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 A1138 which seeks permission for the sale and use of food derived from a genetically modified rice line, GR2E, which produces provitamin A in the grain. The Authority considered the Application in accordance with Division 1 of Part 3 and has prepared a draft variation.

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 draft variation.

Section 94 of the FSANZ Act specifies that 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 sunsetting under the *Legislation Act 2003*.

2. Purpose

The purpose of this instrument is to amend Schedule 26 of the Code to permit the sale, or use in food, of food derived from provitamin A rice line GR2E and make a consequential amendment to Standard 1.5.2.

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 A1138 included one round of public consultation following an assessment and the preparation of a draft variation and associated report. Submissions were called for on 3 August 2017 for a six-week consultation period.

The Office of Best Practice Regulation (OBPR), in a letter to FSANZ dated 24 November 2010, granted a standing exemption from the need for the OBPR to assess if a Regulatory Impact Statement is required for the approval of genetically modified foods (ref 12065). Therefore, a Regulation Impact Statement was not required in this case because the proposed amendments to Standard 1.5.2 and Schedule 26 are 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] amends Standard 1.5.2 by replacing the reference to 'subsections S26—3(2) and (3)' in subparagraph 1.5.2—4(1)(a)(ii) with a reference to 'section S26—3.' This is a consequential amendment required as a result of the variation proposed by item [2.1] below.

Item [2] amends Schedule 26.

Subitem [2.1] inserts new subsection S26—3(2A) into Schedule 26. The new subsection requires food products containing beta-carotene derived from provitamin A rice line GR2E to comply with the labelling requirement imposed by section 1.5.2—4 of the Code.

Subitem [2.2] inserts new paragraph (b) into item 6 in the table to subsection S26—3(4). Paragraph (b) refers to 'provitamin A rice line GR2E'. This amendment will permit the sale, or use in food, of food derived from provitamin A rice line GR2E.