

Food Standards (Proposal P1025 – Code Revision) Variation

The Board of Food Standards Australia New Zealand gives notice of the making of this standard under section 92 of the *Food Standards Australia New Zealand Act 1991*. The Standard commences on 1 March 2016.

Dated 25 March 2015



Standards Management Officer
Delegate of the Board of Food Standards Australia New Zealand

Note:

This Standard will be published in the Commonwealth of Australia Gazette No. FSC 96 on 10 April 2015.

Standard 2.6.4 Formulated caffeinated beverages

Note 1 This instrument is a standard under the *Food Standards Australia New Zealand Act 1991* (Cth). The standards together make up the *Australia New Zealand Food Standards Code*. See also section 1.1.1—3.

Note 2 The provisions of the Code that apply in New Zealand are incorporated in, or adopted under, the *Food Act 2014* (NZ). See also section 1.1.1—3.

2.6.4—1 Name

This Standard is *Australia New Zealand Food Standards Code – Standard 2.6.4 – Formulated caffeinated beverages*.

Note Commencement:
This Standard commences on 1 March 2016, being the date specified as the commencement date in notices in the *Gazette* and the *New Zealand Gazette* under section 92 of the *Food Standards Australia New Zealand Act 1991* (Cth). See also section 93 of that Act.

2.6.4—2 Definitions

Note In this Code (see sections 1.1.2—3 and 1.1.2—6):

non-alcoholic beverage:

- (a) means:
 - (i) packaged water; or
 - (ii) a water-based beverage, or a water-based beverage that contains other foods (other than alcoholic beverages); or
 - (iii) an electrolyte drink; and
- (b) does not include a brewed soft drink.

formulated caffeinated beverage means a flavoured, non-alcoholic beverage, or a flavoured, non-alcoholic beverage to which other substances (for example, carbohydrates, amino acids, vitamins) have been added, that:

- (a) contains caffeine; and
- (b) has the purpose of enhancing mental performance.

To avoid doubt, a formulated caffeinated beverage is a water based flavoured drink for the purposes of item 14.1.3 of section S15—5, and section S18—10.

In this Standard:

listed substance means a substance listed in Column 1 of the table in section S28—2.

2.6.4—3 Composition—formulated caffeinated beverages

A formulated caffeinated beverage:

- (a) must contain no less than 145 mg/L and no more than 320 mg/L of caffeine in total, from any source; and
- (b) may contain a listed substance.

2.6.4—4 Prohibition on mixing formulated caffeinated beverages

A food for sale (other than a formulated caffeinated beverage) must not be a mixture of a non-alcoholic beverage and a formulated caffeinated beverage.

2.6.4—5 Labelling requirements—formulated caffeinated beverage

Required declarations

- (1) For the labelling provisions, the required declarations of average quantities are a declaration of the *average quantity, per serving size and per 100 mL, of:
 - (a) caffeine, expressed in milligrams; and
 - (b) each listed substance (if any) that the beverage contains, expressed in the units in Column 2 of the table to section S28—2.

Note The labelling provisions are set out in Standard 1.2.1.

- (2) The declarations under subsection (1):
- (a) may be adjacent to or follow a nutrition information panel on the label; and
 - (b) may be set out in the format in section S12—5; and
 - (c) may not be set out in the nutrition information panel.

Required advisory statements

- (3) For the labelling provisions, the required advisory statements are statements to the effect that:
- (a) the food contains caffeine; and
 - (b) the food is not recommended for:
 - (i) children; or
 - (ii) pregnant or lactating women; or
 - (iii) individuals sensitive to caffeine; and
 - (c) if the food contains a listed substance—no more than a one-day quantity should be consumed per day.

Note 1 The labelling provisions are set out in Standard 1.2.1.

Note 2 Subsection 1.2.1—9(7) and paragraph 1.2.1—9(8)(g) each contain a labelling requirement for formulated caffeinated beverages that are not required to bear a label.

Note 3 For a formulated caffeinated beverage, the **one-day quantity** is the maximum amount that should be consumed in a day. For each listed substance that the beverage contains, a one-day quantity will not contain more than the amount in the corresponding row of the table to section S28—2.

- (4) For the advisory statement required by paragraph (3)(c), the one-day quantity may be expressed as mL, or as cans or bottles, as appropriate.
- (5) For paragraph (3)(c), to determine the **one-day quantity**:
- (a) for each listed substance that the food contains, calculate the equivalent amount in accordance with the equation in subsection (6); and
 - (b) select, as the **one-day quantity**, the lowest of the equivalent amounts as so calculated.
- (6) For subsection (5), the equation is:

$$\text{equivalent amount} = \frac{\text{permitted amount}}{\text{concentration}} \times 1000$$

where:

permitted amount is, for a listed substance, the permitted amount identified in the table to section S28—2.

concentration is the concentration of the substance in the beverage, in mg/L.