

EXPLANATORY STATEMENT

Select Legislative Instrument No. XX, 2016

Food Standards Australia New Zealand Act 1991

Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Regulation 2016

Authority and background

Food Standards Australia New Zealand (FSANZ) is a body corporate continued in existence by section 12 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act). The primary function of the Authority is to develop, vary and review food regulatory measures, being food standards and codes of practice for industry. Food standards developed by the Authority comprise the *Australia New Zealand Food Standards Code*.

Section 153 of the FSANZ Act provides that the Governor-General may make regulations, not inconsistent with the FSANZ Act, prescribing all matters: required or permitted by the FSANZ Act to be prescribed; or necessary or convenient to be prescribed for carrying out or giving effect to the FSANZ Act.

The FSANZ Act does not specify any conditions that must be satisfied before the power to make a regulation may be exercised.

Purpose and Operation

The purpose of the *Food Standards Australia New Zealand Amendment Forum on Food Regulation and Other Measures) Regulation 2016* (the Amending Regulation) is to amend the *Food Standards Australia New Zealand Regulations 1994* (the Principal Regulations) to take account of amendments made to the FSANZ Act by the *Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Act 2015* (the FSANZ Amendment Act).

Detailed explanation of the Amending Regulation's provisions

Regulation 1 – Name

Regulation 1 provides that the title of the Amending Regulation is the *Food Standards Australia New Zealand Amendment Forum on Food Regulation and Other Measures) Regulation 2016*.

Regulation 2 – Commencement

Regulation 2 provides that the Amending Regulation commences the day after the instrument is registered.

Regulation 3 – Authority

Regulation 3 provides that the legislative authority for the making of the Amending Regulation is the *Food Standards Australia New Zealand Act 1991*.

Regulation 4 – Schedules

Regulation 4 provides that each instrument that is specified in a Schedule is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule has effect according to its terms.

Schedule 1 – Amendments relating to the definitions and appropriate government agencies

Item 1 – Regulation 2

Item 1 amends the definition of “application consideration process” in regulation 2 of the Principal Regulations. It replaces the word “Council” in that definition, with the words “Forum on Food Regulation”. This amendment reflects that the name of the Australia New Zealand Food Regulation Ministerial Council changed in September 2011 to the Australia New Zealand Ministerial Forum on Food Regulation.

Item 2 – Regulation 3

Item 2 repeals Regulation 3 of the Principal Regulations.

Regulation 3 prescribes certain Commonwealth, State and Territory government entities for the purposes of the definition of “appropriate government agency” in subsection 4(1) of the FSANZ Act. The FSANZ Amendment Act amended that definition to remove the need to prescribe government entities for its purposes. Regulation 3 is therefore no longer necessary.

Consultation

The New Zealand Ministry of Primary Industries and FSANZ were consulted in relation to the proposed amendments to the Principal Regulations.

Statement of compatibility with human rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

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This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulation

The purpose of the Amending Regulation is to amend the *Food Standards Australia New Zealand Regulations 1994* (Principal Regulations). These amendments are a direct consequence of amendments made to the *Foods Standards Australia New Zealand Act 1991* (the FSANZ Act) by the *Food Standards Australia New Zealand Amendment (Forum on Food Regulation and Other Measures) Act 2015* (the FSANZ Amendment Act).

The Amending Regulation:

- replaces the reference to the “Council” in the definition of “application consideration process” in regulation 2 of the Principal Regulations with a reference to the “Forum on Food Regulation; and
- repeals regulation 3 of the Principal Regulations.

Regulation 3 prescribes certain Commonwealth State and Territory government entities for the purposes of the definition of “appropriate government agency” in subsection 4(1) of the FSANZ Act. The FSANZ Amendment Act amended that definition to remove the need to prescribe government entities for its purposes. Regulation 3 of the Principal Regulations therefore is no longer necessary

Human rights implications

The Amending Regulation does not give rise to any human rights implications. The Amending Regulation does not engage any of the applicable human rights and freedoms. As explained above, it only makes technical amendments to the Principal Regulations. These do not change the legal effect of the Principal Regulations.

Conclusion

The Amending Regulation is compatible with human rights as it does not raise any human rights issues.