

## **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**

#### ***Schedule 15 – Substances that may be used as food additives***

Schedule 15 sets out, for new section 1.3.1—3, the permissions and associated restrictions on use for the use of substances as food additives. This information is currently set out in Schedule 1 in Standard 1.3.1.

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

#### Section S15—1 Name

Section S15—1 establishes that the instrument is the *Australia New Zealand Food Standards Code – Schedule 15 – Substances that may be used as food additives*.

#### Section S15—2 Permissions to use substances as food additives

Section S15—2 describes the hierarchy of permissions that are set out in the table to new section S15—5.

#### Section S15—3 Preparations of food additives

Section S15—3 describes the purpose of class 0 of the table to new section S15—5.

#### Section S15—4 Definitions

Section S15—4 provides definitions of GMP and MPL that are used only in section S15—5. Subsection S15—4(2) repeats the content of clause 9 of the current Standard 1.3.1 relating to the use of a garnish.

#### Section S15—5 Table of permissions for food additives

Section S15—5 repeats the current content of Schedule 1 to Standard 1.3.1, listing the foods for which certain food additives may be used and any limits or restrictions on use.