

Food Standards (Proposal P293 – Nutrition, Health & Related Claims – Consequential) Variation

The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The Standard commences on the date specified in clause 3 of this variation.

Dated 7 January 2013



Standards Management Officer
Delegate of the Board of Food Standards Australia New Zealand

1 Name

This instrument is the *Food Standards (Proposal P293 – Nutrition, Health & Related Claims – Consequential) Variation*.

2 Variation to Standards in the *Australia New Zealand Food Standards Code*

The Schedule varies the Standards in the *Australia New Zealand Food Standards Code*.

3 Commencement

These variations, other than Items [2.3], [4] and [13], commence on 18 January 2013. Items [2.3], [4] and [13.1] commence on 18 January 2016. Items [13.2] to [13.4] commence immediately after the commencement of Standard 2.9.5.

SCHEDULE

[1] **Standard 1.1.1 is varied by –**

[1.1] *omitting from subclause 1(6) –*

a Standard for which a corresponding transitional Standard in part 1.1A applies

substituting –

Standard 1.1A.6

[1.2] *omitting the definition of claim in clause 2, substituting –*

claim means an express or implied statement, representation, design or information in relation to a food or property of food which is not mandatory in this Code

[2] **Standard 1.1A.2 is varied by –**

[2.1] *omitting the Purpose statement, substituting –*

Editorial Note

Standard 1.1A.2 is a transitional standard that operates concurrently with Standard 1.2.7 for a period of three years. During the three-year period Standard 1.1A.2 operates unchanged by the *Food Standards (Proposal P293 – Nutrition, Health & Related Claims – Consequential) Variation* and a supplier can rely on Standard 1.2.7 or Standard 1.1A.2, but not both. If Standard 1.1A.2 is relied on in that period, the changes made to other Standards by that variation are to be treated as if they have no effect. At the end of the three-year period Standard 1.1A.2 ceases to operate. There is no stock-in-trade period at the end of the three-year period.

[2.2] *omitting two years from subclause (1B), substituting three years.*

[2.3] *repealing the Standard*

[3] **Standard 1.2.1 is varied by inserting –**

(da) subclause 24(5) of Standard 1.2.7 – Nutrition, Health and Related Claims.

after paragraph 2(2)(d).

[4] **Standard 1.2.7 is varied by omitting the editorial note preceding clause 1**

[5] **Standard 1.2.8 is varied by –**

[5.1] *omitting the Purpose statement, substituting –*

This Standard sets out nutrition information requirements in relation to food that is required to be labelled under this Code and for food exempt from these labelling requirements. This Standard prescribes when nutritional information must be provided, and the manner in which such information is provided.

Editorial Note:

Standard 1.2.7 – Nutrition, Health and Related Claims also sets out additional nutrition information requirements in relation to nutrition content claims and health claims.

This Standard does not apply to infant formula products standardised in Standard 2.9.1 – Infant Formula Products. Standard 2.9.1 sets out specific nutrition labelling requirements that apply to infant formula products.

[5.2] *omitting the definitions of gluten and nutrition claim in subclause 1(1)*

[5.3] *omitting the definition of average energy content in subclause 1(1), substituting –*

average energy content means the figure calculated in accordance with subclause (3)

[5.4] *inserting in alphabetical order in subclause 1(1) –*

claim requiring nutrition information has the meaning given in subclause 4(1).

[5.5] *renumbering subclause 1(2) as 1(4)*

[5.6] *inserting after subclause 1(1) –*

(2) Unless the contrary intention appears, the definitions in Standard 1.2.7 apply in this Standard.

(3) Average energy content is to be calculated by –

- (a) multiplying the average amount of each food component per 100 g of the food by the energy factor for that food component; then
- (b) adding the amounts calculated for each food component using the following formula –

$$E_{kJ} = \sum W_i F_i$$

Where E_{kJ} is the average energy content expressed in kilojoules per 100 g, W_i is the average weight of the food component expressed in grams per 100 g and F_i means the energy factor assigned to that food component expressed in kilojoules per gram.

[5.7] *inserting after clause 1 –*

1A Application

This Standard does not apply to a food standardised by Standard 2.9.1.

Editorial note:

Infant formula products standardised by Standard 2.9.1 are not required to carry a nutrition information panel in accordance with this Standard. Standard 2.9.1 prescribes specific nutrition information requirements for those foods.

[5.8] *omitting clause 4, substituting –*

4 Requirements for nutrition information panels when certain claims made

(1) A claim requiring nutrition information means –

- (a) a nutrition content claim; or
- (b) a health claim;

but does not include –

- (c) a declaration that is required by the Act, or
- (d) an endorsement.

(2) Subject to subclauses (3) and (4), if a claim requiring nutrition information is made in relation to a food, a nutrition information panel must be included on the label on the package of the food.

(3) If a claim requiring nutrition information is made in relation to a food which is not required to bear a label pursuant to clause 2 of Standard 1.2.1, the information prescribed in clause 5, must be –

- (a) declared in a nutrition information panel displayed on or in connection with the display of the food; or
- (b) provided to the purchaser upon request.

(4) Where a claim requiring nutrition information is made in relation to a food in a small package, the label need not include a nutrition information panel but must comply with clause 8.

[5.9] *omitting from paragraph 5(1)(e) –*

subject to clause 12,

substituting –

subject to subclause (1A),

[5.10] *omitting paragraph 5(1)(g), substituting –*

- (g) the name and the average quantity of any other nutrient or biologically active substance in respect of which a claim requiring nutrition information is made, expressed in grams, milligrams or micrograms or other units as appropriate, that is in a serving of the food and in the unit quantity of the food; and
- (h) any other matter which this Code requires to be included.

[5.11] *inserting after subclause 5(1) –*

(1A) If a claim –

- (a) is made about a food standardised in Standard 2.4.1 or Standard 2.4.2; and
- (b) relates to polyunsaturated fatty acids or monounsaturated fatty acids;

the properties set out in subclause (1B) may be set out in the panel as a minimum or maximum quantity in a serving of the food and per 100 g/mL.

(1B) The properties are –

- (a) saturated fatty acids; and
- (b) polyunsaturated fatty acids; and
- (c) monounsaturated fatty acids; and
- (d) trans fatty acids.

[5.12] *omitting from the editorial note after subclause 5(2) –*

Clause 12 explains when minimum and maximum quantities may be indicated.

[5.13] *omitting from subclause 5(4) –*

nutrition claim is made in respect of

substituting –

claim requiring nutrition information is made about or based on

[5.14] *omitting from subclause 5(5) –*

nutrition claim is made in respect of

substituting –

claim requiring nutrition information is made about or based on

[5.15] *omitting subclause 7(2), substituting –*

(2) If percentage daily intake information is included in a panel –

- (a) the percentage daily intake of dietary fibre per serving may be included in the panel; and
- (b) the following matters must be included in the panel –

- (i) the percentage daily intake of energy, fat, saturated fatty acids, carbohydrate, sugars, protein and sodium per serving;
- (ii) either of the following statements –

‘*based on an average adult diet of 8700 kJ’; or

‘Percentage daily intakes are based on an average adult diet of 8700 kJ’.

[5.16] *inserting after clause 7 –*

7A Percentage recommended dietary intake information

(1) This clause applies if–

- (a) a claim requiring nutrition information is made about or based on a vitamin or mineral (the relevant vitamin or mineral); and
- (b) the relevant vitamin or mineral has a RDI; and
- (c) the food to which the claim relates is not a food for infants as standardised by Standard 2.9.2.

(2) The percentage of the RDI for the relevant vitamin or mineral contributed by one serving of the food must be set out in the nutrition information panel.

(3) The percentage RDI under subclause (2) must be calculated –

- (a) using the RDIs mentioned in the Schedule to Standard 1.1.1; and
- (b) using the nutrient values set out in the nutrition information panel.

(4) Despite paragraph (1)(c), percentage recommended dietary intake information may be included in the nutrition information panel for a food for infants as standardised by Standard 2.9.2.

7B Percentage DI or RDI information presented outside the panel

- (1) In this clause, DI or RDI information means the information in a nutrition information panel that is permitted or required by clause 7 or 7A.
- (2) DI or RDI information may be presented outside the nutrition information panel if –
- (a) the serving size is presented together with DI or RDI information; and
 - (b) the food to which the DI or RDI information relates does not contain more than 1.15% alcohol by volume.
- (3) If more than one piece of DI or RDI information is presented outside the nutrition information panel, those pieces of information must be presented together.
- (4) DI or RDI information presented in accordance with this clause does not constitute a nutrition content claim.

[5.17] *omitting clause 8, substituting –*

8 Food in small packages

- (1) This clause applies if a claim requiring nutrition information is made on or about food in a small package.
- (2) The label must include a declaration of the average quantity of the food in a serving expressed –
- (a) in the case of a solid or semi-solid food, in grams; or
 - (b) in the case of a beverage or other liquid food, in millilitres.
- (3) In addition to the matters specified in subclause (2), if a claim requiring nutrition information is made about a matter in Column 1 of the Table to this subclause, the label must include the particulars specified in Column 2.

Table to subclause 8(3)

Column 1	Column 2
Claim is about	Label must include
Any nutrient or biologically active substance (other than a vitamin or mineral with a RDI)	Average quantity of the nutrient or biologically active substance present per serving of the food
Any vitamin or mineral with a RDI	(a) Average quantity of the vitamin or mineral present per serving of the food; and (b) Percentage of the RDI for the vitamin or mineral contributed by one serving of the food, and calculated in accordance with clause 7A
Cholesterol, saturated fatty acids, trans fatty acids, polyunsaturated fatty acids, monounsaturated fatty acids, omega-6 or omega-9 fatty acids	Saturated fatty acids, trans fatty acids, polyunsaturated fatty acids and monounsaturated fatty acids content per serving of the food
Dietary fibre, sugars or any other carbohydrate	Average quantity of energy, carbohydrate, sugars and dietary fibre (calculated in accordance with clause 18) present per serving of the food
Energy	Average quantity of energy present per serving of the food
Fat-free	Average quantity of energy present per serving of the food
Omega-3 fatty acids	(a) Saturated fatty acids, trans fatty acids, polyunsaturated fatty acids and monounsaturated fatty acids content per serving of the food; and (b) Type and amount of omega-3 fatty acids per serving of the food, namely alpha-linolenic acid, or docosahexaenoic acid, or eicosapentaenoic acid, or a combination of the above

Lactose	Galactose content per serving of the food
Potassium	Sodium and potassium content per serving of the food
Sodium or salt	Sodium and potassium content per serving of the food

- (4) The particulars required by subclause (3) –
- (a) must be set out as minimum, maximum or average quantities unless specified in the Table to subclause (3); and
 - (b) must clearly indicate whether the particulars are minimum, maximum or average quantities.
- (5) The word ‘serving’ in a declaration required by this clause may be replaced by –
- (a) the word ‘slice’, ‘pack’ or ‘package’; or
 - (b) the words ‘metric cup’ or ‘metric tablespoon’ or other appropriate word or words expressing a unit or common measure.
- (6) To avoid doubt, the information required to be declared in accordance with this clause need not be set out in the prescribed panel format.

8A Additional declarations for food in small packages

- (1) This clause applies if a claim requiring nutrition information is made about carbohydrate, dietary fibre, sugars or any other carbohydrate on or about food in a small package.
- (2) The label must include a declaration of unavailable carbohydrate if unavailable carbohydrate has been subtracted in the calculation of ‘carbohydrate by difference’ as defined in clause 1.
- (3) The reference to ‘unavailable carbohydrate’ in subclause (2) does not include dietary fibre.
- (4) If –
- (a) the food contains any of the substances in Column 1 of Table 2 to subclause 2(2) other than organic acids (the relevant substances); and
 - (b) the relevant substances either singly or in combination are present in the final form of the food in an amount no less than 5 g/100 g;

the presence of the relevant substances must be declared on the label.

[5.18] *inserting in clause 11, the word ‘in’ after ‘as set out’.*

[5.19] *inserting after clause 11 –*

11A Claims on food to be prepared or consumed with other food

If a claim requiring nutrition information is made about a food that is required to be prepared or consumed with at least one other food–

- (a) the nutrition information panel must include an additional column at the right hand side of the panel, specifying, in the same manner as set out in the panel –
 - (i) a description of the additional food or foods; and
 - (ii) the quantity of the additional food or foods; and
 - (iii) the average energy content of the combined foods; and
 - (iv) the average quantities of nutrients contained in the combined foods; and
 - (v) the average quantities of biologically active substances contained in the combined foods; and
- (b) the weight or volume of the serving size of the food as prepared must be declared in the panel.

[5.20] *omitting Division 3, substituting –*

Division 3 – Deleted

[5.21] *inserting after clause 18 –*

19 Items in panel are nutrition content claims in some circumstances

(1) In this clause –

voluntary item means a particular which is permitted by this Code to be included in a nutrition information panel.

mandatory item means a particular which is required by this Code to be included in the nutrition information panel in some or all circumstances.

(2) To avoid doubt, the inclusion of a mandatory item in a nutrition information panel is not a nutrition content claim.

(3) The inclusion of a voluntary item in a nutrition information panel is a nutrition content claim unless –

- (a) this Code provides otherwise; or
- (b) the voluntary item is a declaration of –

- (i) dietary fibre if the food contains less than 2 g of dietary fibre per serving;
or
- (ii) trans fatty acid content; or
- (iii) lactose content.

(4) A nutrition information panel that contains the prescribed declarations in paragraphs 5(1)(a) to 5(1)(f) on a product containing more than 1.15% alcohol by volume is not a nutrition content claim.

[5.22] *updating the Table of Provisions to reflect the amendments made by this variation*

[6] Standard 1.3.2 is varied by –

[6.1] *omitting from the first sentence of the Purpose –*

, and the claims which can be made about vitamin and mineral content of foods

[6.2] *omitting the definitions of claimable food, primary food and reference quantity from clause 1, substituting –*

reference quantity means –

- (a) for a food mentioned in the Table to clause 3 –
 - (i) the quantity specified in the Table for the food or,
 - (ii) for a food that requires dilution or reconstitution according to directions – the quantity of the food that, when diluted or reconstituted, produces the quantity mentioned in column 2 of the Table; or
- (b) for all other foods –
 - (i) a normal serving; or

- (ii) for a food that requires dilution, reconstitution, draining or preparation according to directions, the quantity of the food which when diluted, reconstituted, drained or prepared produces a normal serving.

[6.3] *omitting clause 4, substituting –*

4 Claims in relation to the vitamin and mineral content of foods listed in the Table to clause 3

If a vitamin or mineral has been added to a food listed in Column 1 of the Table to clause 3, a claim must not be made that the food contains that vitamin or mineral, both added or naturally present, in the reference quantity of the food in greater proportions than that specified in Column 4.

[6.4] *omitting clause 5, substituting –*

5 Calculation of maximum quantity of a vitamin or mineral which may be claimed in a reference quantity of food

(1) If a final food contains more than one ingredient and at least one ingredient contains an added vitamin or mineral pursuant to a permission in Standard 1.3.2, the maximum claim permitted in relation to that vitamin or mineral in a reference quantity of the final food is calculated by summing the quantity of that vitamin or mineral calculated for each ingredient according to the formula set out below and rounded to the nearest 2 significant figures.

(2) In this subclause –

M_{rq} means the maximum quantity of a vitamin or mineral permitted to be claimed in a reference quantity of the final food calculated in accordance with the formula –

$$M_{rq} = Q_1 + Q_2 + \dots + Q_i$$

where –

Q_1 is the quantity of a vitamin or mineral permitted to be claimed for the first ingredient in a reference quantity of the final food, Q_2 is the quantity of a vitamin or mineral permitted to be claimed for a second ingredient in a reference quantity of the final food, and so forth for all ingredients containing that vitamin or mineral.

(3) The amount used for the quantity permitted to be claimed means either the –

- (a) average quantity of the vitamin or mineral present in the amount of unfortified ingredient in a reference quantity of the final food; or
- (b) maximum permitted claim for the vitamin or mineral in the amount of fortified ingredient in a reference quantity of the final food.

Editorial note:

Example calculations

- (a) Vitamin C claim for an apple and blackcurrant fruit drink comprised of 80 mL apple juice and 4 mL blackcurrant juice in a reference quantity of 200 mL –

Maximum claim per reference quantity for vitamin C in apple juice = 120 mg/200 mL

Maximum claim per reference quantity for vitamin C in blackcurrant juice = 500 mg/200 mL

Q_1 (apple juice) = 120 mg x 80/200 = 48 mg vitamin C/200 mL

Q_2 (blackcurrant juice) = 500 mg x 4/200 = 10 mg vitamin C/200 mL

$M_{rq} = 48 + 10 = 58$ mg vitamin C/200 mL apple and blackcurrant fruit drink

The calculated maximum quantity of vitamin C that may be claimed in 200 mL of apple and blackcurrant fruit drink rounded to the nearest 2 significant figures = 58 mg (no change)

- (b) Iron claim for an uncooked beef schnitzel comprised of 115 g raw beef and 30 g iron-fortified breadcrumbs, in a reference quantity of 145 g –

Average quantity of iron in raw beef = 2.5 mg/100 g (from analysis or nutrient composition tables)

Maximum claim per reference quantity for iron in fortified breadcrumbs = 3 mg/50 g bread

Q_1 (raw beef) = $2.5 \times 115/100 = 2.875$ mg iron/115 g

Q_2 (iron-fortified breadcrumbs) = $3 \text{ mg} \times 30/50 = 1.8$ mg iron/30 g

$M_{rq} = 2.875 + 1.8 = 4.675$ mg iron/145 g uncooked beef schnitzel

The calculated maximum quantity of iron that may be claimed in 145 g of uncooked beef schnitzel rounded to the nearest 2 significant figures = 4.7 mg

[6.5] *omitting clauses 6 to 9*

[6.6] *updating the Table of Provisions to reflect the amendments made by this variation*

[7] **Standard 2.6.2** is varied by *omitting* nutrition claim for the purposes of Standard 1.2.8 in subclause 2B(4), and *substituting* nutrition content claim for the purposes of Standard 1.2.7

[8] **Standard 2.6.4** is varied by *omitting* subclause 3(6)

[9] **Standard 2.9.1** is varied by –

[9.1] *omitting clause 28, substituting –*

28 Required statements for products under this Subdivision

The label on an infant formula product that is specifically formulated to satisfy particular metabolic, immunological, renal, hepatic or malabsorptive conditions must contain a statement that indicates –

- (a) that the product is not suitable for general use and should be used under medical supervision; and
- (b) the condition, disease or disorder for which the food has been specially formulated; and
- (c) the nutritional modifications, if any, which have been made to the infant formula product.

[9.2] *updating the Table of Provisions to reflect the amendments made by this variation*

[10] **Standard 2.9.2** is varied by –

[10.1] *omitting paragraphs 9(1)(e) and 9(1)(f), substituting –*

- (e) clause 9.

[10.2] *inserting after subclause 9(1) –*

(1A) The conditions in Schedule 1 of Standard 1.2.7 that require the potassium content of a food to be indicated in the nutrition information panel do not apply to a food standardised by this Standard.

[11] **Standard 2.9.3** is varied by –

[11.1] *inserting after subclause 3(2) –*

(2A) A claim, either express or implied, that a formulated meal replacement is a good source of a vitamin or mineral may be made if –

- (a) the vitamin or mineral is listed in column 1 of Table 1 or Table 2 in the Schedule; and
- (b) a serving of the food contains at least 25% of the RDI or ESADDI of that vitamin or mineral; and
- (c) where the vitamin or mineral has been added to the food, the claimed quantity of that vitamin or mineral in a serving is no more than the quantity set out in column 3 of Table 1 or 2.

[11.2] *inserting after subclause 5(1) –*

(1A) In this clause, claimable vitamin or mineral means a vitamin or mineral that is listed in –

- (a) the Schedule to Standard 1.1.1; or
- (b) Column 1 of Table 3 in the Schedule to this Standard.

[11.3] *omitting from subclause 5(2) –*

one or more of those vitamins or minerals listed in column 1 of Table 3 in the Schedule

substituting –

a claimable vitamin or mineral

[11.4] *inserting after subclause 5(2) –*

(2A) A claim, either express or implied, that a formulated supplementary food is a good source of a vitamin or mineral may be made if –

- (a) the vitamin or mineral is a claimable vitamin or mineral; and
- (b) a serving of the food contains at least 25% of the RDI or ESADDI of that vitamin or mineral; and
- (c) where the vitamin or mineral has been added to the food, the claimed quantity of that vitamin or mineral in a serving is no more than the quantity set out in column 5 of Table 3.

[11.5] *inserting after subclause 7(1) –*

(1A) In this clause, claimable vitamin or mineral means a vitamin or mineral that is listed in –

- (a) the Schedule to Standard 1.1.1; or
- (b) Column 1 of Table 3 in the Schedule to this Standard.

[11.6] *omitting from subclause 7(2) –*

one or more of those vitamins or minerals listed in column 1 of Table 3 in the Schedule

substituting –

a claimable vitamin or mineral

[11.7] *inserting after subclause 7(2) –*

(2A) A claim, either express or implied, that a formulated supplementary food for young children is a good source of a vitamin or mineral may be made if –

- (a) the vitamin or mineral is a claimable vitamin or mineral; and
- (b) a serving of the food contains at least 25% of the RDI or ESADDI of that vitamin or mineral; and
- (c) where the vitamin or mineral has been added to the food, the claimed quantity of that vitamin or mineral in a serving is no more than the quantity set out in column 3 of Table 3.

[12] **Standard 2.9.4** is varied by omitting paragraphs 5(2)(b) and 5(2)(c), substituting –

- (b) the amount claimed does not exceed the amount specified in column 2 of the Table to paragraph 2(a).

[13] **Standard 2.9.5** is varied by:

[13.1] omitting 1.1A.2, from paragraph 3(1)(b); and

[13.2] omitting subparagraph 9(e)(iv), substituting –

- (iv) subject to subclauses 14(4) and 15(5) of this Standard, any other substance if a nutrition content claim as defined in Standard 1.2.7 is made in relation to that substance.

[13.3] omitting clause 14, substituting –

(1) A claim in relation to the lactose content of a food for special medical purposes is prohibited unless expressly permitted by this clause.

(2) A claim to the effect that a food for special medical purposes is lactose free may be made if the food contains no detectable lactose.

(3) A claim to the effect that a food for special medical purposes is low lactose may be made if the food contains not more than 2 g of lactose per 100 g of the food.

(4) If a claim in relation to the lactose content of a food for special medical purposes is made the label on the package of food must include the average quantity of the lactose and galactose in the food, expressed per given quantity of the food.

[13.4] omitting the editorial note after subclause 15(5).

[14] **Standard 2.10.2** is varied by omitting subclause 5(2) and the following editorial note, substituting –

(2) A declaration in accordance with subclause (1) does not constitute a nutrition content claim or health claim for the purposes of Standard 1.2.7.

[15] Transitional Provisions

[15.1] **Transition period** means the period starting on the date of commencement of Standard 1.2.7 and ending on the date of repeal of Standard 1.1A.2.

[15.2] During the transition period, a food must comply with:

- (a) Standard 1.2.7; or
- (b) Standard 1.1A.2, and the rest of the Australia New Zealand Food Standards Code as if items [1] to [14] of this Schedule had not commenced,

but not a combination of both.

[15.3] Subclause 1(2) of Standard 1.1.1 does not apply to the variation of the *Australia New Zealand Food Standards Code* made by item [2.3].