

# 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. This Division also stipulates the procedure for considering a proposal for the development or variation of food regulatory measures.

FSANZ prepared Proposal P1023 to, among other things, set a new commencement date for Standard 2.9.5 – Food for Special Medical Purposes.

The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft variation to amend the commencement dates for Standard 2.9.5.

## 2. Purpose and operation

The Authority has approved a draft variation to commence Standard 2.9.5 on the date of gazettal of *Food Standards (Proposal 1023 – Tulin, Tocopherols & Food for Special Medical Purposes Standards Amendments) Variation* with specific transitional arrangements until 28 June 2014. Standard 2.9.5's earlier commencement date and the transition arrangements enable and provide greater regulatory certainty for stakeholders, particularly manufacturers of food for special medical purposes and enforcement agencies.

The variation was prepared as a separate legislative instrument having regard to its technical nature, that is, it actually varies the notice given under section 92 of the *Food Standards Australia New Zealand Act 1991* for *Standard 2.9.5 – Food for Special Medical Purposes* (Federal Register of Legislative Instruments (*FRLI*) No. F2012L01347).

## 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 P1023 has included one round of public consultation following an assessment and preparation of a draft Standard and associated report. Submissions were called for on 2 October 2012 for a four-week consultation period.

A Regulation Impact Statement was not required because the proposed variations were administrative in nature and unlikely to have a negative 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. Variations**

### **6.1 Variations**

Item [1] of the Schedule varies the notice given under section 92 of the *Food Standards Australia New Zealand Act 1991* for *Standard 2.9.5 – Food for Special Medical Purposes* (Federal Register of Legislative Instruments (*FRLI*) No. F2012L01347). The effect of this variation is to change the commencement date of Standard 2.9.5 to the date of gazettal of the *Food Standards (Proposal 1023 – Tulin, Tocopherols & Food for Special Medical Purposes Standards Amendments) Variation*.

### **6.2 Commencement**

Clause 2 of the amending instrument provides that it commences on the date of its gazettal.