

# 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).

FSANZ completed a review of the Code undertaken under Proposal P1025<sup>1</sup> in order to improve the Code's clarity and legal efficacy. A revised Code has been approved and will commence on 1 March 2016. It will replace the existing Code, which will be repealed on that date.

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 A1103 which sought to amend Standard 1.3.1 of the existing Code to allow the use of citric and lactic acid as food additives (acidity regulators) in beer and related products under Schedule 1 (food category 14.2.1).

The Authority considered the Application in accordance with Division 1 of Part 3 and has approved a draft variation to Standard 1.3.1 of the existing Code. The Authority has subsequently approved a draft variation to Schedule 15 of the revised Code to ensure that, on 1 March 2016, the revised Code is consistent with the existing Code as amended by the draft variation.

Following consideration by the Australia and New Zealand Ministerial Forum on Food Regulation<sup>2</sup>, section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the draft variation.

Section 94 of the FSANZ Act specifies that 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. Commencement

The approved variation to the revised Code takes effect on 1 March 2016.

## 3. Purpose

The Authority has approved amendments to Schedule 15 of the revised Code – Substances that may be used as food additives, to allow the use of citric and lactic acid as food additives (acidity regulators) in beer and related products.

## 4. Documents incorporated by reference

The variations to food regulatory measures do not incorporate any documents by reference.

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<sup>1</sup> <http://www.foodstandards.gov.au/code/proposals/Pages/proposalp1025coderev5755.aspx>

<sup>2</sup> convening as the Australia and New Zealand Food Regulation Ministerial Council

## **5. Consultation**

In accordance with the procedure in Division 1 of Part 3 of the FSANZ Act, the Authority's consideration of Application A1103 includes one round of public consultation following an assessment and the preparation of a draft variation and associated report.

A Regulation Impact Statement was not required because the proposed amendments to Schedule 15 are likely to have a minor impact on business and individuals. The Office of Best Practice Regulation has exempted the need for a RIS for applications relating to food additives, as they are machinery in nature and their use is voluntary.

## **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 of the Schedule to the Variation amends the table to section S15—5 of Schedule 15 of the revised Code by inserting, in numerical order, two new entries into item 14.2.1 Beer and related products.

These new entries are Lactic acid (INS number 270) and Citric acid (INS number 330), each of which would be permitted to be added to beer and related products at levels consistent with GMP.