



Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Act 2016

No. 7, 2016

An Act to amend the *Food Standards Australia New Zealand Act 1991*, and for related purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 7, 2016

An Act to amend the *Food Standards Australia New Zealand Act 1991*, and for related purposes

[Assented to 11 February 2016]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Act 2016*.

No. 7, 2016

*Food Standards Australia New Zealand Amendment (Forum on Food
Regulation and Other Measures) Act 2016*

1

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	11 February 2016
2. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	12 February 2016
3. Schedule 1, Part 2	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 12 months beginning on the day this Act receives the Royal Assent, they do not commence at all.	30 November 2016 (F2016N00027)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Main amendments

Part 1—Amendments commencing day after Royal Assent

Food Standards Australia New Zealand Act 1991

1 Subsection 4(1) (definition of *appropriate government agency*)

Repeal the definition, substitute:

appropriate government agency means:

- (a) the relevant Department of State of the Commonwealth, a State, a Territory or New Zealand administered by a Minister who is a member of the Forum on Food Regulation; or
- (b) any other body that has an officer on the Food Regulation Standing Committee; or
- (c) any other body or officer of the Commonwealth, a State, a Territory or New Zealand that the Authority considers has a particular interest in the relevant matter.

2 Subsection 4(1) (definition of *Council*)

Repeal the definition.

3 Subsection 4(1)

Insert:

Forum on Food Regulation means the Australia and New Zealand Food Regulation Ministerial Council established by the Food Regulation Agreement.

4 Subsection 4(1)

Repeal the following definitions:

- (a) definition of ***Gene Technology Regulator***;
- (b) definition of ***GMO***;
- (c) definition of ***GM product***;
- (d) definition of ***New Zealand lead Minister on the Council***.

Schedule 1 Main amendments

Part 1 Amendments commencing day after Royal Assent

5 Subsection 4(1)

Insert:

New Zealand lead Minister on the Forum on Food Regulation
means the Minister of the government of New Zealand who is:

- (a) a member of the Forum on Food Regulation; and
- (b) nominated by the government of New Zealand to be the New Zealand lead Minister on the Forum on Food Regulation.

6 Subsection 4(1) (definition of *policy guideline*)

Omit “Council”, substitute “Forum on Food Regulation”.

7 After Part 1

Insert:

Part 1A—The Forum on Food Regulation

11A Forum on Food Regulation

The Australia and New Zealand Food Regulation Ministerial Council established by the Food Regulation Agreement may also be known as the Australia and New Zealand Ministerial Forum on Food Regulation.

8 Subsection 15(3)

Omit “Council”, substitute “Forum on Food Regulation”.

9 Paragraph 18(2)(e)

Omit “Council”, substitute “Forum on Food Regulation”.

10 Subsections 18(3), (3A) and (6)

Omit “Council”, substitute “Forum on Food Regulation”.

11 Section 19

Repeal the section.

12 Section 21 (steps 9 and 10)

Omit “Council”, substitute “Forum on Food Regulation”.

13 Subsection 24(1)

Omit “after the Authority has accepted the application under paragraph 26(1)(a) or 47(1)(a), but”.

14 Paragraph 33(3)(i)

Repeal the paragraph, substitute:

- (i) if applicable—a Regulation Impact Statement.

15 Section 34 (heading)

Repeal the heading, substitute:

34 Notifying the Forum on Food Regulation

16 Paragraph 34(1)(a)

Omit “Council”, substitute “Forum on Food Regulation”.

17 Paragraph 34(1)(c)

Repeal the paragraph, substitute:

- (c) publish a notice on the Authority’s website that states:
 - (i) that the draft standard or draft variation has been approved; and
 - (ii) that the Forum has been notified that the draft standard or draft variation has been approved; and
 - (iii) that the Forum may request the Authority to review the draft standard or draft variation under Division 3; and
 - (iv) where further information about the draft standard or draft variation may be obtained.

18 Subsection 34(2)

Repeal the subsection, substitute:

- (2) If the Authority has notified the Forum on Food Regulation under subsection (1), the Forum may direct the Authority to give the Forum such information as the Forum reasonably requires for the

Schedule 1 Main amendments

Part 1 Amendments commencing day after Royal Assent

purpose of assisting the Forum to make a decision about the draft under Division 3.

Note: The process followed by the Forum on Food Regulation after receiving notification under this section is set out in Division 3.

19 Subsection 35(5)

Omit “Council”, substitute “Forum on Food Regulation”.

20 Paragraph 41(4)(a)

Omit “Council”, substitute “Forum on Food Regulation”.

21 Paragraph 41(4)(c)

Repeal the paragraph, substitute:

- (c) publish a notice on the Authority’s website that states:
 - (i) that the draft variation has been approved; and
 - (ii) that the Forum has been notified that the draft variation has been approved; and
 - (iii) that the Forum may request the Authority to review the draft variation under Division 3; and
 - (iv) where further information about the draft variation may be obtained.

22 Subsection 41(5)

Repeal the subsection, substitute:

- (5) If the Authority has notified the Forum on Food Regulation under subsection (4), the Forum may direct the Authority to give the Forum such information as the Forum reasonably requires for the purpose of assisting the Forum to make a decision about the draft under Division 3.

Note: The process followed by the Forum on Food Regulation after receiving notification under this section is set out in Division 3.

23 Paragraph 50(2)(b)

Omit “assess the draft variation against the criteria set out in the Nutrition, Health and Related Claims Standard in relation to high level health claims, taking”, substitute “take”.

24 Section 53 (heading)

Repeal the heading, substitute:

53 Notifying the Forum on Food Regulation

25 Paragraph 53(1)(a)

Omit “Council”, substitute “Forum on Food Regulation”.

26 Subsection 53(2)

Repeal the subsection, substitute:

- (2) If the Authority has notified the Forum on Food Regulation under subsection (1), the Forum may direct the Authority to give the Forum such information as the Forum reasonably requires for the purpose of assisting the Forum to make a decision about the draft under Division 3.

Note: The process followed by the Forum on Food Regulation after receiving notification under this section is set out in Division 3.

27 Section 54 (steps 9 and 10)

Omit “Council”, substitute “Forum on Food Regulation”.

28 Subsection 56(1)

Repeal the subsection, substitute:

- (1) The Authority may abandon a proposal at any time before:
- (a) if the proposal results, or would result, in the development or variation of a standard—the draft standard or draft variation is approved; or
 - (b) if the proposal results, or would result, in the development or variation of a code of practice—the draft code of practice or draft variation is approved.

29 Subsection 56(2)

Omit “77”, substitute “75”.

30 Subsection 59(1)

Omit “If”, substitute “Subject to section 56, if”.

31 At the end of subsection 59(1)

Add:

Note: Section 56 allows the Authority to abandon a proposal.

32 Paragraph 63(3)(i)

Repeal the paragraph, substitute:

- (i) if applicable—a Regulation Impact Statement.

33 Section 64 (heading)

Repeal the heading, substitute:

64 Notifying the Forum on Food Regulation

34 Paragraph 64(1)(a)

Omit “Council”, substitute “Forum on Food Regulation”.

35 Paragraph 64(1)(c)

Repeal the paragraph, substitute:

- (c) publish a notice on the Authority’s website that states:
 - (i) that the draft standard or draft variation has been approved; and
 - (ii) that the Forum has been notified that the draft standard or draft variation has been approved; and
 - (iii) that the Forum may request the Authority to review the draft standard or draft variation under Division 3; and
 - (iv) where further information about the draft standard or draft variation may be obtained.

36 Subsection 64(2)

Repeal the subsection, substitute:

- (2) If the Authority has notified the Forum on Food Regulation under subsection (1), the Forum may direct the Authority to give the Forum such information as the Forum reasonably requires for the purpose of assisting the Forum to make a decision about the draft under Division 3.

Note: The process followed by the Forum on Food Regulation after receiving notification under this section is set out in Division 3.

37 Subsection 65(5)

Omit “Council”, substitute “Forum on Food Regulation”.

38 Paragraph 69(4)(a)

Omit “Council”, substitute “Forum on Food Regulation”.

39 Paragraph 69(4)(c)

Repeal the paragraph, substitute:

- (c) publish a notice on the Authority’s website that states:
 - (i) that the draft variation has been approved; and
 - (ii) that the Forum has been notified that the draft variation has been approved; and
 - (iii) that the Forum may request the Authority to review the draft variation under Division 3; and
 - (iv) where further information about the draft variation may be obtained.

40 Subsection 69(5)

Repeal the subsection, substitute:

- (5) If the Authority has notified the Forum on Food Regulation under subsection (4), the Forum may direct the Authority to give the Forum such information as the Forum reasonably requires for the purpose of assisting the Forum to make a decision about the draft under Division 3.

Note: The process followed by the Forum on Food Regulation after receiving notification under this section is set out in Division 3.

41 Paragraph 76(2)(b)

Omit “assess the draft variation against the criteria set out in the Nutrition, Health and Related Claims Standard in relation to high level health claims, taking”, substitute “take”.

42 Paragraph 76(2)(d)

Before “all”, insert “consider”.

43 Section 79 (heading)

Repeal the heading, substitute:

79 Notifying the Forum on Food Regulation

44 Paragraph 79(1)(a)

Omit “Council”, substitute “Forum on Food Regulation”.

45 Paragraph 79(1)(b)

Omit “if submissions were called for under section 77—”.

46 Subsection 79(2)

Repeal the subsection, substitute:

- (2) If the Authority has notified the Forum on Food Regulation under subsection (1), the Forum may direct the Authority to give the Forum such information as the Forum reasonably requires for the purpose of assisting the Forum to make a decision about the draft under Division 3.

Note: The process followed by the Forum on Food Regulation after receiving notification under this section is set out in Division 3.

47 Paragraph 82(4)(a)

Omit “Council”, substitute “Forum on Food Regulation”.

48 Subparagraphs 82(4)(b)(ii) and (iii)

Omit “Council”, substitute “Forum”.

49 Division 3 of Part 3 (heading)

Repeal the heading, substitute:

Division 3—Forum on Food Regulation review of draft standards and draft variations of standards

50 Section 84 (heading)

Repeal the heading, substitute:

84 Forum on Food Regulation may request a review

51 Subsection 84(1)

Omit “Council” (first occurring), substitute “Forum on Food Regulation”.

52 Subsection 84(1)

Omit “Council” (second occurring), substitute “Forum”.

53 Paragraph 84(1)(b)

Omit “Council”, substitute “Forum”.

54 Subsection 84(2)

Omit “Council”, substitute “Forum on Food Regulation”.

55 Section 85

Omit “Council” (first occurring), substitute “Forum on Food Regulation”.

56 Section 85

Omit “Council” (second occurring), substitute “Forum”.

57 Subsection 86(1)

Repeal the subsection, substitute:

- (1) If the Forum on Food Regulation requests the Authority to review a draft standard or draft variation, the Forum must inform the Authority of the Forum’s concerns with the draft.

58 Subsection 86(2)

Omit “Council”, substitute “Forum on Food Regulation”.

59 Subsection 87(1)

Omit “Council” (first occurring), substitute “Forum on Food Regulation”.

60 Subparagraph 87(1)(b)(ii)

Omit “Council”, substitute “Forum”.

61 Subsection 87(3)

Omit “Council”, substitute “Forum on Food Regulation”.

62 Section 88 (heading)

Repeal the heading, substitute:

88 Forum on Food Regulation may amend or reject the draft after review

63 Subsection 88(1)

Omit “Council” (first occurring), substitute “Forum on Food Regulation”.

64 Subsection 88(1)

Omit “Council” (second occurring), substitute “Forum”.

65 Paragraph 88(1)(a)

Omit “Council”, substitute “Forum”.

66 Section 89 (heading)

Repeal the heading, substitute:

89 Forum on Food Regulation does not intend to amend or reject the draft

67 Section 89

Omit “Council”, substitute “Forum on Food Regulation”.

68 Section 90 (heading)

Repeal the heading, substitute:

90 Forum on Food Regulation amends the draft

69 Subsection 90(1)

Omit “Council” (first occurring), substitute “Forum on Food Regulation”.

70 Subsection 90(1)

Omit “Council” (second occurring), substitute “Forum”.

71 Subsection 90(2)

Omit “Council” (first occurring), substitute “Forum on Food Regulation”.

72 Subsection 90(2)

Omit “Council” (second and third occurring), substitute “Forum”.

73 Section 91 (heading)

Repeal the heading, substitute:

91 Forum on Food Regulation rejects the draft

74 Section 91

Before “If”, insert “(1)”.

75 Section 91

Omit “Council” (first occurring), substitute “Forum on Food Regulation”.

76 Section 91

Omit “Council” (second occurring), substitute “Forum”.

77 Paragraph 91(c)

Repeal the paragraph, substitute:

(c) publish a copy of the notice on the internet.

78 At the end of section 91

Add:

(2) Upon receiving a copy of the notice, the Authority must give public notice of the Forum on Food Regulation’s notice.

79 Subparagraph 92(b)(ii)

Omit “and”.

80 Subparagraph 92(b)(iii)

Repeal the subparagraph.

81 Paragraph 92(c)

Repeal the paragraph.

82 Subsection 95(3)

Repeal the subsection, substitute:

- (3) The Authority must give public notice of a declaration under subsection (1) or (2) and include a copy of the declaration in the notice.

83 Paragraph 95(5)(b)

Omit “Council”, substitute “Forum on Food Regulation”.

84 Subsection 96(6)

Omit “in a generally circulating newspaper, in each State or Territory and in New Zealand,” substitute “, on the Authority’s website,”.

85 Subsection 97(4)

Repeal the subsection, substitute:

- (4) If the Authority approves a draft standard or a draft variation of a standard under this section (with or without amendments), the Authority must give public notice of the approval, together with information about where further information about the draft standard or draft variation may be obtained.

86 Subsection 101(3)

Omit “Council”, substitute “Forum on Food Regulation”.

87 Paragraph 101(4)(g)

Repeal the paragraph, substitute:

- (g) if applicable—a Regulation Impact Statement in relation to the standard or variation.

88 Subsection 101(5)

Repeal the subsection, substitute:

- (5) If the Authority notifies the Forum on Food Regulation that the Authority has re-affirmed a standard or variation of a standard, the Forum may direct the Authority to give the Forum such information as the Forum reasonably requires for the purpose of assisting the Forum to make a decision about the standard or variation under section 102.

89 Section 102 (heading)

Repeal the heading, substitute:

102 Forum on Food Regulation may request Authority to review

90 Subsection 102(1)

Omit “Council” (first occurring), substitute “Forum on Food Regulation”.

91 Subsection 102(1)

Omit “Council” (second occurring), substitute “Forum”.

92 Paragraph 102(1)(b)

Omit “Council”, substitute “Forum”.

93 Subsection 102(2)

Omit “Council”, substitute “Forum on Food Regulation”.

94 Subsection 103(1)

Repeal the subsection, substitute:

- (1) If the Forum on Food Regulation requests the Authority to review the standard or variation, the Forum must inform the Authority of the Forum’s concerns with the standard or variation.

95 Subsection 103(2)

Omit “Council”, substitute “Forum on Food Regulation”.

96 Subsection 104(1)

Omit “Council” (first occurring), substitute “Forum on Food Regulation”.

97 Subparagraph 104(1)(b)(ii)

Omit “Council”, substitute “Forum”.

98 Subsection 104(3)

Omit “Council”, substitute “Forum on Food Regulation”.

99 Section 106 (heading)

Repeal the heading, substitute:

106 Forum on Food Regulation may revoke or amend standard or variation

100 Subsection 106(1)

Omit “Council” (first occurring), substitute “Forum on Food Regulation”.

101 Subsection 106(1)

Omit “Council” (second occurring), substitute “Forum”.

102 Paragraph 106(1)(a)

Omit “Council”, substitute “Forum”.

103 Subsection 106(2)

Omit “Council” (first occurring), substitute “Forum on Food Regulation”.

104 Subsection 106(2)

Omit “Council” (second occurring), substitute “Forum”.

105 Paragraph 106(2)(c)

Repeal the paragraph, substitute:

(c) publish a copy of the notice on the internet.

106 After subsection 106(2)

Insert:

(2A) Upon receiving a copy of the notice, the Authority must give public notice of the Forum on Food Regulation's notice.

107 Subsection 106(3)

Omit "Council" (first occurring), substitute "Forum on Food Regulation".

108 Subsection 106(3)

Omit "Council" (second occurring), substitute "Forum".

109 Subsection 106(4)

Omit "Council", substitute "Forum on Food Regulation".

110 Subparagraph 106(4)(b)(ii)

Omit "and".

111 Subparagraph 106(4)(b)(iii)

Repeal the subparagraph.

112 Paragraph 106(4)(c)

Repeal the paragraph.

113 Subsection 109(9)

Omit "Council", substitute "Forum on Food Regulation".

114 Subsection 109(10)

Omit "Council" (first occurring), substitute "Forum on Food Regulation".

115 Paragraphs 109(10)(a) and (b)

Omit "Council", substitute "Forum".

116 Paragraph 110(2)(c)

Omit "Council", substitute "Forum on Food Regulation".

117 Paragraph 110(5)(a)

Omit “77”, substitute “75”.

118 Paragraph 110(5)(b)

Omit “Council”, substitute “Forum on Food Regulation”.

119 Subsection 112(4)

Omit “77”, substitute “75”.

120 Subsections 113(2) and (3)

Omit “Council”, substitute “Forum on Food Regulation”.

121 Subsection 113(4)

Omit “Council” (first occurring), substitute “Forum on Food Regulation”.

122 Paragraph 113(4)(b)

Omit “Council”, substitute “Forum”.

123 Subsection 113(5)

Omit “Council”, substitute “Forum on Food Regulation”.

124 Paragraphs 116(1)(c) and (ca)

Omit “Council”, substitute “Forum on Food Regulation”.

125 Subsections 116(1B) and (2)

Omit “Council”, substitute “Forum on Food Regulation”.

126 Subsections 118(4) and (5)

Omit “Council”, substitute “Forum on Food Regulation”.

127 Subsections 128(3) and (4)

Omit “Minister”, substitute “Board”.

128 Subsection 145(1)

Omit “(1)”.

129 Subsection 145(1)

Omit “Council”, substitute “Forum on Food Regulation”.

130 After paragraph 152(1)(r)

Insert:

- (ra) the number of draft standards and draft variations approved during the current period under:
 - (i) section 33 or 63; or
 - (ii) section 41 or 69; or
 - (iii) section 52 or 78; or
 - (iv) section 97; and

131 Paragraph 152(1)(t)

Repeal the paragraph.

132 Paragraphs 152(1)(u) and (v)

Omit “Council”, substitute “Forum on Food Regulation”.

133 Paragraphs 152(1)(w) and (x)

Omit “Council under Division 3”, substitute “Forum on Food Regulation under Division 4”.

134 Application

- (1) The amendment made by item 78 of this Schedule applies to a notice given to the Authority on or after the day this item commences, even if the draft standard or draft variation to which the notice relates was prepared before that day.
- (2) The amendment made by item 106 of this Schedule applies to a notice given to the Authority on or after the day this item commences, even if the standard or variation to which the notice relates was assessed before that day.
- (3) The amendment made by item 127 of this Schedule applies to an appointment made on or after the day this item commences, even if the period of 2 years mentioned in subsection 128(3) of the *Food Standards Australia New Zealand Act 1991* began before that day.

Part 2—Other amendments

Food Standards Australia New Zealand Act 1991

135 Subsection 4(1) (definition of *Forum on Food Regulation*)

Omit “Australia and New Zealand Food Regulation Ministerial Council”, substitute “Australia and New Zealand Ministerial Forum on Food Regulation”.

136 Part 1A

Repeal the Part.

*[Minister’s second reading speech made in—
House of Representatives on 17 September 2015
Senate on 15 October 2015]*

(164/15)
