

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 3—Substances added to food)

Standard 1.3.2 – Vitamins and Minerals

New section 1.3.2—1 Name

This section establishes that the instrument is the *Australia New Zealand Food Standards Code – Standard 1.3.2 – Vitamins and minerals*.

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

New section 1.3.2—2 Definitions and interpretation

This section has no operative part. It provides note references to:

- the definition of 'reference quantity' that is in subsection 1.1.2—2(3)
- 'RDI' which is in section 1.1.2—10
- 'used as a nutritive substance' which is in section 1.1.2—12

New section 1.3.2—3 Listed vitamins and minerals may be used as nutritive substance in foods

This new section repeats the current permission in clause 2 of Standard 1.3.2 for vitamins or minerals to be added to a food in accordance with any conditions that are set out in the Standard. The new permission provides a set of exceptions to the prohibition on adding non-permitted substances to a food, currently in clause 2 of the Standard, that is now in section 1.1.1—10(4)(b).

New section 1.3.2—3 Restriction on claims in relation to the vitamin and mineral added to foods

This new section, which repeats the current provisions of clause 4 of Standard 1.3.2, imposes a limit on the amount of vitamin or mineral that can be claimed to be in a food that is listed in section S17--4.

New section 1.3.2—4 Calculation of maximum quantity of a vitamin or mineral which may be claimed in a reference quantity of food

New section 1.3.2—4 repeats the content of clause 5 of Standard 1.3.2, which provides a method of calculating the maximum quantity of a vitamin or mineral that can be claimed in a food. An example calculation for a vitamin C claim for an apple and blackcurrant fruit drink (42% juice, apple 40%, blackcurrant 2%) in a reference quantity of 200 mL that was in an editorial note has been omitted.