

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 1 of Part 3 of the FSANZ Act specifies that the Authority may accept applications for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering an application for the development or variation of food regulatory measures.

The Authority accepted Application A1101 which seeks to delay the requirement to comply with the qualifying criteria for nutrition content claims about dietary fibre in Standard 1.2.7 – Nutrition, Health and Related Claims of the existing Code, for 12 months (that is, until and including 17 January 2017).

The Authority considered the Application in accordance with Division 1 of Part 3 and has approved a draft consequential variation to Standard 1.2.7.

Following consideration by the Australia and New Zealand Ministerial Forum on Food Regulation¹, section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the consequential variation.

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 a draft variation called *Food Standards (Application A1101 – Commencement of Dietary Fibre Claim Provisions – Consequential) Variation* to make a consequential amendment to Standard 1.2.7 in order to provide an explanation of the transitional arrangement permitted under Standard 1.1A.8.

3. Documents incorporated by reference

The draft consequential variation does not incorporate any documents by reference.

4. Consultation

A non-statutory round of public consultation was undertaken in October 2014 to gather cost-benefit information and seek stakeholder views to inform the assessment of the Application in accordance with the FSANZ Act, particularly paragraphs 29(2)(a) and (b). Submissions were called for on 23 October 2014 for a four-week consultation period.

In accordance with the procedure in Division 1 of Part 3 of the FSANZ Act, the Authority's consideration of Application A1101 included one round of public consultation following an assessment and preparation of a draft Standard, a draft consequential variation and associated report. Submissions were called for on 24 March 2015 for a six-week consultation period.

¹ convening as the Australia and New Zealand Food Regulation Ministerial Council

A Regulation Impact Statement was not required because the draft consequential amendment to Standard 1.2.7 of the existing Code is likely to have only a minor impact on business and individuals (OBPR ID: 17599).

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

Item 1 inserts a new Editorial Note into Standard 1.2.7 explaining that:

1. Standard 1.1A.8 is a transitional Standard that applies to claims about the presence or absence of dietary fibre in a food and operates concurrently with Standard 1.2.7
2. the transitional arrangement permitted under Standard 1.1A.8 allows a supplier making a claim about the presence or absence of dietary fibre in a food to either comply with clause 11 of Standard 1.2.7 or clause 2 of Standard 1.1A.8, but not both
3. this transitional arrangement under Standard 1.1A.8 will commence on 18 January 2016 and will cease to operate on 1 March 2016 when the revised Code takes effect and that Standard is revoked
4. the revised Code will provide a similar transitional arrangement until and including 17 January 2017.