

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 variation to the Code, which consists of a draft Standard 1.2.12 – Transitional standard for dietary fibre nutrition content claims and draft variation consequential variations to other Standards.

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 draft Standard and 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 *Australia New Zealand Food Standards Code — Revocation and Transitional Variation 2015 (Application A1101 – Commencement of Dietary Fibre Claim Provisions – Consequential)* to make consequential amendments to Standards other than Standard 1.2.12.

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

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

assessment and preparation of a draft Standard, draft consequential variations and associated report. Submissions were called for on 24 March 2015 for a six-week consultation period.

A Regulation Impact Statement was not required because the draft consequential amendments in the revised Code are 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 of Schedule 1 of the Variation amends subsection 1.1.1—2(2) by inserting into that subsection a reference to Standard 1.2.12. Subsection 1.1.1—2(2) sets out the structure of the Code.

Item 1 of Schedule 2 of the Variation amends Standard 1.2.7 by inserting a new Note after subsection 1.2.7—12. The Note is to explain the transitional arrangement established by Standard 1.2.12 for claims about the presence or absence of dietary fibre in a food.

Item 1 of Schedule 3 of the Variation amends section 5.1.1—2 by inserting into that section a reference to Standard 1.1A.8. This will mean that Standard 1.1A.8 will be revoked on 1 March 2016.