

## **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 29 – Special purpose foods***

##### **Section S29—1 Name**

Section S29—1 establishes that the instrument is the *Australia New Zealand Food Standards Code – Schedule 29 – Special purpose foods*.

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

Section S29—2 to Section S29—4

Sections S29—2, S29—3 and S29—4 provide methods of calculation of energy, protein content and potential renal solute load respectively for infant formula products. This information is currently in Division 2 of Standard 2.9.1.

Section S29—5 Infant formula products—substances permitted as nutritive substances

Section S29—5 lists permitted nutritive substances for infant formula products. This information is currently in the Table to clause 7 of Standard 2.9.1.

Section S29—6 Infant formula products—L-amino acids that must be present in infant formula and follow-on formula

Section S29—6 lists L-amino acids that must be present in infant formula and follow-on formula. This information is currently in the Table to clause 22 of Standard 2.9.1.

Section S29—7 Permitted forms of vitamins, minerals and electrolytes in infant formula products, food for infants and food for special medical purposes

Section S29—7 lists permitted nutritive substances for infant formula products, infant food and food for special medical purposes. This information is currently in the Table to clause 7 of Standard 2.9.1 and is extended to apply to foods for special medical purposes.

Section S29—8 Infant formula products—limits on fatty acids that may be present in infant formula and follow-on formula

Section S29—8 lists limits on fatty acids that may be present in infant formula and follow-on formula. This information is currently in the Table to clause 23 of Standard 2.9.1.

Section S29—9 Required vitamins, minerals and electrolytes in infant formula and follow-on formula

Section S29—9 lists required vitamins, minerals and electrolytes in infant formula and follow-on formula. This information is currently in the Table to subclause 24(1) of Standard 2.9.1.

Section S29—10 Guidelines for infant formula products

Section S29—10 provides the guidelines for infant formula products that are currently annexed to Standard 2.9.1.

Section S29—11 Food for infants—claims that can be made about vitamins and minerals added to cereal-based food for infants

Section S29—11 lists the maximum RDI claims that can be made when vitamins or minerals have been added to cereal-based food for infants. This information is currently in Table 1 of clause 8 of Standard 2.9.2.

Section S29—12 Formulated meal replacements—vitamins and minerals that must be present in formulated meal replacements

Section S29—12 lists vitamins and minerals that must be present in formulated meal replacements. This information is currently in Table 1 in the Schedule to Standard 2.9.3.

Section S29—13 Vitamins and minerals that may be added to formulated meal replacements

Section S29—13 lists vitamins and minerals that may be added to formulated meal replacements. This information is currently in Table 2 in the Schedule to Standard 2.9.3.

Section S29—14 Vitamins and minerals that may be added to formulated supplementary foods

Section S29—14 lists vitamins and minerals that may be added to formulated supplementary foods. This information is currently in Columns 4 and 5 of Table 3 in the Schedule to Standard 2.9.3.

Section S29—15 Vitamins and minerals that may be added to formulated supplementary food for young children

Section S29—15 lists vitamins and minerals that may be added to formulated supplementary foods for young children. This information is currently in Columns 2 and 3 of Table 3 in the Schedule to Standard 2.9.3.

Section S29—16 Vitamins and minerals that may be added to formulated supplementary sports foods

Section S29—16 lists vitamins and minerals that may be added to formulated supplementary sports foods. This information is currently in the Table to paragraph 2(a) in Standard 2.9.4.

Section S29—17 Additional permitted forms for vitamins and minerals in formulated supplementary sports foods and in formulated meal replacements

Section S29—17 lists additional permitted forms of vitamins and minerals that may be added to formulated supplementary sports foods and formulated meal replacements. This information is currently in the Schedule to Standard 2.9.4. The intake amounts for biotin and pantothenic acid have been revised to ensure consistency with the RDI or ESADDI currently specified for these vitamins in the Schedule to Standard 1.1.1.

Section S29—18 Amino acids that may be added to formulated supplementary sports food

Section S29—18 lists the amino acids that may be added to formulated supplementary sports foods. This information is currently in the Table to paragraph 2(b) in Standard 2.9.4.

Section S29—19 Substances that may be used as nutritive substances in formulated supplementary sports food

Section S29—19 lists nutritive substances that may be added to formulated supplementary sports foods. This information is currently in the Table to paragraph 2(c) in Standard 2.9.4. In Standard 2.9.4 the substances are not identified as nutritive substances.

Section S29—20 Substances that may be added to food for special medical purposes

Section S29—20 lists substances that may be added to food for special medical purposes. This information is currently in Table 2 in Schedule 1 to Standard 2.9.5.

Section S29—21 Amounts of nutrients for food for special medical purposes represented as a sole source of nutrition

Section S29—21 lists the amounts of nutrients that must be in food for special medical purposes that is represented as a sole source of nutrition. This information is currently in Schedule 2 to Standard 2.9.5.