

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 1 of Part 3 of the FSANZ Act specifies that the Authority may accept applications for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering an application for the development or variation of food regulatory measures.

The Authority accepted Application A1102 which seeks to amend the Code to permit the addition of L-carnitine to a range of general purpose foods and some special purpose food classes, including formulated supplementary sports food, regulated under Standard 2.9.4. The Authority considered the application in accordance with Division 1 of Part 3 and has approved a draft variation to the Code.

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 200*

2. Purpose

The Authority has approved a draft variation to the table to section S29—19 of Schedule 29 of the Code. The variation will increase the maximum amount of L-carnitine that may be added to formulated supplementary sports food.

3. Documents incorporated by reference

The variation does not incorporate any documents by reference.

4. Consultation

In accordance with the procedure in Division 1 of Part 3 of the FSANZ Act, the Authority's consideration of application A1102 included one round of public consultation following an assessment and the preparation of a draft standard and associated assessment summary.

Submissions were called for on 13 September 2018 for a six-week consultation period.

A Regulation Impact Statement was not required because the proposed variation to the table to Section S29—19 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

Item [1] of the approved draft variation amends the table to S29—19 in Schedule 29 of the Code. The item omits the existing entry in the table for L-carnitine and substitutes a new entry for L-carnitine with an increased maximum amount.

The effect of the variation is to permit the use of L-carnitine as a nutritive substance in formulated supplementary sports foods subject to the condition that the maximum amount of L-carnitine that may be added to a one-day quantity of a formulated supplementary sports foods is 2 grams.