

**Food Standards (Proposal P1037– Amendments associated with Nutrition Content & Health Claims) 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*. This variation commences on the date specified in clause 3 of this variation.

30 November 2015



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 101 on 7 December 2015. 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 P1037 – Amendments associated with Nutrition Content & Health Claims) Variation*.

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

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

## 3 Commencement

The variation commences on the date of gazettal.

### SCHEDULE

[1] **Standard 1.1.1** is varied by –

[1.1] inserting after clause 1 –

#### “1A Application of the Code to prescribed variations

(1) For the purposes of this clause –

**prescribed variations** means the variations to the Code made by the Variation other than the variations made by items 1.2, 2.3 and 3.1 of the Schedule to the Variation.

**transitional period** means the period of time that commences on the date that the Variation commenced and ends on 18 January 2017.

**the Variation** means the *Food Standards (Proposal P1037 – Amendments associated with Nutrition Content & Health Claims) Variation*.

(2) Subclause 1(2) of this Standard does not apply to the prescribed variations.

(3) During the transition period, a food product may comply with either –

- (a) the Code as in force without the prescribed variations; or
- (b) the Code as amended by the prescribed variations,

but not a combination of both.

(4) A food product is taken to comply with the Code as amended by the prescribed variations for a period of 12 months commencing on 18 January 2017 if the food product otherwise complied with this Code before that date.”

[1.2] inserting after clause 2 –

#### “2A Permitted Health Star Rating symbols

(1) In this Code, a **Permitted Health Star Rating symbol** means an image subject to any of the following –

- (a) an Australian Trade Mark numbered 1641445, 1641446 or 1641447;
- (b) a New Zealand Trade Mark numbered 1018807, 1018808 or 1018809.

(2) To avoid doubt, an image mentioned in subclause (1) does not cease to be a Permitted Health Star Rating symbol by reason only of the image indicating –

- (a) energy or nutrient content on a per 100 g, per 100 ml or per pack basis; or
- (b) energy or nutrient content on a per serving or per reference portion basis; or

- (c) energy or nutrient content at zero or amounts greater than zero; or
- (d) energy content on a percentage daily intake basis in addition to an amount shown in kilojoules.”

[1.3] updating the Table of Provisions to reflect these variations.

**[2] Standard 1.2.7 is varied by –**

[2.1] inserting after clause 1 –

“

<b>Editorial note:</b>
Standard 1.2.8 may prescribe additional labelling requirements for claims regulated in Standard 1.2.7.

”

[2.2] omitting paragraph 5(c) and substituting –

- “(c) a declaration that is required by the Act; or
- (d) a Permitted Health Star Rating symbol.”

[2.3] omitting “subparagraph” from paragraph 18(1)(b) and substituting “paragraph”

[2.4] omitting from the entry for Lactose in Schedule 1 “The nutrition information panel indicates the lactose and galactose content.”

[2.5] omitting from the entry for Salt or sodium in Schedule 1 “The nutrition information panel indicates the potassium content.”

[2.6] omitting from Schedule 1

“

Omega-3 fatty acids	(a) the food meets the conditions for a nutrition content claim about omega fatty acids; and (b) the food contains no less than –  (i) 200 mg alpha-linolenic acid per serving; or (ii) 30 mg total eicosapentaenoic acid and docosahexaenoic acid per serving; and  (c) other than for fish or fish products with no added saturated fatty acids, the food contains –  (i) as a proportion of the total fatty acid content, no more than 28% saturated fatty acids and trans fatty acids; or	Good Source	(a) the food contains no less than 60 mg total eicosapentaenoic acid and docosahexaenoic acid per serving; and (b) the food may contain less than 200 mg alpha-linolenic acid per serving.
		Increased	(a) the food contains at least 25% more omega-3 fatty acids than in the same quantity of reference food; and (b) the reference food meets the general claim conditions for a nutrition content claim about omega-3 fatty acids.

	<ul style="list-style-type: none"> <li>(ii) no more saturated fatty acids and trans fatty acids than 5 g per 100 g; and</li> <li>(d) the nutrition information panel indicates the type and amount of omega-3 fatty acids, that is, alpha-linolenic acid, docosahexaenoic acid or eicosapentaenoic acid, or a combination of the above.</li> </ul>		
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and substituting –

“

Omega-3 fatty acids	<ul style="list-style-type: none"> <li>(a) the food meets the conditions for a nutrition content claim about omega fatty acids; and</li> <li>(b) the food contains no less than – <ul style="list-style-type: none"> <li>(i) 200 mg alpha-linolenic acid per serving; or</li> <li>(ii) 30 mg total eicosapentaenoic acid and docosahexaenoic acid per serving; and</li> </ul> </li> <li>(c) other than for fish or fish products with no added saturated fatty acids, the food contains – <ul style="list-style-type: none"> <li>(i) as a proportion of the total fatty acid content, no more than 28% saturated fatty acids and trans fatty acids; or</li> <li>(ii) no more saturated fatty acids and trans fatty acids than 5 g per 100 g.</li> </ul> </li> </ul>	Good Source	<ul style="list-style-type: none"> <li>(a) the food contains no less than 60 mg total eicosapentaenoic acid and docosahexaenoic acid per serving; and</li> <li>(b) the food may contain less than 200 mg alpha-linolenic acid per serving.</li> </ul>
		Increased	<ul style="list-style-type: none"> <li>(a) the food contains at least 25% more omega-3 fatty acids than in the same quantity of reference food; and</li> <li>(b) the reference food meets the general claim conditions for a nutrition content claim about omega-3 fatty acids.</li> </ul>

[2.7] omitting “the content of energy and each nutrient” from subitems 2(1) and 3(1) of Schedule 5 and substituting “the average energy content and the average quantity of each nutrient listed in that Table that is”

[2.8] omitting “sources” from paragraph 4(6)(c) of Schedule 5

- [2.9] omitting “sources” from subitem 4(8) of Schedule 5
- [2.10] omitting “total” wherever appearing in Tables 1 and 2 of Schedule 5
- [2.11] omitting “Average saturated fatty acids” wherever appearing in Tables 1 and 2 of Schedule 5 and substituting “Average quantity of saturated fatty acids”
- [2.12] omitting “Average sodium” wherever appearing in Tables 1 and 2 of Schedule 5 and substituting “Average quantity of sodium”

[2.13] omitting subitem 5(1) of Schedule 5 and substituting –

“(1) Use Table 4 to determine the ‘P points’ scored, depending on the average quantity of protein in 100 g or 100 mL of the food product (based on the units used in the nutrition information panel). A maximum of five points can be awarded.”

[2.14] omitting subitem 6(1) of Schedule 5 and substituting –

“(1) Use Table 5 to determine the ‘F points’ scored, depending on the average quantity of dietary fibre in 100 g or 100 mL of the food product (based on the units used in the nutrition information panel). A maximum of five points can be awarded.”

**[3] Standard 1.2.8** is varied by

[3.1] omitting paragraph 4(1)(d) and substituting –

- “(d) an endorsement; or
- (e) a permitted Health Star Rating symbol.”

[3.2] omitting “clause 8” from subclause 4(4) and substituting “clauses 8 and 8A”

[3.3] omitting “saturated fat” from paragraph 5(1)(e) and substituting “saturated fatty acids”

[3.4] inserting after subclause 5(4) –

“(4A) The nutrition information panel must include a declaration of the average quantity of galactose in accordance with subclause (7), where a claim requiring nutrition information is made about or based on lactose.

(4B) The nutrition information panel must include a declaration of the average quantity of potassium in accordance with subclause (7), where a claim requiring nutrition information is made about or based on salt or sodium.

(4C) The nutrition information panel must include a declaration of the following in accordance with subclause (7), where a claim requiring nutrition information is made about or based on omega-3 fatty acids –

- (a) the average quantity of each type of omega-3 fatty acids (that is, alpha-linolenic acid, docosahexaenoic acid, eicosapentaenoic acid or a combination of these); and
- (b) the average quantity of the total of omega-3 fatty acids.”

[3.5] omitting “subclause (4) and subclause (5)” from subclause 5(7) and substituting “subclauses (4), (4A), (4B), (4C) and (5)”

[3.6] omitting the Table to subclause 8(3) and substituting –

**“Table to subclause 8(3)**

<b>Column 1</b>	<b>Column 2</b>
<b>Claim is about</b>	<b>Label must include</b>
Any nutrient or biologically active substance (other than a vitamin or mineral with a RDI)	Average quantity of the nutrient or biologically active substance present per serving of the food
Any vitamin or mineral with a RDI	(a) Average quantity of the vitamin or mineral present per serving of the food; and (b) Percentage of the RDI for the vitamin or mineral contributed by one serving of the food, and calculated in accordance with clause 7A
Polyunsaturated fatty acids or monounsaturated fatty acids in a food standardised in Standard 2.4.1 or 2.4.2	Minimum, maximum or average quantity of saturated fatty acids, trans fatty acids, polyunsaturated fatty acids and monounsaturated fatty acids content per serving of the food
Polyunsaturated fatty acids or monounsaturated fatty acids in a food that is not a food standardised in Standard 2.4.1 or 2.4.2	Average quantity of saturated fatty acids, trans fatty acids, polyunsaturated fatty acids and monounsaturated fatty acids content per serving of the food
Cholesterol, saturated fatty acids, trans fatty acids, omega-6 or omega-9 fatty acids	Average quantity of saturated fatty acids, trans fatty acids, polyunsaturated fatty acids and monounsaturated fatty acids content per serving of the food
Dietary fibre, sugars or any other carbohydrate	Average energy content per serving of the food and average quantity of carbohydrate, sugars and dietary fibre (calculated in accordance with clause 18) present per serving of the food
Energy	Average energy content per serving of the food
Fat-free	Average energy content per serving of the food
Omega-3 fatty acids	(a) Average quantity of saturated fatty acids, trans fatty acids, polyunsaturated fatty acids and monounsaturated fatty acids content per serving of the food; and (b) the average quantity of each type of omega-3 fatty acids per serving of the food (that is, alpha-linolenic acid, docosahexaenoic acid, eicosapentaenoic acid or a combination of these); and (c) the average quantity of the total of omega-3 fatty acids per serving of the food
Lactose	Average quantity of galactose content per serving of the food
Potassium	Average quantity of sodium content per serving of the food
Sodium or salt	Average quantity of sodium and potassium content per serving of the food

[3.7] omitting “‘metric cup’ or” from paragraph 8(5)(b)

[3.8] omitting “of unavailable carbohydrate” from subclause 8A(2) and substituting “of the average quantity of unavailable carbohydrate per serving of the food”

[3.9] omitting “presence of relevant substances” from subclause 8A(4) and substituting “the average quantity of the substances per serving of the food”

**[4] Standard 2.9.2** is varied by omitting subclause 9(1) and substituting –

“(1) The following provisions of Standard 1.2.8 do not apply to a food standardised by this Standard –

- (a) paragraph 3(j); and
- (b) subclause 4(4); and

- (c) paragraph 5(1)(e) as it relates to saturated fat; and
- (d) subclauses 5(2), 5(4) and 5(5); and
- (e) clause 7; and
- (f) clause 8; and
- (g) clause 8A; and
- (h) clause 9.”