

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 P1025 to revise the Code. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft revised Code.

Following consideration by the Legislative and Governance Forum on Food Regulation¹, section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the 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 under the *Legislative Instruments Act 2003*.

2. Purpose

The Authority has approved variations of Chapters 1 and 2 of the Code.

3. Documents incorporated by reference

The variations to food regulatory measures do not incorporate any documents by reference. The variations update some references to documents that are incorporated by reference.

4. Consultation

In accordance with the procedure in Subdivision F of Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1025 included two rounds of public comment following an assessment and the preparation of a draft Standard and associated reports. Submissions were called for on 23 May 2013 for a 12-week period, and on 10 July 2014 for an eight-week period.

A Regulation Impact Statement was not required, because the proposed variations to the Code 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. Variation (Chapter 1—Introduction and standards that apply to all foods, Part 2—Labelling and other information requirements)

Standard 1.2.4 – Information requirements – statement of ingredients

New section 1.2.4—1 Name

This section establishes that the instrument is the *Australia New Zealand Food Standards Code – Standard 1.2.4 – Information requirements – statement of ingredients*.

¹ Previously known as the Australia and New Zealand Food Regulation Ministerial Council

New section 1.2.4—2 Requirement for statement of ingredients

New section 1.2.4—2 substantially repeats current clause 2 of Standard 1.2.4, which sets out the requirement that the label on most food for sale must include a statement of ingredients. The provisions in clause 2 have also been reordered to improve clarity.

New subsection (1) sets out what is meant by the term statement of ingredients.

New subsection (2) sets out in modified form the clarifying statement, currently in paragraph 2(a) of Standard 1.2.4, that a separate statement of ingredients is not required if the name of the food includes all ingredients.

New subsection (3) repeats the exceptions to the general requirement to state ingredients that are currently listed in paragraphs 2(b), (c) and (d) of Standard 1.2.4 for packaged water, alcoholic beverages and food in small packages.

New section 1.2.4—3 Requirement to list all ingredients

New section 1.2.4—3 repeats exceptions to the general requirement to list all ingredients, now in paragraphs 3(a), (b), (c) and (d) of Standard 1.2.4, for:

- ingredients of flavouring substances;
- volatile ingredients that are not in the food;
- water that has been added to reconstitute ingredients;
- water that is added in broth, brine or syrup and is declared;
- water that constitutes less than 5% of the food, or
- a substance or food that is used as a processing aid.

New section 1.2.4—4 Ingredients to be listed by common, descriptive or generic name

New section 1.2.4—4 repeats clause 4 of current Standard 1.2.4, which requires that a statement of ingredients must identify each ingredient as required by section 2.2.1—6 if the ingredient is offal; or, in any other case, by either:

- its common name, or
- a descriptive name, or
- a generic name listed in Schedule 8.

New section 1.2.4—5 Ingredients to be listed in descending order of ingoing weight

New section 1.2.4—5 repeats the requirement currently in clause 5 of Standard 1.2.4, that ingredients be listed in the order of their ingoing weight. New subsection (1) states the basic requirement. New subsections (2) and (3) respectively restate the alternate requirements for listing reconstituted ingredients. New subsection (4) restates the method for calculating the ingoing weight of added water or a volatile ingredient for the purpose of listing ingredients in order.

New subsections (5) to (8) restate the method of determining the ingoing weight of compound ingredients—currently in clause 6 of Standard 1.2.4.

New section 1.2.4—6 Declaration of alternative ingredients

New section 1.2.4—6 repeats the permission, currently in clause 7 and subclause 8(8) of Standard 1.2.4, to declare alternative substances used as food ingredients, as alternatives or substitutes, if the composition of the food is subject to minor variation of ingredients.

New section 1.2.4—7 Declaration of substances used as food additives

New section 1.2.4—7 restates the provision, in clause 8 of Standard 1.2.4, which describes how substances used as food additives are to be declared in a statement of ingredients.

New subsection (1) repeats the general requirement that substances used as food additives should be listed by either the class name followed by the name and code number of each food additive or the name of the substance. The class names of additives are listed in Schedule 5 and the names and code numbers of food additives are listed in Schedule 6.

New subsection (2) repeats the general rule, currently in subclause 8(4) of Standard 1.2.4, that if a substance used as a food additive can be classified into more than one class, the most appropriate class name should be used.

New subsection (3) consolidates current subclause 8(3) and an editorial note to restate the special rule for naming food additives that are enzymes.

New subsection (4) repeats the current content of subclause 8(6) of Standard 1.2.4, which sets out the requirement for listing flavouring substances.

New subsection (5) repeats the current requirement in subclause 8(7) of Standard 1.2.4, that if certain substances are added as flavouring substances each substance must be named specifically, by its name or code number, in the statement of ingredients.

New subsection (6) sets out the special case of caffeine, which must be declared as caffeine and cannot be declared generically as a flavouring substance.

New section 1.2.4—8 Declaration of vitamins and minerals

New section 1.2.4—8 repeats a permission, currently in clause 9 of Standard 1.2.4, to declare vitamins or minerals in the ingredient list under an appropriate class name.