

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.

FSANZ accepted Application A1142 which sought an amendment to the Code to permit the use of a method of analysis (MoA) for determining the quantity of resistant starch as a specific type of dietary fibre in food. The method was AOAC¹ Official Method 2002.02 (Resistant starch in Starch and Plant Materials).

The Authority considered the Application in accordance with Division 1 of Part 3 and has approved 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 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 Authority approved the variation to section S11—4 of the Code to prescribe AOAC Official Method 2002.02 as a MoA to be used to measure the amount of resistant starch in food for the purposes of subsections 1.2.8—7(7) and S5—6(2) of the Code.

Section S11—4 contains the prescribed MoAs for determining the dietary fibre content of a food, including certain specifically named fibres. Declarations of dietary fibre in a nutrition information panel must be determined in accordance with section S11—4 (see subsection 1.2.8—7(7)).

At present, section S11—4 does not include a specific MoA for resistant starch. The current MoAs for analysing total dietary fibre in the Code measure some, but not all, resistant starch in a food and the amount measured depends on the food matrix. Those methods do not distinguish resistant starch from other forms of dietary fibre present in the food.

The approved draft variation will mean that food suppliers must use AOAC 2002.02 to determine the quantity of resistant starch in a food in accordance with section S11—4 if resistant starch is to be declared specifically as a sub-group nutrient of dietary fibre in a nutrition information panel on a food label.

¹ **AOAC** means the *Official Methods of Analysis of AOAC International*, eighteenth edition, 2005, published by AOAC International, Maryland USA.

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 A1142 will include one round of public consultation following an assessment and the preparation of a draft Standard and associated assessment summary. Submissions were called for on 20 October 2017 for a six-week consultation period.

A Regulation Impact Statement was not required because the proposed variation of section S11-4 is 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] of the draft variation amends section S11—4 by inserting into subsection S11—4(2) the words 'for resistant starch—section 2002.02'.

Subsection S11—4(4) provides that this reference to section 2002.02 is a reference to section 2002.02 of the *Official Methods of Analysis of AOAC International*, eighteenth edition, 2005, published by AOAC International, Maryland USA. Section 2002.02 of that publication describes a method of analysis for resistant starch.

The effect of the amendment is to prescribe that method as a method for determining the amount of resistant starch in food for the purposes of subsections 1.2.8—7(7) and S5—6(2) of the Code.