

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.

The Authority prepared Proposal P1043 to make a range of minor amendments to the Code including the correction of typographical errors, inconsistencies, formatting issues, and updating of references. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved 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 approved the variation because minor typographical and grammatical errors and cross-reference issues are identified in the Code from time-to-time. References in the Code also become superseded as the documents they refer to are updated. This Proposal was prepared to resolve such issues.

3. Documents incorporated by reference

The variations do not incorporate any new documents by reference, although following existing references are updated by some variations (see para 6.2):

- Generally Recognised as Safe (GRAS) flavouring substances published by the Flavour and Extract Manufacturers' Association of the United States
- European Parliament regulation on the provision of food information to consumers
- JECFA Monograph series
- United States Pharmacopeial Convention Food chemicals Codex
- International Oenological Codex

4. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1043 included one round of public consultation following an assessment and the preparation of a draft Standard and associated report. Submissions were called for on 11 November 2016 for a five-week consultation period.

A Regulation Impact Statement was not required because the variation is likely to have a minor impact on business and individuals.

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

6.1 Correcting minor errors and omissions, and improving clarity

Items [4], [7], [8], [12], [16], [20], [25] to [26], [28] to [33], [37] to [43], [45] to [52] and [57] to [61] include amendments to correct minor errors and omissions to text and punctuation, as well improving clarity of some text.

6.2 Updating references

Items [1], [5], [6], [9] to [11], [13] to [15], [17] to [24], [34], [44] and [53] to [56] update cross-references within the Code.

6.3 Updating material from international sources

Items [3], [27], [35] and [36] reflect changes to sources incorporated by reference.

6.4 Omitting material that is no longer required

Items [2] and [32] omit provisions that have ceased to have effect.

6.5 Variations to Notes

Item [7] updates a reference, to a definition. The definition in Standard 1.1.2 was varied in early 2016.

Notes are not, by virtue of the definition of 'standard' in the FSANZ Act, part of a draft standard and are therefore not subject to the standards development process under Part 3 of the FSANZ Act. The Note variation is provided for completeness.