

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 A1116 which seeks permission for the sale and use of food derived from herbicide-tolerant and insect-protected corn line MZIR098 (MZIR098). The Authority considered the Application in accordance with Division 1 of Part 3 and has approved a draft variation to Schedule 26.

Following consideration by the Australia and New Zealand Ministerial Forum on Food Regulation, 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 *Legislation Act 2003*.

2. Purpose

The variation inserts a reference to herbicide-tolerant and insect-protected corn line MZIR098 into Schedule 26 of the Code in order to permit the sale, or use in food, of food derived from that corn line.

3. Documents incorporated by reference

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

4. Consultation

In accordance with the procedure in Division 1 of Part 3 of the FSANZ Act, the Authority's consideration of Application A1116 included one round of public consultation following an assessment and the preparation of a draft variation.

A Regulation Impact Statement was not required because the sale of food derived from MZIR098, if approved, would be voluntary and would be likely to have a minor impact on business and individuals.

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] inserts paragraph (z) into item 2 in the table to subsection S26—3(4) of Schedule 26. The new item refers to herbicide-tolerant and insect-protected corn line MZIR098. The effect of the variation is to permit the sale and use of food derived from that corn line in accordance with Standard 1.5.2.