

## **Explanatory Statement**

### **Standard 1.2.11 – Country of Origin Labelling**

#### **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 2 of Part 3 of the FSANZ Act specifies that the Authority may prepare a proposal for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering a proposal for developing or varying food regulatory measures.

FSANZ prepared Proposal P1011 to consider varying Standard 1.2.11 to extend country of origin labelling to include unpackaged beef (includes veal), sheep (lamb, hogget and mutton) and chicken meat. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft variation.

Following consideration by the COAG Legislative and Governance Forum on Food Regulation<sup>1</sup>, (Forum) 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 *Legislative Instruments Act 2003*.

#### **2. Purpose and operation**

Standard 1.2.11 requires packaged foods and unpackaged pork, fish, fruit and vegetables to be labelled with country of origin information. The purpose of the variation is to extend the application of the country of origin labelling requirements to unpackaged beef, sheep and chicken meat, which are the most common types of meat consumed by Australians. This will be done by inserting a replacement Standard 1.2.11 into the Code.

The replacement standard will commence 6 months after gazettal.

#### **3. Consultation**

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1011 included one round of public consultation following an assessment and preparation of a draft replacement standard. An Assessment Report that included the draft replacement standard was released on 18 July 2011 for a six-week consultation period.

A Regulation Impact Statement was required because the variations to Standard 1.2.11 are likely to have an impact on business and individuals.

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<sup>1</sup> Previously known as the Australia and New Zealand Food Regulation Ministerial Council

#### **4. 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.

#### **5. Variations**

In addition to extending country of origin labelling requirements to unpackaged beef, sheep and chicken meat, the replacement standard also introduces a new option to label a packaged food with a statement identifying the country where the food is grown. This option was included for consistency with provisions contained in the *Competition and Consumer Act 2010* dealing with country of origin representations.

The replacement standard has been structured to improve readability and an editorial note which contained outdated references to the *Trade Practices Act 1974* has been removed.

##### **5.1 Clause 1**

Clause 1 makes it clear that food sold to the public for immediate consumption by a number of specifically mentioned institutions will not be required to comply with the standard. Clause 1 also provides that subclause 1(2) of Standard 1.1.1 does not apply to the standard.

##### **5.2 Clause 2**

Clause 2 contains the country of origin labelling requirement for packaged food. It provides the option of labelling a package of food with a statement identifying the country where the food was made, produced or grown, or with a statement identifying the country where the food was manufactured or packaged. If the label identifies the country where the food was manufactured or packaged, the label must also contain a statement to the effect that the food is constituted from ingredients imported into that country or from local and imported ingredients.

In subclause 2(3), the words ‘unprocessed fruit and vegetables, whether whole or cut’ replace the previous wording of ‘fresh whole or cut fruit and vegetables’ to remove any interpretational ambiguities as to the meaning of the word ‘fresh’. ‘Fruit and vegetables’ is defined in Standard 2.3.1.

The options are different for unprocessed fruit and vegetables which are displayed for retail sale in a package which does not obscure the nature or quality of the fruit and vegetables. In this case, subclause 2(4) requires the package to be labelled with a statement on the package, or in connection with the display of the package, which either identifies the country or countries of origin of the fruit and vegetables, or indicates that the fruit and vegetables are a mix of local and imported foods, or a mix of imported foods.

##### **5.3 Clause 3**

Clause 3 contains the country of origin labelling requirement for unpackaged foods, and extends the requirement to beef, veal, lamb, hogget, mutton and chicken.

Subclause 3(1) consolidates a number of requirements previously contained within the Table to subclause 2(2) of Standard 1.2.11.

Subclause 3(2) makes it clear that all unpackaged food listed in Column 2 of the Table to subclause 3(1) must be labelled with the required country of origin statement, even if the food has been processed in one of a number of specified ways.

The requirement to label a food in accordance with subclause 3(1) is not intended to apply to a food which has undergone such a degree of processing that the food is no longer capable of being characterised as one of the foods listed under Column 2 to the Table. For example, foods such as salami and sausages that contain pork should not be characterised as 'pork'. However, subclause 3(2) makes it clear that marinated beef steaks should be characterised as 'beef' for the purposes of clause 3.

Subclause 3(3) specifies the required size of the country of origin statement required by subclause 3(1).