certified Label. The fee is \$150 plus \$100 for every \$100,000 over \$100,000 of gross annual income from the certified products.