

# *Australia New Zealand Food Standards Code – Amendment No. 100 – 2008*

## *Food Standards Australia New Zealand Act 1991*

### **Preamble**

The variations set forth in the Schedule below are variations to Standards in the *Australia New Zealand Food Standards Code* published by the National Health and Medical Research Council in the *Commonwealth of Australia Gazette*, No. P 27, on 27 August 1987, which have been varied from time to time.

These variations are published pursuant to section 23A of the *Food Standards Australia New Zealand Act 1991*.

### **Citation**

These variations may be collectively known as the *Australia New Zealand Food Standards Code – Amendment No. 100 – 2008*.

### **Commencement**

These variations commence on 10 July 2008.

Note: These variations were published in the Commonwealth of Australia *Food Standards Gazette* No. FSC 42 on 10 July 2008.

## **SCHEDULE**

[1] *Standard 1.1.1 is varied by –*

[1.1] *inserting in clause 2, after the definition of fund raising events –*

#### **Editorial note:**

Fund raising event organisers should be aware that there may be New Zealand, State Territory or Commonwealth legislative requirements that need to be complied with in order to conduct the event.

[1.2] *inserting in clause 2 –*

**hamper** means a decorative basket, box or receptacle containing any number of separately identifiable food items.

#### **Editorial note:**

A hamper may also contain non-food items such as decorative cloths, glasses and dishes.

**handling** of food includes the making, manufacturing, producing, collecting, extracting, processing, storing, transporting, delivering, preparing, treating, preserving, packing, cooking, thawing, serving or displaying of food.

[1.3] *omitting from clause 2, paragraph (d) in the definition of package, substituting –*

- (d) transportation vehicles; or
- (e) a vending machine; or
- (f) a hamper; or
- (g) food served on a covered plate, cup, tray or other food container in prisons, hospitals or other similar institutions listed in the Table to clause 8 of Standard 1.2.1.

[2] *Standard 1.2.1 is varied by substituting –*

### **STANDARD 1.2.1**

## **APPLICATION OF LABELLING AND OTHER INFORMATION REQUIREMENTS**

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### **Purpose**

This Standard sets out the application of general labelling and other information requirements contained in Part 1.2 and labelling and information requirements specific to certain foods in Chapter 2 of this Code. This Part sets out the labelling requirements for food for sale and information that must be provided in conjunction with the sale of certain foods, where labelling is not required. Food Product Standards in Chapter 2 may impose additional labelling and information requirements for specific classes of food.

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### **Clauses**

#### **1 Interpretation**

In this Part –

**assisted service display cabinet** means an enclosed or semi-enclosed display cabinet which requires a person to serve the food as requested by the purchaser.

**food for catering purposes** includes food supplied to catering establishments, restaurants, canteens, schools, hospitals, and institutions where food is prepared or offered for immediate consumption.

**food for retail sale** means food for sale to the public and includes food prior to retail sale which is –

- (a) manufactured or otherwise prepared, or distributed, transported or stored; and
- (b) not intended for further processing, packaging or labelling.

**intra company transfer** means a transfer of food between elements of a single company, between subsidiaries of a parent company or between subsidiaries of a parent company and the parent company.

**small package** means a package with a surface area of less than 100 cm<sup>2</sup>.

**transportation outer** means a container or wrapper which encases packaged or unpackaged foods for the purpose of transportation and distribution and which is removed before the food is used or offered for retail sale or which is not taken away by the purchaser of the food.

## **1A Application**

Despite subclause 1(2) of Standard 1.1.1, the definition of ‘food for retail sale’ commences and applies exclusively from the date of gazettal.

## **2 Labelling of food for retail sale**

(1) Subject to subclauses (2) and (4), food for retail sale must bear a label setting out all the information prescribed in this Code, except where –

- (a) the food is other than in a package; or
- (b) the food is in an inner package not designed for individual sale. Despite this, individual portion packs in a container or wrapper with a surface area of 30 cm<sup>2</sup> or greater must bear a label containing information in accordance with clauses 3 and 4 of Standard 1.2.3; or
- (c) the food is made and packaged on the premises from which it is sold; or
- (d) the food is packaged in the presence of the purchaser; or
- (e) the food is whole or cut fresh fruit and vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables; or
- (f) the food is delivered packaged, and ready for consumption, at the express order of the purchaser; or
- (g) the food is sold at a fund raising event; or
- (h) the food is packaged and displayed in an assisted service display cabinet.

(2) Despite subclause (1), food for retail sale must comply with any requirements specified in –

- (a) subclauses 1(1) or (2) of Standard 1.2.2 – Food Identification Requirements; and
- (b) subclauses 2(2), 3(2), 4(2) and 5(2) of Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations; and
- (c) Reserved; and
- (d) Standard 1.2.6 – Directions for Use and Storage; and
- (e) subclauses 4(2) and 4(3) of Standard 1.2.8 – Nutrition Information Requirements; and
- (f) subclause 2(3) of Standard 1.2.10 – Characterising Ingredients and Components of Food; and
- (g) subclauses 2(2) and 2(3) of Standard 1.2.11 – Country of Origin Requirements (Australia only); and
- (h) subclause 4(3) of Standard 1.5.2 – Food Produced Using Gene Technology; and
- (i) clause 6 of Standard 1.5.3 – Irradiation of Food; and
- (j) subclause 4(3) and clauses 5, 6, and 10 of Standard 2.2.1 – Meat and Meat Products; and
- (k) clause 3 of Standard 2.2.3 – Fish and Fish Products; and
- (l) subclause 3(2) of Standard 2.6.3 – Kava; and
- (m) subclause 3(5) of Standard 2.6.4 – Formulated Caffeinated Beverages; and
- (n) subclauses 3(1), 3(2), 3(3) and 3(4) of Standard 2.9.4 – Formulated Supplementary Sports Foods.

(3) Paragraph 2(1)(f) of this Standard does not apply to food sold from a vending machine.

(4) Where food is sold in a hamper –

- (a) subclause 2(1) does not apply; and
- (b) a package of food must bear a label setting out all of the information prescribed in this Code; and
- (c) unpackaged food must be accompanied with documentation setting out the information prescribed in this Code.

**Editorial note:**

For the purposes of paragraph 2(4)(c) the information may be within, or attached to the outer of the hamper.

**3 Labelling of food not for retail sale etc.**

(1) Subject to subclause (2), food other than food for–

- (a) retail sale; or
- (b) catering purposes; or
- (c) supplied as an intra company transfer;

must bear a label containing the information prescribed in Standard 1.2.2, except where the –

- (d) food is other than in a package; or

- (e) food is in an inner package or packages contained in an outer package where the label on the outer package includes the information prescribed in Standard 1.2.2; or
- (f) food is in a transportation outer and the information prescribed in Standard 1.2.2 is clearly discernable through the transportation outer on the labels on the packages within.

(2) The information prescribed in clause 3 of Standard 1.2.2 is not required to be on the label on a food where that information is provided in documentation accompanying that food.

#### **4 Provision of information in relation to food not for retail sale etc.**

(1) Where a purchaser or relevant authority has so requested, a package of food, other than food for –

- (a) retail sale; or
- (b) catering purposes; or
- (c) supplied as an intra company transfer;

must be accompanied by sufficient information in relation to that food to enable the purchaser to comply with the –

- (d) compositional requirements of this Code; and
- (e) labelling or other declaration requirements of this Code.

(2) The information referred to in subclause (1) must be supplied in writing where the relevant authority or purchaser has so requested.

#### **5 Labelling of food for catering purposes**

(1) Subject to subclause (2), food for catering purposes must bear a label setting out all of the information prescribed in –

- (a) Standard 1.2.2 – Food Identification Requirements; and
- (b) Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations; and
- (c) Standard 1.2.5 – Date Marking of Food; and
- (d) Standard 1.2.6 – Directions for Use and Storage; and
- (e) Standard 1.2.11 – Country of Origin Requirements (Australia only); and
- (f) Standard 1.5.2 – Food Produced Using Gene Technology; and
- (g) Standard 1.5.3 – Irradiation of Food.

(2) Subclause (1) does not apply to –

- (a) food not in a package; or
- (b) whole or cut fresh fruit and vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables; or
- (c) an outer package where the –

- (i) label on the outer package includes the information prescribed in Standard 1.2.2; and
- (ii) food in the inner package is labelled in accordance with subclause (1).

**6 Provision of information in relation to food for catering purposes**

(1) Subject to subclause (2), information prescribed in this Code, other than that prescribed in subclause 5(1), is not required to be on the label of food for catering purposes where that information is provided in documentation.

(2) The information prescribed in clause 3 of Standard 1.2.2 is not required to be on the label of food for catering purposes where that information is provided in documentation accompanying that food.

(3) Where food for catering purposes is not required to bear a label, that food must be accompanied by documentation containing all of the information prescribed in subclause 5(1).

(4) Where a purchaser or relevant authority has so requested, food which is for catering purposes, must be accompanied by sufficient information in relation to that food to enable the purchaser to comply with the –

- (a) compositional requirements of this Code; and
- (b) labelling or other declaration requirements of this Code.

**7 Reserved**

**8 Types of other similar institutions**

(1) The facilities listed in Column 1 of the Table to this clause are ‘other similar institutions’ for the purposes of Standard 1.1.1 and Part 1.2 of this Code.

**Table to clause 8**

Column 1	Column 2
Facility	Definition
Acute care hospitals	<p>Establishments which provide at least minimal medical, surgical or obstetric services for inpatient treatment or care, and which provide round-the-clock comprehensive qualified nursing services as well as other necessary professional services. Most patients have acute conditions or temporary ailments and the average stay per admission is relatively short. Acute care hospitals include:</p> <ul style="list-style-type: none"> <li>(a) Hospitals specialising in dental, ophthalmic aids and other specialised medical or surgical care;</li> <li>(b) Public acute care hospitals;</li> <li>(c) Private acute care hospitals;</li> <li>(d) Veterans’ Affairs hospitals.</li> </ul>

Psychiatric hospitals	Establishments devoted primarily to the treatment and care of inpatients with psychiatric, mental or behavioural disorders including any:  (a) Public psychiatric hospital; (b) Private psychiatric hospital.
Nursing homes for the aged	Establishments which provide long-term care involving regular basic nursing care to aged persons and including any:  (a) Private charitable nursing home for the aged; (b) Private profit nursing home for the aged; (c) Government nursing home for the aged.
Hospices	Freestanding establishments providing palliative care to terminally ill patients, including any:  (a) Public hospice; (b) Private hospice.
Same day establishments for chemotherapy and renal dialysis services	Including both the traditional day centre/hospital that provides chemotherapy and/or renal dialysis services and also freestanding day surgery centres that provide chemotherapy and/or renal dialysis services including any:  (a) Public day centre/hospital (b) Public freestanding day surgery centre (c) Private day centre/hospital (d) Private freestanding day surgery centre that provides those services.  Day centres/ hospitals are establishments providing a course of acute treatment on a full-day or part-day non- residential attendance basis at specified intervals over a period of time.  Freestanding day surgery centres are hospital facilities providing investigation and treatment for acute conditions on a day-only basis.
Respite care establishments for the Aged	Establishments which provide short-term care including personal care and regular basic nursing care to aged persons.
Same-day aged care establishments	Establishments where aged persons attend for day or part-day rehabilitative or therapeutic treatment.
Low care aged care establishments	Establishments where aged persons live independently but on-call assistance, including the provision of meals, is provided if needed.

[3] **Standard 1.2.2 is varied by –**

[3.1] *omitting the Purpose, substituting –*

This Standard requires that certain information must be included on the label on a food in order to be able to identify the food in question. Where the food is not required to bear a label pursuant to clause 2 of Standard 1.2.1 that same information is required to be displayed on or in connection with the food, or provided to the purchaser upon request. The labels on a package of food for retail sale, other than in the circumstances listed in Standard 1.2.1 must include, in addition to the information prescribed in this Standard, the information prescribed elsewhere in Part 1.2 of this Code.

[3.2] *omitting subclause 1(2) and the Editorial note, substituting –*

(2) Where a food is not required to bear a label pursuant to clause 2 of Standard 1.2.1 –

- (a) the prescribed name of the food, where the name of a food is declared in this Code to be a prescribed name; and
- (b) in any other case, a name or a description of the food sufficient to indicate the true nature of the food;

must be –

- (c) displayed on or in connection with the display of the food; or
- (d) provided to the purchaser upon request.

(3) For the purposes of paragraphs (1)(b) and 2(b), the definitions of certain foods as set out in Chapter 2 of this Code, do not of themselves establish the name of the food.

**Editorial note:**

For example, the definitions for –

- 1. Bread in Standard 2.1.1
- 2. Fermented milk in Standard 2.5.3
- 3. Ice cream in Standard 2.5.6

[3.3] *omitting clause 3 and the Editorial note, substituting –*

(1) The label on a package of food must include the name and business address in Australia or New Zealand, of the supplier of the food.

(2) A vending machine from which food is sold must clearly display in a prominent place on, or in the vending machine, the name and business address in Australia or New Zealand, of the supplier of the food.

(3) The label on a hamper must include the name and business address in Australia or New Zealand, of the supplier of the food.

**Editorial note:**

‘Supplier’ is defined in Standard 1.1.1 to include the packer, manufacturer, vendor or importer of the food in question.

[4] *Standard 1.2.3 is varied by –*

[4.1] *omitting subclause 2(2), substituting –*

(2) Where a food listed in column 1 of the Table to this clause is not required to bear a label pursuant to clause 2 of Standard 1.2.1, the advisory statement listed in relation to that food in column 2 of the Table, must be –

- (a) displayed on or in connection with the display of the food; or
- (b) provided to the purchaser upon request; or
- (c) displayed on or in connection with food dispensed from a vending machine.

[4.2] *omitting subclause 3(2), substituting –*



(2) Where a food listed in column 1 of the Table to this clause, is not required to bear a label pursuant to clause 2 of Standard 1.2.1, the warning statement listed in relation to that food in column 2 of the Table, must be –

- (a) displayed on or in connection with the display of the food; or
- (b) displayed on or in connection with food dispensed from a vending machine.

[4.3] *omitting subclause 4(2), substituting –*

(2) The presence of the substances listed in the Table to this clause must be –

- (a) declared on the label on a package of the food; or
- (b) where the food is not required to bear a label pursuant to clause 2 of Standard 1.2.1 –
  - (i) declared on or in connection with the display of the food; or
  - (ii) declared to the purchaser upon request; or
- (c) displayed on or in connection with food dispensed from a vending machine.

[4.4] *omitting subclause 5(2), substituting –*

(2) Where food containing any of the substances referred to in subclause (1) is not required to bear a label pursuant to clause 2 of Standard 1.2.1, an advisory statement to the effect that excess consumption of the food may have a laxative effect, must be –

- (a) displayed on or in connection with the display of the food; or
- (b) provided to the purchaser upon request; or
- (c) displayed on or in connection with food dispensed from a vending machine.

[5] *Standard 1.2.5 is varied by –*

[5.1] *omitting the heading and Purpose, substituting –*

## **STANDARD 1.2.5**

### **DATE MARKING OF FOOD**

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#### **Purpose**

This Standard prescribes a date marking system for food and the form in which those foods must be date marked. The Standard requires food, with some exceptions, to be date marked, and prohibits the sale of food after the expiration of the use-by date, where such a date mark is required. In particular, clause 2 of this Standard sets out the circumstances in which a use-by date must be used instead of a best-before date.

[5.2] *omitting the Editorial note immediately after subclause 2(1), and subclause 2(2), substituting –*

(2) Reserved.

**Editorial note:**

FSANZ's *Guide to the Use of 'Use-by' and 'Best-Before' Dates for Food Manufacturers* provides guidance on paragraphs 2(1)(a) and (b).

Standard 1.2.1 sets out the exemptions to the general labelling requirements in this Code, and provides a definition of 'small package'.

(3) The label on a package of bread with a shelf life less than 7 days, may include instead of a best-before date –

- (a) its baked-on date; or
- (b) its baked-for date.

[6] **Standard 1.2.11** is varied by –

[6.1] *omitting subclause 1(3), substituting –*

(3) This Standard does not apply to food sold to the public by restaurants, canteens, schools, caterers or self-catering institutions, prisons, hospitals or other similar institutions listed in the Table to clause 8 of Standard 1.2.1 where the food is offered for immediate consumption.

[6.2] *omitting paragraph 2(3)(b), substituting –*

- (b) where the food is in a refrigerated assisted service display cabinet, the size of type on the label must be at least 5 mm.

[6.3] *omitting subclause 2(4)*

[6.4] *inserting in the Editorial note immediately following subclause 2(4) –*

'Assisted service display cabinet' is defined in Standard 1.2.1.

[7] **Standard 1.3.3** is varied by inserting in the Table to clause 17–

Asparaginase EC 3.5.1.1	<i>Aspergillus oryzae</i>
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[8] **Standard 1.5.2** is varied by inserting in the Table to clause 2 –

Food derived from glyphosate-tolerant soybean line MON 89788	
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