

## Food Standards (Proposal P1044 – Plain English Allergen Labelling) Variation

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The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The variation commences on the date specified in clause 3 of the variation.

Dated 19 February 2021



Joanna Richards  
Standards Management Officer  
Delegate of the Board of Food Standards Australia New Zealand

**Note:**

This variation will be published in the Commonwealth of Australia Gazette No. FSC 138 on 25 February 2021. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

## 1 Name

This instrument is the *Food Standards (Proposal P1044 – Plain English Allergen Labelling) Variation*.

## 2 Variation to standards in the *Australia New Zealand Food Standards Code*

The Schedule varies Standards in the *Australia New Zealand Food Standards Code*.

## 3 Commencement

The Variation commences on the date of gazettal.

## 4 Effect of the variations made by this instrument

- (1) Section 1.1.1—9 of Standard 1.1.1 does not apply to the variations made by this instrument.
- (2) During the transition period, a food product may be sold if the food product complies with one of the following:
  - (a) the Code as in force without the variations made by this instrument; or
  - (b) the Code as amended by the variations made by this instrument.
- (3) A food product that was packaged and labelled before the end of the transition period may be sold during the post-transition period if the product complies with one of the following:
  - (a) the Code as in force without the variations made by this instrument; or
  - (b) the Code as amended by the variations made by this instrument.
- (4) For the purposes of this clause:
  - (a) **transition period** means the period commencing on the variation's date of commencement and ending 36 months after the date of commencement;
  - (b) **post-transition period** means the 24 month period commencing on the day after the transition period ends.

## Schedule

### Standard 1.1.1

[1] **Standard 1.1.1** is varied by omitting the words 'Mandatory advisory statements' from subsection 1.1.1—2(2), substituting 'Mandatory advisory statements and declarations'

### Standard 1.1.2

[2] **Standard 1.1.2** is varied by inserting into subsection 1.1.2—2(3), in alphabetical order **required name**, of a particular food, means the name declared by section 1.2.3—5 as the required name for that food for the purposes of Division 3 of Standard 1.2.3.

### Standard 1.2.3

[3] **Standard 1.2.3** is varied by

[3.1] inserting after Note 2 to Standard 1.2.3

## Division 1 Preliminary

[3.2] omitting section 1.2.3—1A, substituting

### 1.2.3—1A Definitions

**Note** In this Code (see section 1.1.2—2):

**required name**, of a particular food, means the name declared by section 1.2.3—5 as the required name for that food for the purposes of Division 3 of Standard 1.2.3.

**size of type** means the measurement from the base to the top of a letter or numeral.

[3.3] inserting after section 1.2.3—1A

## Division 2 Mandatory statements

[3.4] inserting after section 1.2.3—3

## Division 3 Mandatory declarations

[3.5] omitting section 1.2.3—4, substituting

### 1.2.3—4 Mandatory declarations of certain foods

- (1) For the labelling provisions, if a food to which this section applies is present in a food for sale in a manner listed in subsection (5), a declaration that the food is present is required.

**Note** The labelling provisions related to this requirement are set out in Standard 1.2.1, subparagraph 1.2.4—5(6)(b)(i), and paragraph 2.9.5—9(1)(d).

- (2) A declaration required by subsection (1) must comply with this Division.
- (3) This section applies to:
  - (a) a food that is listed in Column 1 of the table to section S9—3; or
  - (b) a derivative of such a food.
- (4) Despite subsection (3), this section does not apply to:
  - (a) a food that is listed in Column 2 of the table to section S9—3; or
  - (b) a derivative of such a food.
- (5) For the purposes of subsection (1), the food may be present as any of the following:
  - (a) an ingredient or as an ingredient of a \*compound ingredient; or
  - (b) a substance \*used as a food additive, or an ingredient or component of such a substance; or
  - (c) a substance \*used as a processing aid, or an ingredient or component of such a substance.

### 1.2.3—5 Food name required for a mandatory declaration

The \*required name of a food listed in Column 1 of the table to section S9—3 is:

- (a) when listed in a statement of ingredients—the corresponding name or one of the corresponding names in Column 3 of that table;
- (b) in all other cases—the corresponding name or names in Column 4 of that table.

### 1.2.3—6 What a mandatory declaration must state

- (1) A declaration other than a declaration to which subsection (2) or (4) applies must be made by stating the \*required name of the food to be declared.
  - (2) A declaration made for the purposes of paragraph 1.2.1—8(1)(d) or subparagraph 1.2.4—5(6)(b)(i) must be made by:
    - (a) listing in the statement of ingredients of the food for sale:
      - (i) the \*required name of the food to be declared; and
      - (ii) if the food to be declared is a substance \*used as a processing aid or an ingredient or component of such a substance, the words 'processing aid' in conjunction with that required name; and  
**Examples:** processing aids (**wheat, egg**); processing aid containing **wheat**.
    - (b) including a summary statement on the label of the food for sale.
- Note** Statement of ingredients provisions are set out in Standard 1.2.4.
- (3) Subsection (2) does not apply to a food for sale to which subsection 1.2.4—2(2) or

subsection 1.2.4—2(3) applies.

**Note** Subsections 1.2.4—2(2) and (3) provide that certain foods are not required to have a statement of ingredients on their label.

- (4) A declaration made in relation to any of the following foods for sale must be made by stating the name of the food to which subsection 1.2.3—4(1) applies and that is present in the food for sale:

- (a) a food for special medical purposes; or
- (b) an infant formula product that is:
  - (i) specifically formulated for premature or low birthweight infants;
  - (ii) specifically formulated to satisfy particular metabolic, immunological, renal, hepatic or malabsorptive conditions;
  - (iii) represented as lactose free formula or low lactose formula; or
  - (iv) based on a \*protein substitute.

**Note 1** Paragraph 2.9.5—9(1)(d) applies to food for special medical purposes and provides that a label that is required for such food must make (among other things) any mandatory declarations required by section 1.2.3—4.

**Note 2** Division 4 of Standard 2.9.1 applies to infant formula products for special dietary use and sets out compositional and labelling requirements for such food.

- (5) For the purposes of subsection (4), the name to be stated must be:
- (a) the name listed for that food in Column 1 of the table to section S9—3; or
  - (b) any other name by which that food is commonly known.

## 1.2.3—7

### Form of a mandatory declaration

- (1) A \*required name in a statement of ingredients must be printed:
- (a) in a bold font that provides a distinct contrast with any other text in the statement of ingredients which is not a required name; and
  - (b) in a \*size of type that is not less than the size of type of the other text in the statement of ingredients that is not a required name.
- (2) A \*required name in a statement of ingredients must be listed:
- (a) separately for each ingredient that is or contains the relevant food; and
    - Example** kamut (**wheat**), maltodextrin (**wheat**)
  - (b) as a separate word or as separate words if the required name is contained in the name of the ingredient that is or contains the relevant food; and
    - Examples** milk powder, **sesame** seeds, but not buttermilk
  - (c) separately from but next to the name of the ingredient that is or contains the relevant food unless the required name:
    - (i) is identical to the name of the ingredient; or
    - (ii) is contained in the name of the ingredient.
      - Examples** sodium caseinate (**milk**) or sodium caseinate (from **milk**); pasta (**wheat, egg**)
- (3) A summary statement must:
- (a) commence with the word 'Contains' and then list the \*required name of each food to be declared; and
  - (b) contain no other words.
- (4) A summary statement must:
- (a) appear on the label of the food for sale:
    - (i) in the same field of view as the statement of ingredients; and
    - (ii) directly next to the statement of ingredients; and
  - (b) be distinctly separated from the statement of ingredients.

- (5) A summary statement must be printed:
  - (a) in the same typeface and \*size of type as any \*required name in the Statement of ingredients of the food for sale; and
  - (b) in a bold font that provides a distinct contrast with any other text in the statement of ingredients which is not a required name.
- (6) In this section, a **summary statement** means a summary statement required by paragraph 1.2.3—6(2)(b).

### **1.2.3—8 Compliance with requirement for required name**

If a provision of this Division requires a \*required name to be declared or stated, that required name may be declared or stated in either the singular or plural form as required.

#### **Standard 1.2.4**

[4] Standard 1.2.4 is amended by

[4.1] omitting the words 'A statement of ingredients' from section 1.2.4—4, substituting 'Subject to Division 3 of Standard 1.2.3, a statement of ingredients'

[4.2] inserting after section 1.2.4—4

**Note** Division 3 of Standard 1.2.3 provides for mandatory declarations of certain foods, including by declarations in a statement of ingredients.

#### **Standard 2.9.5**

[5] Standard 2.9.5 is amended by

[5.1] omitting paragraph 2.9.5—9(1)(d), substituting

(d) any required advisory statements, \*warning statements, other statements, and declarations (see section 2.9.5—10);

[5.2] omitting the heading for section 2.9.5—10, substituting

### **2.9.5—10 Mandatory statements and declarations—food for special medical purposes**

[5.3] omitting subsection 2.9.5—10(2), substituting

(2) For paragraph 2.9.5—9(1)(d), the required advisory statements and declarations are any that are required by:

- (a) items 1, 4, 6 or 9 of the table to section S9—2; or
- (b) subsection 1.2.3—2(2); or
- (c) section 1.2.3—4.

#### **Schedule 9**

[6] Schedule 9 is varied by

[6.1] omitting the heading of the Schedule, substituting

## **Schedule 9 Mandatory advisory statements and declarations**

[6.2] omitting Note 1 of the Schedule, substituting

**Note 1** This instrument is a standard under the *Food Standards Australia New Zealand Act 1991* (Cth). The standards together make up the *Australia New Zealand Food Standards Code*. See also section 1.1.1—3.

Standard 1.2.3 is a standard for the information requirements relating to warning statements, advisory statements, and declarations. Standard 2.9.5 contains similar information requirements for food for special medical purposes. This Standard lists mandatory advisory statements for subsection 1.2.3—2(1) and paragraph 2.9.5—10(2)(a); and mandatory declarations for subsection 1.2.3—4(1).

[6.3] omitting 'Mandatory advisory statements' in section S9—1, substituting 'Mandatory advisory statements and declarations'

[6.4] inserting after section S9—2

### S9—3 Mandatory declarations

- (1) For Division 3 of Standard 1.2.3, a reference to the table to section S9—3 is a reference to the table to subsection (3).
- (2) For the purposes of the table to subsection (3):
  - (a) the definition of **fish** in subsection 1.1.2—3(2) does not apply; and
  - (b) **fish** excludes crustacea and molluscs; and
  - (c) **mollusc** means a marine mollusc.
- (3) The table to this subsection is:

**Mandatory declarations**

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
	<i>Food</i>	<i>Exemption</i>	<i>Required name for declarations in a statement of ingredients</i>	<i>Required name for other declarations</i>
1	added sulphites in concentrations of 10 mg/kg or more		sulphites	sulphites
2	Any of the following cereals (including hybridised strains thereof) if they contain *gluten:	the cereal or its hybridised strain that is present in beer or spirits		
	barley		barley	gluten
	oats		oats	gluten
	rye		rye	gluten
3	wheat (including its hybridised strain) irrespective of whether it contains gluten	(a) the wheat or its hybridised strain that is present in beer or spirits; (b) glucose syrups made from wheat starch and that: <ol style="list-style-type: none"> <li>(i) have been subject to a refining process that has removed gluten protein content to the lowest level that is reasonably achievable; and</li> <li>(ii) have a gluten protein content that does not exceed 20 mg/kg;</li> </ol> (c) alcohol distilled from wheat.	wheat	(a) wheat; and (b) if gluten is present - gluten.
4	Any of the following tree nuts:			

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
	<i>Food</i>	<i>Exemption</i>	<i>Required name for declarations in a statement of ingredients</i>	<i>Required name for other declarations</i>
	almond		almond	almond
	Brazil nut		Brazil nut	Brazil nut
	cashew		cashew	cashew
	hazelnut		hazelnut	hazelnut
	macadamia		macadamia	macadamia
	pecan		pecan	pecan
	pine nut		pine nut	pine nut
	pistachio		pistachio	pistachio
	walnut		walnut	walnut
5	crustacea		crustacean	crustacean
6	egg		egg	egg
7	fish	isinglass derived from fish swim bladders and used as a clarifying agent in beer or wine	fish	fish
8	lupin		lupin	lupin
9	milk	alcohol distilled from whey	milk	milk
10	mollusc		mollusc	mollusc
11	peanut		peanut	peanut
12	sesame seed		sesame	sesame
13	soybean	(a) soybean oil that has been degummed, neutralised, bleached and deodorised; (b) soybean derivatives that are tocopherol or phytosterol.	soy, soya or soybean	soy

## Schedule 10

**[7]** Schedule 10 is varied by

[7.1] omitting section S10—1A

[7.2] omitting the following condition for use for ‘cereals’ from the table to section S10—2

If the cereal is wheat, rye, barley, oats or spelt or a hybridised strain of one of those cereals, the specific name of the cereal must be declared.

[7.3] omitting paragraph (a) of the condition for use for ‘fats or oils’ from the table to section S10—2, substituting

(a) The statement of ingredients must declare:

- (i) whether the source is animal or vegetable; and
- (ii) if the food is a dairy product, including ice cream—the specific source of animal fats or oils.

[7.4] omitting the following condition for use for 'fish' from the table to section S10—2

If crustacea, the specific name of the crustacea must be declared.

substituting

The definition of *fish* in subsection 1.1.2—3(2) does not apply for the purposes of this table.

[7.5] omitting from the table to section S10—2

nuts

The specific name of the nut must be declared.

[7.6] omitting paragraphs (a) and (b) of the condition for use for 'starch' from the table to section S10—2, substituting

The name 'starch' may be used for any unmodified starch or any starch which has been modified by either physical means or enzymes.