

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 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 the development or variation of food regulatory measures.

FSANZ prepared Proposal P1041 to remove country of origin labelling (CoOL) requirements from the Code in response to new arrangements where the requirements will fall under Australian Consumer Law (the ACL). The Authority considered the Proposal in accordance with Division 2 of Part 3 and has prepared a draft Standard.

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 has a draft variation to remove CoOL requirements from the Code because the Australian Government has agreed to a new CoOL framework. The framework involves the introduction into a new information standard under Australian Consumer Law (the ACL information standard) which replicates the requirements of Standard 1.2.11 – Information requirements – country of origin labelling (except for specific requirement to provide CoOL to caterers).

The new ACL information standard will provide a transitional arrangement and period to enable industry to transition to the new regulatory framework. In this period, food that complies with the Code's CoOL requirements will be deemed by the ACL information standard to comply with that standard's requirements. For this reason, the draft variation will commence on the expiration of the transition period provided for in the ACL standard. At that point, Standard 1.2.11 and references to that Standard in Standard 1.1.1 and Standard 1.2.1 will be removed from the Code.

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 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1041 included one round of public consultation following an assessment and the preparation of a draft variation and associated report. Submissions were called for on 22 January 2016 for a six-week consultation period.

A RIS was not required because the proposed variation is based on Code requirements being inserted into the ACL which is considered to be machinery in nature.

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

Items [1] and [2]

Items [1] and [2] of the Schedule remove references to Standard 1.2.11 where they appear in the Code, other than in Standard 1.2.11 itself.

Item [3]

Item [3] of the Schedule repeals Standard 1.2.11.