

**Food Standards (Proposal P1037– Amendments associated with Nutrition Content & Health Claims) Variation**

The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. This variation commences on the date specified in clause 3 of this variation.

30 November 2015



Standards Management Officer

Delegate of the Board of Food Standards Australia New Zealand

**Note:**

This variation will be published in the Commonwealth of Australia Gazette No. FSC 101 on 7 December 2015. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

**1 Name**

This instrument is the *Food Standards (Proposal P1037 – Amendments associated with Nutrition Content & Health Claims) Variation*.

**2 Variation to Standards in the *Australia New Zealand Food Standards Code***

The Schedule varies the Standards in the *Australia New Zealand Food Standards Code*.

**3 Commencement**

The variation commences on the date of gazettal.

**SCHEDULE**

**[1]** **Standard 1.1.1** is varied by –

[1.1] inserting after clause 1 –

“**1A Application of the Code to prescribed variations**

(1) For the purposes of this clause –

**prescribed variations** means the variations to the Code made by the Variation other than the variations made by items 1.2, 2.3 and 3.1 of the Schedule to the Variation.

**transitional period** means the period of time that commences on the date that the Variation commenced and ends on 18 January 2017.

**the Variation** means the *Food Standards (Proposal P1037 – Amendments associated with Nutrition Content & Health Claims) Variation.*

(2) Subclause 1(2) of this Standard does not apply to the prescribed variations.

(3) During the transition period, a food product may comply with either –

(a) the Code as in force without the prescribed variations; or

(b) the Code as amended by the prescribed variations,

but not a combination of both.

(4) A food product is taken to comply with the Code as amended by the prescribed variations for a period of 12 months commencing on 18 January 2017 if the food product otherwise complied with this Code before that date.”

[1.2] inserting after clause 2 –

“**2A Permitted Health Star Rating symbols**

(1) In this Code, **a Permitted Health Star Rating symbol** means an image subject to any of the following –

(a) an Australian Trade Mark numbered 1641445, 1641446 or 1641447;

(b) a New Zealand Trade Mark numbered 1018807, 1018808 or 1018809.

(2) To avoid doubt, an image mentioned in subclause (1) does not cease to be a Permitted Health Star Rating symbol by reason only of the image indicating –

(a) energy or nutrient content on a per 100 g, per 100 ml or per pack basis; or

(b) energy or nutrient content on a per serving or per reference portion basis; or

(c) energy or nutrient content at zero or amounts greater than zero; or

(d) energy content on a percentage daily intake basis in addition to an amount shown in kilojoules.”

[1.3] updating the Table of Provisions to reflect these variations.

**[2]** **Standard 1.2.7** is varied by –

[2.1] inserting after clause 1 –

“

**Editorial note:**

Standard 1.2.8 may prescribe additional labelling requirements for claims regulated in Standard 1.2.7.

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[2.2] omitting paragraph 5(c) and substituting –

“(c) a declaration that is required by the Act; or

(d) a Permitted Health Star Rating symbol.”

[2.3] omitting “subparagraph” from paragraph 18(1)(b) and substituting “paragraph”

[2.4] omitting from the entry for Lactose in Schedule 1 “The nutrition information panel indicates the lactose and galactose content.”

[2.5] omitting from the entry for Salt or sodium in Schedule 1 “The nutrition information panel indicates the potassium content.”

[2.6] omitting from Schedule 1

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| Omega-3 fatty acids | (a) the food meets the conditions for a nutrition content claim about omega fatty acids; and  (b) the food contains no less than –  (i) 200 mg alpha-linolenic acid per serving; or  (ii) 30 mg total eicosapentaenoic acid and docosahexaenoic acid per serving; and  (c) other than for fish or fish products with no added saturated fatty acids, the food contains –  (i) as a proportion of the total fatty acid content, no more than 28% saturated fatty acids and trans fatty acids; or  (ii) no more saturated fatty acids and trans fatty acids than 5 g per 100 g; and | Good Source | (a) the food contains no less than 60 mg total eicosapentaenoic acid and docosahexaenoic acid per serving; and  (b) the food may contain less than 200 mg alpha-linolenic acid per serving. |
| Increased | (a) the food contains at least 25% more omega-3 fatty acids than in the same quantity of reference food; and  (b) the reference food meets the general claim conditions for a nutrition content claim about omega-3 fatty acids. |
|  | (d) the nutrition information panel indicates the type and amount of omega-3 fatty acids, that is, alpha-linolenic acid, docosahexaenoic acid or eicosapentaenoic acid, or a combination of the above. |  |  |

”

and substituting –

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| --- | --- | --- | --- |
| Omega-3 fatty acids | (a) the food meets the conditions for a nutrition content claim about omega fatty acids; and  (b) the food contains no less than –  (i) 200 mg alpha-linolenic acid per serving; or  (ii) 30 mg total eicosapentaenoic acid and docosahexaenoic acid per serving; and  (c) other than for fish or fish products with no added saturated fatty acids, the food contains –  (i) as a proportion of the total fatty acid content, no more than 28% saturated fatty acids and trans fatty acids; or  (ii) no more saturated fatty acids and trans fatty acids than 5 g per 100 g. | Good Source | (a) the food contains no less than 60 mg total eicosapentaenoic acid and docosahexaenoic acid per serving; and  (b) the food may contain less than 200 mg alpha-linolenic acid per serving. |
| Increased | (a) the food contains at least 25% more omega-3 fatty acids than in the same quantity of reference food; and  (b) the reference food meets the general claim conditions for a nutrition content claim about omega-3 fatty acids. |

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[2.7] omitting “the content of energy and each nutrient” from subitems 2(1) and 3(1) of Schedule 5 and substituting “the average energy content and the average quantity of each nutrient listed in that Table that is”

[2.8] omitting “sources” from paragraph 4(6)(c) of Schedule 5

[2.9] omitting “sources” from subitem 4(8) of Schedule 5

[2.10] omitting “total” wherever appearing in Tables 1 and 2 of Schedule 5

[2.11] omitting “Average saturated fatty acids” wherever appearing in Tables 1 and 2 of Schedule 5 and substituting “Average quantity of saturated fatty acids”

[2.12] omitting “Average sodium” wherever appearing in Tables 1 and 2 of Schedule 5 and substituting “Average quantity of sodium”

[2.13] omitting subitem 5(1) of Schedule 5 and substituting –

“(1) Use Table 4 to determine the ‘P points’ scored, depending on the average quantity of protein in 100 g or 100 mL of the food product (based on the units used in the nutrition information panel). A maximum of five points can be awarded.”

[2.14] omitting subitem 6(1) of Schedule 5 and substituting –

“(1) Use Table 5 to determine the ‘F points’ scored, depending on the average quantity of dietary fibre in 100 g or 100 mL of the food product (based on the units used in the nutrition information panel). A maximum of five points can be awarded.”

**[3]** **Standard 1.2.8** is varied by

[3.1] omitting paragraph 4(1)(d) and substituting –

“(d) an endorsement; or

(e) a permitted Health Star Rating symbol.”

[3.2] omitting “clause 8” from subclause 4(4) and substituting “clauses 8 and 8A”

[3.3] omitting “saturated fat” from paragraph 5(1)(e) and substituting “saturated fatty acids”

[3.4] inserting after subclause 5(4) –

“(4A) The nutrition information panel must include a declaration of the average quantity of galactose in accordance with subclause (7), where a claim requiring nutrition information is made about or based on lactose.

(4B) The nutrition information panel must include a declaration of the average quantity of potassium in accordance with subclause (7), where a claim requiring nutrition information is made about or based on salt or sodium.

(4C) The nutrition information panel must include a declaration of the following in accordance with subclause (7), where a claim requiring nutrition information is made about or based on omega-3 fatty acids –

(a) the average quantity of each type of omega-3 fatty acids (that is, alpha‑linolenic acid, docosahexaenoic acid, eicosapentaenoic acid or a combination of these); and

(b) the average quantity of the total of omega-3 fatty acids.”

[3.5] omitting “subclause (4) and subclause (5)” from subclause 5(7) and substituting “subclauses (4), (4A), (4B), (4C) and (5)”

[3.6] omitting the Table to subclause 8(3) and substituting –

“**Table to subclause 8(3)**

| **Column 1** | **Column 2** |
| --- | --- |
| **Claim is about** | **Label must include** |
| Any nutrient or biologically active substance (other than a vitamin or mineral with a RDI) | Average quantity of the nutrient or biologically active substance present per serving of the food |
| Any vitamin or mineral with a RDI | (a) Average quantity of the vitamin or mineral present per serving of the food; and  (b) Percentage of the RDI for the vitamin or mineral contributed by one serving of the food, and calculated in accordance with clause 7A |
| Polyunsaturated fatty acids or monounsaturated fatty acids in a food standardised in Standard 2.4.1 or 2.4.2 | Minimum, maximum or average quantity of saturated fatty acids, trans fatty acids, polyunsaturated fatty acids and monounsaturated fatty acids content per serving of the food |
| Polyunsaturated fatty acids or monounsaturated fatty acids in a food that is not a food standardised in Standard 2.4.1 or 2.4.2 | Average quantity of saturated fatty acids, trans fatty acids, polyunsaturated fatty acids and monounsaturated fatty acids content per serving of the food |
| Cholesterol, saturated fatty acids, trans fatty acids, omega-6 or omega-9 fatty acids | Average quantity of saturated fatty acids, trans fatty acids, polyunsaturated fatty acids and monounsaturated fatty acids content per serving of the food |
| Dietary fibre, sugars or any other carbohydrate | Average energy content per serving of the food and average quantity of carbohydrate, sugars and dietary fibre (calculated in accordance with clause 18) present per serving of the food |
| Energy | Average energy content per serving of the food |
| Fat-free | Average energy content per serving of the food |
| Omega-3 fatty acids | (a) Average quantity of saturated fatty acids, trans fatty acids, polyunsaturated fatty acids and monounsaturated fatty acids content per serving of the food; and  (b) the average quantity of each type of omega-3 fatty acids per serving of the food (that is, alpha‑linolenic acid, docosahexaenoic acid, eicosapentaenoic acid or a combination of these); and  (c) the average quantity of the total of omega-3 fatty acids per serving of the food |
| Lactose | Average quantity of galactose content per serving of the food |
| Potassium | Average quantity of sodium content per serving of the food |
| Sodium or salt | Average quantity of sodium and potassium content per serving of the food |

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[3.7] omitting “‘metric cup’ or” from paragraph 8(5)(b)

[3.8] omitting “of unavailable carbohydrate” from subclause 8A(2) and substituting “of the average quantity of unavailable carbohydrate per serving of the food”

[3.9] omitting “presence of relevant substances” from subclause 8A(4) and substituting “the average quantity of the substances per serving of the food”

**[4]** **Standard 2.9.2** is varied by omitting subclause 9(1) and substituting –

“(1) The following provisions of Standard 1.2.8 do not apply to a food standardised by this Standard –

(a) paragraph 3(j); and

(b) subclause 4(4); and

(c) paragraph 5(1)(e) as it relates to saturated fat; and

(d) subclauses 5(2), 5(4) and 5(5); and

(e) clause 7; and

(f) clause 8; and

(g) clause 8A; and

(h) clause 9.”