

# 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 current Code).

Division 2 of Part 3 of the FSANZ Act specifies that the Authority may prepare a proposal for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering a proposal for the development or variation of food regulatory measures.

FSANZ has published a revision of the current Code in April 2015 (the revised Code). The revised Code will replace the current Code on 1 March 2016, when the current Code will be repealed.

FSANZ prepared Proposal P1040 to correct minor errors in the published revised Code. The Authority has considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft variation.

Following consideration by the Australia and New Zealand Ministerial Forum on Food Regulation<sup>1</sup>, section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the standard or draft variation of a standard.

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 the draft variation to correct minor typographical and transcription errors.

## 3. Documents incorporated by reference

The variation to the revised Code does not incorporate any documents by reference not already incorporated into the current Code.

## 4. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of P1040 included one round of consultation with appropriate government agencies following an assessment and the preparation of a draft variation and associated report. The call for submissions was also notified in FSANZ's Notification Circular to ensure all stakeholders were informed and had an opportunity to make a submission.

A Regulation Impact Statement was not required because the proposed variation to the revised Code is likely to have a minor regulatory impact on business and individuals.

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<sup>1</sup> convening as the Australia and New Zealand Food Regulation Ministerial Council

## **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**

### ***Section 1.1.1—2***

Item [1] deletes the reference to Standard 1.2.12 – Transitional standard for dietary fibre nutrition content claims. That Standard will cease to have effect on 18 January 2017. Item [1] will take effect and remove the reference on 19 January 2017.

### ***Section 1.1.2—2(3) (definition of individual portion pack)***

Item [2] replaces '1.2.1—6(4)' with '1.2.1—6(3)', to correct a referencing error.

### ***Section 1.1.2—2 (Note)***

Item [3] deletes '0' to correct a transcription error.

### ***Section 1.2.7—12 (Note)***

Item [4] deletes the Note as it refers to Standard 1.2.12 – Transitional standard for dietary fibre nutrition content claims. That Standard will cease to have effect on 18 January 2017. Item [4] will take effect and remove the reference on 19 January 2017.

### ***Section 1.3.1—2 (Note)***

Item [4A] replaces the words 'that that' with 'that' to correct a typographical error.

### ***Section 1.4.1—3(3)***

Item [5] replaces the formula to correct a typographical error.

### ***Section 1.4.2 Standard Heading (Note 3)***

Item [6] replaces '2014' with '2014.', to correct a typographical error.

### ***Section 1.5.2 Standard Heading (Note 3)***

Item [7] replaces '1.1.1—10(3)(c) and (4)(g)' with '1.1.1—10(5)(c) and (6)(g)', to correct a referencing error.

### ***Section 2.4.2—2 (Note)***

Item [8] replaces '**edible oil spread**' with '**edible oil spread**', to correct a typographical error'.

### ***Section 2.7.1—1***

Item [9] replaces 'Alcoholic beverages' with 'Labelling of alcoholic beverages and food containing alcohol', to correct a transcription error.

#### **Standard 2.7.4 Standard Heading (Note 3)**

Item [10] replaces 'the Wine Australia Corporation Act 1980 (Cth)' with 'the Australian Grape and Wine Authority Act 2013 (Cth)', as the former Act has been repealed and replaced by the latter.

#### **Section 2.9.4—6(2)(a)**

Item [11] replaces 'of reconstitution' with 'or reconstitution', to correct a typographical error.

#### **Section 2.9.5—3(b)**

Item [12] replaces 'Part 2' with 'Part 1.2', to correct a typographical error.

#### **Section 2.9.6—3 (Note)**

Item [13] replaces 'published' with 'published.', to correct a typographical error.

#### **Section 2.10.2—3**

Item [14] amends the text of the section so that it reads 'A food that is sold as 'salt' must be salt and contain no less than 970 g/kg sodium chloride on a dry basis, exclusive of permitted additives.' This is to correct a typographical error.

#### **Schedule 1**

##### **Section S1—2 (Table)**

Item [15] amends the entry for Vitamin E in the table to section S1—2. It replaces each reference in that entry to Note 4 to a reference to Note 3. This consequential amendment is required by the amendments made by item [15B] of this Schedule.

##### **Section S1—2 (Notes)**

Item [15A] omits the Notes and replaces them with the following, to correct a referencing error:

Note 1	See paragraph 1.1.2—14(3)(a).
Note 2	See paragraph 1.1.2—14(3)(b).
Note 3	See paragraph 1.1.2—14(3)(c).

#### **Schedule 2**

##### **Section S2—2 (table)**

Item [16] replaces 'mJ' with 'MJ', to correct a typographical error.

#### **Schedule 3**

##### **Section S3—27**

Item [16A] replaces 'cfu/kg' with 'cfu/g', to correct a transcription error.

## **Schedule 4**

### *Section S4—2 (definition of sugars)*

Item [17] replaces ‘(a)’ (second occurrence) with ‘(b)’, to correct a numbering error.

### *Section S4—5 (table)*

- (a) Item [18] corrects a typographical error by removing the duplicate reference in column 1 of the table to ‘Iodine’ (second occurrence).
- (b) Item [18] corrects a typographical error by removing the duplicate reference in column 1 of the table to ‘Selenium’ (second occurrence) and by correcting the formatting of the row for that entry.
- (c) Item [18] corrects a typographical error by removing the duplicate reference in column 1 of the table to ‘Energy’ (second occurrence) and by correcting the formatting of the row for that entry.

## **Schedule 12**

### *Section S12—4 (table)*

Item [19] deletes the following unnecessary sentence from the table: ‘Your daily intakes may be higher or lower depending on your energy needs.’

## **Schedule 15**

### *Section S15—5 (table)*

- (a) Item [20] removes the duplicate entries in item 1.4.2 of the table for ‘Nisin’ (second occurrence) and ‘Polyglycerol esters of fatty acids’ (second occurrence), to correct a typographical error.
- (b) Item [20] inserts the following into the item 2.2.2 of the table, in numerical order, to correct a transcription error.

200	201	202	203	Sorbic acid and sodium, potassium and calcium sorbates	2 000
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## **Schedule 18**

### *Section S18—3 (table)*

Item [21] replaces ‘tetraethylenepentamin’ with ‘tetraethylenepentamine’, to correct a typographical error.

## **Schedule 26**

### *Schedule Heading (Note 1)*

Item [22] replaces ‘1.1.1—10(3)(c) and (4)(g)’ with ‘1.1.1—10(5)(c) and (6)(g)’, to correct a referencing error.

**Section S26—3(4) (table)**

- (a) Item [23] replaces ‘&’ with ‘and’ in entry 4(a), to correct a typographical error.
- (b) Item [23] deletes ‘food derived from’ in entry 4(b), to correct a typographical error.

**Schedule 29**

**Section S29—17 (Table heading)**

Item [24] omits the words ‘and intake amounts’ from the heading to the table in section S29—17. No intake amounts are shown in the table.

**Section S29—21 (Notes)**

Item [24A] replaces the Notes with new Notes to correct typographical errors. That is, by inserting a full stop at the end of Note 1; replacing ‘1.1.2—14(3)(d)’ with ‘1.1.2—14(3)(c)’ in Note 3; and inserting a full stop at the end of Note 3.