

## Schedule 26

## Food produced using gene technology

**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.

Food produced using gene technology is regulated by paragraphs 1.1.1—10(5)(c) and (6)(g) and Standard 1.5.2. This standard lists food produced using gene technology, and corresponding conditions, for paragraph 1.5.2—3(a).

**Note 2** The provisions of the Code that apply in New Zealand are incorporated in, or adopted under, the *Food Act 2014* (NZ). See also section 1.1.1—3.

### S26—1 Name

This Standard is *Australia New Zealand Food Standards Code – Schedule 26 – Food produced using gene technology*.

**Note** Commencement:

This Standard commences on 1 March 2016, being the date specified as the commencement date in notices in the *Gazette* and the *New Zealand Gazette* under section 92 of the *Food Standards Australia New Zealand Act 1991* (Cth). See also section 93 of that Act.

### S26—2 Interpretation

(1) In this Schedule, headings in bold type are for information only, and do not list food for the purpose of section 1.5.2—3.

(2) In this Schedule:

**conventional breeding** means all methods used to produce plants, excluding techniques that use gene technology.

**line** means:

- (a) a plant, the genetic material of which includes a transformation event or events; or
- (b) any plant, descended from the plant referred to in paragraph (a), that is the result of conventional breeding of that plant with:
  - (i) any other plant that does not contain a transformation event or events; or
  - (ii) any other plant that contains a transformation event or events, whether expressed as a line or event, that is listed in the table to section S26—3;
  - (iii) but shall not be taken to mean any plant derived solely as a result of conventional breeding.

**soy leghemoglobin preparation** means a cell lysate preparation that:

- (a) is derived from *Pichia pastoris* containing the gene for leghemoglobin c2 from *Glycine max*; and
- (b) contains soy leghemoglobin.

**transformation event** means a unique genetic modification arising from the use of gene technology.

### S26—3 Permitted food produced using gene technology and conditions

(1) The table to subsection (4) and the table to subsection (7) list permitted food produced using gene technology.

(2) Items 1(g), 1(i), 2(m), 7(e), (g) and (h), and 9(a) of the table to subsection (4) are subject to the condition that their labelling must comply with section 1.5.2—4..

**Note** That section requires the statement 'genetically modified'.

(2A) Products containing beta-carotene from item 6(b) of the table to subsection (4) are subject to the condition that their labelling must comply with section 1.5.2—4.

(3) Item 2(m) of the table to subsection (4) is also subject to the condition that, for the labelling provisions, unless the protein content has been removed as part of a

refining process, the information relating to \*foods produced using gene technology includes a statement to the effect that the high lysine corn line LY038 has been genetically modified to contain increased levels of lysine.

(4) The table for this subsection is:

<b>Food produced using gene technology of plant origin.</b>		
<b>Commodity</b>	<b>Food derived from:</b>	
<b>1 Canola</b>	<ul style="list-style-type: none"> <li>(a) herbicide-tolerant canola line GT73</li> <li>(b) herbicide-tolerant canola lines Topas 19/2 and T45 and herbicide-tolerant and pollination-controlled lines Ms1, Ms8, Rf1, Rf2, Rf3</li> <li>(c) herbicide-tolerant canola line Westar-Oxy-235</li> <li>(d) herbicide-tolerant canola line MON88302</li> <li>(e) herbicide-tolerant canola line DP-073496-4</li> <li>(f) herbicide-tolerant canola line MS11</li> <li>(g) DHA canola line NS-B50027-4, subject to the condition that oil derived from DHA canola line NS-B50027-4 must not be used as an ingredient in infant formula products (see subsection (2))</li> <li>(h) herbicide-tolerant canola line MON94100</li> <li>(i) EPA and DHA producing and herbicide-tolerant canola line LBFLFK, subject to the condition that oil derived from EPA and DHA producing and herbicide-tolerant canola line LBFLFK must not be used as an ingredient in infant formula products (see subsection (2))</li> </ul>	
<b>2 Corn</b>	<ul style="list-style-type: none"> <li>(a) herbicide-tolerant corn line GA21</li> <li>(b) insect-protected corn line MON810</li> <li>(c) herbicide-tolerant and insect-protected corn line Bt11</li> <li>(d) insect-protected corn line Bt176</li> <li>(e) herbicide-tolerant corn line T25</li> <li>(f) herbicide-tolerant corn line NK603</li> <li>(g) herbicide-tolerant and insect-protected corn line DBT418</li> <li>(h) herbicide-tolerant and insect-protected corn line 1507</li> <li>(i) insect-protected corn line MON863</li> <li>(j) herbicide-tolerant and insect-protected corn line DAS-59122-7</li> <li>(k) herbicide-tolerant and insect-protected corn line MON88017</li> <li>(l) insect-protected corn line MIR604</li> <li>(m) high lysine corn line LY038 (see subsections (2) and (3))</li> <li>(n) amylase modified corn line 3272</li> <li>(o) insect-protected corn line MON89034</li> <li>(p) insect-protected corn line MIR162</li> <li>(q) herbicide-tolerant corn line DP-098140-6</li> <li>(r) drought-tolerant corn line MON87460</li> <li>(s) herbicide-tolerant corn line DAS-40278-9</li> <li>(t) insect-protected corn line 5307</li> <li>(u) herbicide-tolerant corn line MON87427</li> <li>(v) herbicide-tolerant and insect-protected corn line MON87411</li> <li>(w) herbicide-tolerant and insect-protected corn line 4114</li> <li>(x) herbicide-tolerant corn line MZHG0JG</li> </ul>	

<b>Commodity</b>	<b>Food derived from:</b>
	(y) high yield corn line MON87403 (z) herbicide-tolerant and insect-protected corn line MZIR098 (za) herbicide-tolerant corn line MON87419 (zb) herbicide-tolerant corn line MON87429 (zc) enhanced yield and herbicide-tolerant corn line DP202216 (zd) herbicide-tolerant and insect-protected corn line DP23211 (ze) insect-protected corn line MON95379
<b>3 Cotton</b>	(a) insect-protected cotton lines 531, 757 and 1076 (b) herbicide-tolerant cotton line 1445 (c) herbicide-tolerant cotton lines 10211 and 10222 (d) insect-protected cotton line 15985
	(e) insect-protected cotton line COT102 (f) herbicide-tolerant and insect-protected cotton line MXB-13 (g) herbicide-tolerant cotton line LL25 (h) herbicide-tolerant cotton line MON88913 (i) herbicide-tolerant cotton line GHB614 (j) insect-protected cotton line COT67B (k) herbicide-tolerant and insect-protected cotton line T304-40 (l) herbicide-tolerant and insect-protected cotton line GHB119 (m) herbicide-tolerant cotton line MON88701 (n) herbicide-tolerant cotton line DAS-81910-7 (o) herbicide-tolerant cotton line GHB811 (p) insect-protected cotton line MON88702
<b>4 Lucerne</b>	(a) herbicide-tolerant lucerne lines J101 and J163 (b) reduced lignin lucerne line KK179
<b>5 Potato</b>	(a) insect-protected potato lines BT-06, ATBT04-06, ATBT04-31, ATBT04-36, and SPBT02-05 (b) insect- and virus-protected potato lines RBMT21-129, RBMT21-350 and RBMT22-82 (c) insect- and virus-protected potato lines RBMT15-101, SEMT15-02 and SEMT15-15 (d) reduced acrylamide potential and reduced browning potato line E12 (e) reduced acrylamide potential and reduced browning potato lines F10 and J3 (f) disease-resistant, reduced acrylamide potential and reduced browning potato lines W8, X17 and Y9 (g) reduced acrylamide potential and reduced browning potato line V11 (h) disease-resistant, reduced acrylamide potential and reduced browning potato line Z6
<b>6 Rice</b>	(a) herbicide-tolerant rice line LLRICE62 (b) provitamin A rice line GR2E (see subsection 2A))
<b>7 Soybean</b>	(a) herbicide-tolerant soybean line 40-3-2 (b) herbicide-tolerant soybean lines A2704-12 and A5547-127 (c) herbicide-tolerant soybean line MON89788

<b>Commodity</b>	<b>Food derived from:</b>
	(d) herbicide-tolerant soybean line DP-356043-5 (e) high oleic acid soybean line DP-305423-1 (see subsection (2)) (f) insect-protected soybean line MON87701 (g) herbicide-tolerant high oleic acid soybean line MON87705 (see subsection (2)) (h) soybean line MON87769 producing stearidonic acid (see subsection (2)) (i) herbicide-tolerant soybean line DAS-68416-4 (j) herbicide-tolerant soybean line FG72 (k) herbicide-tolerant soybean line MON87708 (l) herbicide-tolerant soybean line CV127 (m) herbicide-tolerant soybean line DAS-44406-6 (n) herbicide-tolerant soybean line SYHT0H2 (o) insect-protected soybean line DAS-81419-2 (p) insect-protected soybean line MON87751 (q) nematode-protected and herbicide-tolerant soybean line GMB151
<b>8 Sugarbeet</b>	(a) herbicide-tolerant sugarbeet line 77 (b) herbicide-tolerant sugarbeet line H7-1
<b>9 Safflower</b>	(a) super high oleic safflower lines 26 and 40 (see subsection (2))
<b>10 Wheat</b>	(a) drought-tolerant and herbicide-tolerant wheat line IND-00412-7

- (5) A food listed in the table to subsection (7) must comply with any corresponding conditions listed in that table.
- (6) A source listed in the table to subsection (7) may contain additional copies of genes from the same strain.
- (7) The table for this subsection is:

**Food produced using gene technology of microbial origin**

<b>Substance</b>	<b>Source</b>	<b>Conditions of use</b>
<b>1 2'-fucosyllactose</b>	(a) <i>Escherichia coli</i> K-12 containing the gene for alpha-1,2-fucosyltransferase from <i>Helicobacter pylori</i>	1. May only be added to infant formula products. 2. During the exclusive use period, may only be sold under the brand GlyCare. 3. For the purposes of condition 2 above, <b>exclusive use period</b> means the period commencing on the date of gazettal of the <i>Food Standards (Application A1155 – 2'-FL and LNT in infant formula and other products) Variation</i> and ending 15 months after that date.

<b>Substance</b>	<b>Source</b>	<b>Conditions of use</b>
	(b) <i>Escherichia coli</i> BL21 containing the gene for alpha-1,2-fucosyltransferase from <i>Escherichia coli</i> O126	<ol style="list-style-type: none"> <li>1. May only be added to infant formula products.</li> <li>2. During the exclusive use period, may only be sold under the brand CHR. HANSEN™ 2'-FL.</li> <li>3. For the purposes of condition 2 above, <b>exclusive use period</b> means the period commencing on the date of gazettal of the <i>Food Standards (Application A1190 – 2'-FL in infant formula and other products) Variation</i> and ending 15 months after that date.</li> </ol>
	(c) <i>Escherichia coli</i> K-12 containing the gene for alpha-1,2-fucosyltransferase from <i>Bacteroides vulgatus</i>	<ol style="list-style-type: none"> <li>1. May only be added to infant formula products.</li> <li>2. During the exclusive use period, may only be sold under the brand Aequivall® 2'FL.</li> <li>3. For the purposes of condition 2 above, <b>exclusive use period</b> means the period commencing on the date of gazettal of the <i>Food Standards (Application A1233 – 2'-FL from new GM source for infant formula) Variation</i> and ending 15 months after that date.</li> </ol>
<b>2 Lacto-N-neotetraose</b>	(a) <i>Escherichia coli</i> K-12 containing the gene for beta-1,3-N-acetylglucosaminyltransferase from <i>Neisseria meningitidis</i> and the gene for beta-1,4-galactosyltransferase from <i>Helicobacter pylori</i>	<ol style="list-style-type: none"> <li>1. May only be added to infant formula products in combination with 2'-fucosyllactose.</li> <li>2. During the exclusive use period, may only be sold under the brand GlyCare.</li> <li>3. For the purposes of condition 2 above, <b>exclusive use period</b> means the period commencing on the date of gazettal of the <i>Food Standards (Application A1155 – 2'-FL and LNnT in infant formula and other products) Variation</i> and ending 15 months after that date.</li> </ol>
<b>3 Soy leghemoglobin preparation</b>	<i>Pichia Pastoris</i> containing the gene for leghemoglobin c2 from <i>Glycine max</i>	<ol style="list-style-type: none"> <li>1. May only be added to a meat analogue product to enable the use in that product of soy leghemoglobin as a nutritive substance in accordance with Standard 1.3.2.</li> <li>2. Must comply with the specifications set out in section S3—42.</li> </ol>

## Amendment History

The Amendment History provides information about each amendment to the Schedule. The information includes commencement or cessation information for relevant amendments.

These amendments are made under section 92 of the *Food Standards Australia New Zealand Act 1991* unless otherwise indicated. Amendments do not have a specific date for cessation unless indicated as such.

### About this compilation

This is compilation No. 21 of Schedule 26 as in force on **8 December 2022** (up to Amendment No. 214). It includes any commenced amendment affecting the compilation to that date.

Prepared by Food Standards Australia New Zealand on **8 December 2022**.

### Uncommenced amendments or provisions ceasing to have effect

To assist stakeholders, the effect of any uncommenced amendments or provisions which will cease to have effect, may be reflected in the Schedule as shaded boxed text with the relevant commencement or cessation date. These amendments will be reflected in a compilation registered on the Federal Register of Legislation including or omitting those amendments and provided in the Amendment History once the date is passed.

The following abbreviations may be used in the table below:

ad = added or inserted

am = amended

exp = expired or ceased to have effect

rep = repealed

rs = repealed and substituted

**Schedule 26** was published in the Food Standards Gazette No. FSC96 on 10 April 2015 as part of Amendment 154 (F2015L00450 — 1 April 2015) and has since been amended as follows:

Clause affected	A'ment No.	FRL registration Gazette	Commencement (Cessation)	How affected	Description of amendment
Std heading	161	F2016L00120 18 Feb 2016 FSC103 22 Feb 2016	1 March 2016	am	Correct cross references to 1.1.1.
table to S26— 3(4)	156	F2015L01225 6 Aug 2015 FSC98 6 Aug 2015	1 March 2016	ad	One GM commodity (corn).
table to S26— 3(4)	159	F2015L01922 2 Dec 2015 FSC101 7 Dec 2015	1 March 2016	ad	One GM commodity (corn).
table to S26— 3(4)	160	F2016L00037 11 Jan 2016 FSC102 14 Jan 2016	1 March 2016	ad	One GM commodity (soybean).
table to S26— 3(4)	161	F2016L00120 18 Feb 2016 FSC103 22 Feb 2016	1 March 2016	am	Correct minor naming errors in (a) and (b) for lucerne commodities.
table to S26— 3(4)	162	F2016L00519 15 April 2016 FSC104 21 April 2016	21 April 2016	ad	One GM commodity (corn).
table to S26— 3(4)	162	F2016L00520 15 April 2016 FSC104 21 April 2016	21 April 2016	ad	One GM commodity (corn).

Clause affected	A'ment No.	FRL registration Gazette	Commencement (Cessation)	How affected	Description of amendment
table to S26—3(4)	164	F2016L01200 21 July 2016 FSC106 21 July 2016	21 July 2016	ad	One GM commodity (corn).
table to S26—3(4)	165	F2016L01363 30 Aug 2016 FSC107 1 Sept 2016	1 Sept 2016	ad	One GM commodity (corn).
table to S26—3(4)	167	F2017L00103 7 Feb 2017 FSC109 9 Feb 2017	9 Feb 2017	ad	One GM commodity (potato).
table to S26—3(4)	168	F2017L00414 11 April 2017 FSC110 13 April 2017	13 April 2017	am	Correction of typographical errors in item 5(c) (potato).
table to S26—3(4)	175	F2017L01595 7 December 2017 FSC116 7 December 2017	7 December 2017	ad	One GM commodity (potato)
table to S26—3(4)	175	F2017L01596 7 December 2017 FSC116 7 December 2017	7 December 2017	ad	One GM commodity (canola)
S26—3(2)	177	F2018L00131 21 Feb 2018 FSC118 22 Feb 2018	22 February 2018	ad	Inserting new subclause (2A) after the Note to subsection S26—3(2)
table to S26—3(4)	177	F2018L00131 21 Feb 2018 FSC118 22 Feb 2018	22 February 2018	ad	Inserting item 6(b) provitamin A rice line GR2E
S26—3(2)	177	F2018L00132 21 Feb 2018 FSC118 22 Feb 2018	22 February 2018	ad	Inserting item 1(g) immediately before item 2(m)
table to S26—3(4)	177	F2018L00132 21 Feb 2018 FSC118 22 Feb 2018	22 February 2018	ad	Inserting item 1(g) DHA canola line NS-B50027-4
table to S26—3(4)	179	F2018L00652 24 May 2018 FSC120 24 May 2018	24 May 2018	ad	Inserting item 3(o) herbicide-tolerant cotton line GHB811
table to S26—3(4)	180	F2018L01150 22 August 2018 FSC 121 23 August 2018	23 August 2018	ad	Inserting under item 3 (p) insect-protected cotton line MON88702
table to S26—3(4)	182	F2018L01595 23 Nov 2018 FSC123 29 Nov 2018	29 Nov 2018	am	Corrections to typographical errors 1(g) and 6(b)
table to S26—3(2)	183	F2019L00038 11 Jan 2019 FSC123 23 Jan 2019	23 January 2019	ad	Inserting , and 9(a) after '7(h)'

Clause affected	A'ment No.	FRL registration Gazette	Commencement (Cessation)	How affected	Description of amendment
table to S26—3(4)	183	F2019L00038 11 Jan 2019 FSC123 23 Jan 2019	23 January 2019	ad	Inserting item 9 Safflower
table to S26—3(4)	196	F2020L01524 3 Dec 2020 FSC137 3 Dec 2020	3 December 2020	ad	Inserting under item 2 (zb) herbicide-tolerant corn line MON87429
table to S26—3(4)	196	F2020L01526 3 Dec 2020 FSC137 3 Dec 2020	3 December 2020	ad	Inserting under item 7 (q) nematode-protected and herbicide-tolerant soybean line GMB151
table to S26—3(4)	196	F2020L01527 3 Dec 2020 FSC137 3 Dec 2020	3 December 2020	ad	Inserting under item 5 (g) reduced acrylamide potential and reduced browning potato line V11 and (h) disease-resistant, reduced acrylamide potential and reduced browning potato line Z6
table to S26—3(4)	197	F2021L00144 23 Feb 2021 FSC138 25 Feb 2021	25 February 2020	ad	Inserting under item 2 (zc) enhanced yield and herbicide-tolerant corn line DP202216
table to S26—3(1)	198	F2021L00332 25 March 2021 FSC 139 26 March 2021	26 March 2021	ad	Inserting 2'-O-fucosyllactose and Lacto-N-neotetraose
table to S26—2(2)	198	F2021L00326 25 March 2021 FSC 139 26 March 2021	26 March 2021	ad	Inserting soy leghemoglobin preparation
table to S26—3(4)	199	F2021L00468 20 April 2021 FSC 140 22 April 2021	22 April 2021	ad	Inserting under item 2 (zd) herbicide-tolerant and insect-protected corn line DP23211
table to S26—3(4)	201	F2021L00986 14 July 2021 FSC 142 22 July 2021	22 July 2021	ad	Inserting herbicide-tolerant canola line MON94100
table to S26—3(7)	205	F2022L00038 18 Jan 2022 FSC 146 20 January 2022	20 January 2022	am	Omitting 2'-O-fucosyllactose and substituting 2'-fucosyllactose from an additional source
table to S26—3(7)	205	F2022L00038 18 Jan 2022 FSC 146 20 January 2022	20 January 2022	am	Omitting 2'-O-fucosyllactose and substituting 2'-fucosyllactose
table to S26—3(4)	207	F2022L00607 14 April 2022 FSC 147 27 April 2022	27 April 2022	am	Inserting insect-protected corn line MON95379



Clause affected	A'ment No.	FRL registration Gazette	Commencement (Cessation)	How affected	Description of amendment
S26—3(4)	209	F2022L00965 11 July 2022 FSC 149 15 July 2022	15 July 2022	ad	Inserting drought-tolerant and herbicide-tolerant wheat line IND-00412-7
S26—3(7)	209	F2022L00964 11 July 2022 FSC 149 15 July 2022	15 July 2022	am	Repeal the item, substitute:2' fucosyllactose
S26—3(2)	214	F2022L01591 8 December 2022 FSC 154 8 December 2022	8 December 2022	am	Repealing the subsection (not including the note), substituting to include 1(i) EPA and DHA producing and herbicide-tolerant canola line LBFLFK
S26—3(4)	214	F2022L01591 8 December 2022 FSC 154 8 December 2022	8 December 2022	ad	Inserting to table item 1, column headed "Food derived from:" EPA and DHA producing and herbicide-tolerant canola line LBFLFK