

Explanatory Statement

1. Authority

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) provides that the functions of Food Standards Australia New Zealand (the Authority) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the Code).

Division 2 of Part 3 of the FSANZ Act specifies that the Authority may prepare a proposal for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering a Proposal for the development or variation of food regulatory measures.

FSANZ prepared Proposal P1007 to examine whether the processing requirements currently mandated for milk and milk products in the Code were appropriate. That is, could an acceptable level of public health and safety be achieved through alternative processing and/or production measures to those currently required. The Authority considered Proposal P1007 in accordance with Division 2 of Part 3 of the FSANZ Act and has prepared draft variations to Standards 4.2.4 and 4.2.4A.

Following consideration by the Legislative and Governance Forum on Food Regulation, section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the draft standard or draft variation of a standard.

Section 94 of the FSANZ Act specifies that a standard, or a variation of a standard, in relation to which a notice is published under section 92 is a legislative instrument, but is not subject to parliamentary disallowance or sunseting.

2. Purpose and Operation

The Authority has prepared variations to the processing requirements in Standard 4.2.4 of the Code to provide increased flexibility in the measures a dairy processing business must take to reduce to safe levels any pathogens that may be present in cheeses and cheese products. In particular, a broader range of production parameters will be specified for cheese and cheese products e.g. minimum moisture content and minimum storage time. The variations will also mean that specific cheeses previously covered by Standard 4.2.4A will now be covered by the processing provisions of subclause 16(3) of Standard 4.2.4 instead.

3. Documents incorporated by reference

The variations to food regulatory measures do not incorporate any documents by reference.

4. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1007 has included two rounds of public consultation, at 1st Assessment and 2nd Assessment, as well as public consultation on a Discussion Paper. The Discussion Paper was released for consultation on 6 August 2008 for a six-week consultation period. The 1st Assessment Report for P1007 was released for public comment on 16 December 2009 for a consultation period of 11 weeks. The 2nd Assessment Report was released for public comment from 19 August to 14 October 2011.

A Standard Development Committee (SDC) was established with representatives from the industry sector, the relevant State and Territory government agencies and consumer organisations to provide ongoing advice to the Authority throughout the standard development process. The SDC contributed a broad spectrum of knowledge and expertise covering industry, government, research and consumers.

A Regulation Impact Statement (RIS) is not required because the proposed variations to Standard 4.2.4 are likely to have a minor impact on business and individuals.

5. Statement of compatibility with human rights

This instrument is exempt from the requirements for a statement of compatibility with human rights as it is a non-disallowable instrument under section 94 of the FSANZ Act.

6. Contents of the Variations

6.1 Clause 16 of Standard 4.2.4

Clause 16 has been expanded into three subclauses (1), (2) and (3).

Subclause 16(1) specifies processing requirements for milk used to make cheese or cheese products.

Subclause 16(2) specifies processing requirements for dairy products used to make cheese or cheese products. The combination of time and temperature required for dairy products differs from the combination required for milk because of the variation in fat or solids content of dairy products. This reflects the approach in clause 15 for the processing of milk and dairy products.

Subclause 16(3) permits cheese or cheese products to be made using processing and product controls other than those specified in subclauses 16(1) and 16(2). These controls include a combination of curd cooking, minimum moisture content and storage time. Alternatively, the cheese or cheese products may be processed in accordance with clause 1 of Standard 4.2.4A.

The requirement contained previously in paragraph 16(b) has been replaced with paragraph 16(1)(b). The parameters have been amended to increase the required processing temperature to no less than 64.5°C, the required time period to no less than 16 seconds, and the required storage temperature to no less than 7°C.

The requirement previously contained in paragraph 16(c) has been replaced with paragraph 16(3)(a). The parameters have been amended such that the moisture content must be less than 39% (replacing 36%) and the storage period must be no less than 120 days from the date of processing (reduced from 6 months).

The amended processing parameters and product characteristics in clause 16 have been assessed as achieving an acceptable level of safety.

6.2 Table to Clause 1 of Standard 4.2.4A

The table to clause 1 of Standard 4.2.4A is amended to delete the entry for “Gruyere, Sbrinz or Emmental cheese”. Conditions for the manufacture of these cheeses are now covered by the Standard 4.2.4 requirements.

6.3 Editorial note following clause 1 of Standard 4.2.4A

The Editorial note has also been amended to remove material that reflects an historical approach to permitting individual cheeses prior to the development of primary production and processing requirements in Standard 4.2.4 and the amendments made through Proposal P1007.