

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 1.2.10 – Information requirements – characterising ingredients and components of food

New section 1.2.10—1 Name

This section establishes that the instrument is the *Australia New Zealand Food Standards Code – Standard 1.2.10 – Information requirements – characterising ingredients and components of food*.

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

New section 1.2.10—2 Definitions

New subsection (1) repeats the definitions of characterising component and the positive elements of the definition of characterising ingredient that are now in clause 1 of Standard 1.2.10.

New subsection (2) repeats the current provisions in paragraphs (1)(d) to (g) of the definition of characterising ingredient in Standard 1.2.10, which describe ingredients that are not characterising ingredients.

New subsection (3) repeats the provisions in current subclause 1(2) in Standard 1.2.10.

New section 1.2.10—3 Requirement to declare characterising ingredients and components

The basic requirement to declare characterising components and characterising ingredients on food for retail sale is set out in paragraph 1.2.1—8(1)(j).

New subsection (1) establishes a requirement that the proportion of characterising components and characterising ingredients is to be calculated in accordance with section 1.2.10—4 to 1.2.10—7 and to be expressed in accordance with section 1.2.10—8. This requirement is currently stated in subclause 2(1) of Standard 1.2.10.

New subsection (2) repeats the current content of subclause 2(2) of Standard 1.2.10.

New subsection (3) repeats the current content of subclause 2(3) of Standard 1.2.10. The list of foods for which information about characterising ingredients or characterising components is not required is amended by removing the references in the current Code to food for sale that is not required to bear a label. That reference is no longer required as any requirement to provide information has been excluded in Standard 1.2.1.

New section 1.2.10—4 Method of calculating proportion of characterising ingredients

New subsection (1) replaces the description for calculating the proportion of characterising ingredients by ingoing weight that is currently in subclause 3(1) of Standard 1.2.10.

New subsection (2) repeats the current content of subclause 3(2) of Standard 1.2.10.

New subsection (3) repeats the current content of subclause 3(3) of Standard 1.2.10, which sets the requirements for determining the ingoing weight for a concentrated or dehydrated ingredient or component is reconstituted during manufacture.

New subsection (4) repeats the requirements for determining the ingoing weight of an ingredient or component that requires reconstitution prior to consumption, that are currently in subclause 3(4) of Standard 1.2.10.

New section 1.2.10—5 Calculating proportion of characterising ingredients where moisture loss occurs

New section 1.2.10—5 repeats the current provisions of clause 4 of Standard 1.2.10.

New section 1.2.10—6 Calculating proportion of characterising ingredient or characterising component where proportion is declared in nutrition information panel

New section 1.2.10—6 repeats the current provisions of clause 4A of Standard 1.2.10, which provides that where a proportion of a characterising ingredient is declared in a nutrition information panel, the amount declared must be the average quantity of the characterising ingredient or category of ingredients present in the final food.

New section 1.2.10—7 Method of calculating proportion of characterising components

New section 1.2.10—7 substantially repeats the current provisions of clauses 6 of Standard 1.2.10. The effect of subclauses 6(1) and (3) is re-stated in new subsection (1). New subsection (2) repeats the content of subclause 6(2).

The current requirement in subclause 6(4) of Standard 1.2.10, that if the proportion of a characterising component is declared in a nutrition information panel, the amount declared must be the average quantity in the final food, is re-stated in paragraph 1.2.10—8(4)(c).

New section 1.2.10—8 Declaration of characterising ingredients and components

New section 1.2.10—8 re-states the current content of clauses 5 and 7, and part of section 6 of Standard 1.2.10, which provide for the declaration of characterising ingredients and components.