

**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:

 

 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.

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