

## 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 Regulation<sup>1</sup>, 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 2—Food standards for specific foods, Part 2—Meat, eggs and fish)

Chapter 2 of the *Australia New Zealand Food Standards Code* establishes:

- prescribed standards for the purposes of the false description of foods provisions of the application Acts<sup>2</sup>; and
- compositional requirements that are relevant for both the Code<sup>3</sup> and the false description of foods provisions of the application Acts.

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<sup>1</sup> Previously known as the Australia and New Zealand Food Regulation Ministerial Council

<sup>2</sup> Section 18 of the model food provisions

<sup>3</sup> Section 17 of the model food provisions

Definitions are provided in a Chapter 2 standard, also referred to as a commodity standard, if they can be justified on the grounds of protecting public health and safety, preventing misleading practices or facilitating market access.

Definitions may be included in a Chapter 2 standard to define the scope of the standard and to assist enforcement officers in their assessment of the provisions of the standard; to avoid confusion. When specific definitions are not included in a Chapter 2 standard, enforcement officers and manufacturers may refer to dictionaries for clarification.

Compositional requirements are stated when it is necessary that a food that is sold on the basis that it is a defined food have a particular composition.

### **Standard 2.2.2 – Egg and egg products**

Standard 2.2.2 applies in Australia only and deals with retail and catering sales of eggs.

Standard 4.2.5 establishes processing standards for egg production and processing prior to sale—for Australia only.

#### **New section 2.2.2—1 Name**

This section establishes that the instrument is the *Australia New Zealand Food Standards Code – Standard 2.2.2 – Eggs and egg products*.

#### **New section 2.2.2—2—Definitions**

This section has no operative part. It provides a note reference to the definition of ‘unacceptable egg’ that is in Standard 4.2.5. This is relevant for subsection 2.2.2—3(2).

#### **New section 2.2.2—3 Sale or supply of unacceptable eggs**

This section repeats the current requirement in clause 2 of Standard 2.2.2 that an unacceptable egg must not be sold or supplied for catering purposes or retail sale.

Subsection (2) provides a link to the definition of ‘unacceptable egg’ in Standard 4.2.5, and the subordinate definitions of cracked egg and dirty egg.

#### **New section 2.2.2—4 Traceability**

This section repeats the current requirement in clause 3 of Standard 2.2.2 that requires eggs that are for retail sale or sale for catering purposes to be individually marked with the producers’ or processors’ unique identification.