FOOD STANDARDS Australia New Zealand
Te Mana Kounga Kai – Ahitereiria me Aotearoa

Attachment A1

Draft variation to the *Australia New Zealand Food Standards Code* (Volume 1, Chapters 1 to 5) – Proposal P1025

Code Revision

Australia New Zealand Food Standards Code

Food Standards Australia New Zealand Act 1991

Volume 1, Chapters 1 to 5

Contents

Chapter 1—Introduction and standards that apply to all foods

Part 1—Preliminary

Division 1—Status of Code

1.01 Name

This instrument is the Australia New Zealand Food Standards Code.

Note 1: This Code is a standard under the *Food Standards Australia New Zealand Act 1991* (Cth). See also subsection 1.13(3).

Note 2: The provisions of this Code that apply in New Zealand are incorporated by reference into a food standard under the *Food Act 1981* (NZ). See also subsection 1.13(2).

1.02 Commencement

This Code commences on ……

Note: This Code repeals and replaces the earlier version. Transitional provisions are set out in Chapter 5.

1.03 Overview

This Code is structured as follows:

(a) Chapter 1 contains:
  (i) preliminary material; and
  (ii) provisions that apply to all foods;
(b) Chapter 2 contains provisions that apply only to particular classes of foods;
(c) Chapter 3 deals with food hygiene, and applies in Australia only;
(d) Chapter 4 deals with the primary production of food, and applies in Australia only;
(e) Chapter 5 revokes standards 1.1.1 to 2.10.3 and deals with transitional matters;
(f) Schedules are set out after Chapter 5.

Note: Chapters 1 and 2 replace standards 1.1.1 to 2.10.3. The remaining standards are incorporated by reference in Chapters 3 and 4. It is expected that future variations of this Code will result in these standards being revoked and incorporated into this instrument.

Division 2—Interpretation

1.04 Application of interpretation legislation

This Code is to be interpreted in accordance with:

(a) in Australia—the *Acts Interpretation Act 1901* (Cth); and

(b) in New Zealand—the *Interpretation Act 1999* (NZ).

1.05 References to other instruments

(1) For this Code:

(a) a reference to an Act, including an Act of a State or Territory or of New Zealand, includes any instruments made under that Act; and

(b) a reference to the Code of Federal Regulations, or CFR, is a reference to the 2012 compilation of the United States Code of Federal Regulations.

Note: In this Code, the Code of Federal Regulations is cited in the following format:

[title number] CFR § [section number]

(2) Guidelines developed by FSANZ in accordance with paragraph 13(1)(c) of the FSANZ Act are to assist in the interpretation of this Code and are not legally binding.

1.06 Definitions

(1) A term used in the Code that is also used in the FSANZ Act has the same meaning as in the FSANZ Act, unless the contrary intention appears.

(2) In this Code, unless the contrary intention appears, the following definitions apply:

agvet chemical—see section 1.144

altered characteristics—see section 1.154.

amino acid modified food—see section 2.153.

AS/NZS means a joint Australia New Zealand Standard published by Standards Australia.

application Act means an or Ordinance of a jurisdiction under which the requirements of this Code are applied in the jurisdiction.

AS means an Australian Standard published by Standards Australia.

assisted service display cabinet means an enclosed or semi-enclosed display cabinet which requires a person to serve the food as requested by the purchaser.

authorised officer, in relation to a jurisdiction, means a person authorised or appointed under an application Act or other legislation of the relevant jurisdiction for the purposes of enforcement of a provision of the relevant application Act, or for purposes that include that purpose.

available carbohydrate—see section 1.71.

average energy content—see section 1.71.

average quantity—see section 1.11.

baked-for date—see section 1.65.

baked-on date—see section 1.65.

bear a label—see section 1.27.

beer means a food that may be sold as beer under section 2.68.

best-before date—see section 1.65.

biologically active substance—see section 1.71.

bivalve molluscs—see Standard 4.2.1, clause 15.

brandy means:

(a) for Standard 4.5.1—see clause 1 of Standard 4.5.1.

(b) elsewhere—a food that may be sold as brandy under section 2.73.

bread means a food that may be sold as bread under section 2.01.

brewed soft drink means a food that may be sold as a brewed soft drink under section 2.48.

bulk cargo container:

(a) means an article of transport equipment, being a lift van, movable tank, shipping container, aircraft cargo container or other similar structure:

  (i) of a permanent character and accordingly strong enough to be suitable for repeated use; and

  (ii) specifically designed to facilitate the carriage of goods by one or more modes of transport, without immediate repacking; and

  (iii) fitted with devices permitting its ready handling and its transfer from one mode of transport to another; and

(iv) so designed as to be easy to fill and empty; and
(v) having an internal volume of one cubic metre or more; and
(vi) includes the normal accessories and equipment of the container, when imported with the container and used exclusively with it; and

(b) does not include any vehicle, or any ordinary packing case, crate, box, or other similar article used for packing.

business address means the street address, or a description of the location, of the premises from which a business is being operated.

butter means a food that may be sold as butter under section 2.36.

***carbohydrate by difference*—**see section 1.71.

catering sale—see section 1.28.

cereal-based food—see section 2.105.

characterising component—see section 1.110.

characterising ingredient—see section 1.110.

cheese means a food that may be sold as cheese under section 2.34.

chocolate means a confectionery product that:
(a) is characterised by the presence of cocoa bean derivatives; and
(b) is prepared from a minimum of 200 g/kg of cocoa bean derivatives; and
(c) contains no more than 50 g/kg of edible oils, other than cocoa butter or dairy fats.

cider—see section 2.70.

claim means an express or implied statement, representation, design or information in relation to a food or a property of food which is not mandatory in this Code.

cocoa means the powdered product prepared from cocoa beans from which a portion of the fat may have been removed, with or without the addition of salt or spices.

code number, used in relation to a substance used as a food additive, means either:
(a) the number set out in the table to Schedule 8 in relation to that substance; or
(b) that number preceded by the letter 'E'.

coffee means the product prepared by roasting and grinding coffee beans.

comminuted means chopped, diced or minced.

component—see section 1.18.

compound ingredient—see section 1.17.

condensed milk means a food that may be sold as condensed milk under section 2.38.

cream means a food that may be sold as cream under section 2.31.

crocodile meat—see section 1.168.

cured and/or dried meat flesh in whole cuts or pieces—see section 2.06.

decaffeinated coffee means coffee that contains no more than 1 g/kg of anhydrous caffeine on a dry basis.

decaffeinated tea means tea that contains no more than 4 g/kg of anhydrous caffeine on a dry basis.

dietary fibre—see section 1.71.

dried milk means a food that may be sold as dried milk under section 2.39.

edible oil means a food that may be sold as edible oil under section 2.24.

edible oil spread means a food that may be sold as edible oil spread under section 2.26.

electrolyte drink base means a food that may be sold as an electrolyte drink base under section 2.51.

electrolyte drink means a food that may be sold as an electrolyte drink under section 2.51.

ESADDI—see section 1.07.

Note: 'ESADDI' is an abbreviation of 'estimated safe and adequate daily dietary intake'.

evaporated milk means a food that may be sold as evaporated milk under section 2.40.

extraneous residue limit (ERL)—see section 1.146.

fat—see section 1.71.

fermented milk means a food that may be sold as fermented milk under section 2.32.

fish—see section 2.19.

flavouring substance means a substance that is used as a food additive to perform the technological purpose of a flavouring in accordance with this Code.

flour products means the cooked or uncooked products, other than bread, of one or more flours, meals or cereals.

flours or ***meals*** means the products of grinding or milling of cereals, legumes or other seeds.

follow-on formula—see section 2.82.

food—see section 1.15.

food additive—see ***used as a food additive***, section 1.122.

food for infants—see section 2.105.

food produced using gene technology—see section 1.154.

food product—see section 1.16.

formulated beverage—see section 2.44.

formulated caffeinated beverage—see section 2.58.

formulated meal replacement—see section 2.118.

formulated supplementary food for young children—see section 2.124.

formulated supplementary food—see section 2.121.

formulated supplementary sports food—see section 2.127.

fruit and vegetables—see section 2.21.

fruit drink means a food that may be sold as fruit drink under section 2.49.

fruit juice means a food that may be sold as fruit juice under section 2.42.

fruit-based food—see section 2.105.

fruit wine means a food that may be sold as fruit wine under section 2.70

FSANZ means Food Standards Australia New Zealand.

FSANZ Act means the *Food Standards Australia New Zealand Act 1991* (Cth).

fund raising event means an event that raises funds solely for a community or charitable cause and not for personal financial gain.

galacto-oligosaccharides means a mixture of the substances produced from lactose by enzymatic action, comprised of between two and eight saccharide units, with one of these units being a terminal glucose and the remaining saccharide units being galactose, and disaccharides comprised of two units of galactose.

game meat flesh—see section 1.169.

game meat—see section 1.169.

game offal—see section 1.169.

gelatine means a protein product prepared from animal skin, bone or other collagenous material, or any combination of those things.

gene technology—see section 1.154.

geographical indication—see section 2.74.

gluten—see section 1.71.

GMP or ***Good Manufacturing Practice***, with respect to the addition of substances used as food additives and substances used as processing aids to food, means the practice of:

(a) limiting the quantity of substance that is added to food to the lowest possible level necessary to accomplish its desired effect; and

(b) to the extent reasonably possible, reducing the quantity of the substance or its derivatives that:
    (i) remains as a component of the food as a result of its use in the manufacture, processing or packaging; and
    (ii) is not intended to accomplish any physical or other technical effect in the food itself;

(c) preparing and handling the substance in the same way as a food ingredient.

hamper means a decorative basket, box or receptacle that:

(a) contains one or more separately identifiable foods; and

(b) may contain other items, such as decorative cloths, glasses and dishes.

honey means a food that may be sold as honey under section 2.79.

ice cream means a food that may be sold as ice cream under section 2.37.

icing—see section 2.75.

imitation vinegar means a food that may be sold as imitation vinegar under section 2.158.

import includes:

(a) in Australia—import from New Zealand; and

(b) in New Zealand—import from Australia.

individual portion pack—see subsection 1.31(4).

infant formula product—see section 2.82.

infant formula—see section 2.82.

infant means a person under the age of 12 months.

ingredient—see section 1.17.

instant coffee means the dried soluble solids prepared from the water extraction of coffee.

instant tea means dried soluble solids prepared from the water extraction of tea.

intra company transfer—see section 1.43.

inulin-derived substance means a mixture of polymers of fructose with predominantly β (2→1) fructosyl-fructose linkages, with or without a terminal glucose molecule and includes inulin, but does not include those polymers of fructose produced from sucrose by enzymatic action.

iodised salt means a food that may be sold as iodised salt under section 2.162.

irradiation—see section 1.160.

jam means a food that may be sold as jam under section 2.23.

juice blend—see section 2.42.

jurisdiction means a State or Territory of Australia, or New Zealand.

kava—see section 2.55.

label—see section 1.27.

labelling—see section 1.27.

liqueur means a food that may be sold as liqueur under section 2.73.

lot means a quantity of a food that the manufacturer or producer identifies as having been prepared, or from which foods have been packaged or otherwise separated for sale, under essentially the same conditions, for example:

(a) from a particular preparation or packing unit; and

(b) during a particular time ordinarily not exceeding 24 hours.

lot identification, for a food product, means a number or other information that identifies:

(a) the premises where the food product was prepared or packed; and

(b) the lot of which the food product is a part.

manufactured meat—see section 2.06.

margarine means a food that may be sold as margarine under section 2.26.

maximum residue limit (MRL)—see section 1.145.

mead means a product that may be sold as mead under section 2.70.

meat flesh—see section 2.06.

meat pie means a food that may sold as meat pie under section 2.08.

meat—see section 2.06.

mechanically separated meat—see subsection 1.170(4).

medium chain triglycerides—see section 2.82.

milk means a food that may sold as milk under section 2.27.

mineral water or spring water—see section 2.44.

monounsaturated fatty acids—see section 1.71.

non-alcoholic beverage—see 2.44.

non-traditional food—see section 1.151.

novel food—see section 1.151.

nutrition information panel means a nutrition information panel that is required to be included on a label on a package of food in accordance with Division 8 of Part 3.

nutritive substance—see ***used as a nutritive substance***, section 1.19.

NZS means a New Zealand Standard published by Standards New Zealand.

offal—see section 2.06.

package:

(a) means any container or wrapper in or by which food intended for sale is wholly or partly encased, covered, enclosed, contained or packaged; and

(b) if food is carried or sold or intended to be carried and sold in more than one package—includes each package; and

(c) does not include:
  (i) a bulk cargo container; or
  (ii) a pallet overwrap; or
  (iii) a crate and packages which do not obscure labels on the food; or
  (iv) a transportation vehicle; or
  (v) a vending machine; or
  (vi) a hamper; or
  (vii) a container or wrapper (including a covered plate, cup, tray or other food container) in which food is served in a prison, hospital or medical institution.

perry means a food that may be sold as perry under section 2.70.

polyunsaturated fatty acids—see section 1.71.

pre-term formula—see section 2.82.

processed cheese means a food that may be sold as processed cheese under section 2.34.

processed meat—see section 2.06.

processing aid—see ***used as a processing aid***, section 1.131.

protein substitute—see section 2.82.

RDI—see section 1.07.

Note: 'RDI' is an abbreviation of 'recommended dietary intake'.

reduced sodium salt mixture means a food that may be sold as reduced sodium salt mixture under section 2.160.

reference quantity—see section 1.127.

releasable calcium—see section 2.164.

relevant authority means an authority responsible for the enforcement of the relevant application Act.

salt means a food that may be sold as salt under section 2.159.

salt substitute means a food that may be sold as salt substitute under section 2.161.

saturated fatty acids—see section 1.71.

sausage means a food that may be sold as sausage under section 2.07.

sell—see section 1.20.

serving—see section 2.117.

size of type—see section 1.49.

skim milk means a food that may be sold as skim milk under section 2.29.

small package means a package with a surface area of less than 100 cm^2.

soy-based formula—see section 2.82.

SPC—see section 1.157.

special purpose food—see section 2.153.

spirit means a product that may be sold as spirit under section 2.73.

standard drink—see 2.62.

standardised alcoholic beverage means beer, brandy, cider, fruit wine, fruit wine product, liqueur, mead, perry, spirit, vegetable wine, vegetable wine product, wine or wine product.

statement of ingredients—see section 1.58.

sugars:

(a) in Division 7 and Division 8 of Part 3—see section 1.71;

(b) elsewhere—see section 2.75.

Note: See also section 2.76 for interpretation of references to sugar.

supplier, in relation to food includes the packer, manufacturer, vendor or importer of the food.

surface treated fruit and vegetables—see section 2.21.

sweet cassava means those varieties of cassava roots grown from *Manihot esculenta Crantz* of the *Euphoribiacae* family that contain less than 50 mg/kg of hydrogen cyanide (fresh weight basis).

Note: Sweet cassava may also be known by other common names including manioc, mandioca, tapioca, aipim and yucca.

tea means the dried or fermented leaves and leaf buds of one or more of varieties and cultivars of *Camelia sinensis* (L.) O. Kuntz.

total plant sterol equivalents content—see section 1.09.

trans fatty acids—see section 1.71.

transportation outer means a container or wrapper which:

(a) encases packaged or unpackaged food products for the purpose of transportation and distribution; and

(b) is removed before the food product is used or offered for retail sale or which is not taken away by the purchaser of the food product.

unit quantity means:

(a) for a food product consisting of a solid or semi-solid food—100 grams; or

(b) for a food product consisting of a beverage or other liquid food—100 millilitres.

use-by date—see section 1.65.

used as a food additive—see section 1.122.

used as nutritive substance—see section 1.19.

used as a processing aid:

(a) in relation to a food—see subsection 1.131(2), and

(b) in relation to a substance—see subsection 1.131(1).

vegetable juice means a food that may be sold as vegetable juice under section 2.42.

vegetable wine means a food that may be sold as vegetable wine under section 2.70.

vinegar means a food that may be sold as vinegar under section 2.158.

warning statement, for a food product, means a statement about a particular aspect of the food that is required to be expressed in the words set out in the following provisions:

(a) section 1.56 (warning statement relating to royal jelly);

(b) section 2.57 (warning statement relating to kava);

(c) subsection 2.98(1) or section 2.92 (warning statements for infant formula product);

(d) paragraph 2.110(3)(c) or 2.111(1)(b) (warning statements for food for infants);

(e) subparagraph 2.129(1)(a)(iii) or 2.129(1)(a)(iv) (warning statements for formulated supplementary sports food).

white sugar means a food that may be sold as white sugar under section 2.77.

wholegrain:

(a) ***wholegrain***, as the name of a food, has the meaning given in subsection 2.02(2); and

(b) a food is a ***wholegrain*** food if it may be sold as consisting of, or containing, wholegrain under subsection 2.02(1).

wholemeal:

(a) ***wholemeal***, as the name of a food, has the meaning given in subsection 2.02(2); and

(b) a food is a ***wholemeal*** food if it may be sold as consisting of, or containing, wholemeal under subsection 2.02(1).

wine product—see section 2.71.

wine means a product that may be sold as wine under section 2.72.

yoghurt means a food that may be sold as yoghurt under section 2.32.

1.07 Meaning of *RDI* and *ESADDI*

(1) For a vitamin or mineral listed in column 1 of the table to section S1.01 or S1.02 of Schedule 1, the ***RDI*** or ***ESADDI***, as indicated in column 2, is the amount specified in:

(a) for Division 2 of Part 9 of Chapter 2—column 5; and

(b) for Subdivision D of Division 3 of Part 9 of Chapter 2—column 4; and

(c) otherwise—column 3.

(2) For this Code, when calculating the amount of a vitamin or mineral for the purpose of comparing that amount to the RDI or ESADDI:

(a) for vitamin A:

(i) calculate the amount in terms of retinol equivalents; and

(ii) for carotene forms of vitamin A, calculate retinol equivalents using the conversion factors in section S1.03 of Schedule 1; and

(b) for niacin:

(i) calculate only the proportion of niacin provided by pre-formed niacin in foods; and

(ii) exclude the niacin provided from the conversion of the amino acid tryptophan; and

(c) for vitamin C, calculate only the amount of L-ascorbic acid and dehydroascorbic acid; and

(d) for vitamin E, calculate the amount in terms of alpha-tocopherol equivalents using the conversion factors in section S1.04 of Schedule 1.

1.08 Meaning of *medical institution*

(1) In this Code:

medical institution means any of the following:

(a) an acute care hospital;

(b) a hospice;

(c) a low-care aged care establishment;
(d) a nursing home for the aged;
(e) a psychiatric hospital;
(f) a respite care establishment for the aged;
(g) a same-day aged care establishment;
(h) a same-day establishment for chemotherapy and renal dialysis services.

(2) In this Code:

acute care hospital:

(a) means an establishment that provides:
  (i) at least minimal medical, surgical or obstetric services for inpatient treatment or care; and
  (ii) round-the-clock comprehensive qualified nursing services as well as other necessary professional services;

  to patients most of whom have acute conditions or temporary ailments, and have a relatively short average stay; and
(b) includes:
  (i) a hospital specialising in dental, ophthalmic aids and other specialised medical or surgical care; and
  (ii) a public acute care hospital; and
  (iii) a private acute care hospital.

hospice means a freestanding establishment (whether public or private) that provides palliative care to terminally ill patients.

low-care aged care establishment means an establishment where aged persons live independently but on-call assistance, including the provision of meals, is provided when needed.

nursing home for the aged means an establishment (whether private charitable, private for-profit, or government) that provides long-term care involving regular basic nursing care to aged persons.

psychiatric hospital means an establishment (whether public or private) devoted primarily to the treatment and care of inpatients with psychiatric, mental or behavioural disorders.

respite care establishment for the aged means an establishment that provides short-term care, including personal care and regular basic nursing care, to aged persons.

same-day aged care establishment means an establishment where aged persons attend for day or part-day rehabilitative or therapeutic treatment.

same-day establishment for chemotherapy and renal dialysis services means:

(a) a day centre or hospital, being an establishment (whether public or private) that provides a course of acute treatment, in the form of chemotherapy or renal dialysis services, on a full-day or part-day non-residential attendance basis at specified intervals over a period of time; or

(b) a free-standing day surgery centre, being a hospital facility (whether public or private) that provides investigation and treatment, in the form of chemotherapy or renal dialysis services, for acute conditions on a day-only basis.

1.09 Phytosterols, phytostanols and their esters

(1) A reference in this Code to phytosterols, phytostanols and their esters is a reference to a substance which meets a specification for phytosterols, phytostanols and their esters in section S3.23 of Schedule 3.

(2) In this Code:

total plant sterol equivalents content means the total quantity of:

(a) phytosterols; and

(b) phytostanols; and

(c) phytosterols and phytostanols following hydrolysis of any phytosterol esters and phytostanol esters.

1.10 Units of measurement

(1) A symbol of measurement used in this Code has the meaning assigned to it by the table in Schedule 2.

(2) If a symbol is not assigned a meaning by the table, it has the meaning assigned to it:

(a) in Australia—by the *National Measurement Act 1960* (Cth); or

(b) in New Zealand—by the *Weights and Measures Act 1987* (NZ).

(3) If a symbol is not assigned a meaning by the table or subsection (2), it has the meaning assigned to the symbol by the Systeme Internationale d'Unites.

(4) Where a unit of measurement is referred to in the heading of a table in this Code, the amounts specified in the table are to be measured according to those units unless a different unit of measurement is specified in relation to a particular item in the table.

1.11 Meaning of *average quantity*

(1) The ***average quantity*** of a substance in a serving or other quantity of a food is arrived at using the method mentioned in subsection (2) that best represents the quantity of the substance the food contains after taking into account:

(a) seasonal variability that would cause the quantity of the substance in foods from that manufacturer or producer to vary from lot to lot; and

(b) any other factors that would reasonably cause actual quantities of the substance in foods from that manufacturer or producer to vary from lot to lot.

(2) The methods are:

(a) the quantity that the manufacturer or producer of the food determines, based on an analysis, to be the average quantity of the substance in the serving or other quantity of the food; or

(b) the calculation of the substance, or the calculation of the average quantity of the substance, in the ingredients used for the food; or

(c) the calculation from generally accepted data relevant to that producer and the food.

(3) A reference in this Code to the ***average quantity*** of a substance where no quantity is specified is a reference to the average quantity of the substance in the whole quantity of the relevant food product, expressed as a percentage.

Note: The Code requires the 'average quantity' of a variety of substances to be listed in the nutrition information about a food product, for example, sodium, potassium, fatty acids, amino acids and vitamins and minerals.

1.12 Compliance with requirements relating to warning statements

(1) If a provision of this Code requires a warning statement to be used, the warning statement must be expressed in the words set out in this Code without modification.

(2) If a provision of this Code requires a statement other than a warning statement to be used:

(a) that statement may be modified; and

(b) any modification must not contradict or detract from the effect of the statement.

Division 3—Application of Code and effect of variations to Code

1.13 Application of Code

(1) Unless this Code provides otherwise, this Code applies to food that is:

(a) sold or prepared for sale in Australia or New Zealand; or
(b) imported into Australia or New Zealand.

(2) The following provisions have not been incorporated by reference into a food standard under the *Food Act 1981* (NZ):
(a) sections 1.32 and 1.39, and Division 10 of Part 3 of Chapter 1 (country of origin labelling requirements);
(b) Division 6 of Part 4 (Agvet chemicals);
(c) Division 2 of Part 5 of Chapter 1 (processing requirements);
(d) section 2.04 (requirement for folic acid and thiamin in bread);
(e) section 2.15 (bovine must be free from bovine spongiform encephalopathy);
(f) subsection 2.26(2) or subsection 2.26(4) (compositional requirement relating to vitamin D for table edible oil spreads and table margarines);
(g) Division 2 of Part 2 of Chapter 2 (eggs).

(3) Division 6 of Part 9 of Chapter 2 (Transitional standard for special purpose foods (including amino acid modified foods)) does not apply in Australia.

(4) Subsection (1) does not apply to wine that:
(a) has a shelf life of more than 12 months; and
(b) was bottled before 20 December 2002; and
(c) complies with all food standards in the case of Australia and all food standards in the case of New Zealand, that would have applied on the date of bottling; and
(d) is labelled with a 2002 vintage date or earlier.

1.14 Effect of variations to Code

(1) Unless this Code, or an instrument varying this Code, provides otherwise, if:
(a) this Code is varied; and
(b) a food product was compliant for a kind of sale immediately before the variation commenced;

the food product is taken to be compliant for that kind of sale for a period of 12 months beginning on the date of the variation.

(2) For this section, a food product is ***compliant*** for a kind of sale if:
(a) it complies with any provisions of this Code relating to the composition of food of that kind; and
(b) if a packaging requirement of this Code applies to the kind of sale—the packaging of the food product complies with the requirement; and

(c) if a labelling requirement of this Code applies to the kind of sale—the labelling of the food product complies with the requirement.

Part 2—Basic concepts and basic requirements

Division 1—Basic concepts

1.15 Basic concepts—*food*

In this Code, for the purposes of application of the Code by an application Act, ***food*** has the same meaning as in the application Act.

Note 1: For Australia the various application Acts each include a definition of ***food***. These have essentially the same effect, and give 'food' a very broad meaning, but the wording differs slightly. This section ensures that when the Code is applied by an application Act, there is no doubt that the meaning is the same as in that Act.

The text of section 3 of the Model Food Provisions, on which the provisions in the Australian application Acts are based, is as follows:

(1) In this Act, ***food*** includes:

(a) any substance or thing of a kind used, or represented as being for use, for human consumption (whether it is live, raw, prepared or partly prepared), or

(b) any substance or thing of a kind used, or represented as being for use, as an ingredient or additive in a substance or thing referred to in paragraph (a), or

(c) any substance used in preparing a substance or thing referred to in paragraph (a) (other than a substance used in preparing a living thing) if it comes in direct contact with the substance or thing referred to in that paragraph, such as a processing aid, or

(d) chewing gum or an ingredient or additive in chewing gum, or any substance used in preparing chewing gum, or

(e) any substance or thing declared to be a food under a declaration in force under [section 6 of the *Food Standards Australia New Zealand Act 1991* of the Commonwealth] [and prescribed by the regulations for the purposes of this paragraph],

whether or not the substance, thing or chewing gum is in a condition fit for human consumption.

(2) However, ***food*** does not include a therapeutic good within the meaning of the *Therapeutic Goods Act 1989* of the Commonwealth.

(3) To avoid doubt, ***food*** may include live animals and plants.

Note 2: For New Zealand, ***food*** is defined in section 2 of the *Food Act 1981* (NZ) as follows:

food means anything that is used or represented for use as food or drink for human beings; and includes—

(a) any ingredient or nutrient or other constituent of any food or drink, whether that ingredient or nutrient or other constituent is consumed or represented for consumption by

human beings by itself or when used in the preparation of or mixed with or added to any food or drink; and

(b) anything that is or is intended to be mixed with or added to any food or drink; and

(c) chewing gum, and any ingredient of chewing gum, and anything that is or is intended to be mixed with or added to chewing gum.

1.16 Basic concepts—*food product*

For this Code, a ***food product*** is a quantity of a food, whether or not in a package, that is:

(a) sold to a consumer on the basis of a representation that it is suitable for human consumption, whether:

(i) in the form in which it is sold; or

(ii) after preparation by cooking or another basic or traditional process on its own or with other foods; or

(b) sold to a person other than a consumer:

(i) on the basis of a representation that is suitable for sale to a consumer under paragraph (a); or

(ii) on the basis of a representation that it is suitable for sale to a consumer after preparation by cooking or another basic or traditional process on its own or with other foods.

Note: The definition of ***sell*** in this Code is very broad; it includes offer for sale—see section 1.20.

1.17 Basic concepts—*ingredient* and *compound ingredient*

(1) For this Code, a food is an ***ingredient*** of a second food if:

(a) on its own or added to other foods, it is processed into the second food, including:

(i) by coming into contact with the substance or mixture of the second food as it is being processed, if any traces are left in the second food or are likely to be consumed with it; or

Example: cooking oil, flour dusted on bread dough, rice-paper wrappings, substances or foods used as processing aids.

(ii) by being added into the substance or mixture of the second food, whether or not any traces are left in it; or

Example: alcohol that completely evaporates during cooking; baking powder that is completely transformed into other substances.

(b) it comes into contact with the second food after processing, and traces of it are left in the second food.

(2) For this Code, an ingredient is a ***compound ingredient*** if it is an ingredient that is itself made from two or more ingredients.

1.18 Basic concepts—*component*

In this Code:

component: a ***component*** of a food is a substance that can be identified as a constituent part of the food.

Example: If sodium bicarbonate is used as an ingredient to produce a food, it will be changed by the cooking into carbon dioxide and salts, which are identifiable as components of the food.

1.19 Basic concepts—*used as a nutritive substance*

(1) For this Code, a substance is ***used as a nutritive substance*** in relation to a food if:

(a) it is a substance identified in subsection (2); and

(b) it is added to the food to achieve a nutritional purpose.

(2) For subsection (1), the substances are:

(a) any substance that is identified in this Code as one that may be used as a nutritive substance; and

(b) a vitamin or a mineral; and

(c) any substance (other than an inulin-derived substance) that:

(i) has been extracted, refined, or synthesised; and

(ii) is not normally sold as a food product; and

(iii) is not normally used as an ingredient by consumers.

Note: Provisions that control use of substances as nutritive substance are in Division 3 of Part 4 (general provisions on use of vitamins and minerals), various Parts of Chapter 2 (use of vitamins and minerals in specific foods) and Part 9 of Chapter 2 (other substances used in special purpose foods). Substances referred to in paragraph 1.19(2)(a) include those that are identified in the tables to sections S17.01 and S17.02 in Schedule 17 (vitamins and minerals) and to sections S30.04 and S30.18 in Schedule 30 (other substances).

1.20 Basic concepts—*sell*

In this Code, for the purposes of application of the Code by an application Act, ***sell*** has the same meaning as in the application Act.

Note 1: For Australia, the various application Acts each include a definition of ***sell***. These have essentially the same effect, and give it a very broad meaning, but the wording differs slightly. This section ensures that when the Code is applied by an application act, there is no doubt that the meaning is the same as in the Act.

The definition of ***sell*** in section 2 of the Model Food Provisions, on which the provisions in the Australian application Acts are based, is as follows:

sell includes:

(a) barter, offer or attempt to sell, or

(b) receive for sale, or

(c) have in possession for sale, or

(d) display for sale, or

(e) cause or permit to be sold or offered for sale, or

(f) send, forward or deliver for sale, or

(g) dispose of by any method for valuable consideration, or

(h) dispose of to an agent for sale on consignment, or

(i) provide under a contract of service, or

(j) supply the food as a meal or part of a meal to an employee, in accordance with a term of an award governing the employment of the employee or a term of the employee's contract of service, for consumption by the employee at the employee's place of work, or

(k) dispose of by way of raffle, lottery or other game of chance, or

(l) offer as a prize or reward, or

(m) give away for the purpose of advertisement or in furtherance of trade or business, or

(n) supply the food under a contract (whether or not the contract is made with the consumer of the food), together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment, or

(o) supply food (whether or not for consideration) in the course of providing services to patients in or inmates in public institutions, or

(p) sell for the purpose of resale.

Note 2: For New Zealand, ***sell*** is defined in section 4 of the *Food Act 1981* (NZ) as follows:

(1) In this Act, unless the context otherwise requires, **sell** means sell for human consumption or use; and includes—

(a) selling for resale for human consumption or use; and

(b) offering or attempting to sell, or receiving for sale, or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or permitting to be sold, offered, or exposed for sale; and

(c) barter; and

(d) supplying under a contract, together with accommodation, service, or entertainment, in consideration of an inclusive charge for the article supplied and the accommodation, service, or entertainment;—

and **sale** and **sold** have corresponding meanings.

(2) For the purposes of this Act, any article of food that is part of, or supplied with, any meal or food for which payment is made or required to be made, and that is supplied for consumption in any shop, hotel, restaurant, or eating-house, or at any stall or other

place, or in any vehicle, shall be deemed to have been sold or offered or exposed for sale.

(3) For the purposes of this Act, every person shall be deemed to sell or to intend to sell any food if he sells or intends to sell for human consumption or use any article of which the food is a constituent.

(4) When any food is sold or offered or exposed for sale, it shall be deemed to be sold or offered or exposed for sale for human consumption or use, unless the contrary is proved.

(5) For the purposes of this Act, the sale of any food for the purpose of being mixed with any other food, or with a food of the same kind, shall be deemed to be a sale for human consumption or use if the bulk or product produced by the mixing, or any part of the bulk or product, is intended to be sold for human consumption or use.

(6) The purchase and sale, under the provisions of this Act, of a sample of any food for the purpose of analysis shall be deemed to be a purchase and sale of the food for human consumption or use, unless the seller proves that the bulk from which the sample was taken was offered, exposed, or intended for sale for purposes other than human consumption or use.

(7) When a sample of any milk is taken from a package, the sample shall be deemed for the purposes of this Act to be a sample of any bulk of which the milk in that package forms part notwithstanding that the milk was intended to be mixed with milk in any other package or packages before being sold.

(8) For the purposes of this Act, a person packs any food or appliance for sale whether he packs the food or appliance for sale by himself or by any other person.

(9) In this section the term **use** means any use in connection with the preparation or packing of food for human consumption.

Division 2—Basic requirements

Note 1: In Australia, the Code is enforced under application Acts in each State and Territory, and under Commonwealth legislation dealing with imported food. In outline, this scheme operates as follows:

(1) The application Acts comprise a uniform legislative scheme based on Model Food Provisions that are annexed to the *Food Regulation Agreement*, an agreement between the Commonwealth, States and Territories. Under those Acts, a person:

(a) must comply with any requirement imposed on the person by a provision of this Code in relation to:

(i) the conduct of a food business; or

(ii) food intended for sale; or

(iii) food for sale; and

(b) must not sell any food that does not comply with any requirement of this Code that relates to the food; and

(c) must not sell or advertise any food that is packaged or labelled in a manner that contravenes a provision of this Code; and

(d) must not sell or advertise for sale any food in a manner that contravenes a provision of this Code; and

(e) must not, for the purpose of effecting or promoting the sale of any food in the course of carrying on a food business, cause the food to be advertised, packaged or labelled in a way that falsely describes the food.

(2) For paragraph (1)(e), food is falsely described if:

(a) it is represented as being of a particular nature or substance; and

(b) the Code provides a prescribed standard for such food; and

(c) the food does not comply with the prescribed standard.

(3) The relevant Acts are:

(a) *Food Act 2003* (New South Wales)

(b) *Food Act 1984* (Victoria)

(c) *Food Act 2006* (Queensland)

(d) *Food Act 2008* (Western Australia)

(e) *Food Act 2001* (South Australia)

(f) *Food Act 2003* (Tasmania)

(g) *Food Act 2001* (Australian Capital Territory)

(h) *Food Act 2004* (Northern Territory).

(4) Under the *Imported Food Control Act 1992* (Commonwealth), a person is prohibited from importing into Australia food that does not comply with a requirement of this Code.

Note 2: In New Zealand, under the *Food Act 1981* (NZ) a person must not:

(a) produce any food unless the person and the food comply with all applicable provisions of the Code relating to the production of the food; or

(b) manufacture, prepare for sale, or sell any food in New Zealand, or import any food into New Zealand, unless the person and the food comply with all applicable provisions of the Code relating to:

(i) food safety; and

(ii) the composition of food; and

(iii) the manufacture of food or, as the case may be, the preparation of food for sale; or

(c) sell or import any food that does not comply with all applicable provisions of the Code relating to the labelling of food; or

(d) advertise or promote any food unless that person complies with all applicable provisions of the Code relating to the advertising or promotion of food; or

(e) sell, or import into New Zealand, any material, container, appliance, or utensil used, or designed for use, in relation to food, unless the material, container, appliance, or utensil complies with all applicable provisions of the Code; or

(f) otherwise act in contravention of, or fail to comply with, any provisions of the Code relating to food manufactured or prepared for sale or sold in New Zealand, or imported into New Zealand.

1.21 Requirements relating to food product on sale

(1) This section applies in relation to a food product.

Note : A food product is a quantity of a food that is sold or offered for sale to a consumer, or with a representation that it is suitable for sale to a consumer—see section 1.16.

Compositional requirements

(2) Subject to this section, the food product may consist of, or have as an ingredient, any food.

(3) The food product must not consist of, or have as an ingredient or a component, any of the foods or substances listed in column 1 of the table to this subsection, unless expressly permitted by a provision listed in column 2, or another provision of this Code.

Table to subsection (3)

	Column 1	***Column 2***
	Substance or food	*Provision*
1	an agvet chemical	Division 6 of Part 4 of Chapter 1
2	a prohibited or restricted plant or fungus, or coca bush	Division 7 of Part 4 of Chapter 1
3	a novel food, if the food product is offered for retail sale	Division 8 of Part 4 of Chapter 1
4	a food produced using gene technology	Division 9 of Part 4 of Chapter 1

Table to subsection (3) (cont)

	Column 1	***Column 2***
	Substance or food	*Provision*
5	a food that has been irradiated	Division 1 of 0 of Chapter 1
6	kava or any substance derived from kava	Division 3 of 0 of Chapter 2

(4) The food product must not consist of, or have as an ingredient or a component, a substance that is used for any of the purposes listed in column 1 of the table to this subsection, unless expressly permitted by a provision listed in column 2, or another provision of this Code:

Table to subsection (4)

	Column 1	***Column 2***
	Substance	*Provision*
1	used as a food additive	Division 2 of Part 4 of Chapter 1
2	used as a processing aid	Division 4 of Part 4 of Chapter 1
3	used as a nutritive substance	Division 3 of Part 4 of Chapter 1 (vitamins and minerals) 0 and Part 9 of Chapter 2 (vitamins and minerals) Part 9 of Chapter 2 (other substances)

Note 1: There is an overlap between these categories. For example, some substances may be used as a food additive or as a nutritive substance. For such substances, there will be different provisions permitting use of the substance for different purposes.

Note 2: In some cases, a provision refers to the total amount of a substance added to a food. In these cases, the total amount applies irrespective of whether the substance was used as a food additive, used as a processing aid or used as a nutritive substance.

(5) Subsection (4) does not apply to a substance (including a vitamin or mineral) that is in the food product, or in an ingredient of the food product, by natural occurrence.

(6) The food product must comply with any provisions of this Code relating to the composition of, or the presence of other substances in, food of that kind.

Note: See for example Division 5 and Division 10 of Part 4 (which deal with contaminants and natural toxicants, and microbiological limits for food, respectively).

Packaging requirements

(7) If a packaging requirement of this Code applies to the sale of the food product, the packaging must comply with the requirement.

Labelling requirements

(8) If a labelling requirement of this Code applies to the sale of the food product, the labelling must comply with the requirement.

Information provision requirements

(9) If an information provision requirement of this Code applies to the sale of the food product, the information must be provided as required.

1.22 Requirements relating to food product on importation

(1) If a quantity of food is imported that is intended for sale as a food product in the form in which it is imported, it must comply with the compositional requirements under section 1.21.

(2) If the quantity of food is also intended for sale in the packaging and with the labelling in which it is imported, then:

(a) if a packaging requirement of this Code applies to such a sale—the packaging of the food must comply with the requirement; and

(b) if a labelling requirement of this Code applies to such a sale—the labelling of the food must comply with the requirement.

1.23 Operation of compositional requirements

(1) This section applies in relation to a provision of this Code that provides that a food may not be sold on the basis of a representation that it is food with a specified name (indicated by quotation marks) or of a specified nature unless it satisfies specified compositional requirements.

Use of specified name

(2) The use of the specified name in connection with the sale of a food is taken to be such a representation unless the context makes it clear that no such representation is intended.

Example: The compositional requirement relating to ‘beer’ does not prevent the use of ‘ginger beer’ in relation to the soft drink, or ‘unhopped beer’ to describe beer made without the hops that would be required for it to be described as ‘beer’.

The compositional requirement relating to ‘bread’ does not prevent the use of ‘shortbread’ or ‘crispbread’ in relation to those foods, or ‘unleavened bread’ to describe bread made without the yeast that would be required for it to be described as ‘bread’.

Content of specified compositional requirements

(3) The specified compositional requirements are taken to also permit the use of a substance (including a vitamin or mineral) as a food additive,

as a processing aid, or as a nutritive substance in the food where this Code otherwise permits the use of the substance for the specified food.

(4) Where the specified compositional requirements permit the use of 'other foods' as ingredients, the permission does not extend to the addition of a food or a substance that is otherwise not permitted to be added to food, or to the specified food, under this Code.

(5) A compositional requirement for a food applies to the final food irrespective of any permission to add other foods.

1.24 Other requirements relating to food

Requirements for preparation of food

(1) If this Code sets requirements for the preparation of food, the food must be prepared in accordance with those requirements.

Requirements for record-keeping

(2) If this Code sets requirements for record-keeping in relation to food, those requirements must be complied with.

1.25 Identity and purity

(1) This section applies to the following substances when added to food in accordance with this Code, or sold for use in food:
- (a) a substance that is used as a food additive;
- (b) a substance that is used as a processing aid;
- (c) a substance (including a vitamin or mineral) that is used as a nutritive substance;
- (d) a novel food substance.

(2) The substance must comply with any relevant specification set out in Schedule 3.

Part 3—Labelling and other information requirements

Division 1—Requirements to have labels or otherwise provide information

Subdivision A—Introductory

1.26 Outline of Division

(1) This Division sets out when a food product that is being sold is required to bear a label or have other information provided with it, and sets out the information that is to be provided.

(2) Subdivision B sets out the labelling and information requirements for a food product that is for retail sale.

(3) Subdivision C sets out the labelling and information requirements for food products that are sold to caterers.

(4) Subdivision D sets out the labelling and information requirements for all other sales of food products.

1.27 Meaning of *label*, *labelling* and *bear a label*

(1) In this Code:

label, in relation to a food product being sold, means any tag, brand, mark or statement in writing or any representation or design or descriptive matter that:

(a) is attached to the food product or is a part of or attached to its packaging; or

(b) accompanies and is provided to the purchaser with the food product; or

(c) is displayed in connection with the food product when it is sold.

labelling, in relation to a food product being sold, means all of the labels for the food product together.

(2) For this Code:

(a) a food product is taken to ***bear a label*** of a specified kind or with specified content if either of the following are part of or attached to the packaging of the food product:

(i) a label of that kind or with that content; or

(ii) labels that together are of that kind or have that content; and

(b) a requirement for the labelling of a food product to include specified content is a requirement for at least one of the labels to have that content.

1.28 Meaning of *catering sale*

In this Code:

catering sale, in relation to a food product, means a sale of a food product to:

(a) a catering establishment; or

(b) a restaurant; or

(c) a canteen; or

(d) a school; or

(e) a hospital; or

(f) any other institution where food is prepared or offered for immediate consumption.

Subdivision B—Retail sales of food products

1.29 When this Subdivision applies

This Subdivision applies to:

(a) a retail sale of a food product; and

(b) a sale of a food product that is not a retail sale, if there is a representation that the food product is suitable for sale from a retail outlet without any further processing, packaging or labelling.

1.30 Outline of Subdivision

This Subdivision sets out:

(a) the circumstances in which the food product is required to bear a label—see section 1.31;

(b) the country of origin labelling requirement—see section 1.32;

(c) the other information the label must state—see section 1.33;

(d) the information requirements for a food product that is not required to bear a label—see section 1.34.

1.31 When the food product must bear a label

(1) If the food product is not in a package, it is not required to bear a label.

(2) If the food product is in a package, it is required to bear a label with the information required by section 1.33 unless it:

(a) is made and packaged on the premises from which it is sold; or

(b) is packaged in the presence of the purchaser; or

(c) consists of whole or cut fresh fruit and vegetables (other than seed sprouts or similar products) in a package that does not obscure the nature or quality of the food; or

(d) is delivered packaged, and ready for consumption, at the express order of the purchaser (other than when the food product is sold from a vending machine); or

(e) is sold at a fund raising event; or

(f) is displayed in an assisted service display cabinet.

Note: Even if a food product is not required to bear a label under this section, in Australia, it still might be required to bear a label under section 1.32 (Australia only—country of origin labelling requirement).

(3) If the food product has more than 1 layer of packaging and subsection (2) requires it to bear a label, only 1 label is required in relation to the food product.

Note: See also section 1.50.

(4) However, if the food product is sold in packaging that includes individual packages for servings that are intended to be used separately (***individual portion packs***), but:

(a) are not designed for individual sale; and

(b) have a surface area of 30 cm^2 or greater;

then the individual portion pack is also required to bear a label.

Note: See subsection 1.33(3) for the labelling requirement for individual portion packs.

1.32 Australia only—country of origin labelling requirement

(1) In Australia:

(a) if the food product is in a package, it is required to bear a label with the country of origin information in accordance with sections 1.119 and 1.120; and

(b) if the food product is not in a package, it is required to either bear a label or have labelling that accompanies it or is displayed in connection with its sale that states the country of origin information in accordance with section 1.118.

(2) This section does not apply to a food product that:

(a) is sold to the public by any of the following:

(i) a restaurant;

(ii) a canteen;

(iii) a school;

(iv) a caterer;

(v) a self-catering institution;

(vi) a prison;

(vii) a hospital;

(viii) a medical institution; and

(b) is offered for immediate consumption.

1.33 Information required on general label

General requirement—retail sales of food products

(1) Subject to this section, labelling that is required for a food product under section 1.31 must state the following information in accordance with the provisions indicated:

(a) name of the food (see section 1.52);

(b) lot identification (see section 1.53);

(c) name and address of the supplier (see section 1.54);

(d) any advisory and warning statements and declarations (see sections 1.55, 1.56 and 1.57);

(e) a statement of ingredients (see sections 1.58);

(f) date marking information (see section 1.66);

(g) any storage conditions and directions for use (see section 1.69);

(h) information relating to nutrition, health and related claims (see subsection 1.95(4));

(i) a nutrition information panel (see section 1.100);

(j) for a food product in a small package—the required nutrition information (see section 1.109);

(k) information about characterising ingredients and components (see section 1.111);

(l) information relating to foods produced using gene technology (see section 1.156);

(m) information relating to irradiated food (see section 1.167);

(n) for minced meat—if required, the maximum proportion of fat in the minced meat (see section 2.10);

(o) for raw meat joined or formed into the semblance of a cut of meat—any required information relating to that meat (see section 2.11);

(p) for fermented comminuted processed or manufactured meat—any required information relating to how the meat has been processed (see sections 2.12 and 2.13);

(q) for formed or joined fish—any required information relating to that fish (see section 2.20);

(r) any required process declaration for edible oils (see section 2.25);

(s) for juice blend—if required, the name and percentage by volume of each juice in the blend (see section 2.43);

(t) any information related to the composition of packaged water (see section 2.47);

(u) for an electrolyte drink or electrolyte drink base:

(i) a declaration of the required compositional information (subsection 2.51(3));

(ii) if a claim is made that the drink is isotonic, hypertonic or hypotonic—a declaration of the osmolality of the drink (see section 2.53);

(v) any statements relating to kava (see section 2.57);

(w) for formulated caffeinated beverages:

(i) declarations of average quantities (see section 2.61);

(ii) any advisory statements (section 2.61);

(x) for a food product that contains alcohol—if required:

(i) a statement of the alcohol content (see section 2.63); or

(ii) a statement of the number of standard drinks in the product (see section 2.64);

(y) for special purpose foods or amino acid modified foods—the required information for such foods (see sections 2.156 and 2.157);

(z) the required statements and other information for:

(i) infant formula product (see Division 1 of Part 9 of Chapter 2);

(ii) food for infants (see Division 2 of Part 9 of Chapter 2);

(iii) formulated meal replacements and formulated supplementary foods (see Division 3 of Part 9 of Chapter 2)

(iv) formulated supplementary sports foods (see Division 4 of Part 9 of Chapter 2)

(v) foods for special medical purposes (see Division 5 of Part 9 of Chapter 2); and

(aa) the required information for reduced sodium salt mixtures and salt substitutes (see section 2.163).

Specific requirement—retail sales of food products in hampers

(2) For food products sold in a hamper:

(a) each food product in a package must bear a label stating the information mentioned in subsection (1); and

(b) each food product not in a package must be accompanied by labelling stating the information mentioned in subsection (1); and

(c) the hamper must bear, or carry inside it, a label stating the name and address of the supplier of the hamper (see section 1.54).

Specific requirement—retail sales of food products in individual portion packs

(3) A label that is required for an individual portion pack under subsection 1.31(4) must include any advisory and warning statements in accordance with sections 1.56 and 1.57.

Specific requirement—food products sold from vending machines

(4) For food products sold from a vending machine, it is an additional requirement that labels clearly and prominently displayed in or on the vending machine state the name and address of the supplier in accordance with section 1.54.

1.34 Information requirements for food product that does not need to bear a label

(1) This section applies to a food product that is not required to bear a label because of section 1.31.

Information that must accompany or be displayed in connection with the sale of the food product

(2) The information specified in subsection (3) must, in accordance with the provisions indicated, be stated in labelling that:
- (a) accompanies the food product; or
- (b) is displayed in connection with the sale of the food product.

(3) For subsection (2), the information is:
- (a) any warning statement required by section 1.56;
- (b) information relating to irradiated food (see section 1.167).

Information that must accompany food product

(4) The following information must be stated in labelling that accompanies the food product, in accordance with the provisions indicated:
- (a) if the food product is not required to bear a label because of subsection 1.31(1)—the information related to storage conditions required by paragraph 1.69(b); and
- (b) in any case—the information related to storage conditions required by paragraph 1.69(c).

Information that must be displayed in connection with the sale of the food product

(5) If the food product is not required to bear a label because of subsection 1.31(1), the following information must be stated in labelling that is displayed in connection with the display of the food product, in accordance with the provisions indicated:
- (a) information relating to foods produced using gene technology (see section 1.156);
- (b) for fermented comminuted processed or manufactured meat—the prescribed name (see sections 2.12 and 2.13);
- (c) for a food product that consists of kava root:
  - (i) any statements relating to kava (see section 2.57); and

(ii) the name and address of the supplier (see section 1.54);

Information that must be provided to the purchaser

(6) The following information must be provided to the purchaser, in accordance with the provisions indicated:

(a) any required statement indicating the presence of offal (see section 2.09);

(b) for raw meat joined or formed into the semblance of a cut of meat—any required information relating to that meat (see section 2.11);

(c) for formed or joined fish—any required information relating to that fish (see section 2.20).

Information that may either accompany or be displayed with the food product or which must be provided to the purchaser on request

(7) The information specified in subsection (8) must, in accordance with the provisions indicated, be stated in labelling that is:

(a) displayed in connection with the display of the food product; or

(b) provided to the purchaser on request.

(8) For subsection (7), the information is:

(a) name of food (see section 1.52);

(b) any advisory statements and declarations (see sections 1.55 and 1.57);

(c) information relating to nutrition, health and related claims (see subsection 1.95(4));

(d) the information required for a nutrition information panel (see sections 1.100 and 1.109);

(e) if the food product that is not required to bear a label because of subsection 1.31(1) or 1.31(2)(a)—information about characterising ingredients and characterising components (section 1.111);

(f) for minced meat—if required, the maximum proportion of fat in the minced meat (see section 2.10);

(g) for formulated caffeinated beverages—any advisory statements (section 2.61).

Subdivision C—Sales of food products to caterers

1.35 When this Subdivision applies

This Subdivision applies to a catering sale of a food product, other than a sale to which section 1.29 applies.

1.36 Outline of Subdivision

This Subdivision sets out the following:

(a) the circumstances in which the food product is required to bear a label—see section 1.37;

(b) when information must be provided with the food product—see section 1.38; and

(c) the country of origin labelling requirement—see section 1.39;

(d) the other information the label must state—see section 1.40;

(e) the information requirements for a food product that is not required to bear a label—see sections 1.41 and 1.42.

1.37 When the food product must bear a label

(1) If the food product is not in a package, it is not required to bear a label.

(2) If the food product is in a package, it is required to bear a label with the information required by section 1.40 unless it consists of whole or cut fresh fruit or vegetables (other than seed sprout or similar products) in a package that does not obscure the nature or quality of the food product.

(3) If the food product has more than one layer of packaging, and subsection (2) requires it to bear a label, only one label is required in relation to the food product.

Note: See also section 1.50.

1.38 When information must be provided with the food product

If the food product is not required by section 1.37 to bear a label, labelling containing the information required by section 1.40 must be provided to the purchaser with the food product.

1.39 Australia only—country of origin labelling requirement

In Australia:

(a) if the food product is in a package, it is required to bear a label with the country of origin information in accordance with sections 1.119 and 1.120; and

(b) if the food product is not in a package, it is required to either bear a label or have labelling that accompanies it or is displayed in connection with its sale that states the country of origin information in accordance with section 1.118.

1.40 Information required to be on labelling

General requirement—sales of food products to caterers

(1) Subject to this section, labelling that is required for a food product under section 1.37 or 1.38 must state the following information in accordance with the provisions indicated:

(a) name of food (see section 1.52);

(b) lot identification (see section 1.53);

(c) applicable advisory and warning statements (see sections 1.55, 1.56 and 1.57);

(d) date marking information (see section 1.66);

(e) any storage conditions and directions for use (see section 1.69);

(f) information relating to foods produced using gene technology (see section 1.156);

(g) information relating to irradiated food (see section 1.167).

Specific requirement—labelling on inner and outer packages

(2) If the food product is contained in more than one package, the package that is visible to the purchaser at the time of purchase (the ***outer package***) is not required to bear a label that includes the information required for the purposes of subsection (1) if:

(a) the outer package bears a label that includes the information required by Division 2; and

(b) another package within the outer package bears a label that includes the information required for the purposes of subsection (1).

1.41 Other information that must be provided

(1) The information referred to in subsection 1.33(1) (General requirement—retail sales of food products) must be:

(a) set out in the label (if any); or

(b) provided in documentation.

(2) In the case of the information referred to in paragraph 1.33(1)(c) (name and address of the supplier), the documentation must accompany the food product.

(3) Subsection (1) does not apply to:

(a) the information that is referred to in subsection 1.40(1) (General requirement—sales of food products to caterers); or

(b) the information referred to in paragraph 1.33(1)(k) (information about characterising ingredients and components).

1.42 Information that can be requested

The purchaser of the food product must be provided with any information:

(a) requested by the purchaser; or

(b) required to be provided by the relevant authority;

that is necessary to enable the purchaser to comply with this Code in a sale of the food product or of another food product using it as an ingredient.

Subdivision D—Other sales of food products

1.43 When this Subdivision applies

(1) This Subdivision applies to sales of food products other than:

(a) sales to which Subdivision B or Subdivision C apply; or

(b) intra-company transfers.

(2) In this section:

intra-company transfer means a transfer of a food product between elements of a single company, between subsidiaries of a parent company or between subsidiaries of a parent company and the parent company.

1.44 Outline of Subdivision

This Subdivision sets out the following:

(a) the circumstances in which the food product is required to bear a label—see section 1.45;

(b) the information requirements for a food product that is not required to bear a label—see section 1.46.

1.45 Labelling requirements

(1) If the food product is not in a package, it is not required to bear a label.

(2) If the food product is in a package, it is required to bear a label that states the following information in accordance with the provisions indicated:

(a) name of food (see section 1.52);

(b) lot identification (see section 1.53);

(c) name and address of the supplier (see section 1.54).

(3) The label may be:

(a) on the package; or

(b) if there is more than 1 layer of packaging—on the outer layer; or

(c) if the food product is in a transportation outer—clearly discernable through the transportation outer.

(4) Despite subsection (2), the name and address of the supplier may be provided in documentation accompanying the food product.

1.46 When information can be requested

(1) The purchaser of the food product must be provided with any information:

(a) requested by the purchaser; or

(b) required to be provided by the relevant authority;

that is necessary to enable the purchaser to comply with this Code in a sale of the food product or of another food product using it as an ingredient.

(2) If requested by the purchaser or required by the relevant authority, the information must be provided in writing.

Subdivision E—General prohibitions relating to labels

1.47 Prohibition on altering labels

(1) A person who sells a food product that is packaged, or deals with a packaged food product before its sale, must not deface the label on the package unless:

(a) the relevant authority has given its permission; and

(b) if the relevant authority has imposed any conditions on its permission—those conditions have been complied with.

(2) Despite subsection (1), a person who sells a food product that is packaged, or deals with a packaged food product before its sale, may re-label the food product if the label contains incorrect information, by placing a new label over the incorrect one in such a way that:

(a) the new label is not able to be removed; and

(b) the incorrect information is not visible.

(3) In this section:

deface includes alter, remove, erase, obliterate and obscure.

1.48 Application of labelling provisions to advertising

If this Code prohibits a label on or relating to food from including a statement, information, a design or a representation, an advertisement for that food must not include that statement, information, design or representation.

Subdivision F—Legibility requirements

1.49 Meaning of *size of type*

In this Code:

size of type means the measurement from the base to the top of a letter or numeral.

1.50 General legibility requirements

(1) If this Code requires a word, statement, expression or design to be contained, written or set out on a label, the word, statement, expression or design must, wherever occurring:

(a) be legible; and

(b) be prominent; and

(c) be large enough so that it can be read easily; and

(d) contrast distinctly with the background of the label; and

(e) be in English.

(2) If a language other than English is also used on a label, the information in that language must not negate or contradict the information in English.

1.51 Legibility requirements for warning statements

A warning statement on a label must be written:

(a) for a small package—in a size of type of at least 1.5 mm;

(b) otherwise—in a size of type of at least 3 mm.

Division 2—Information requirements—food identification

1.52 Name of food

(1) For the labelling provisions, the name of a food is:

(a) if a name has been prescribed in relation to the food—the prescribed name; and

(b) otherwise—a name or description:

(i) sufficient to indicate the true nature of the food; and

(ii) that includes any additional words this Code requires to be included in the name of food.

Note: The labelling provisions are set out in Division 1.

(2) If this Code includes a definition of a particular food, that fact alone does not establish that the defined term is the name of the food for this section.

1.53 Lot identification

For the labelling provisions, a requirement to state the lot identification does not apply to:

(a) an individual portion of ice cream or ice confection; or

(b) a food product that is in a small package, if:

(i) the small package is stored or displayed for sale in a bulk package or a bulk container; and

(ii) the labelling of the bulk package or bulk container includes the lot identification.

Note: The labelling provisions are set out in Division 1.

1.54 Name and address of supplier

For the labelling provisions, a reference to the name and address of the supplier of a food product is a reference to the name and business address in either Australia or New Zealand of a person who is a supplier.

Note: The labelling provisions are set out in Division 1.

Division 3—Information requirements—warning statements, advisory statements and declarations

1.55 Mandatory advisory statements

(1) For the labelling provisions, if a food is listed in column 1 of the table in Schedule 9, the corresponding advisory statement in column 2 of that table is required.

(2) For the labelling provisions, an advisory statement to the effect that excess consumption may have a laxative effect is required for a food that contains:

(a) one or more of the following substances, either alone or in combination, at a level of or in excess of 10 g/100 g:
  (i) lactitol;
  (ii) maltitol;
  (iii) maltitol syrup;
  (iv) mannitol;
  (v) xylitol; or

(b) one or more of the following substances, either alone or in combination, at a level of or in excess of 25 g/100 g:
  (i) erythritol;
  (ii) isomalt;
  (iii) polydextrose;
  (iv) sorbitol; or

(c) one or more of the substances listed in paragraph (a), in combination with one or more of the substances listed in paragraph (b), at a level of or in excess of 10 g/100 g.

Note: The labelling provisions are set out in Division 1.

1.56 Mandatory warning statement—royal jelly

For the labelling provisions, if a food consists of or includes as an ingredient royal jelly, the following warning statement is required: 'This product contains royal jelly which has been reported to cause severe allergic reactions and in rare cases, fatalities, especially in asthma and allergy sufferers'.

Note: The labelling provisions are set out in Division 1.

1.57 Mandatory declaration of certain substances in foods

(1) For the labelling provisions, if one of the following foods is present in a food product in a manner listed in subsection (2), a declaration that the food is present is required:

(a) added sulphites in concentrations of 10 mg/kg or more;

(b) wheat, rye, barley, oats and spelt and hybridised strains of those cereals (that is, cereals and cereal products containing gluten), other than where these substances are present in beer or spirits;

(c) any of the following foods, or products of those foods:

(i) crustacea;

(ii) egg;

(iii) fish, except for isinglass derived from swim bladders and used as a clarifying agent in beer or wine;

(iv) milk;

(v) peanuts;

(vi) soybeans;

(vii) sesame seeds;

(viii) tree nuts, other than coconut from the fruit of the palm *Cocos nucifera*.

(2) For subsection (1), the food may be present as:

(a) an ingredient or an ingredient of a compound ingredient; or

(b) a substance used as a food additive, or a component of such a substance; or

(c) a substance or food used as a processing aid, or a component of such a substance or food.

Note: The labelling provisions are set out in Division 1.

Division 4—Information requirements—statement of ingredients

1.58 Requirement for statement of ingredients

(1) For this Code, a ***statement of ingredients*** for a food product is a statement of ingredients that complies with this Code.

(2) To avoid doubt, if:

(a) a label states the name of the food; and

(b) there are no ingredients in the food other than that named on the label;

the label is taken to contain a ***statement of ingredients***.

(3) For the labelling provisions, a requirement for a statement of ingredients does not apply to:

(a) water that is packaged and labelled in accordance with Division 2 of Part 6 of Chapter 2; or

(b) a standardised alcoholic beverage; or

(c) a food product that is contained in a small package.

Note 1: The labelling provisions are set out in Division 1.

Note 2: Despite subsection (3), the presence of some ingredients must be declared—see Division 3.

1.59 Requirement to list all ingredients

A statement of ingredients must list each ingredient in the food, other than:

(a) an ingredient of a flavouring substance; or

(b) a volatile ingredient which is completely removed during manufacture; or

(c) added water that:

(i) is added to reconstitute dehydrated or concentrated ingredients; or

(ii) forms part of broth, brine or syrup that is declared in the statement of ingredients or is part of the name of the food;

(iii) constitutes less than 5% of the food; or

(d) a substance that is used as a processing aid in accordance with Division 4 of Part 4; or

(e) a food that is used as a processing aid.

1.60 Ingredients to be listed by common, descriptive or generic name

A statement of ingredients must identify each ingredient:

(a) in the case of offal—in accordance with section 2.09; or

(b) in any other case, using any of:

(i) a generic name for the ingredient that is specified in Schedule 10, in accordance with any conditions specified in that Schedule; or

(ii) a name by which the ingredient is commonly known; or

(iii) a name that describes the true nature of the ingredient.

1.61 Ingredients to be listed in descending order of ingoing weight

(1) A statement of ingredients must list each ingredient in descending order of ingoing weight.

(2) The ingoing weight of an ingredient may be determined in accordance with its weight before dehydration or concentration, if the ingredient:

(a) is a dehydrated or concentrated ingredient; and

(b) is reconstituted during preparation, manufacture or handling of the food.

(3) Despite subsection (1), if a food is represented as one that is to be reconstituted in accordance with directions:

(a) the ingredients may be listed in descending order of their weight in the reconstituted food; and

(b) if the ingredients are listed on this basis, this must be made clear on the label.

(4) For subsection (1), the ingoing weight of water, or of a volatile ingredient, ***IW***, must be calculated in accordance with the following formula:

$$IW = X - Y$$

where:

X is the weight of the water, or of the volatile ingredient, that is added to the food.

Y is the sum of the weight of the water, or of the volatile ingredient, that is removed and the amount that is used for reconstitution of dehydrated or concentrated ingredients during preparation, manufacture or handling of the food.

(5) A compound ingredient may be listed in a statement of ingredients by listing, in accordance with subsection (1):

(a) the compound ingredient by name as an ingredient of the food, in accordance with subsection (6); or

(b) each ingredient of the compound ingredient individually as an ingredient of the food.

(6) If a compound ingredient is listed in accordance with paragraph (5)(a), it must be followed by a list, in parentheses, of:

(a) if the compound ingredient comprises 5% or more of the food—all ingredients that make up the compound ingredient; or

(b) if the compound ingredient comprises less than 5% of the food—the following ingredients:

(i) any ingredient of the compound ingredient that is required to be listed in accordance with section 1.57; and

(ii) any substance used as a food additive in the compound ingredient which performs a technological purpose in the food.

(7) Paragraph (5)(a) does not apply to food for infants.

(8) Despite subsection (6), the ingredients of a standardised alcoholic beverage do not need to be listed in a statement of ingredients if the alcoholic beverage has been listed as an ingredient of the food product.

1.62 Declaration of alternative ingredients

If the composition of a food product is subject to minor variations by the substitution of an ingredient which performs a similar function, the statement of ingredients may list both ingredients in a way which makes it clear that alternative or substitute ingredients are being declared.

1.63 Declaration of substances used as food additives

(1) A substance (including a vitamin or mineral) used as a food additive must be listed in a statement of ingredients by specifying:

(a) if the substance can be classified into a class of additives listed in Schedule 7 (whether prescribed or optional)—that class name, followed in parentheses by the name or code number of the substance as indicated in Schedule 8; or

(b) otherwise—the name of the substance as indicated in Schedule 8.

(2) For the purposes of paragraph (1)(a), if the substance can be classified into more than 1 class, the most appropriate class name must be used.

(3) Despite paragraph (1)(a), if the substance is an enzyme:

(a) it may be listed as ‘enzyme’; and

(b) the specific name of the enzyme need not be listed.

(4) If a flavouring substance is an ingredient, it must be listed in the statement of ingredients by using:

(a) the word ‘flavouring’ or ‘flavour’; or

(b) a more specific name or description of the flavouring substance.

(5) If any of the following substances are added to a food product as a flavouring substance or as an ingredient of a flavouring substance, the name of the substance must be specifically declared in accordance with subsection (1):

(a) L-glutamic acid;
(b) monosodium glutamate;
(c) monopotassium L-glutamate;
(d) calcium di-L-glutamate;
(e) monoammonium L-glutamate;
(f) magnesium di-L-glutamate;
(g) disodium guanylate;
(h) disodium inosinate;
(i) disodium 5’-ribonucleotides.

(6) If caffeine is added to a food product (whether as a flavouring substance or otherwise), it must be listed in the statement of ingredients as caffeine.

1.64 Declaration of vitamins and minerals

If a vitamin or mineral is used as nutritive substance in a food product, it may be listed in the statement of ingredients in accordance with section 1.63 using the class name ‘vitamin’ or ‘mineral’ as appropriate.

Division 5—Date marking of food products

1.65 Definitions

In this Division:

baked-for date, in relation to bread, means:

(a) if the time at which the bread was baked is more than 12 hours before the commencement of the following day—the baked-on date;

(b) if the time at which the bread was baked is less than 12 hours before the commencement of the following day—the day after the baked-on date.

Note**:** For example, bread that is baked after midday on one day may have a 'baked-for date' of the following day.

baked-on date, in relation to bread, means the date on which the bread was baked.

best-before date, for a food product, means the date up to which the food product will remain fully marketable and will retain any specific qualities for which express or implied claims have been made, if the food product:

(a) remains in an intact package during its storage; and

(b) is stored in accordance with any storage conditions applicable under section 1.69.

use-by date, for a food product, means the date after which the supplier estimates that the food product should not be consumed because of health or safety reasons, if the food product:

(a) remains in an intact package during its storage; and

(b) is stored in accordance with any storage conditions applicable under section 1.69.

1.66 Food product must be date marked on labels

(1) For the labelling provisions, the date marking information is:

(a) if there is a use-by date for the food product—that date; or

(b) otherwise—any of:

(i) the best-before date of the food product; or

(ii) for bread that has a shelf life of less than 7 days:

(A) the best-before date; or

(B) the baked-for date; or

(C) the baked-on date.

(2) The date marking information is not required if:

(a) the best-before date of the food product is 2 years or more; or

(b) the food product is an individual portion of ice cream or ice confection.

(3) Despite subsection (1), if the food product is in a small package, the only date-marking information required is the use-by date (if any).

Note: The labelling provisions are set out in Division 1.

1.67 Prohibition on sale of food after its use-by date

A food product must not be sold after its use-by date.

1.68 Required wording and form for dates for labels

(1) The date marking information must be expressed in accordance with this section.

(2) A best-before date, a use-by date, a baked-for date and a baked-on date must:

(a) be expressed using the following wording:

(i) for a best-before date—the words 'Best before';

(ii) for a use-by date—the words 'Use by';

(iii) for a baked-for date—the words 'Baked for' or 'Bkd for';

(iv) for a baked-on date—the words 'Baked on' or 'Bkd on'; and

(b) be accompanied by:

(i) the relevant date; or

(ii) a reference to where the date is located on the label.

(3) In a best-before date or a use-by date:

(a) the day and year must be expressed in numerical form; and

(b) the month may be expressed in:

(i) numerical form; or

(ii) letters.

(4) A best-before date and a use-by date must at least consist of:

(a) if the best-before date or use-by date is not more than 3 months from the date it is applied:

(i) the day and month, in that order; or

(ii) if the month is expressed in letters—the day and the month, in any order; or

(b) if the best-before date or a use-by date is more than 3 months from the date it is applied—the month and the year, in that order.

Examples: For subparagraph (a)(i)—'23 Dec' or '23 12' or '23 12 2012' or '23 Dec 2012'.

For subparagraph (a)(ii)—'23 Dec 2012' or 'Dec 23 2012'.

For paragraph (b)—'Dec 2012' or '12 2012' or '23 12 2012' or '23 Dec 2012'.

(5) The day, month and year must be expressed so that they are clearly distinguishable from each other.

(6) To avoid doubt, subsection (1) does not prevent the addition of a packed-on date or a manufacturer's or a packer's code on the label on a package of food.

Division 6—Directions for use and storage

1.69 Directions for use, and statement of storage conditions

For the labelling provisions, storage conditions and directions for use of a food product are:

(a) if specific storage conditions are required to ensure that the food product will keep until the use-by date or the best-before date—a statement of those conditions; and

(b) if the food product must be used or stored in accordance with certain directions for health or safety reasons—those directions; and

(c) if the food product consists of or contains:

(i) raw bamboo shoots—a statement indicating that bamboo shoots should be fully cooked before being consumed, or words to that effect; or

(ii) raw sweet cassava—a statement indicating that sweet cassava should be peeled and fully cooked before being consumed, or words to that effect.

Note: The labelling provisions are set out in Division 1.

Division 7—Nutrition, health and related claims

Note: Transitional arrangements that apply to this Division are set out in Part 2 of Chapter 5.

Subdivision A—Outline of Division

1.70 Outline

This Division:

(a) sets out:

(i) the claims that may be made on labels or in advertisements about the nutritional content of food (described as 'nutrition content claims'); and

(ii) the claims that may be made on labels or in advertisements about the relationship between a food or a property of a food, and a health effect (described as 'health claims'); and

(b) describes the conditions under which such claims may be made; and

(c) describes the circumstances in which endorsements may be provided on labels or in advertisements.

Subdivision B—Definitions that apply to this Division and Division 8

1.71 General definitions that apply to this Division and Division 8

In this Division and Division 8:

available carbohydrate means available carbohydrate calculated in accordance with section S11.02 in Schedule 11.

average energy content means the average energy content calculated in accordance with section S11.01 of Schedule 11.

biologically active substance means a substance, other than a nutrient, with which health effects are associated.

biomarker means a measurable biological parameter that is predictive of the risk of a serious disease when present at an abnormal level in the human body.

carbohydrate by difference means carbohydrate by difference calculated in accordance with section S11.02 in Schedule 11.

claim requiring nutrition information:

(a) means:

(i) a nutrition content claim; or

(ii) a health claim; and

(b) does not include:
  (i) a declaration that is required by an application Act; or
  (ii) an endorsement.

dietary fibre means that fraction of the edible part of plants or their extracts, or synthetic analogues that:
(a) are resistant to digestion and absorption in the small intestine, usually with complete or partial fermentation in the large intestine; and
(b) promote one or more of the following beneficial physiological effects:
  (i) laxation;
  (ii) reduction in blood cholesterol;
  (iii) modulation of blood glucose;
and includes:
(c) polysaccharides or oligosaccharides that have a degree of polymerisation greater than 2; and
(d) lignins.

endorsement means a nutrition content claim or a health claim that is made with the permission of an endorsing body.

endorsing body means a not-for profit entity that:
(a) has a nutrition- or health-related purpose or function; and
(b) permits a supplier to make an endorsement.

fat means total fat.

food group means any of the following groups:
(a) bread (both leavened and unleavened), grains, rice, pasta and noodles;
(b) fruit, vegetables, herbs, spices and fungi;
(c) milk, skim milk, cream, fermented milk, yoghurt, cheese, processed cheese, butter, ice cream, condensed milk, dried milk, evaporated milk, and analogues derived from legumes and cereals;
(d) meat, fish, eggs, nuts, seeds and dried legumes;
(e) fats including butter, edible oils and edible oil spreads.

fruit:
(a) means the edible portion of a plant or constituents of the edible portion that are present in the typical proportion of the whole fruit (with or without the peel or water); and
(b) does not include nuts, spices, herbs, fungi, legumes and seeds.

fvnl is as defined in section S5.03 of Schedule 5 for the purpose of calculating V points.

general level health claim means a health claim that is not a high level health claim.

gluten means the main protein in wheat, rye, oats, barley, triticale and spelt relevant to the medical conditions coeliac disease and dermatitis herpetiformis.

glycaemic index (GI) means a measure of the blood glucose raising ability of the digestible carbohydrates in a given food as determined by a recognised scientific method.

health claim means a claim which states, suggests or implies that a food or a property of food has, or may have, a health effect.

Note: See also subsection 2.163(3).

health effect means an effect on the human body, including an effect on one or more of the following:

(a) a biochemical process or outcome;
(b) a physiological process or outcome;
(c) a functional process or outcome;
(d) growth and development;
(e) physical performance;
(f) mental performance;
(g) a disease, disorder or condition.

high level health claim means a health claim that refers to a serious disease or a biomarker of a serious disease.

meets the NPSC means that the nutrient profiling score of a food described in column 1 of the table to section S4.04 of Schedule 4 is less than the number specified for that food in column 2 of that table.

monounsaturated fatty acids means the total of cis-monounsaturated fatty acids.

NPSC means the nutrient profiling scoring criterion.

nutrient profiling score means the final score calculated pursuant to the method referred to in section 1.94.

***nutrition content claim*—**see section 1.72.

polyunsaturated fatty acids means the total of polyunsaturated fatty acids with cis-cis-methylene interrupted double bonds.

property of food means a component, ingredient, constituent or other feature of food.

reference food, in relation to a claim, means a food that is:

(a) of the same type as the food for which the claim is made and that has not been further processed, formulated, reformulated or modified to increase or decrease the energy value or the amount of the nutrient for which the claim is made; or

(b) a dietary substitute for the food in the same food group as the food for which the claim is made.

saturated fatty acids means the total of fatty acids containing no double bonds.

serious disease means a disease, disorder or condition which is generally diagnosed, treated or managed in consultation with or with supervision by a health care professional.

special purpose food means any of the following:

(a) infant formula product;

(b) food for infants;

(c) a formulated meal replacement;

(d) a formulated supplementary food;

(e) a formulated supplementary sports food;

(f) food for special medical purposes.

sugars means monosaccharides and disaccharides.

Note: In this Division and Division 8, ***sugars*** has a narrower meaning than elsewhere in this Code. See section 1.06 for the general meaning of the term.

trans fatty acids means the total of unsaturated fatty acids where one or more of the double bonds are in the trans configuration.

vegetable:

(a) means the edible portion of a plant or constituents of the edible portion that are present in the typical proportion of the whole vegetable (with or without the peel or water); and

(b) does not include nuts, spices, herbs, fungi, dried legumes (including dried legumes that have been cooked or rehydrated) and seeds.

1.72 Meaning of *nutrition content claim*

(1) In this Division and Division 8:

nutrition content claim means a claim about:

(a) the presence or absence of any of the following:

(i) a biologically active substance;

(ii) dietary fibre;

(iii) energy;

(iv) minerals;

(v) potassium;
(vi) protein;
(vii) carbohydrate;
(viii) fat;
(ix) the components of any one of protein, carbohydrate or fat;
(x) salt;
(xi) sodium;
(xii) vitamins; or

(b) glycaemic index or glycaemic load;

that does not refer to the presence or absence of alcohol, and is not a health claim.

Note: See also subsections 2.47(4) and 2.163(3).

Inclusion of mandatory information in nutrition information panel does not constitute a nutrition content claim

(2) To avoid doubt, if this Code requires particular information to be included in a nutrition information panel, the inclusion of that information does not constitute a ***nutrition content claim***.

Inclusion of voluntary information in nutrition information panel might constitute a nutrition content claim

(3) If this Code permits, but does not require, particular information to be included in a nutrition information panel, the inclusion of that information constitutes a ***nutrition content claim*** unless:
(a) this Code provides otherwise; or
(b) the information is a declaration of:
(i) if the food product contains less than 2 g of dietary fibre per serving—dietary fibre; or
(ii) trans fatty acid content; or
(iii) lactose content.

(4) For a food product that contains more than 1.15% alcohol by volume, the inclusion in a nutrition information panel of the information referred to in paragraphs 1.101(1)(a), (b) and (c), and subparagraphs 1.101(1)(d)(i), (ii) and (iii) does not constitute a ***nutrition content claim***.

Subdivision C—Claims framework and general principles

1.73 Nutrition content claims or health claims not to be made about certain foods

(1) A nutrition content claim or health claim must not be made about:
(a) kava; or
(b) a food that contains more than 1.15% alcohol by volume; or

(c) an infant formula product.

(2) Paragraph (1)(b) does not prevent a nutrition content claim about energy content or carbohydrate content being made.

1.74 Division does not apply to certain foods

This Division does not apply to:

(a) food that is intended for further processing, packaging or labelling prior to retail sale; or

(b) food that is delivered to a vulnerable person by a delivered meal organisation; or

(c) food, other than food in a package, that is provided to a patient in a hospital or a medical institution.

1.75 Division does not apply to certain claims or declarations

This Division does not apply to:

(a) a claim that is expressly permitted by this Code; or

(b) a claim about the risks or dangers of alcohol consumption or about moderating alcohol intake; or

(c) a declaration that is required by an application Act.

1.76 Form of food to which provisions of this Division apply

If this Division imposes a prerequisite, condition, qualification or any other requirement on the making of a claim, that prerequisite, condition, qualification or requirement applies to whichever of the following forms of the food is applicable:

(a) if the food can be either prepared with other food or consumed as sold—the food as sold;

(b) if the food is required to be prepared and consumed according to directions—the food as prepared;

(c) if the food requires reconstituting with water—the food after it is reconstituted with water and ready for consumption;

(d) if the food requires draining before consuming—the food after it is drained and ready for consumption.

1.77 Claims not to be therapeutic in nature

A claim must not:

(a) refer to the prevention, diagnosis, cure or alleviation of a disease, disorder or condition; or

(b) compare a food with a good that is:

(i) represented in any way to be for therapeutic use; or

(ii) likely to be taken to be for therapeutic use, whether because of the way in which the good is presented or for any other reason.

1.78 Claims not to compare vitamin or mineral content

A claim that directly or indirectly compares the vitamin or mineral content of a food with that of another food must not be made unless the claim is permitted by this Code.

1.79 Division does not prescribe words

Nothing in this Division is to be taken to prescribe the words that must be used when making a claim.

Subdivision D—Requirements for nutrition content claims

1.80 Presentation of nutrition content claims

A nutrition content claim must be stated together with a statement about the form of the food to which the claim relates, unless the form of the food to which the claim relates is the food as sold.

1.81 Nutrition content claims about properties of food in section S4.01 of Schedule 4

(1) If a property of food is mentioned in column 1 of the nutrition content claims table, a nutrition content claim may only be made about that property of food in accordance with this section.

(2) If a claim is made in relation to a food about a property of food mentioned in column 1 of the nutrition content claims table, the food must meet the corresponding general claim conditions, if any, in column 2 of the table.

(3) If a claim made in relation to a food about a property of food mentioned in column 1 of the nutrition content claims table uses a descriptor mentioned in column 3 of the table, or a synonym of that descriptor, the food must meet:

(a) the general claim conditions for the relevant property of food in column 2 of the table; and

(b) the specific claim conditions in column 4 of the table for the relevant descriptor.

(4) If, in relation to a claim mentioned in subsection (3), there is an inconsistency between a general claim condition in column 2 of the table and a specific claim condition in column 4 of the table, the specific claim condition prevails.

(5) A descriptor must not be used in a nutrition content claim about lactose or trans fatty acids unless the descriptor:

(a) is mentioned in column 3 of the nutrition content claims table and corresponds with that property of food; or

(b) is a synonym of the descriptor referred to in paragraph (a).

(6) A descriptor must not be used in a nutrition content claim about glycaemic load unless that descriptor is expressed as a number or in numeric form.

(7) A nutrition content claim in relation to gluten may only:

(a) use a descriptor that is mentioned in column 3 of the nutrition content claims table in conjunction with gluten, or a synonym of such a descriptor; or

(b) state that a food contains gluten or is high in gluten.

(8) Subject to this section and section 1.84, any descriptor that is not mentioned in column 3 of the nutrition content claims table, including a descriptor expressed as a number or in numeric form, may be used in conjunction with a property of food that is mentioned in column 1 of the table.

(9) In this Subdivision:

nutrition content claims table means the table to section S4.01 of Schedule 4.

1.82 Nutrition content claims about properties of food not in section S4.01 of Schedule 4

(1) A nutrition content claim about a property of food that is not mentioned in the table to section S4.01 of Schedule 4 may state only:

(a) that the food contains or does not contain the property of food; or

(b) that the food contains a specified amount of the property of food in a specified amount of that food; or

(c) a combination of paragraph (a) and (b).

(2) A statement made for the purposes of paragraph (1)(a) must not use a descriptor listed in column 3 of the nutrition content claims table, or any other descriptor, except a descriptor that indicates that the food does not contain the property of food.

1.83 Nutrition content claims about choline, fluoride or folic acid

(1) A nutrition content claim about choline, fluoride or folic acid may state only:

(a) that the food contains choline, fluoride or folic acid; or

(b) that the food contains a specified amount of choline, fluoride or folic acid in a specified amount of that food; or

(c) a combination of paragraph (a) and (b).

(2) A statement made for the purposes of paragraph (1)(a) must not use a descriptor listed in column 3 of the nutrition content claims table, or any other descriptor.

(3) A nutrition content claim about choline, fluoride or folic acid may be made only if a health claim about that substance is made in relation to the same food.

1.84 Nutrition content claims must not imply slimming effects

A nutrition content claim that meets the conditions to use the descriptor diet must not use another descriptor that directly or indirectly refers to slimming or a synonym for slimming.

1.85 Comparative claims

(1) A comparative claim about a food (***claimed food***) must include together with the claim:

(a) the identity of the reference food; and

(b) the difference between the amount of the property of food in the claimed food and the reference food.

(2) In this section, a nutrition content claim is a ***comparative claim*** if:

(a) it:

(i) directly or indirectly compares the nutrition content of one food or brand of food with another; and

(ii) includes claims using any of the following descriptors:

(A) light or lite;

(B) increased;

(C) reduced;

(D) words of similar import; or

(b) it:

(i) uses the descriptor diet; and

(ii) meets the conditions for making that claim by having at least 40% less energy than the same quantity of reference food.

Subdivision E—Requirements for health claims

1.86 Application or proposal to vary S4.03 of Schedule 4 taken to be a high level health claims variation

An application or a proposal to add a general level health claim to the table to section S4.03 of Schedule 4 is taken to be an application or proposal for a ***high level health claims variation***.

Note: The term ***high level health claims variation*** is defined in section 4 of the FSANZ Act. The effect of this provision is that an application or a proposal to add a general level health claim to the table to S4.03 of Schedule 4 will be assessed under the provisions in Subdivision G of each of Divisions 1 and 2 of Part 3 of the FSANZ Act, as appropriate.

1.87 Conditions for making health claims

(1) A health claim must not be made unless:
  (a) the food to which the health claim relates meets the NPSC; and
  (b) the health claim complies with the requirements in:
    (i) if the health claim is a high-level health claim—subsection (2); or
    (ii) if the health claim is a general level health claim—subsection (3).

(2) For subparagraph (1)(b)(i), the requirements are:
  (a) the food or the property of food is mentioned in column 1 of the high-level health claims table; and
  (b) the health effect claimed for that food or property of food is mentioned in the corresponding row in column 2 of the table; and
  (c) the food complies with the relevant conditions in column 5 of the table.

(3) For subparagraph (1)(b)(ii), the requirements are:
  (a) each of the following:
    (i) the food or the property of food is mentioned in column 1 of the general level health claims table;
    (ii) the health effect claimed for that food or property of food is mentioned in the corresponding row in column 2 of the table; and
    (iii) the food complies with the relevant conditions in column 5 of the table; or
  (b) the person who is responsible for making the health claim has notified the Chief Executive Officer of the Authority of the details of a relationship between a food or property of food and a health effect that has been established by a process of systematic review that is described in Schedule 6.

(4) Despite paragraph (1)(a), a special purpose food does not need to meet the NPSC.

(5) In this Subdivision:

general level health claims table means the table to section S4.03 of Schedule 4.

high-level health claims table means the table to section S4.02 of Schedule 4.

1.88 Requirement when making a general level health claim under paragraph 1.87(3)(b)

(1) A person who gives the notice mentioned in paragraph 1.87(3)(b) is required to:

(a) provide the name of the person that is giving the notice and the address in Australia or New Zealand of that person; and

(b) consent to the publication by the Authority of the information given for the purposes of paragraph 1.87(3)(b) and paragraph (1)(a); and

(c) certify that the notified relationship between a food or property of food and a health effect has been established by a process of systematic review that is described in Schedule 6; and

(d) if requested by a relevant authority, provide records to the relevant authority that demonstrate that:

(i) the systematic review was conducted in accordance with the process of systematic review described in Schedule 6; and

(ii) the notified relationship is a reasonable conclusion of the systematic review.

(2) A certificate provided for a body corporate must be signed by a senior officer of the body corporate.

1.89 How health claims are to be made

(1) If a health claim is a high level health claim based on a relationship described in the high level health claims table or a general level health claim based on a relationship described in the general level health claims table, the health claim must:

(a) state:

(i) the food or the property of food mentioned in column 1 of the relevant table; and

(ii) the specific health effect mentioned in column 2 of the relevant table that is claimed for the food or the property of food; and

(b) if column 3 of the relevant table refers to a relevant population group to which the specific health effect relates—include a statement of that population group in conjunction with the health claim; and

(c) include, together with the health claim, the information referred to in subsection (3).

(2) If a health claim is a general level health claim based on a relationship that has been notified under paragraph 1.87(3)(b), the health claim must:

(a) state the food or the property of food and the specific health effect; and

(b) include together with the health claim a statement about the relevant population group, if any, that is a reasonable conclusion of the systematic review mentioned in paragraph 1.87(3)(b); and

(c) include, together with the health claim, the information referred to in subsection (3).

(3) For paragraphs (1)(c) and (2)(c), the information is:

(a) a dietary context statement that complies with subsection (4); and

(b) a statement of the form of the food to which the health claim relates.

(4) A dietary context statement must:

(a) state that the health effect must be considered in the context of a healthy diet involving the consumption of a variety of foods; and

(b) be appropriate to the type of food or the property of food that is the subject of the claim and the health effect claimed; and

(c) either:

(i) if the health claim is a high level health claim based on a relationship described in the high level health claims table or a general level health claim based on a relationship described in the general level health claims table—include words to the effect of the relevant dietary context statement in the corresponding row of column 4 of the relevant table, if any; or

(ii) if the health claim is a general level health claim based on a relationship that has been notified under paragraph 1.87(3)(b)—include words to the effect of a relevant dietary context statement that is a reasonable conclusion of the systematic review.

(5) Despite paragraph (3)(a), a dietary context statement need not be included on a label on a food product that is contained in a small package.

(6) Despite paragraph (3)(b), if the form of the food to which the claim relates is the food as sold, the form of the food to which the claim relates need not be stated.

1.90 Split health claims

The matters referred to in paragraph 1.89(1)(a) or paragraph 1.89(2)(a) may also appear in another statement on the label or in an advertisement if:

(a) the information required by subsection 1.89(1) or subsection 1.89(2) appears on a label or in an advertisement; and

(b) the other statement indicates where on the label or advertisement the information required by subsection 1.89(1) or subsection 1.89(2) is located.

1.91 Statements for claims about phytosterols, phytostanols and their esters

A dietary context statement for a claim about phytosterols, phytostanols and their esters need not include a statement required by paragraph 1.89(4)(a) if the claim appears together with the mandatory advisory statement required by subsection 1.55(1).

Subdivision F—Endorsements

1.92 Endorsing bodies

(1) An endorsing body must:

(a) not be related to; and

(b) be independent of; and

(c) be free from influence by;

the supplier of food in relation to which an endorsement is made.

(2) For this section, an endorsing body is related to a supplier if the supplier:

(a) has a financial interest in the endorsing body; or

(b) established, either by itself or with others, the endorsing body; or

(c) exercises direct or indirect control over the endorsing body.

1.93 Criteria for endorsements

(1) A supplier of food may make or include an endorsement on a label or in an advertisement for the food, or otherwise use the endorsement, if:

(a) the supplier keeps the required records for the information period; and

(b) the supplier upon request by the relevant authority, makes the required records available for inspection within the time specified by the relevant authority; and

(c) the endorsement complies with section 1.77; and

(d) the endorsing body complies with section 1.92.

(2) If a label on, or an advertisement for, imported food makes or includes an endorsement, the importer of the food must:

(a) keep the required records for the information period as if the importer of the food were the supplier of the food; and

(b) upon request by the relevant authority, make the required records available for inspection within the time specified by the relevant authority.

(3) An endorsement must not refer to a serious disease except in a reference to the endorsing body if the serious disease is part of the name of the endorsing body.

(4) This Division, other than sections 1.71, 1.72 and 1.77, do not apply in relation to an endorsement.

(5) In this section:

information period, in relation to food, means the period:

(a) during which the food is available for sale or advertised for sale; and

(b) the period of 2 years after the food was last sold, or advertised or available for sale, whichever is the latest.

required records means a document or documents that demonstrate that:

(a) a supplier using an endorsement has obtained the permission of the endorsing body to use the endorsement; and

(b) the endorsing body has a nutrition- or health-related function or purpose; and

(c) the endorsing body is a not-for-profit entity; and

(d) the endorsing body is not related to the supplier using the endorsement.

Subdivision G—Additional labelling of food required to meet the NPSC

1.94 Method for calculating a nutrient profiling score

The method for calculating a nutrient profiling score is described in Schedule 5.

1.95 Labelling of food required to meet the NPSC

(1) This section applies if a food must meet the NPSC in order to make a claim.

Note: See paragraph 1.87(1)(a) and subsection 1.87(4) for when a food must meet the NPSC in order to make a claim.

(2) The particulars of a property of food must be declared in the nutrition information panel if:

(a) the property of food, other than fvnl, is relied on to meet the NPSC; and

(b) those particulars are not otherwise required to be included in the nutrition information panel.

(3) The calcium content of a food must be declared in the nutrition information panel if the food:

(a) is classified in Category 3 of section S4.04 of Schedule 4 for the purposes of determining the food's nutrient profiling score; and

(b) is a cheese or processed cheese.

(4) For the labelling provisions, if:

(a) a food scores V points under section S5.03 of Schedule 5; and

(b) the claim is not a health claim about fruits and vegetables;

the information relating to nutrition, health and related claims is the percentage of each element of fvnl that is relied on to meet the NPSC.

Note: The labelling provisions are set out in Division 1.

1.96 Labelling exemptions for certain foods

Subsections 1.95(2), (3) and (4) do not apply to food in a small package.

Division 8—Nutrition information requirements

Subdivision A—Purpose and interpretation

1.97 Purpose

This Division sets out nutrition information requirements in relation to food products that are required to be labelled under this Code, and for food products that are exempt from these labelling requirements. This Division sets out when nutritional information must be provided, and the manner in which such information must be provided.

Note: Division 7 also sets out additional nutrition information requirements in relation to nutrition content claims and health claims. This Division does not apply to infant formula product. Division 1 of Part 9 of Chapter 2 sets out specific nutrition labelling requirements for infant formula product.

1.98 Application of Division

This Division does not apply to infant formula product.

1.99 Interpretation of Division

The definitions set out in Subdivision B of Division 7 apply to this Division.

Subdivision B—Nutrition information panels

1.100 When nutrition information panel is not required

For the labelling provisions, a nutrition information panel is not required for:

(a) the following food products, unless a claim requiring nutrition information is made in relation to the food product:
  (i) a standardised alcoholic beverage; or
  (ii) a herb, a spice or a herbal infusion; or
  (iii) vinegar or imitation vinegar; or
  (iv) iodised salt, reduced sodium salt mixture, salt or salt substitute; or
  (v) tea or coffee, or instant tea or instant coffee; or
  (vi) a substance that is approved for use as a food additive; or
  (vii) a substance that is approved for use as a processing aid; or
  (viii) fruit, vegetables, meat, poultry, and fish that comprise a single ingredient or category of ingredients; or
  (ix) gelatine; or
  (x) ice water, or mineral water or spring water; or
  (xi) prepared filled rolls, sandwiches, bagels and similar products; or

(xii) jam setting compound; or

(xiii) a kit which is intended to be used to produce a standardised alcoholic beverage; or

(xiv) a beverage containing no less than 0.5% alcohol by volume that is not a standardised alcoholic beverage; or

(xv) kava; or

(b) a food product in a small package, other than food for infants.

Note 1: See section 1.109 for the requirement for a food product in a small package.

Note 2: The labelling provisions are set out in Division 1.

1.101 What must be on nutrition information panel

(1) A nutrition information panel must contain the following information:

(a) the number of servings in the package, expressed as either:

(i) the number of servings of the food; or

(ii) if the weight or the volume of the food as packaged is variable—the number of servings of the food per kilogram, or other unit as appropriate;

(b) the average quantity of the food in a serving expressed in:

(i) for a solid or semi-solid food—grams; or

(ii) for a beverage or other liquid food—millilitres;

(c) the unit quantity of the food product;

(d) for a serving of the food and a unit quantity of the food:

(i) the average energy content expressed in kilojoules or both in kilojoules and in calories or kilocalories; and

(ii) the average quantity of protein, carbohydrate, sugars, fat and, subject to subsection (6), saturated fatty acids, expressed in grams; and

(iii) the average quantity of sodium, expressed in milligrams or both milligrams and millimoles; and

(iv) the name and the average quantity of any other nutrient or biologically active substance in respect of which a claim requiring nutrition information is made, expressed in grams, milligrams, micrograms or other units as appropriate;

(v) any other matter this Code requires to be included.

(2) A nutrition information panel must be set out in the format in section S12.01 of Schedule 12, unless this Code provides otherwise.

Claims in respect of cholesterol etc

(3) If a claim requiring nutrition information is made in respect of:

(a) cholesterol; or

(b) saturated, trans, polyunsaturated or monounsaturated fatty acids; or

(c) omega-3, omega-6 or omega-9 fatty acids;

a nutrition information panel must include declarations of the trans, polyunsaturated and monounsaturated fatty acids in accordance with section S12.02 of Schedule 12.

Claims in respect of fibre, sugars or carbohydrate

(4) If a claim requiring nutrition information is made in respect of:

(a) fibre or any specifically named fibre; or

(b) sugars or any other type of carbohydrate;

a nutrition information panel must include a declaration of the presence or absence of dietary fibre in accordance with section S12.02 of Schedule 12.

(5) The absence of dietary fibre under subsection (4) must be indicated by using the symbol '0'.

Claims in respect of polyunsaturated or monounsaturated fatty acid content

(6) If a claim requiring nutrition information is made in relation to the polyunsaturated fatty acid content or monounsaturated fatty acid content of an edible oil, an edible oil spread or margarine, the nutrition information panel may list the minimum or maximum quantity of the following in a serving or a unit quantity of the food product:

(a) saturated fatty acids;

(b) polyunsaturated fatty acids;

(c) monounsaturated fatty acids;

(d) trans fatty acids.

Note: See section 1.81 for when claims may be made in relation to the polyunsaturated or monounsaturated fatty acid content of foods.

Declarations about carbohydrates

(7) If unavailable carbohydrate has been subtracted in the calculation of carbohydrate by difference, a nutrition information panel must include a declaration of unavailable carbohydrate.

(8) The reference to 'unavailable carbohydrate' in subsection (7) does not include dietary fibre.

Declarations about certain substances

(9) If:

(a) one or more components (other than organic acids) listed in subsection S11.01(3) of Schedule 11 is present in the final food,

singly or in combination, in an amount of no less than 5 g/100 g; and

(b) either of the following is satisfied:

(i) if carbohydrate by difference is used—any of those substances have been subtracted in the calculation; or

(ii) if available carbohydrate is used—any of those substances have been quantified or added to the food;

the nutrition information panel must include individual declarations of those substances.

Claims about phytosterols, phytostanols or their esters

(10) If a claim requiring nutrition information is made in relation to phytosterols, phytostanols or their esters, the nutrition information panel must include declarations of:

(a) the substances, using the same name for the substance as used in the advisory statement required by subsection 1.55(1); and

(b) the amount of the substances, calculated as total plant sterol equivalents content.

1.102 How to express particular matters in nutrition information panel

(1) The nutrition information panel must clearly indicate that:

(a) any average quantities set out in the panel are average quantities; and

(b) any minimum or maximum quantities set out in the panel are minimum or maximum quantities.

(2) On a nutrition information panel:

(a) 'serving' may be replaced by:

(i) 'slice', 'pack' or 'package'; or

(ii) 'metric cup' or 'metric tablespoon' or other appropriate word or words expressing a unit or common measure; and

(b) 'Carbohydrate' may be replaced by 'Carbohydrate, total'.

(3) The following must be expressed in a nutrition information panel to not more than 3 significant figures:

(a) the average energy content;

(b) the average, minimum or maximum quantities of nutrients and biologically active substances.

(4) If the average energy content of a serving or a unit quantity of the food product is less than 40 kJ, that average energy content may be expressed in the panel as 'LESS THAN 40 kJ'.

(5) If the average quantity of any of the following in a serving or a unit quantity of the food product is less than 1 gram, that average quantity

may be expressed in the nutrition information panel as 'LESS THAN 1 g':

(a) protein;
(b) fat;
(c) classes of fatty acids;
(d) carbohydrate;
(e) sugars;
(f) dietary fibre.

(6) If the average quantity of sodium or potassium in a serving or a unit quantity of the food product is less than 5 milligrams, that average quantity may be expressed in the nutrition information panel as 'LESS THAN 5 mg'.

(7) The declaration of dietary fibre in a nutrition information panel must be a declaration of dietary fibre determined in accordance with section S11.03 in Schedule 11.

(8) In a nutrition information panel:
(a) monounsaturated fatty acids must be declared as monounsaturated fat; and
(b) polyunsaturated fatty acids must be declared as polyunsaturated fat; and
(c) saturated fatty acids must be declared as saturated fat; and
(d) trans fatty acids must be declared as trans fat.

1.103 Percentage daily intake information

(1) A nutrition information panel may include information relating to the percentage daily intake of nutrients set out in the panel.

(2) If information relating to percentage daily intake is included, the panel may include the percentage daily intake of dietary fibre.

(3) If information relating to percentage daily intake is included, the panel must include:
(a) the percentage daily intake of the following, calculated using the associated reference value listed below:

Reference values for percent daily intake information

Component	*Reference value*
energy	8,700 kJ
protein	50 g
fat	70 g
saturated fatty acids	24 g
carbohydrate	310 g
sodium	2,300 mg
sugars	90 g
dietary fibre (if included)	30 g

(b) either of the following statements:
(i) 'based on an average adult diet of 8700 kJ';
(ii) 'Percentage daily intakes are based on an average adult diet of 8700 kJ'.

Note: For an example nutrition information panel illustrating percentage daily intake information, see section S12.03 of Schedule 12.

1.104 Percentage recommended dietary intake information

(1) This section applies if:
(a) a claim requiring nutrition information is made about or based on a vitamin or mineral (the ***relevant vitamin or mineral***); and
(b) the relevant vitamin or mineral has an RDI; and
(c) the food to which the claim relates is not a food for infants.

(2) The percentage of the RDI for the relevant vitamin or mineral contributed by one serving of the food must be set out in the nutrition information panel.

(3) The percentage RDI under subsection (2) must be calculated using the nutrient values set out in the nutrition information panel.

(4) Despite paragraph (1)(c), percentage recommended dietary intake information may be included in the nutrition information panel for a food for infants.

1.105 Information referred to in sections 1.103 and 1.104 may be presented outside nutrition information panel

(1) The information referred to in section 1.103 and subsection 1.104(2) may be presented outside the nutrition information panel if:
(a) the serving size is presented together with the information; and
(b) the food does not contain more than 1.15% alcohol by volume.

(2) If more than 1 piece of such information is presented outside the nutrition information panel, those pieces of information must be presented together.

(3) Information presented in accordance with this section does not constitute a nutrition content claim.

1.106 Requirement for dehydrated or concentrated food

If the label on a package of a food product indicates that the food should be reconstituted with water before consumption, the nutrition information panel must express the information required by this Division as a proportion of the reconstituted food.

1.107 Food intended to be drained before consumption

If the labelling for a food product contains directions indicating that the food should be drained before consumption, the nutrition information panel must:

(a) express the information required by this Division as a proportion of the drained food; and

(b) clearly indicate that the information relates to the drained food.

1.108 Food intended to be prepared or consumed with other food

(1) This section applies to a food product if the labelling indicates that it is intended to be prepared or consumed with at least one other food.

(2) The nutrition information panel may comply with the requirement in subsection (4).

(3) If a claim requiring nutrition information is made about the food, the nutrition information panel must comply with the requirements in subsections (4) and (5).

(4) The requirement is that the nutrition information panel includes an additional column at the right hand side of the panel, specifying, in the same manner as set out in the panel:

(a) a description of the additional food; and

(b) the quantity of the additional food; and

(c) the average energy content of the combined foods; and

(d) the average quantities of nutrients contained in the combined foods; and

(e) the average quantities of biologically active substances contained in the combined foods.

(5) The requirement is that the nutrition information panel specifies the weight or volume of the serving size of the food as prepared.

1.109 Requirement for food products in small packages

(1) For the labelling provisions, for a food product in a small package, the following nutrition information is required if a claim requiring nutrition information is made:

(a) the average quantity of the food in a serving, expressed:

(i) for a solid or semi-solid food—in grams; and

(ii) for a beverage or other liquid food—in millilitres; and

(b) if a claim is about a matter in column 1 of the table to section S13.01 of Schedule 13—the particulars specified in column 2, expressed:

(i) as minimum, maximum or average quantities, unless otherwise specified; and

(ii) with a clear indication of whether the particulars are minimum, maximum or average quantities.

(c) if the claim is about carbohydrate, dietary fibre, sugars or any other carbohydrate:

(i) if unavailable carbohydrate has been subtracted in the calculation of 'carbohydrate by difference'—a declaration of unavailable carbohydrate (not including dietary fibre); and

(ii) the presence in the food of any substance other than organic acids that is listed in the table to subsection S11.01(3) of Schedule 11, if those substances are present in the food, either singly or in combination, in an amount of no less than 5 g/100 g.

Note: The labelling provisions are set out in Division 1.

(2) Where appropriate, the word 'serving' may be replaced by:

(a) the word 'slice', 'pack' or 'package'; and

(b) the words 'metric cup', 'metric tablespoon' or other appropriate words expressing a unit or common measure.

(3) To avoid doubt, the information required by this section need not be set out in the form of a nutrition information panel.

Division 9—Characterising ingredients and components of food

1.110 Definitions

(1) In this Division, in relation to a food product:

characterising component means a component of the food that:

(a) is mentioned in the name of the food; or

(b) is likely to be associated with the name of the food by a consumer; or

(c) is emphasised on the label of the food product in words, pictures or graphics.

characterising ingredient means an ingredient or a category of ingredients of the food that:

(a) is mentioned in the name of the food; or

(b) is likely to be associated with the name of the food by a consumer; or

(c) is emphasised on the label of the food product in words, pictures or graphics.

(2) Despite subsection (1), any of the following is not a ***characterising ingredient***:

(a) an ingredient or category of ingredients that is used in small quantities to flavour the food; or

(b) an ingredient or category of ingredients that comprises the whole of the food; or

(c) an ingredient or category of ingredients that is mentioned in the name of the food but which is not such as to govern the choice of the consumer, because the variation in the quantity is not essential to characterise the food, or does not distinguish the food from similar foods.

(3) Compliance with labelling requirements elsewhere in this Code does not of itself constitute emphasis for the purposes of this section.

1.111 Requirement to declare characterising ingredients and components

(1) For the labelling provisions, information about characterising ingredients and characterising components is a declaration of the proportion of each characterising ingredient and characterising component of the food:

(a) calculated in accordance with sections 1.112 to 1.115; and

(b) expressed in accordance with section 1.116.

(2) If:

(a) the proportion of a characterising component of a food is declared in accordance with this Division; and

(b) an ingredient or category of ingredients contains that characterising component;

the proportion of a characterising ingredient containing that characterising component does not need to be declared.

(3) For the labelling provisions, information about characterising ingredients and characterising components is not required for the following food products:

(a) prepared filled rolls, sandwiches, bagels or similar products;

(b) a food product that is sold at a fund-raising event;

(c) a food product that is in a small package;

(d) infant formula product;

(e) cured and/or dried meat flesh in whole cuts or pieces;

(f) a standardised alcoholic beverage;

(g) a beverage containing no less than 0.5% alcohol by volume, other than one referred to in paragraph (e).

Note: The labelling provisions are set out in Division 1.

1.112 Calculating proportion of characterising ingredients

(1) Subject to sections 1.113 and 1.114, the proportion, $\boldsymbol{P_{CI}}$, of a characterising ingredient in a food product must be calculated using the following formula:

$$P_{CI} = \frac{IW}{TW} \times 100$$

where:

IW is:

(a) if the proportion of the ingredient is declared in accordance with paragraph 1.116(4)(b)—the minimum ingoing weight of that ingredient; or

(b) otherwise—the ingoing weight of the characterising ingredient.

TW is the total weight of all ingoing ingredients.

(2) The weight of added water or volatile ingredients removed during the course of manufacture of the food product must not be included in the weight of the ingoing ingredients when calculating $\boldsymbol{P_{CI}}$.

(3) If a concentrated or dehydrated ingredient is reconstituted during manufacture of the food product, the weight of the reconstituted ingredient may be used when calculating $\boldsymbol{P_{CI}}$.

(4) If a food product requires reconstitution prior to consumption, $\boldsymbol{P_{CI}}$ may be calculated as a proportion of the food product as reconstituted.

1.113 Calculating proportion of characterising ingredients where moisture loss occurs

If moisture loss occurs in the processing of a food product, the proportion of a characterising ingredient in a food product may be calculated taking into account any such moisture loss, on the basis of the weight of the characterising ingredient in the final food product.

1.114 Calculating proportion of characterising ingredient where proportion is declared in nutrition information panel

Unless otherwise specified, where the proportion of a characterising ingredient is declared in a nutrition information panel, the amount declared must be the average quantity of the characterising ingredient present in the final food product.

1.115 Method of calculating proportion of characterising components

(1) The proportion of a characterising component, $\boldsymbol{P_{CC}}$, in a food product must be calculated using the following formula:

$$P_{cc} = \frac{W}{TW} \times 100$$

where:

TW is the total weight of the food product.

W is:

(a) the weight of the characterising component of the food product; or

(b) if the proportion of the component is declared in accordance with paragraph 1.116(4)(b)—the minimum weight of that component.

(2) The proportion of a characterising component of a food product that requires reconstitution prior to consumption may be calculated as a proportion of the food product as reconstituted.

(3) Unless otherwise specified, where the proportion of a characterising component is declared in a nutrition information panel, the amount declared must be the average quantity of the characterising component present in the final food product.

1.116 Declaration of characterising ingredients and components

(1) The proportion of a characterising ingredient or characterising component must:

(a) be declared as a percentage; or

(b) unless otherwise specified, be declared as the average quantity per serving and per unit quantity, when declared in a nutrition information panel.

(2) If the proportion of a characterising ingredient is declared in accordance with paragraph (1)(a) in a statement of ingredients, the percentage must immediately follow the common, descriptive or generic name of the ingredient.

(3) The percentage may be rounded to:

(a) the nearest whole number; or

(b) if the percentage is below 5%—the nearest 0.5 decimal place.

(4) The proportion of a characterising ingredient or characterising component must be declared as:

(a) the actual percentage; or

(b) if the minimum weight of a characterising ingredient or characterising component was used when performing the calculation in section 1.112 or 1.115 as appropriate—a minimum percentage; or

(c) unless otherwise specified—the average quantity when declared in a nutrition information panel.

(5) If a minimum percentage is declared, that fact must be clearly indicated.

(6) The proportion of a characterising ingredient or characterising component of a food product that requires reconstitution prior to consumption may be declared as a percentage of the food product as reconstituted if:

(a) in the case of a characterising ingredient—the proportion of the characterising ingredient was calculated in accordance with subsection 1.112(4); and

(b) in any case—the fact that the ingredient or component is a proportion of the reconstituted food product is clearly indicated.

Division 10—Country of origin labelling requirements

Note: This Division applies in Australia only.

1.117 Interaction with other Divisions

This Division does not affect the operation of Division 5 of Part 7 of Chapter 2.

1.118 Labelling requirements—unpackaged food

(1) This section applies to a food product listed below (whether that food product is whole or cut) that is displayed for retail sale other than in a package:

(a) fish, including fish that has been processed and fish that has been mixed with other ingredients; and

(b) fresh or preserved pork;

(c) fruit and vegetables, including fruit or vegetables that are fresh, preserved, pickled, cooked, frozen or dehydrated, and including fruit or vegetables that have been mixed with other ingredients.

(2) However, this section does not apply to:

(a) fresh or preserved pork that has been mixed with an ingredient that is not referred to in this section (other than, in the case of preserved pork, an ingredient that is used to preserve the pork); or

(b) fruit or vegetables that have been preserved, pickled, cooked, frozen or dehydrated and that have been mixed with an ingredient that is not mentioned in this section (other than an ingredient that is used to preserve, pickle, cook, freeze or dehydrate the fruit or vegetables).

(3) For the labelling provisions, the country of origin information for a food product to which this section applies is a statement:

(a) identifying the country or countries of origin of the food; or

(b) indicating that the food is a mix of local and/or imported food.

Note: The labelling provisions are set out in Division 1.

(4) If the country of origin information is displayed in connection with the food product when it is sold, the size of type must be:

(a) if the food product is in an refrigerated assisted service display cabinet—at least 5 mm; or

(b) otherwise—at least 9 mm.

Note: See also section 1.50.

1.119 Labelling requirements—packaged fresh fruit or vegetables

(1) This section applies to fresh fruit and vegetables (whether whole or cut) that are displayed for retail in a package that does not obscure the nature or quality of the food.

(2) For the labelling provisions, the country of origin information for a food product to which this section applies is a statement:

(a) identifying the country or countries of origin of the food; or

(b) indicating that the food is a mix of local and/or imported food.

Note: The labelling provisions are set out in Division 1.

1.120 Labelling requirements—packaged food other than fresh fruit or vegetables

(1) This section applies to a packaged food product other than one to which section 1.119 applies.

(2) For the labelling provisions, the country of origin information for a food product to which this section applies is:

(a) a statement identifying where the food was made or produced; or

(b) a statement:

(i) that identifies the country or countries where the food was made, manufactured or packaged for retail sale; and

(ii) to the effect that the food is constituted from ingredients imported into that country or from local and imported ingredients, as the case may be.

Note: The labelling provisions are set out in Division 1.

Part 4—Substances added to or present in food

Division 1—Outline of Part

1.121 Outline

This Part sets out the conditions for:

(a) the addition to a food of substances that are not normally consumed (see Division 2, Division 3 and Division 4); and

(b) the presence in a food of substances that are not normally consumed (see Division 5, Division 6, Division 7 and Division 10); and

(c) the use of novel foods (see Division 8); and

(d) the use of food produced by gene technology (see Division 9).

Division 2—Food additives

Note: Subsection 1.21(4) provides that a food product must not consist of, or have as an ingredient or a component, a substance that is used as a food additive, unless expressly permitted by this Division or by another provision of this Code. This Division defines ***used as a food additive*** and contains the relevant permissions.

1.122 Interpretation

Meaning of ***used as a food additive***

(1) For this Code, a substance is ***used as a food additive*** in relation to food if:

(a) it is a substance identified in subsection (2); and

(b) it is added to the food to perform 1 or more of the technological purposes listed in Schedule 14.

(2) For subsection (1), the substances are:

(a) any of the following:

(i) a substance that is listed in Schedule 15;

(ii) an additive permitted at GMP;

(iii) a colouring permitted at GMP;

(iv) a colouring permitted to a maximum level; and

(b) any substance that:

(i) has been extracted, refined, or synthesised; and

(ii) is not normally sold as a food product; and

(iii) is not normally used as an ingredient by consumers.

Other definitions

(3) In this Code:

additive permitted at GMP means a substance that is listed in section S16.01 of Schedule 16.

Note: See subsection 1.124(1).

colouring permitted at GMP means a substance that is listed in section S16.02 of Schedule 16.

Note: See subsection 1.124(1).

colouring permitted to a maximum level means a substance that is listed in section S16.03 of Schedule 16.

Note: See subsection 1.124(3).

Colours and their calcium lakes

(4) A reference to a colour listed in Schedule 15, a colouring permitted at GMP or a colouring permitted to a maximum level includes a

reference to the aluminium and calcium lakes prepared from that colour.

1.123 When food additives may be used as ingredients in foods

Listed food additives may be ingredients of a food

(1) A substance may be used as a food additive in relation to food if:
   (a) the substance is permitted to be used as a food additive for that food by Schedule 15; and
   (b) any restrictions on the use of that substance as a food additive set out in this Division or in Schedule 15 or Schedule 16 are complied with; and
   (c) the proportion of the substance is no more than required under GMP.

Carry-over of food additive

(2) A substance that is permitted for use as a food additive may be present in any food as a result of carry-over from a raw material or an ingredient if the level of the substance in the food is no greater than would be introduced by the use of the raw material or ingredient under proper technological conditions and GMP.

1.124 Maximum permitted levels of food additives in foods

(1) An additive permitted at GMP or a colouring permitted at GMP that is permitted to be used as a food additive by Schedule 15 may be present in the food as a result of use in accordance with GMP.

(2) If a substance is used as a food additive in a food, the level of the substance as a component of the food must comply with any limitation in Schedule 15 for a food of that kind.

(3) For a colouring permitted to a maximum level that is permitted to be used as a food additive by Schedule 15, the level of all such colours together in the food must be no more than:
   (a) in a beverage—70 mg/L; and
   (b) in another food—290 mg/kg.

(4) Unless the contrary intention appears, if a food is sold that is not normally consumed except after preparation in accordance with directions on the label, a limitation in Schedule 15 on the level of a substance that is used as a food additive in the food applies to the level of the substance in the food when prepared for consumption according to the directions.

(5) A substance permitted to be used as a food additive in a food may be added to an ingredient intended for use in the preparation of that food at a higher level than would otherwise be allowed, provided that the

level in the final food complies with the maximum permitted level in Schedule 15.

(6) For this Division:

(a) annatto and annatto extracts include norbixin and bixin, calculated as bixin;

(b) benzoic acid and its salts are calculated as benzoic acid;

(c) cyclamate and its salts are calculated as cyclohexyl-sulphamic acid;

(d) ethyl lauroyl arginate is calculated as ethyl-N^{α}-lauroyl-L-arginate.HCl;

(e) nitrates refers to the total of nitrates and nitrites, calculated as sodium nitrite;

(f) ferrocyanides are calculated as the total of sodium ferrocyanide and potassium ferrocyanide;

(g) propionic acid and its salts are calculated as propionic acid;

(h) saccharin and its calcium and sodium salts are calculated as saccharin;

(i) sorbic acid and its salts are calculated as sorbic acid;

(j) steviol glycosides are calculated as steviol equivalents in accordance with subsection (7);

(k) sulphur dioxide and sulphites, including bisulphites and metabisulphites, are calculated as sulphur dioxide.

(7) To calculate the steviol equivalent levels for a steviol glycoside, the following equation is used:

$$[SE] = CF \times [SG]$$

where:

CF is the conversion factor, as follows:

(a) dulcoside A—0.40;

(b) rebaudioside A—0.33;

(c) rebaudioside B—0.40;

(d) rebaudioside C—0.33;

(e) rebaudioside D—0.28;

(f) rebaudioside F—0.34;

(g) rubusoside—0.50;

(h) steviol—1.00;

(i) steviolbioside—0.50;

(j) stevioside—0.40.

[SG] is the concentration of individual steviol glycoside.

[SE] is the concentration as steviol equivalents.

1.125 Limitation on use of intense sweeteners

Unless Schedule 15 expressly provides otherwise, a substance that may be used as a food additive to perform the technological purpose of an intense sweetener may be added to a food only:

(a) as a flavour enhancer; or

(b) in an amount necessary to replace, either wholly or partially, the sweetness normally provided by sugars.

1.126 Food additives performing the same purpose

(1) If a food contains a mixture of substances that are used as food additives to perform the same technological purpose, the sum of the proportions of these substances in the food must not be more than 1.

(2) In this section:

sum of the proportions is calculated in accordance with the following formula:

$$sum\ of\ \ the\ \ proportions = \sum_{i=1}^{N} \frac{Conc_i}{MPL_i}$$

where:

$\boldsymbol{Conc_i}$ is the concentration of the i^{th} food additive in the food.

$\boldsymbol{MPL_i}$ is the maximum permitted level of the i^{th} food additive in the food.

$\boldsymbol{N}$ is the number of substances used as food additives in the food that perform the same technological purpose.

Division 3—Vitamins and minerals

Note 1: Subsection 1.21(3) provides that a food product must not consist of, or have as an ingredient or a component, a substance used as a nutritive substance unless expressly permitted by this Division or Part 6 or Part 9 of Chapter 2. This Division deals with vitamins and minerals used as nutritive substances.

Note 2: This Division relates generally to the use of vitamins and minerals as nutritive substances in foods and the claims which can be made about the vitamin and mineral content of foods. Provisions that relate to specific foods appear in other Divisions. See for example Division 1 of Part 1 of Chapter 2 (bread and bread products), Division 2 of Part 4 of Chapter 2 (edible oil spreads), Division 4 of Part 6 of Chapter 2 (formulated caffeinated beverages), Part 9 of Chapter 2 (special purpose foods), and Division 2 of Part 10 of Chapter 2 (salt and salt products).

1.127 Meaning of *reference quantity*

In this Code:

reference quantity means:

(a) for a food listed in the table to section S17.03 in Schedule 17, either:
  (i) the quantity specified in the table for that food; or
  (ii) for a food that requires dilution or reconstitution according to directions—the quantity of the food that, when diluted or reconstituted, produces the quantity referred to in subparagraph (i); or

(b) for all other foods:
  (i) a normal serving; or
  (ii) for a food that requires dilution, reconstitution, draining or preparation according to directions—the quantity of the food that, when diluted, reconstituted, drained or prepared produces a normal serving.

1.128 Listed vitamins and minerals may be used as nutritive substance in foods

A vitamin or mineral may be used as a nutritive substance in a food if:

(a) the vitamin or mineral is in a permitted form specified in section S17.01 or section S17.02 of Schedule 17; and

(b) the vitamin or mineral is listed in relation to that type of food in section S17.03 of Schedule 17; and

(c) the total amount of the naturally occurring and added vitamin or mineral present in a reference quantity of the food is no more than the amount (if any) specified in relation to that vitamin or mineral in section S17.03 of Schedule 17.

1.129 Claims in relation to vitamin and mineral content of foods

(1) This section applies if a vitamin or mineral has been used as a nutritive substance in a food listed in section S17.03 of Schedule 17.

(2) A claim must not be made that the proportion of the vitamin or mineral (including the amount added and the amount naturally present) in a reference quantity of the food is greater than the amount that is specified as the maximum claim per reference quantity of that vitamin or mineral in the table to section S17.03 of Schedule 17.

1.130 Calculation of maximum quantity of a vitamin or mineral which may be claimed in a reference quantity of food

(1) If:

(a) a food contains more than one ingredient; and

(b) at least one ingredient contains a vitamin or mineral that has been used as a nutritive substance in accordance with this Division;

the maximum claim permitted in relation to that vitamin or mineral in a reference quantity of the food is calculated in accordance with this section.

(2) First, the maximum quantity permitted to be claimed in a reference quantity of the food, $\boldsymbol{M_{rq}}$, is calculated using the following formula:

$$M_{rq} = Q_1 + Q_2 + ... + Q_i$$

where:

$\boldsymbol{Q_i}$, for a particular ingredient, is:

(a) for an unfortified ingredient—the average quantity of the vitamin or mineral present in the amount of the ingredient in a reference quantity of the food; and

(b) for a fortified ingredient—the maximum amount that may be claimed for that vitamin or mineral in the amount of the ingredient in a reference quantity of the food.

(3) Then, $\boldsymbol{M_{rq}}$ is rounded to the nearest 2 significant figures.

Division 4—Processing aids

Note: Subsection 1.21(4) provides that a food product must not consist of, or have as an ingredient or a component, a substance that is used as a processing aid, unless expressly permitted by this Division or by another provision of this Code. This Division defines what is meant by references to a substance that is ***used as a processing aid*** and more general references to a food that is ***used as a processing aid***, and contains the relevant permissions.

Subdivision A—Interpretation

1.131 Meaning of *used as a processing aid*

*References to substances that are **used as a processing aid***

(1) For this Code, a reference to a substance that is ***used as a processing aid*** in relation to a food is a reference to a substance that:

(a) is identified in subsection (3); and

(b) is added to food during the course of processing to perform a technological purpose; and

(c) does not perform a technological purpose listed in Schedule 14 in the processed food.

*References to foods that are **used as a processing aid***

(2) For this Code, a reference to a food that is ***used as a processing aid*** in relation to another food:

(a) is a reference to a food that:

(i) is not a substance identified in subsection (3); and

(ii) is added to the other food during the course of processing to perform a technological purpose; and

(iii) does not perform a technological purpose listed in Schedule 14 in the processed food; and

(b) is a reference to so much of the food as is necessary to perform the technological purpose.

Note 1: This Code does not regulate the use of foods as processing aids (other than foods that are substances referred to in subsection (3)). There are special labelling requirements that apply in relation to foods and substances that are used as processing aids—see paragraphs 1.59(d) and 1.59(e) and subparagraph 1.100(a)(vii).

Note 2: If a food is used as a processing aid in relation to another food, and the amount of the food used is greater than the amount that is necessary to perform the technological purpose, the excess amount of the food is not taken to be used as a processing aid in the other food.

(3) For subsections (1) and (2), the substances are the following:

(a) a substance that is listed in Schedule 18;

(b) an additive permitted at GMP.

Note: ‘additive permitted at GMP’ is a defined term—see section 1.122.

1.132 Permission to use substance as processing aid

A substance may be used as a processing aid in relation to food if:

(a) the substance is permitted to be used as processing aid for that food by this Division; and

(b) the proportion of the substance that is used is no more than the maximum level necessary to achieve the technological purpose under conditions of GMP.

Subdivision B—Processing aids that may be used with any food

1.133 Generally permitted processing aids for all foods

(1) A substance listed in subsection (2) may be used as a processing aid in any food if it is used at a level necessary to achieve a technological purpose in the processing of that food.

(2) For subsection (1), the foods and substances are:

(a) an additive permitted at GMP; or

(b) any substance listed in section S18.01 of Schedule 18.

1.134 Processing aids for certain purposes for all foods

A substance listed in section S18.02 of Schedule 18 may be used as a processing aid in any food, if the substance is:

(a) used to perform a technological purpose listed in relation to that substance; and

(b) not present in the food at a level greater than the maximum permitted level indicated in the corresponding row of the table.

Note: The purposes listed in section S18.02 are the following:

- anti-foaming;
- catalysis;
- decolouring, clarifying, filtering or adsorbing;
- desiccating;
- ion exchange;
- lubricating, releasing or anti-stick;
- a carrier, solvent or diluent.

1.135 Enzymes

An enzyme listed in section S18.03 of Schedule 18 may be used as a processing aid to perform any technological purpose if the enzyme is derived from the corresponding source specified in the table.

Note 1: Section S18.03 includes:

- enzymes of animal origin; and

- enzymes of plant origin; and
- enzymes of microbial origin.

Note 2: Some enzyme sources identified in section S18.03 are genetically modified sources. If an enzyme from such a source is used as a processing aid, the resulting food will have as an ingredient a food produced using gene technology, and the labelling and other requirements relating to foods produced using gene technology will apply—see Division 1 of Part 3 and Division 9 of Part 4.

1.136 Microbial nutrients and microbial nutrient adjuncts

A substance listed in section S18.04 of Schedule 18 may be used as a processing aid to perform the technological purpose of a microbial nutrient or a microbial nutrient adjunct in the course of manufacture of any food.

Subdivision C—Processing aids that can be used with specified foods

1.137 Processing aids for water

A substance listed in section S18.05 of Schedule 18 may be used as a processing aid in the course of manufacture of:

(a) packaged water; or

(b) water that is used as an ingredient;

if the substance is not present in the processed food at a level greater than the maximum permitted indicated in the corresponding row of the table.

Note: This section contains the permissions for fluoride to be used in water that is used as an ingredient in other foods, but not in water presented as a food. Division 2 of Part 6 of Chapter 2 contains a voluntary permission to add fluoride to water presented in packaged form.

1.138 Bleaching, washing and peeling agents—various foods

A substance listed in section S18.06 of Schedule 18 may be used as a processing aid to perform the technological purpose of:

(a) a bleaching agent; or

(b) a washing agent; or

(c) a peeling agent;

for a food if the substance:

(d) is used in relation to a food listed in the corresponding row of the table; and

(e) is not present in the food at a level greater than the maximum permitted indicated in the corresponding row of the table.

1.139 Extraction solvents—various foods

A substance listed in section S18.07 of Schedule 18 may be used as a processing aid to perform the technological purpose of an extraction solvent if the substance:

(a) is used in relation to a food listed in the corresponding row of the table; and

(b) is not present in the food at a level greater than the maximum permitted indicated in the corresponding row of the table.

1.140 Processing aids that perform miscellaneous functions

A substance specified in a row in the table to section S18.08 of Schedule 18 may be used as a processing aid:

(a) in relation to:

(i) if a food is specified in that row—that food; or

(ii) if no food is specified in that row—any food; and

(b) for the corresponding technological purpose specified in that row; and

(c) if the substance is not present in the food at a level greater than the maximum permitted level indicated in that row.

1.141 Microbial control agent—dimethyl dicarbonate

(1) Dimethyl dicarbonate may used as a processing aid to perform the technological purpose of a microbial control agent during the manufacture of a food listed in section S18.09 of Schedule 18 at a concentration no greater than the corresponding maximum permitted addition level indicated in the table.

(2) Dimethyl dicarbonate must not be present in the food.

Division 5—Contaminants and natural toxicants

Note: Subsection 1.21(6) provides that a food product must comply with any provisions of this Code relating to the composition of, or the presence of other substances in, food of that kind. This Division contains provisions relating to the presence of other substances in food.

1.142 Maximum levels of contaminants and natural toxicants in food

(1) The level of a contaminant or natural toxicant listed in section S19.03, S19.04, S19.05 or S19.06 in Schedule 19 in a food listed in relation to that contaminant or toxicant must not be greater than the corresponding amount listed in that Schedule.

Note: Schedule 19 sets out maximum levels of:

- metal contaminants; and
- non-metal contaminants; and
- natural toxicants from the addition of a flavouring substance; and
- natural toxicants.

(2) The level of mercury in fish, calculated in accordance with section S19.07 of Schedule 19, must comply with the requirements of subsection S19.07 or S19.07(1)(b)(ii), as appropriate.

(3) For a food consisting of 2 or more ingredients (a ***mixed food***), 1 or more of which is listed in Schedule 19, the level of a contaminant or toxicant listed in Schedule 19 in the mixed food must not be greater than the amount, ***ML***, given by the following formula:

$$ML = \frac{(MLA \times Total\ A)}{Total} + \frac{(MLB \times Total\ B)}{Total} + \frac{CF \times (Total - (Total\ A + Total\ B))}{Total}$$

where:

CF is:

(a) in the case lead—0.01 mg/kg; and

(b) in the case of cadmium—0.005 mg/kg; and

(c) in the case of any other contaminant or toxicant—0.

Note: *CF* is the Background Calculation Factor.

MLA is the maximum level of the contaminant or toxicant permitted in ingredient A in accordance with Schedule 19 (in mg/kg).

MLB is the maximum level of the contaminant or toxicant permitted in ingredient B in accordance with Schedule 19 (in mg/kg).

Total is the total weight of the mixed food (in g).

Total A is the total weight of ingredient A (in g).

Total B is the total weight of ingredient B (in g).

Division 6—Agvet chemicals

Note 1: Subsection 1.21(3) provides that a food product must not consist of, or have as an ingredient or a component, an agvet chemical, unless expressly permitted by this Division. This Division defines ***agvet chemical*** and contains the relevant permissions.

Note 2: This Division applies in Australia only. In New Zealand, maximum residue limits for agricultural compounds are set out in a Maximum Residue Limits Standard issued under section 11C of the *Food Act 1981* (NZ).

Note 3: This Division is the Maximum Residue Limits Standard for the purposes of the FSANZ Act.

1.143 Purpose of Division

(1) The purpose of this Division is to set out the maximum residue limits of agricultural or veterinary chemicals that are permitted in foods.

(2) These limits:

(a) have been determined by the amount of such chemicals that could be present in food when they are used at the minimum effective level and using Good Agricultural Practice (GAP); and

(b) have been determined after an assessment of the potential risk to public health and safety at that level.

1.144 Interpretation

(1) In this Code:

agvet chemical means an agricultural chemical product or a veterinary chemical product, within the meaning of the Agvet Code.

Note: The Agvet Code is the Code set out in the Schedule to the *Agricultural and Veterinary Chemicals Code Act 1994* (Cth). See subsection 4(1) of the FSANZ Act.

(2) Maximum residue limits and extraneous residue limits apply to the portion of foods specified in Schedule 22.

(3) Unless a maximum residue limit or extraneous limit is specified for a processed food, the same limit applies to both the processed and the unprocessed food.

(4) For this Division, a reference to a particular food is to the food as described in Schedule 22.

1.145 Maximum residue limit of agvet chemicals in foods

(1) In this Code:

maximum residue limit or ***MRL***, for an agvet chemical in a food, means the amount identified in Schedule 20 for that agvet chemical in that food.

Note: In Schedule 20:

- an asterisk (*) indicates that the MRL is set at the limit of determination; and
- the symbol 'T' indicates that the MRL is a temporary MRL.

(2) A food listed in Schedule 20 may contain a residue of an agvet chemical that is identified in relation to that food in that Schedule.

(3) The level of the residue of the chemical in the food must be calculated by assessing the level of:

(a) the chemical identified in Schedule 20; and

(b) any chemical identified in the relevant residue definition for that chemical in that Schedule;

that is present in the food.

(4) The level of the residue, calculated in accordance with subsection (3), must not be greater than the maximum residue limit.

(5) For a food for which there is no MRL specified, and that contains 2 or more ingredients (***a mixed food***), 1 or more of which is listed in Schedule 20, the level of a residue of a particular agvet chemical listed in Schedule 20 in the food must not be greater than the amount ***MRL*** calculated in accordance with the following formula:

$$MRL = \frac{Total\ A}{Total} \times MRL\ A + \frac{Total\ B}{Total} \times MRL\ B$$

where, for a particular residue:

MRL A and ***MRL B*** are the maximum residue limits for the residue in ingredient A and ingredient B respectively.

Total is the total weight of the food.

Total A and ***Total B*** are the weight of ingredient A and ingredient B respectively.

1.146 Extraneous residue limit

(1) In this Code:

extraneous residue limit or ***ERL***, for an agvet chemical in a food, means the amount identified in Schedule 21 for that agvet chemical in that food.

Note: In Schedule 21:

- an asterisk (*) indicates that the ERL is set at the limit of determination; and
- the symbol T indicates that the ERL is a temporary ERL; and
- the symbol E indicates an ERL.

(2) A food listed in Schedule 21 may contain a residue of an agvet chemical that is identified in relation to that food in that Schedule.

(3) The presence of the chemical in the food must arise from environmental sources, and must not arise from direct or indirect use of an agvet chemical.

(4) The level of the residue of the chemical in the food must be calculated by assessing the level of

(a) the chemical identified in Schedule 21; and

(b) any chemical identified in the relevant residue definition for that chemical in that Schedule;

that is present in the food.

(5) The level of the residue, calculated in accordance with subsection (4), must not be greater than the extraneous residue limit.

(6) For a food for which there is no ERL specified, and that contains 2 or more ingredients (***a mixed food***), 1 or more of which is listed in Schedule 21, the level of a residue of a particular agvet chemical listed in Schedule 21 in the food must not be greater than the amount ***ERL*** calculated in accordance with the following formula:

$$ERL = \frac{Total\ A}{Total} \times ERL\ A + \frac{Total\ B}{Total} \times ERL\ B$$

where, for a particular residue:

ERL A and ***ERL B*** are the extraneous residue limits for the residue in ingredient A and ingredient B respectively.

Total is the total weight of the food.

Total A and ***Total B*** are the weight of ingredient A and ingredient B respectively.

Division 7—Prohibited and restricted plants and fungi

Note: Subsection 1.21(3) provides that a food product must not consist of, or have as an ingredient or a component, a prohibited or restricted plant or fungus, or cocoa bush, unless expressly permitted by this Division. This Division defines ***prohibited plant or fungus***, ***restricted plant or fungus*** and ***coca bush***, and contains the relevant permissions.

1.147 Interpretation

In this Code:

coca bush means:

(a) *eurythroxylum coca*; or

(b) a substance derived from *eurythroxylum coca*.

prohibited plant or fungus means:

(a) a plant or fungus listed in Schedule 23; or

(b) a part or a derivative of such a plant or fungus; or

(c) a substance derived from a plant, fungus, part or derivative referred to in paragraph (a) or (b).

restricted plant or fungus means:

(a) a plant or fungus listed in Schedule 24; or

(b) a part or a derivative of such a plant or fungus; or

(c) a substance derived from a plant, fungus, part or derivative referred to in paragraph (a) or (b).

1.148 Exception to prohibition relating to prohibited plants and fungi

Subsection 1.21(3) does not apply to a prohibited plant or fungus that was unintentionally sold or used as an ingredient in a food.

1.149 Exception to prohibition relating to restricted plants and fungi

A restricted plant or fungus may be used as an ingredient in a food only if it complies with the requirements for natural toxicants from the addition of a flavouring substance in section 1.142 and section S19.05 of Schedule 19.

1.150 Exception relating to coca bush

Coca bush may be used as an ingredient in a food if the cocaine has been removed.

Division 8—Novel foods

Note: Subsection 1.21(3) provides that a food product must not consist of, or have as an ingredient or a component, a novel food, if the food product is offered for retail sale, unless expressly permitted by this Division. This Division defines ***novel food*** and contains the relevant permissions.

1.151 Definitions

In this Code:

non-traditional food means:

(a) a food that does not have a history of human consumption in Australia or New Zealand; or

(b) a substance derived from a food, where that substance does not have a history of human consumption in Australia or New Zealand other than as a component of that food; or

(c) any other substance, where that substance, or the source from which it is derived, does not have a history of human consumption as a food in Australia or New Zealand.

novel food means a non-traditional food that requires an assessment of the public health and safety considerations having regard to:

(a) the potential for adverse effects in humans; or

(b) the composition or structure of the food; or

(c) the process by which the food has been prepared; or

(d) the source from which it is derived; or

(e) patterns and levels of consumption of the food; or

(f) any other relevant matters.

Note: Possible categories of novel foods are described in guidelines issued by FSANZ. Categories of novel foods may include, but are not limited to, the following:

- plants or animals and their components;
- plant or animal extracts;
- herbs, including extracts;
- dietary macro-components;
- single chemical entities;
- microorganisms, including probiotics;
- foods produced from new sources, or by a process not previously applied to food.

1.152 Sale of novel foods

Despite subsection 1.21(3), a food product offered for retail sale may consist of, or have as an ingredient, a novel food if:

(a) the novel food is listed in the table to section S25.01 of Schedule 25; and

(b) any conditions of use specified in the corresponding row of that table are complied with.

1.153 Exclusive use of novel foods

Despite subsection 1.21(3), a food product may consist of, or have as an ingredient, a novel food listed in column 1 of the table to section S25.02 of Schedule 25 if:

(a) the food product is sold under the brand listed in the corresponding row of column 2 of the table; and

(b) the food product falls within the class of food listed in the corresponding row of column 3 of the table; and

(c) any conditions of use listed in the corresponding row of column 4 are complied with.

Note: No novel foods are currently listed in the table to section S25.02 of Schedule 25.

Division 9—Food produced using gene technology

Note: Subsection 1.21(3) provides that a food product must not consist of, or have as an ingredient or a component, a food produced using gene technology, unless expressly permitted by this Division. This Division defines ***food produced using gene technology*** and contains the relevant permissions.

1.154 Definitions

In this Code:

altered characteristics: a food produced using gene technology is taken to have altered characteristics if:

(a) the genetic modification has resulted in one or more significant composition or nutritional parameters having values outside the normal range of values for existing counterpart food not produced using gene technology; or

(b) the level of anti-nutritional factors or natural toxicants are significantly different in comparison to the existing counterpart food not produced using gene technology; or

(c) the food produced using gene technology contains a new factor known to cause an allergic response in particular sections of the population; or

(d) the intended use of the food produced using gene technology is different to the existing counterpart food not produced using gene technology.

food produced using gene technology means a food which has been derived or developed from an organism which has been modified by gene technology.

Note: This definition does not include food derived from an animal or other organism which has been fed food produced using gene technology, unless the animal or other organism is itself a product of gene technology.

gene technology means recombinant DNA techniques that alter the heritable genetic material of living cells or organisms.

1.155 When food produced using gene technology is permitted for sale

A food product may consist of, or have as an ingredient, a food produced using gene technology if the food produced using gene technology:

(a) is listed in Schedule 26 and complies with any corresponding conditions listed in that Schedule; or

(b) is a substance that is permitted for use as a food additive or as a processing aid by Division 2 or Division 4.

1.156 Requirement to label food as 'genetically modified food'

(1) This section applies to a food product that consists of or has as an ingredient a food produced using gene technology that:
  (a) contains novel DNA or novel protein; or
  (b) has altered characteristics.

(2) This section does not apply to a food product if:
  (a) both of the following are satisfied:
    (i) the food produced using gene technology does not have altered characteristics;
    (ii) the food has been refined so that the novel DNA or protein has been removed; or
  (b) both of the following are satisfied:
    (i) the food produced using gene technology is a substance that is permitted to be used as a processing aid or as a food additive in accordance with this Code;
    (ii) no novel DNA or novel protein from the substance remains present in the food; or
  (c) the food produced using gene technology is a flavouring substance that is present in the food in a concentration of no more than 1 g of flavouring/kg of food; or
  (d) the food produced using gene technology is an ingredient that is:
    (i) unintentionally present in the food; and
    (ii) present in a quantity of no more than 10 g of each such ingredient/kg of food; or
  (e) the food is:
    (i) intended for immediate consumption; and
    (ii) prepared and sold from food premises and vending vehicles, including restaurants, take away outlets, caterers, or self-catering institutions.

(3) For the labelling provisions, the information relating to foods produced using gene technology is:
  (a) the statement 'genetically modified'; and
  (b) in conjunction with that statement, the name of the food or any food produced using gene technology that is an ingredient of the food.

  Note: The labelling provisions are set out in Division 1 of Part 3.

(4) If the food produced using gene technology is an ingredient, the information may be included in the statement of ingredients.

  Example: Ingredients: Soy Protein Isolate (genetically modified); Maltodextrin; Vegetable Oil; Food Acid (332); Emulsifier (471); Vegetable Gum (407); Water Added.

(5) To avoid doubt, if this section does not apply to a food product, this Code does not require any statement about the genetic status of the food.

(6) In this section:

novel DNA means DNA which has been modified by the use of gene technology.

novel protein means protein encoded from novel DNA and, in the case of a substances used as a processing aid, which has a different amino acid sequence from that found in nature.

Division 10—Microbiological limits for food

Note: Subsection 1.21(6) provides that a food product must comply with any provisions of this Code relating to the composition of, or the presence of other substances in, food of that kind. This Division contains provisions relating to the presence of other substances in food.

1.157 Interpretation

(1) In this Division:

SPC means a standard plate count at 30°C with an incubation time of 72 hours.

(2) In this Division, references to the SPC for powdered infant formula with added lactic acid producing microorganisms are to the SPC prior to the addition of the microorganisms to the food.

1.158 Maximum microbiological levels in foods

A food listed in the table to Schedule 27 may contain a microorganism listed in relation to the food in column 1 only if either:

(a) the number of sample units having an activity greater than that listed in the corresponding row of column 4 is no greater than the number listed in the corresponding row of column 3; or

(b) the level of the microorganism in any of the sample units is no greater than the number (if any) listed in the corresponding row of column 5.

1.159 Assessment of microbiological levels

(1) Microbiological levels in food referred to in section 1.158 must be assessed in accordance with this section.

(2) For a particular lot of a food listed in column 1 of the table to Schedule 27, the number of sample units analysed must be the number of sample units set out in the corresponding row of column 2.

(3) Despite subsection (2), if the food product is the subject of a consumer complaint or a suspected food poisoning incident, an authorised officer may take or otherwise sample fewer sample units than the number referred to in that subsection.

(4) An authorised officer who takes or otherwise obtains a sample of food for the purpose of submitting it for microbiological analysis:

(a) must not divide that sample into separate parts; and

(b) where the sample consists of one or more sealed packages of a kind ordinarily sold by retail—must submit for such analysis that sample in that package or those packages in an unopened and intact condition.

(5) The level of foodborne microorganisms must be determined using:

(a) for packaged water, packaged ice or mineral water—AS/NZS 4276, as in force as at the commencement of this Code; or

(b) otherwise:

(i) an equivalent method as determined by AS 5013, as in force at the commencement of this Code; or

(ii) AS/NZS 4659, as in force at the commencement of this Code.

Part 5—Processing requirements

Division 1—Irradiation of food

Note: Subsection 1.21(3) provides that a food product must not consist of, or have as an ingredient or a component, a food that has been irradiated, unless expressly permitted by this Division. Subdivision B of this Division contains the relevant permissions.

Subsection 1.24(2) provides that, if this Code sets requirements for record-keeping in relation to food, those requirements must be complied with. Subdivision C contains such requirements.

Subdivision A—Preliminary

1.160 Definitions

In this Code:

irradiation, in relation to food, means subjecting the food to ionising radiation, other than ionising radiation imparted to food by measuring or inspection instruments, and ***irradiate*** and ***irradiated*** have corresponding meanings.

Subdivision B—Irradiation of food

1.161 Irradiation of fruit and vegetables

(1) Fruit and vegetables listed in subsection (2) may be irradiated for the purpose of pest disinfestation for a phytosanitory objective, if the absorbed dose is:
  (a) no lower than 150 Gy; and
  (b) no higher than 1 kGy.

(2) For subsection (1), the fruit and vegetables are:
  (a) bread fruit;
  (b) carambola;
  (c) custard apple;
  (d) longan;
  (e) litchi;
  (f) mango;
  (g) mangosteen;
  (h) papaya (paw paw);
  (i) persimmon;
  (j) rambutan.

1.162 Irradiation of herbs and spices

(1) Herbs and spices may be irradiated for the purpose of controlling sprouting and pest disinfestation, including the control of weeds, if the absorbed dose is no higher than 6 kGy.

(2) Herbs and spices may be irradiated for the purpose of bacterial decontamination, if the absorbed dose is:
   (a) no lower than 2 kGy; and
   (b) no higher than 30 kGy.

(3) In this section:

herbs and spices means the herbs and spices described in Schedule 22.

1.163 Irradiation of herbal infusions

(1) A herbal infusion may be irradiated for the purpose of controlling sprouting and pest disinfestation, including the control of weeds, if the absorbed dose is no higher than 6 kGy.

(2) A herbal infusion may be irradiated for the purpose of bacterial decontamination, if the absorbed dose is:
   (a) no lower than 2 kGy; and
   (b) no higher than 10 kGy.

(3) In this section:

herbal infusion means fresh, dried or fermented leaves, flowers and other parts of plants used to make beverages, but does not include tea.

1.164 Re-irradiation of food

Food that has been irradiated may be re-irradiated if any of the following conditions are met:
   (a) the food is prepared from materials that have been irradiated at levels that do not exceed 1 kGy; or
   (b) the food contains less than 50 g/kg of irradiated ingredients; or
   (c) the required full dose of ionising radiation was applied to the food in divided doses for a specific technological reason.

1.165 What sources of radiation may be used?

Food may be irradiated in accordance with this Subdivision using any of the following forms of ionising radiation:
   (a) gamma rays from the radionuclide cobalt 60;
   (b) X-rays generated by or from machine sources operated at an energy level not exceeding 5 megaelectronvolts;

(c) electrons generated by or from machine sources operated at an energy level not exceeding 10 megaelectronvolts.

Subdivision C—Record-keeping for and labelling of irradiated food

1.166 Record-keeping

(1) A person who irradiates food must keep records in relation to:
- (a) the nature and quantity of the food treated; and
- (b) the lot identification; and
- (c) the minimum durable life of the food treated; and
- (d) the process used; and
- (e) compliance with the process used; and
- (f) the minimum and maximum dose absorbed by the food; and
- (g) an indication whether or not the product has been irradiated previously and if so, details of such treatment; and
- (h) the date of irradiation.

(2) The records must be kept at the facility where the food was irradiated.

(3) The records must be kept for a period of time that exceeds the minimum durable life of the irradiated food by 1 year.

1.167 Labelling and other information—retail and catering

For the labelling provisions, the information relating to irradiated foods is:
- (a) if the food has been irradiated—a statement to the effect that the food has been treated with ionising radiation; and
- (b) if the food has as an ingredient or component a food that has been irradiated—a statement to the effect that the ingredient or component has been treated with ionising radiation.

Note 1: The labelling provisions are set out in Division 1 of Part 3.

Note 2: For paragraph (b), the statement may be on the statement of ingredients or elsewhere on the label.

Division 2—Processing requirements for meat

Note: This Division applies in Australia only. For New Zealand purposes, processing requirements for meat products are regulated under the *Animal Products Act 1999* (NZ) and the *Food Act 1981* (NZ).

1.168 Crocodile meat

(1) In this section:

crocodile meat means the skeletal muscle of the family *Crocodylidae* including any attached fat, connective tissue, nerve, blood and blood vessels, but does not include head meat.

(2) Crocodile meat must be derived from farmed animals and be handled in accordance with and under the conditions specified in the Standing Committee on Agriculture's *Australian Code of Practice for Veterinary Public Health: The Hygienic Production of Crocodile Meat for Human Consumption*, 1993, published by the Commonwealth Scientific and Industrial Research Organisation.

(3) A person must not sell as food any part of the carcass of the family *Crocodylidae* that is not crocodile meat.

1.169 Game meat

(1) Game meat, except game birds, must be obtained:
  (a) from a game carcass that has been subjected to a post mortem inspection that is conducted in accordance with relevant State or Territory law; or
  (b) in accordance with a quality assurance program that:
    (i) is conducted in accordance with relevant State or Territory law; and
    (ii) is designed to ensure that the game meat is fit for human consumption.

(2) A food product must not consist of, or have as an ingredient, game meat offal, other than bone or cartilage attached to game meat flesh.

(3) In this section:

game meat means the whole or part of the carcass of any bird, buffalo, camel, deer, donkey, goat, hare, horse, kangaroo, rabbit, pig, possum or wallaby that has been slaughtered in the wild state, but does not include avian eggs, foetuses, parts of foetuses or pouch young.

game meat flesh means skeletal game meat muscle, including any attached fat, connective tissue, nerve, blood, blood vessels and, in the case of birds, skin.

game offal means game meat other than game meat flesh.

1.170 Fermented comminuted processed meat

(1) Fermented comminuted processed meat is heat treated if it has had its core temperature maintained at 55°C for a period of at least 20 minutes, or an equivalent combination of time and higher temperature.

(2) Fermented comminuted processed meat is cooked if it has had its core temperature maintained at 65°C for a period of at least 10 minutes, or an equivalent combination of time and higher temperature.

(3) A fermented comminuted processed meat product must not contain mechanically separated meat or rendered trimmings unless it has been cooked in accordance with subsection (2).

(4) In this section:

mechanically separated meat means meat that has been separated from bone by a mechanical process that results in comminuted meat.

rendered trimmings means the cooked meat fractions derived from the rendering of meat trimmings, excluding ligamentum nuchae.

Division 3—Articles and materials in contact with food

1.171 Restriction on things in contact with food products

A food product must not be sold if it is contained in packaging, or is in contact with an article or with material, that, if taken into the mouth:

(a) is capable of being swallowed or obstructing any alimentary or respiratory passage; or

(b) is otherwise likely to cause bodily harm, distress or discomfort.

Example: Articles or materials include moisture absorbers, mould inhibitors, oxygen absorbers, promotional materials, writing or other graphics.

Chapter 2—Food standards

Part 1—Cereals

Division 1—Bread and bread products

2.01 Compositional requirements for bread

(1) A food that is sold on the basis of a representation that it is 'bread', must consist of:

(a) bread; or

(b) bread with the addition of other ingredients.

(2) In this section:

bread means a food made by baking a yeast-leavened dough prepared from one or more cereal flours or meals and water.

Note: Under section 1.06, ***bread*** is defined for the rest of this Code as a food that may be sold as bread under this section.

2.02 Compositional requirements for wholemeal and wholegrain products

(1) A food that is sold on the basis of a representation that it consists of, or is made from:

(a) 'wholemeal'; or

(b) 'wholegrain';

must consist of, or have as an ingredient, wholemeal or wholegrain as appropriate.

(2) In this section:

wholegrain means the intact grain or the dehulled, ground, milled, cracked or flaked grain where the constituents—endosperm, germ and bran—are present in such proportions that represent the typical ratio of those fractions occurring in the whole cereal, and includes wholemeal.

wholemeal means the product containing all the milled constituents of the grain in such proportions that it represents the typical ratio of those fractions occurring in the whole cereal.

Note: Under section 1.06, ***wholemeal*** and ***wholegrain*** are defined for the rest of this Code as a food that may be sold as wholemeal or wholegrain under this section.

2.03 Application of sections 2.04 and 2.05

Sections 2.04 and 2.05 do not apply to:

(a) the following foods, or to wheat flour used to make those products:
  (i) pizza bases;
  (ii) breadcrumbs;
  (iii) pastries;
  (iv) cakes, including brioche, panettone and stollen;
  (v) biscuits;
  (vi) crackers; or

(b) bread that is represented as organic.

2.04 Requirement for folic acid and thiamin in bread

Note: This section applies in Australia only.

(1) Wheat flour that is sold on the basis of a representation that it is suitable for making bread to which this section applies must contain:
  (a) no less than 2 mg/kg, and no more than 3 mg/kg, of folic acid; and
  (b) no less than 6.4 mg/kg thiamin.

(2) In this section:

wheat flour includes wholemeal wheat flour.

2.05 Requirement for iodised salt in bread

(1) Iodised salt must be used for making bread to which this section applies where salt would ordinarily be used.

(2) This section does not prevent:
  (a) the addition of salt other than iodised salt to the surface of bread; or

    Example: the addition of rock salt

  (b) the addition of other food containing salt other than iodised salt during the making of bread.

Part 2—Meat, eggs and fish

Division 1—Meat and meat products

Subdivision A—Interpretation

2.06 Definitions

In this Code:

cured and/or dried meat flesh in whole cuts or pieces means meat flesh including any attached bone containing no less than 160 g/kg meat protein on a fat free basis.

manufactured meat means processed meat containing no less than 660 g/kg of meat.

meat:

(a) means the whole or part of the carcass of any of the following animals, if slaughtered other than in a wild state:
  (i) buffalo, camel, cattle, deer, goat, hare, pig, poultry, rabbit or sheep;
  (ii) any other animal permitted for human consumption under a law of a State, Territory or New Zealand; and

(b) does not include:
  (i) fish; or
  (ii) avian eggs; or
  (iii) foetuses or part of foetuses.

meat flesh means meat that consists of skeletal muscle and any attached:

(a) animal rind; or
(b) fat; or
(c) connective tissue; or
(d) nerve; or
(e) blood; or
(f) blood vessels; or
(g) skin, in the case of poultry.

offal:

(a) includes blood, brain, heart, kidney, liver, pancreas, spleen, thymus, tongue and tripe; and
(b) excludes meat flesh, bone and bone marrow.

processed meat means a food containing no less than 300 g/kg meat, which has, either singly or in combination with other ingredients or

additives, undergone a method of processing other than boning, slicing, dicing, mincing or freezing.

Subdivision B—Compositional requirements

2.07 Compositional requirement for sausage

(1) A food that is sold on the basis of a representation that it is 'sausage' must:

(a) consist of sausage; and

(b) contain no less than 500 g/kg of fat free meat flesh; and

(c) have a proportion of fat that is no more than 500 g/kg of the fat free meat flesh content.

(2) In this section:

sausage:

(a) means meat that has been minced, meat that has been comminuted, or a mixture of both, whether or not mixed with other ingredients, and which has been encased or formed into discrete units; and

(b) does not include meat formed or joined into the semblance of cuts of meat.

Note: Under section 1.06, ***sausage*** is defined for the rest of this Code as a food that may be sold as sausage under this section.

2.08 Compositional requirement for meat pies

(1) A food that is sold on the basis of a representation that it is a 'meat pie' must consist of a meat pie.

(2) In this section:

meat pie means a pie containing no less than 250 g/kg of meat flesh.

Note: Under section 1.06, ***meat pie*** is defined for the rest of this Code as a food that may be sold as meat pie under this section.

Subdivision C—Information requirements

2.09 Statement indicating the presence of offal

For the labelling provisions:

(a) brain, heart, kidney, liver, tongue or tripe must be identified as:

(i) 'offal'; or

(ii) by the specific name of the type of offal; and

(b) any other type of offal must be identified by the specific name of the type of offal.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

2.10 Proportion of fat in minced meat

For the labelling provisions, a statement of the maximum proportion of fat in minced meat, in g/100 g, is required if a claim is made in relation to the fat content of minced meat.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

2.11 Information about raw meat joined or formed into the semblance of a cut of meat

For the labelling provisions, for a food that consists of raw meat that has been formed or joined in the semblance of a cut of meat, whether coated or not, using a binding system without the application of heat, the following information is required:

(a) a declaration that the food consists of meat that is formed or joined; and

(b) in conjunction with that information, cooking instructions that would result in microbiological safety of the food being achieved.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

2.12 Labelling of fermented comminuted processed meat

(1) The prescribed name for fermented comminuted processed meat is:

(a) if the meat has not been heat treated or cooked—'fermented processed meat – not heat treated'; and

(b) if the meat has been heat treated—'fermented processed meat – heat treated'; and

(c) if the meat has been cooked—'fermented processed meat – cooked'.

(2) For the labelling provisions, if the label on a package containing fermented comminuted processed meat contains a trade name, the following words are required to be included on the label in association with the trade name:

(a) if the meat has not been heat treated or cooked—'fermented';

(b) if the meat has been heat treated—'fermented heat treated';

(c) if the meat has been cooked—'fermented cooked'.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(3) The labelling on a package referred to in subsection (1) or (2) may refer to a heating process only if:

(a) the reference is included for compliance with this section; or

(b) the heating process is a cooking instruction for the consumer.

2.13 Labelling of fermented comminuted manufactured meat

(1) The prescribed name for fermented comminuted manufactured meat is:

(a) if the meat is not heat treated or cooked—'fermented manufactured meat – not heat treated'; and

(b) if the meat has been heat treated—'fermented manufactured meat – heat treated'; and

(c) if the meat has been cooked—'fermented manufactured meat – cooked'.

(2) For the labelling provisions, if the label on a package containing fermented comminuted manufactured meat contains a trade name, the following words are required to be included in association with the trade name:

(a) if the meat has not been heat treated or cooked—'fermented';

(b) if the meat has been heat treated—'fermented heat treated';

(c) if the meat has been cooked—'fermented cooked'.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(3) The labelling may refer to a heating process only if:

(a) the reference is included for compliance with this section; or

(b) the heating process is a cooking instruction for the consumer.

2.14 Fermented comminuted meat—unpackaged

For the labelling provisions, despite paragraphs 2.12(1)(a) and 2.13(1)(a), the words 'not heat treated' need not be displayed.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

Subdivision D—Sourcing requirements

2.15 Bovine must be free from bovine spongiform encephalopathy

(1) Bovine meat, and ingredients derived from bovines, must be derived from animals free from bovine spongiform encephalopathy.

(2) Subsection (1) does not apply to:

(a) collagen from bovine skins and hides (including sausage casings produced from this type of collagen); or

(b) bovine fat or bovine tallow that:

(i) is an ingredient of a food; and

(ii) comprises no more than 300 g/kg of the food; or

(c) gelatine sourced from bovine skins or hides; or

(d) dairy products sourced from bovines.

Note: Section 2.15 applies in Australia only. Bovine products imported for sale in New Zealand are regulated by the New Zealand *Food (Prescribed Foods) Standard 2007* (NZ) and associated import requirements.

Division 2—Eggs

Note: This Division applies in Australia only.

2.16 Application of Division

This Division applies to retail sales and catering sales of eggs.

2.17 Sale or supply of unacceptable eggs

(1) Unacceptable eggs must not be sold or supplied for catering purposes or retail sale.

(2) In this section:

unacceptable egg—see clause 2 of Standard 4.2.5.

2.18 Traceability

Eggs intended for retail sale or catering sale must be individually marked with the producers' or processors' unique identification.

Division 3—Fish and fish products

2.19 Meaning of *fish*

In this Code:

fish means a cold-blooded aquatic vertebrate or aquatic invertebrate including shellfish, but not including amphibians or reptiles.

Note 1: This Division does not define specific names for fish. An Australian Fish Names Standard (AS SSA 5300) has been published which provides guidance on standard fish names to be used in Australia.

1. Hard copies of the Australian Fish Names Standard (AS SSA 5300) are available from Seafood Services Australia at http://www.seafood.net.au/shop.
2. A searchable database of Australian Standard Fish Names is available at http://www.fishnames.com.au.
3. New Zealand common, Maori, and scientific names for fish species are available from the website of the Ministry of Agriculture and Forestry at http://www.foodsafety.govt.nz/industry/sectors/seafood/fish-names/index.htm.

Note 2: Section 1.142 and section S19.06 of Schedule 19 prescribes the maximum level of histamine permitted in fish and fish products.

2.20 Labelling of formed or joined fish

For the labelling provisions, for a food that consists of raw fish that has been formed or joined in the semblance of a cut or fillet of fish using a binding system without the application of heat, whether coated or not, the following information is required:

(a) a declaration that the food is either formed or joined;

(b) in conjunction with that declaration, cooking instructions that would result in microbiological safety of the food being achieved.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

Part 3—Fruit and vegetables

Division 1—Fruit and vegetables

2.21 Meaning of fruit and vegetables

In this Code:

fruit and vegetables includes nuts, spices, herbs, fungi, legumes and seeds.

surface treated fruit and vegetables means fruit and vegetables harvested, washed and treated with substances permitted for use as processing aids and food additives.

2.22 Compositional requirement for fruit and vegetables in brine, etc

(1) A food consisting of fruit and vegetables in brine, oil, vinegar or water must not have a pH greater than 4.6.

(2) Subsection (1) does not apply to commercially canned fruit and vegetables.

Division 2—Jam

2.23 Compositional requirement for jam

(1) A food that is sold on the basis of a representation that it is 'jam' must:

(a) consist of jam; and

(b) contain no less than 650 g/kg of water-soluble solids; and

(c) if the name of one or more fruits appears on the label—be made from no less than 400 g/kg of those fruits.

(2) In this section:

jam:

(a) means the product prepared by processing fruit with one or more of the following:

(i) concentrated fruit juice;

(ii) fruit;

(iii) fruit juice;

(iv) sugars or honey;

(v) water extracts of fruit; and

(b) includes conserve; and

(c) does not include marmalade.

Note: Under section 1.06, ***jam*** is defined for the rest of this Code as a food that may be sold as jam under this section.

Part 4—Edible oils

Division 1—Edible oils

2.24 Compositional requirement for edible oils

(1) A food that is sold on the basis of a representation that it is an edible oil must consist of:

(a) edible oil; or

(b) edible oil with incidental amounts of free fatty acids, unsaponifiable constituents and other lipids including naturally occurring gums, waxes and phosphatides.

(2) A representation that a food is a particular kind of edible oil is taken to be a representation that it is an edible oil.

(3) In this section:

edible oil means the triglycerides, diglycerides, or both the triglycerides and diglycerides of fatty acids of plant or animal origin, including aquatic plants and aquatic animals.

Note: Under section 1.06, ***edible oil*** is defined for the rest of this Code as a food that may be sold as edible oil under this section.

2.25 Process declaration for edible oils

For the labelling provisions, if:

(a) a food consists of, or has as an ingredient, an edible oil; and

(b) the label lists the specific source name of the oil; and

(c) the oil has undergone a process that has altered its fatty acid composition;

the required process declaration is a statement that describes the nature of that process.

Note 1: An example of a process that alters the fatty acid composition of fatty acids in edible oil is the process of hydrogenation.

Note 2: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

Division 2—Edible oil spreads

2.26 Compositional requirement for edible oil spreads and margarine

Compositional requirement for edible oil spreads

(1) A food that is sold on the basis of a representation that it is an edible oil spread must consist of:
  (a) edible oil spread; or
  (b) edible oil spread with the addition of any of the following:
    (i) water;
    (ii) edible proteins;
    (iii) salt;
    (iv) lactic acid producing microorganisms;
    (v) flavour producing microorganisms;
    (vi) milk products;
    (vii) no more than 82 g/kg of total plant sterol equivalents content.

Compositional requirement for table edible oil spreads

(2) A food that is sold on the basis of a representation that it is a 'table' edible oil spread must:
  (a) satisfy subsection (1); and
  (b) contain no less than 55 μg/kg of vitamin D.

Compositional requirement for margarine

(3) A food that is sold on the basis of a representation that it is 'margarine' must:
  (a) satisfy subsection (1); and
  (b) contain no less than 800g/kg of edible oils.

Compositional requirement for table margarine

(4) A food that is sold on the basis of a representation that it is 'table margarine' must:
  (a) satisfy subsection (3); and
  (b) contain no less than 55 μg/kg of vitamin D.

Application of section to New Zealand

(5) Subsections (2) and (4) do not apply to sales in New Zealand.

Interpretation

(6) In this section:

edible oil spread means a spreadable food composed of edible oils and water in the form of an emulsion of the type water-in-oil.

Note: Under section 1.06, ***edible oil spread*** is defined for the rest of this Code as a food that may be sold as edible oil spread under this section.

Part 5—Dairy products

Note: The Australian processing requirements for dairy products are contained in Standard 4.2.4. New Zealand has its own processing requirements for dairy products.

Division 1—Milk

Note: In Australia, milk must be processed in accordance with Standard 4.2.4.

2.27 Compositional requirement for milk

(1) A food that is sold on the basis of a representation that it is 'milk' must consist of:
  (a) milk; or
  (b) milk with the addition of phytosterols, phytostanols and their esters in accordance with this Division.

(2) In this section:

milk means the mammary secretion of milking animals, obtained from one or more milkings for consumption as liquid milk or for further processing but excluding colostrum.

Note: Under section 1.06, ***milk*** is defined for the rest of this Code as a food that may be sold as milk under this section.

2.28 Compositional requirement for cow's milk

(1) This section applies to retail sales.

(2) A food that is sold on the basis of a representation that it is 'cow's milk' must:
  (a) consist of milk from cows, or of such milk altered in accordance with this section; and
  (b) contain:
    (i) no less than 32 g/kg of milkfat; and
    (ii) no less than 30 g/kg of protein (measured as crude protein).

(3) The composition of the food may be altered by the addition or withdrawal of cow's milk components in order to comply with this section.

(4) However, the alterations must not result in the whey protein to casein ratio of the food being altered.

2.29 Composition of skim milk

(1) A food that is sold on the basis of a representation that it is 'skim milk' must:
  (a) consist of skim milk; and

(b) contain no more than 1.5 g/kg of milkfat; and

(c) in the case of skim milk derived from cow's milk—contain no less than 30 g/kg of protein (measured as crude protein).

(2) In this section:

skim milk means milk from which milkfat has been removed.

Note: Under section 1.06, ***skim milk*** is defined for the rest of this Code as a food that may be sold as skim milk under this section.

2.30 Addition of phytosterols, phytostanols and their esters to milk

Phytosterols, phytostanols and their esters may be added to milk only if:

(a) the milk contains no more than 1.5 g total fat/100 g; and

(b) the total plant sterol equivalents content is no less than 3 g/L of milk and no more than 4 g/L of milk.

Division 2—Cream

2.31 Compositional requirement for cream

(1) A food that is sold on the basis of a representation that it is 'cream' must:

(a) consist of cream; and

(b) contain no less than 350 g/kg of milkfat.

(2) Subject to subsection (1), the composition of cream that is obtained by the separation from milk may be altered by the addition of milk products obtained from milk.

(3) In this section:

cream means a milk product comparatively rich in fat, in the form of an emulsion of fat-in-skim milk, which can be obtained by separation from milk.

Note: Under section 1.06, ***cream*** is defined for the rest of this Code as a food that may be sold as cream under this section.

Division 3—Fermented milk products

2.32 Compositional requirement for fermented milk and yoghurt

(1) A food that is sold on the basis of a representation that it is 'fermented milk' or 'yoghurt' must:

(a) consist of fermented milk or yoghurt as appropriate, or of fermented milk or yoghurt with the addition of other ingredients; and

(b) have a pH of no more than 4.5; and

(c) have no less than 10^6 cfu/g microorganisms used in the fermentation; and

(d) contain no less than 30 g/kg protein (measured as crude protein).

(2) If a food contains fermented milk or yoghurt as an ingredient, that ingredient must comply with paragraphs (1)(a) to (d).

(3) In this section:

fermented milk means a food obtained by fermentation of milk or products derived from milk, where the fermentation involves the action of microorganisms and results in coagulation and a reduction in pH.

yoghurt means a fermented milk where the fermentation has been carried out with lactic acid producing microorganisms.

Note: Under section 1.06, ***fermented milk*** and ***yoghurt*** are defined for the rest of this Code as a food that may be sold as fermented milk or yoghurt under this section.

2.33 Addition of phytosterols, phytostanols and their esters to yoghurt

Phytosterols, phytostanols and their esters may be added to yoghurt only if:

(a) the yogurt contains no more than 1.5 g total fat/100 g; and

(b) the yoghurt is supplied in a package, the capacity of which is no more than 200 g; and

(c) the total plant sterol equivalents content added is no less than 0.8 g and no more than 1.0 g/package.

Division 4—Cheese

2.34 Compositional requirement for cheese

(1) A food that is sold on the basis of a representation that it is 'cheese' or 'processed cheese' must consist of cheese or processed cheese as appropriate, with or without any of the following additional ingredients added during production:

(a) water;
(b) lactic acid producing microorganisms;
(c) flavour producing microorganisms;
(d) gelatine;
(e) starch;
(f) vinegar;
(g) salt;
(h) tall oil phytosterol esters added in accordance with this Division.

(2) In this section:

cheese means the ripened or unripened solid or semi-solid milk product which may be coated and is obtained by one or both of the following processes:

(a) wholly or partly coagulating milk, or materials obtained from milk, or both, through the action of rennet or other suitable coagulating agents, partially draining the whey which results from such coagulation; or
(b) processing techniques involving concentration or coagulation of milk, or materials obtained from milk, or both, which give an end-product with similar physical, chemical and organoleptic characteristics as the product described in paragraph (a).

processed cheese means a product manufactured from cheese and products obtained from milk, which is heated and melted, with or without added emulsifying salts, to form a homogeneous mass.

Note: Under section 1.06, ***cheese*** and ***processed cheese*** are defined for the rest of this Code as a food that may be sold as cheese or processed cheese under this section.

2.35 Addition of tall oil phytosterol esters

Tall oil phytosterol esters may only be added to cheese or to processed cheese if:

(a) the cheese or processed cheese contains no more than 12 g total fat/100 g; and
(b) the cheese or processed cheese is supplied in an individual portion, the weight of which is no more than 50 g; and

(c) the tall oil phytosterol ester is added at no less than 70 g/kg and no more than 90 g/kg.

Division 5—Butter

2.36 Compositional requirement for butter

(1) A food that is sold on the basis of a representation that it is 'butter' must:

(a) consist of butter, or of butter with any of the following additional ingredients:

(i) water;

(ii) salt;

(iii) lactic acid producing microorganisms;

(iv) flavour producing microorganisms; and

(b) contain no less than 80.0% m/m milkfat.

(2) In this section:

butter means a product derived exclusively from milk and products obtained from milk, principally in the form of an emulsion of the type water-in-oil.

Note: Under section 1.06, ***butter*** is defined for the rest of this Code as a food that may be sold as butter under this section.

Division 6—Ice cream

2.37 Compositional requirement for ice cream

(1) A food that is sold on the basis of a representation that it is 'ice cream' must:

(a) consist of ice cream; and

(b) contain no less than:

(i) 100 g/kg of milk fat; and

(ii) 168 g/L of food solids.

(2) In this section:

ice cream means a sweet frozen food made from cream or milk products or both, and other foods, and is generally aerated.

Note: Under section 1.06, ***ice cream*** is defined for the rest of this Code as a food that may be sold as ice cream under this section.

Division 7—Dried milk, evaporated milk and condensed milk

2.38 Compositional requirements for condensed milk

(1) A food that is sold on the basis of a representation that it is 'condensed milk' must:

(a) consist of condensed milk, or of condensed milk with any of the following additional ingredients:

(i) salt;

(ii) water;

(iii) sugars; and

(b) contain no less than 34% m/m milk proteins in milk solids-non-fat; and

(c) if derived from cow's milk and represented as condensed whole milk—contain:

(i) no less than 8% m/m milkfat; and

(ii) no less than 28% m/m milk solids;

(d) if derived from cow's milk and represented as condensed skim milk—contain:

(i) no more than 1% m/m milkfat; and

(ii) no less than 24% m/m milk solids.

(2) The fat or protein content of the milk used to make condensed milk may be adjusted to comply with this Division by the addition or withdrawal of milk constituents.

(3) However, the adjustments must not result in the whey protein to casein ratio of the milk being altered.

(4) In this section:

condensed milk means:

(a) a food obtained by the partial removal of water from milk with the addition of sugars; or

(b) a food of the same composition obtained by any other process.

Note: Under section 1.06, ***condensed milk*** is defined for the rest of this Code as a food that may be sold as condensed milk under this section.

2.39 Compositional requirement for dried milk

(1) A food that is sold on the basis of a representation that it is 'dried milk' must:

(a) consist of dried milk; and

(b) contain no less than 34% m/m milk proteins in milk solids-non-fat; and

(c) if derived from cow's milk and represented as dried whole milk—contain:

(i) no less than 26% m/m milkfat; and
(ii) no more than 5% m/m water;

(d) if derived from cow's milk and represented as dried skim milk—contain:
(i) no more than 1.5% m/m milkfat; and
(ii) no more than 5% m/m water.

(2) The fat or protein content of the milk used to make dried milk may be adjusted to comply with this Division by the addition or withdrawal of milk constituents.

(3) However, the adjustments must not result in the whey protein to casein ratio of the milk being altered.

(4) In this section:

dried milk means a powdered milk product obtained by the partial removal of water from milk.

Note: Under section 1.06, ***dried milk*** is defined for the rest of this Code as a food that may be sold as dried milk under this section.

2.40 Compositional requirement for evaporated milk

(1) A food that is sold on the basis of a representation that it is 'evaporated milk' must:
(a) consist of evaporated milk, or of evaporated milk with any of the following additional ingredients:
(i) salt;
(ii) water; and
(b) contain no less than 34% m/m milk proteins in milk solids-non-fat; and
(c) if derived from cow's milk and represented as evaporated whole milk—contain:
(i) no less than 7.5% m/m milkfat; and
(ii) no less than 25% m/m milk solids; and
(d) if derived from cow's milk and represented as evaporated skim milk—contain:
(i) no more than 1% m/m milkfat; and
(ii) no less than 20% m/m milk solids.

(2) In this section:

evaporated milk means:
(a) a milk product obtained by the partial removal of water from milk by heat; or
(b) a milk product of the same composition obtained by any other process.

Note: Under section 1.06, ***evaporated milk*** is defined for the rest of this Code as a food that may be sold as evaporated milk under this section.

Part 6—Non-alcoholic beverages

Division 1—Fruit juice and vegetable juice

2.41 Meaning of *juice blend*

In this Code:

juice blend means the food made from a blend of more than one fruit juice or vegetable juice.

2.42 Compositional requirement for fruit juice and vegetable juice

(1) A food that is sold on the basis of a representation that it is 'fruit juice' or the juice of a specified fruit or fruits must consist of fruit juice or a blend of fruit juices, and may contain any of the following additional ingredients:

(a) no more than 40 g/kg of sugars;

(b) salt;

(c) herbs and spices.

(2) A food that is sold on the basis of a representation that it is 'vegetable juice' or the juice of a specified vegetable or vegetables must consist of vegetable juice, or a blend of vegetable juices, and may contain any of the following additional ingredients:

(a) sugars;

(b) salt;

(c) herbs and spices.

(3) In this section:

fruit juice means the juice from a fruit.

juice:

(a) means the liquid portion, with or without pulp, obtained from:

(i) a fruit or a vegetable; or

(ii) in the case of citrus fruit, other than lime—the endocarp only of the fruit; and

(b) includes a product that results from concentrating juice and then reconstituting it with water to a concentration consistent with that of the original juice.

vegetable juice means the juice from a vegetable.

Note: Under section 1.06, ***fruit juice*** and ***vegetable juice*** are defined for the rest of this Code as a food that may be sold as fruit juice or vegetable juice under this section.

2.43 Name and percentage by volume of juices in juice blend

For the labelling provisions, the name and percentage of each juice in fruit juice blend is not required for orange juice which contains no more than 10% in total of:

(a) mandarin juice; or

(b) tangelo juice; or

(c) mandarin juice and tangelo juice.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

Division 2—Non-alcoholic beverages and brewed soft drinks

2.44 Definitions

In this Code:

formulated beverage means a non-carbonated, ready-to-drink, water-based flavoured beverage that contains added vitamins or minerals or both vitamins and minerals, prepared from one or more of the following:

(a) water;
(b) fruit juice;
(c) fruit purée;
(d) concentrated fruit juice;
(e) concentrated fruit purée;
(f) comminuted fruit;
(g) orange peel extract;
(h) mineral water;
(i) sugars.

mineral water or spring water means ground water obtained from subterranean water-bearing strata that, in its natural state, contains soluble matter.

non-alcoholic beverage means:

(a) packaged water; or
(b) a water-based beverage which may or may not contain other foods, except for alcoholic beverages; or
(c) electrolyte drinks.

2.45 Composition of packaged water

A food consisting of water presented in packaged form must not contain a substance listed in column 1 of the table in Schedule 28 in a greater proportion than that specified in column 2 of the table.

2.46 Addition of fluoride to packaged water

A food consisting of water presented in packaged form may contain added fluoride only if:

(a) the water does not contain sugars, sweeteners, flavouring substances or other food; and
(b) the water is not carbonated; and
(c) the total amount of the naturally occurring and any added fluoride is no less than 0.6 mg/L and no more than 1 mg/L; and
(d) the form of fluoride added is:
    (i) hydrofluorosilicic acid (fluorosilicic acid);

(ii) sodium fluoride; or

(iii) sodium fluorosilicate (sodium silicofluoride).

2.47 Labelling—composition of packaged water

(1) For the labelling provisions, for packaged water that contains added fluoride, a statement to the effect that the water contains added fluoride is required.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(2) For the labelling provisions, a typical analysis that lists the total concentration of any naturally occurring compound expressed in either mg/L or parts per million may be included.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(3) The typical analysis may also include added fluoride provided that only the total amount of the naturally occurring and added fluoride is specified.

(4) A typical analysis that complies with subsections (2) and (3) is not a nutrition content claim for the purposes of section 1.72.

2.48 Compositional requirement for brewed soft drink

(1) A food that is sold on the basis of a representation that it is a brewed soft drink must:

(a) consist of a brewed soft drink; and

(b) contain no more than 1.15% alcohol/volume.

(2) In this section:

brewed soft drink means the product prepared by a fermentation process from water with sugar and one or more of:

(a) fruit extractives or infusions; or

(b) vegetable extractives or infusions.

Note: Under section 1.06, ***brewed soft drink*** is defined for the rest of this Code as a food that may be sold as brewed soft drink under this section.

2.49 Compositional requirement for fruit drink

(1) A food that is sold on the basis of a representation that it is ‘fruit drink’ must:

(a) consist of fruit drink; and

(b) contain no less than:

(i) in the case of passionfruit juice drink—35 mL/L of passionfruit; and

(ii) otherwise—50 mL/L of fruit.

(2) In this section:

fruit drink means a product prepared from:

(a) one or more of the following:
  (i) fruit juice;
  (ii) fruit purée;
  (iii) concentrated fruit juice;
  (iv) concentrated fruit puree;
  (v) comminuted fruit;
  (vi) orange peel extract; and

(b) one or more of the following:
  (i) water;
  (ii) mineralised water;
  (iii) sugars.

Note: Under section 1.06, ***fruit drink*** is defined for the rest of this Code as a food that may be sold as fruit drink under this section.

2.50 Non-alcoholic beverages not to be labelled or presented as alcoholic beverages

A non-alcoholic beverage must not be labelled or otherwise presented for sale in a form which expressly or by implication suggests that the product is an alcoholic beverage.

2.51 Compositional requirement for electrolyte drinks and electrolyte drink bases

(1) A food that is represented as an electrolyte drink or an electrolyte drink base must contain, or contain when made up according to directions:

(a) no less than 10 mmol/L of sodium;

(b) no less than 50 g/L and no more than 100 g/L in total of the following:
  (i) dextrose;
  (ii) fructose;
  (iii) glucose syrup;
  (iv) maltodextrin;
  (v) sucrose; and

(c) no more than 50 g/L fructose.

(2) Such a food may contain any of the following:

(a) calcium phosphates;

(b) potassium phosphates;

(c) calcium citrates;

(d) potassium citrates;

(e) sodium citrates;
(f) potassium carbonates, including potassium bicarbonate;
(g) potassium chloride;
(h) calcium chloride;
(i) sodium chloride;
(j) calcium lactate;
(k) magnesium lactate;
(l) magnesium sulphate.

(3) In this section:

electrolyte drink means a drink formulated and suitable for the rapid replacement of fluid, carbohydrates, electrolytes and minerals.

electrolyte drink base means a solid or liquid which, when made up, makes an electrolyte drink.

Note: Under section 1.06, ***electrolyte drink*** and ***electrolyte drink base*** are defined for the rest of this Code as a food that may be sold as electrolyte drink or electrolyte drink base under this section.

2.52 Labelling of electrolyte drinks and electrolyte drink bases

(1) For the labelling provisions, the following compositional information is required for an electrolyte drink or an electrolyte drink base:
(a) the average per 100 mL, of:
(i) the average energy content; and
(ii) the total carbohydrate present, including each type of monosaccharide and disaccharide; and
(iii) added minerals and electrolytes, expressed as milligrams and millimoles;
(b) the recommended volume and frequency of use.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(2) For an electrolyte drink base, the declaration must be based on the electrolyte drink as ready to drink.

2.53 Claims in relation to the tonicity of electrolyte drinks

(1) A claim that an electrolyte drink is isotonic may only be made if the electrolyte drink has an average osmolality of 250-340 milliOsmol/L.

(2) For the labelling provisions, the osmolality of the electrolyte drink must be declared as measured in milliOsmol/L.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(3) The label on a package of isotonic electrolyte drink may include words to the effect that the product is designed to promote the

availability of energy and to prevent or treat mild dehydration that may occur as a result of sustained strenuous exercise.

2.54 Compositional requirement for formulated beverages

(1) A formulated beverage must contain no more than:

(a) 240 mL/L of fruit prepared from any of the sources specified in paragraphs (b) to (g) of the definition for formulated beverage in section 2.44; and

(b) 75 g/L of sugars.

(2) A formulated beverage must not contain:

(a) carbon dioxide; or

(b) caffeine.

(3) A formulated beverage must not be mixed with other beverages.

Division 3—Kava

Note 1: Subsection 1.21(3) provides that a food product must not consist of, or have as an ingredient or a component, kava or any substance derived from kava, unless expressly permitted by this Division. This Division defines ***kava*** and contains the relevant permissions.

Note 2: In Australia, this Division should be considered in conjunction with the *Customs (Prohibited Imports) Regulations 1956* (Cth) and certain State and Territory restrictions on the supply of kava which seek to minimise the detrimental effects associated with kava abuse. Where kava is permitted for supply, the requirements in this Division complement those restrictions.

2.55 Meaning of *kava*

In this Code:

kava means plants of the species *Piper methysticum*.

kava root means the peeled root or peeled rootstock of kava.

2.56 Exception to prohibition

The prohibition relating to the use of kava and substances derived from kava in subsection 1.21(3) does not apply to a food that consists of:

(a) a beverage obtained by the aqueous suspension of kava root using cold water only, and not using any organic solvent; or

(b) the dried or raw kava root.

2.57 Labelling of foods containing kava

For the labelling provisions, the following statements are required for a food referred to in paragraph 2.56(a) or 2.56(b):

(a) ‘Use in moderation’; and

(b) ‘May cause drowsiness’.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1. For the labelling requirement for unpackaged kava, see paragraph 1.34(5)(c).

Division 4—Formulated caffeinated beverages

2.58 Interpretation

(1) In this Code:

formulated caffeinated beverage means a flavoured non-alcoholic beverage which contains caffeine and may contain carbohydrates, amino acids, vitamins and other substances, including other foods, for the purpose of enhancing mental performance.

(2) In this Division, a reference to caffeine is a reference to the total quantity of caffeine, whatever its source.

2.59 Meaning of *one-day quantity*

(1) A formulated caffeinated beverage has a ***one-day quantity*** if it contains a substance listed in column 1 of the table in Schedule 29.

Note: The ***one-day quantity*** is the maximum amount of the formulated caffeinated beverage that should be consumed in a day.

(2) To calculate the ***one-day quantity***, follow the following steps:

(a) for each substance listed in subsection (1) that the beverage contains, calculate the equivalent amount of the substance in accordance with the formula in subsection (3);

(b) select the substance with the lowest equivalent amount;

(c) the ***one-day quantity*** is the corresponding lowest equivalent amount, in mL.

(3) For paragraph (2)(a), the formula is:

$$equivalent\ amount = \frac{permitted\ amount}{concentration} \times 1000$$

where:

concentration is the concentration of the substance, in mg/L, in the beverage.

permitted amount is, for a substance listed in column 1 of the table in Schedule 29, the corresponding amount in column 2.

2.60 Composition of formulated caffeinated beverage

(1) A formulated caffeinated beverage must contain no less than 145 mg/L and no more than 320 mg/L of caffeine.

(2) If a formulated caffeinated beverage contains a substance listed in column 1 of the table in Schedule 29, a one-day quantity must not

contain more than the amount specified in the corresponding row of column 2.

(3) A food must not consist of a mixture of a formulated caffeinated beverage and a non-alcoholic beverage.

2.61 Labelling requirements—formulated caffeinated beverage

Required declarations

(1) For the labelling provisions, the required declarations of average quantities are a declaration of the average quantity, per serving size and per 100 mL, of:

(a) caffeine, expressed in milligrams; and

(b) any of the substances listed in the table in Schedule 29 that are included in the food, expressed in the units included in column 2 of the table.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(2) The declarations under subsection (1):

(a) may be adjacent to or follow a nutrition information panel on the label; and

(b) may be set out in the format in section S12.04 of Schedule 12; and

(c) must be clearly distinguished from the nutrition information panel.

Required advisory statements

(3) For the labelling provisions, the required advisory statements are statements to the effect that:

(a) the food contains caffeine; and

(b) the food is not recommended for:

(i) children; or

(ii) pregnant or lactating women; or

(iii) individuals sensitive to caffeine.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(4) For the labelling provisions, if the beverage has a one-day quantity, an advisory statement is required that is to the following effect: 'Consume no more than [amount of one day quantity (as cans, bottles or mL)] per day'.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

Part 7—Alcoholic beverages

Division 1—Labelling of alcoholic beverages and food containing alcohol

2.62 Meaning of *standard drink*

In this Code:

standard drink, for a beverage, means the amount of a beverage which contains 10 grams of ethanol when measured at 20°C.

2.63 Statement of alcohol content

(1) For the labelling provisions, a statement of the alcohol content is required for:
   (a) a food that contains more than 1.15% alcohol by volume; or
   (b) an alcoholic beverage that contains 1.15% or less alcohol by volume; or
   (c) a beverage that contains not less than 0.5% but not more than 1.15% alcohol by volume.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(2) For paragraph (1)(a), the alcohol content must be expressed in mL/100 g, mL/100 mL or as the percentage of alcohol by volume.

(3) For paragraph (1)(b) or (c), the alcohol content must be expressed using the words 'CONTAINS NOT MORE THAN X% ALCOHOL BY VOLUME'.

(4) The statement must be accurate to within:
   (a) for beer, cider or perry—0.3% alcohol by volume;
   (b) for spirits, liqueurs, fortified wine, fortified fruit or vegetable wine, and all other alcoholic beverages containing more than 1.15% alcohol by volume—0.5% alcohol by volume;
   (c) for wine and fruit wine (including sparkling forms), and wine products and fruit or vegetable wine products containing more than 6.5% alcohol by volume—1.5% alcohol by volume.

2.64 Statement of the number of standard drinks

(1) For the labelling provisions, a statement of the approximate number of standard drinks in the product is required for a food that:
   (a) is capable of being consumed as a beverage; and
   (b) contains more than 0.5% alcohol by volume, measured at 20°C.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(2) The statement must be accurate to:

(a) for a package containing 10 or less standard drinks—the first decimal place; or

(b) for a package containing more than 10 standard drinks—the nearest whole number of standard drinks.

(3) A statement is not required for beverages packaged prior to 20 December 2002.

2.65 Restriction on representations of low alcohol

An alcoholic beverage which contains more than 1.15% alcohol by volume must not be represented as a low alcohol beverage.

2.66 Restriction on representation of 'non-intoxicating'

The label on a package of a beverage containing more than 0.5% alcohol by volume must not include the words 'non intoxicating' or words of similar meaning.

2.67 Restriction on representation as non-alcoholic

A food containing alcohol must not be represented in a form which expressly or by implication suggests that the product is a non-alcoholic confection or non-alcoholic beverage.

Division 2—Beer

2.68 Compositional requirement for beer

(1) A food that is sold on the basis of a representation that it is 'beer', 'ale', 'lager', 'pilsener', 'porter' or 'stout' must consist of:

(a) beer; or

(b) beer with the addition of any of the following if added during production:

(i) cereal products or other sources of carbohydrate;

(ii) sugar;

(iii) salt;

(iv) herbs and spices.

(2) In this section:

beer means the product, characterised by the presence of hops or preparations of hops, prepared by the yeast fermentation of an aqueous extract of malted or unmalted cereals, or both.

Note: Under section 1.06, ***beer*** is defined for the rest of this Code as a food that may be sold as beer under this section.

Division 3—Fruit wine and vegetable wine

2.69 Meaning of *fruit wine product* and *vegetable wine product*

In this Code:

fruit wine product or ***vegetable wine product*** means a food containing no less than 700 mL/L of fruit wine, or vegetable wine, or both fruit and vegetable wine, which has been formulated, processed, modified or mixed with other foods such that it is not a fruit wine or vegetable wine.

2.70 Compositional requirement for cider, mead, perry, fruit wine and vegetable wine

(1) A food that is sold on the basis of a representation that it is a fruit wine, a vegetable wine or 'mead' must consist of:

(a) fruit wine, vegetable wine or mead, as appropriate; or

(b) fruit wine, vegetable wine or mead, as appropriate, with the addition of any of the following:

(i) fruit juice and fruit juice products;

(ii) vegetable juice and vegetable juice products;

(iii) sugars;

(iv) honey;

(v) spices;

(vi) alcohol;

(vii) water.

(2) A food that is sold on the basis of a representation that it is 'cider' or 'perry' must consist of cider or perry, as appropriate.

(3) In this section:

cider means the fruit wine prepared from the juice or must of apples and no more than 25% of the juice or must of pears.

fruit wine or ***vegetable wine***:

(a) means a food prepared from the complete or partial fermentation of fruit, vegetable, grains, cereals or any combination or preparation of those foods; and

(b) does not include wine or wine product.

mead means the product prepared from the complete or partial fermentation of honey.

perry means the fruit wine prepared from the juice or must of pears and no more than 25% of the juice or must of apples.

Note: Under section 1.06, ***cider***, ***fruit wine***, ***mead***, ***perry*** and ***vegetable wine*** are defined for the rest of this Code as a food that may be sold as cider, fruit wine, mead, perry or vegetable wine under this section.

Division 4—Wine and wine product

Note: For Australia, the *Wine Australia Corporation Act 1980* (Cth) is also relevant to the regulation of wine and geographical indications in relation to wine.

For New Zealand, the *Wine Act 2003* (NZ) is also relevant to the regulation of wine, and the *Geographical Indications (Wines and Spirits) Registration Act 2006* (NZ) is relevant to geographical indications in relation to wine.

2.71 Meaning of *wine product*

In this Code:

wine product means a food containing no less than 700 mL/L of wine, which has been formulated, processed, modified or mixed with other foods such that it is not wine.

2.72 Compositional requirements for wine

(1) A food that is sold on the basis that it is 'wine' must consist of wine, or wine with any of the following added during production:

(a) grape juice and grape juice products;

(b) sugars;

(c) brandy or other spirit;

(d) water that is necessary to incorporate any substance permitted for use as a food additive or a processing aid.

(2) In this section:

wine means the product of the complete or partial fermentation of fresh grapes, or a mixture of that product and products derived solely from grapes.

Note: Under section 1.06, ***wine*** is defined for the rest of this Code as a food that may be sold as wine under this section.

Division 5—Spirit

2.73 Compositional requirements for brandy, liqueur and spirit

(1) A food that is sold on the basis of a representation that it is 'brandy' must consist of brandy, or brandy with the addition of any of the following during production:

(a) water;
(b) sugars;
(c) honey;
(d) spices;
(e) grape juice;
(f) grape juice concentrates;
(g) wine;
(h) prune juice.

(2) A food that is sold on the basis of a representation that it is 'liqueur' must consist of liqueur.

(3) A food that is sold on the basis of a representation that it is a spirit must consist of that spirit, or that spirit with the addition of any of the following:

(a) water;
(b) sugars;
(c) honey;
(d) spices.

(4) In this section:

brandy means a spirit obtained from the distillation of wine, or fermented preparations of grapes or grape product.

liqueur means a spirit flavoured or mixed with other foods, which contains more than 15% alcohol by volume, measured at 20°C.

spirit means a potable alcoholic distillate, including whisky, brandy, rum, gin, vodka and tequila, which contains at least 37% alcohol by volume, produced by distillation of fermented liquor derived from food sources, so as to have the taste, aroma and other characteristics generally attributable to that particular spirit.

Note: Under section 1.06, ***brandy***, ***liqueur*** and ***spirit*** are defined for the rest of this Code as a food that may be sold as brandy, liqueur or spirit under this section.

2.74 Restriction on use of geographical indications

(1) A geographical indication must not be used in relation to a spirit, even where the true origin of the spirit is indicated or the geographical

indication is used in translation or accompanied by expressions such as ‘kind’, ‘type’, ‘style’, ‘imitation’ or the like, unless the spirit has been produced in the country, locality or region indicated.

(2) A spirit lawfully exported under a geographical indication, but bottled other than in the territory, locality or region indicated by the geographical indication must not be sold under that geographical indication:

(a) unless the concentration of alcohol by volume in the spirit is at a level permitted under the laws for that geographical indication of the territory, locality or region indicated by that geographical indication; or

(b) if any other distinctive quality or characteristic of the spirit is such as to mislead or deceive the public as to the nature of the product identified by the geographical indication.

(3) In this section:

geographical indication means an indication, whether express or implied:

(a) which identifies a spirit as originating in a particular country, locality or region; and

(b) where a given quality, reputation or other characteristic of the spirit is essentially attributable to its origin in that particular country, locality or region.

Part 8—Sugars and honey

Division 1—Sugars

2.75 Meaning of *icing* and *sugars*

In this Code:

icing means a mixture of sugar and other foods for use as a coating and includes frosting, plastic icing and icing gel.

sugars:

(a) means any of the following products, derived from any source:
  (i) hexose monosaccharides and disaccharides, including dextrose, fructose, sucrose and lactose;
  (ii) starch hydrolysate;
  (iii) glucose syrups, maltodextrin and similar products;
  (iv) products derived at a sugar refinery, including brown sugar and molasses;
  (v) icing sugar;
  (vi) invert sugar;
  (vii) fruit sugar syrup; and

(b) does not include:
  (i) malt or malt extracts; or
  (ii) sorbitol, mannitol, glycerol, xylitol, polydextrose, isomalt, maltitol, maltitol syrup or lactitol.

2.76 References to sugar

A reference to ‘sugar’ in this Code is, unless otherwise expressly stated, a reference to any of the following:

(a) white sugar;
(b) caster sugar;
(c) icing sugar;
(d) loaf sugar;
(e) coffee sugar;
(f) raw sugar.

2.77 Compositional requirement for white sugar

(1) A food that is sold on the basis that it is ‘white sugar’ must:
  (a) consist of white sugar; and
  (b) have no less than 99.7% sucrose content, calculated on a dry basis.

(2) In this section:

white sugar means purified crystallised sucrose.

2.78 Compositional requirement for icing

A food that is sold on the basis that it is 'icing' must consist of icing.

Division 2—Honey

2.79 Compositional requirement for honey

(1) A food that is sold on the basis that it is 'honey' must:

(a) consist of honey; and

(b) contain:

(i) no less than 60% reducing sugars; and

(ii) no more than 21% moisture.

(2) In this section:

honey means the natural sweet substance produced by honey bees from the nectar of blossoms or from secretions of living parts of plants or excretions of plant sucking insects on the living parts of plants, which honey bees collect, transform and combine with specific substances of their own, store and leave in the honey comb to ripen and mature.

Note: Under section 1.06, ***honey*** is defined for the rest of this Code as a food that may be sold as honey under this section.

2.80 Prescribed name

'Honey' is a prescribed name.

Part 9—Special purpose foods

Division 1—Infant formula products

Subdivision A—Preliminary

2.81 Outline of Division

(1) This Division provides for the compositional and labelling requirements for foods intended or represented for use as a substitute for breast milk, referred to as 'infant formula products'. This Division applies to all infant formula products whether in powder, liquid concentrate or 'ready to drink' forms.

(2) This Division also provides for infant formula products intended for infants with special nutritional requirements.

(3) There are *Guidelines for Infant Formula Products* at the end of this Division. These guidelines are not legally binding.

2.82 Definitions

In this Code:

follow-on formula means an infant formula product that:

(a) is represented as either a breast-milk substitute or replacement for infant formula; and

(b) is suitable to constitute the principal liquid source of nourishment in a progressively diversified diet for infants aged from 6 months.

infant formula means an infant formula product that:

(a) is represented as a breast milk substitute for infants; and

(b) satisfies by itself the nutritional requirements of infants aged up to 4 to 6 months.

infant formula product means a product based on milk or other edible food constituents of animal or plant origin which is nutritionally adequate to serve by itself as the sole or principal liquid source of nourishment for infants.

medium chain triglycerides means triacylglycerols that contain predominantly the saturated fatty acids designated by 8:0 and 10:0.

pre-term formula means an infant formula product specifically formulated to satisfy particular needs of infants born prematurely or of low birthweight.

protein substitute means:

(a) L-amino acids; or
(b) the hydrolysate of one or more of the proteins on which infant formula product is normally based; or
(c) a combination of L-amino acids and the hydrolysate of one or more of the proteins on which infant formula product is normally based.

soy-based formula means an infant formula product in which soy protein isolate is the sole source of protein.

2.83 Interpretation

Interpretation of compositional requirements

(1) Compositional requirements in this Division apply to:
(a) a powdered or concentrated form of infant formula product that has been reconstituted with water according to directions; or
(b) an infant formula product in 'ready to drink' form.

Calculation of energy, protein and potential renal solute load

(2) For this Division:
(a) energy must be calculated in accordance with section S30.01 of Schedule 30; and
(b) protein content must be calculated in accordance with the formula set out in section S30.02 of Schedule 30; and
(c) potential renal solute load must be calculated in accordance with section S30.03 of Schedule 30.

Subdivision B—General compositional requirements for infant formula products

2.84 Use of substances as nutritive substances

What substances may be used as nutritive substances

(1) A substance listed in column 1 of the table to section S30.04 in Schedule 30 may be used as a nutritive substance in an infant formula product if:
(a) it is in a permitted form listed in column 2 of the table; and
(b) the amount of the substance in the infant formula product is no more than the corresponding amount listed in column 3 of the table (taking into account both the naturally-occurring and added substance).

When labelling may refer to presence of substances used as nutritive substances

(2) For the labelling provisions, a label may include words or other indications to the effect that the product contains a substance used as a nutritive substance only if:

(a) the substance is used as a nutritive substance in the product in accordance with this section; and

(b) the total amount of the substance in the product (taking into account both the naturally-occurring and added substances) is at least the corresponding amount listed in column 4 of the table to section S30.04 in Schedule 30.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

2.85 Addition of lactic acid producing microorganisms

L(+) lactic acid producing microorganisms may be added to infant formula product.

2.86 Permitted quantities of added inulin-derived substances and galacto-oligosaccharides

If an inulin-derived substance or a galacto-oligosaccharide is added to an infant formula product, the product must contain (taking into account both the naturally-occurring and added substances) no more than:

(a) if only inulin-derived substances are added—110 mg/100 kJ of inulin-derived substances; or

(b) if only galacto-oligosaccharides are added—290 mg/100 kJ of galacto-oligosaccharides; or

(c) if both inulin-derived substances and galacto-oligosaccharides are added:

(i) no more than 110 mg/100 kJ of inulin-derived substances; and

(ii) no more than 290 mg/100 kJ of combined inulin-derived substances and galacto-oligosaccharides.

2.87 Restriction on levels of other substances in infant formula product

Infant formula product must not contain:

(a) detectable gluten; or

(b) more than 3.8 mg/100 kJ of nucleotide 5’-monophosphates; or

(c) more than the following amounts of aluminium:

(i) for a pre-term formula—0.02 mg/100 mL;

(ii) for a soy-based formula—0.1 mg/100 mL;

(iii) otherwise—0.05 mg/100 mL.

Subdivision C—Infant formula and follow-on formula

2.88 Infant formula and follow-on formula—composition

(1) Infant formula must have:

(a) an energy content of no less than 2500 kJ/L and no more than 3150 kJ/L; and

(b) a protein content of no less than 0.45 g/100kJ and no more than 0.7 g/100 kJ; and

(c) a fat content of no less than 1.05 g/100kJ and no more than 1.5 g/100 kJ.

(2) Follow-on formula must have:

(a) an energy content of no less than 2500 kJ/L and no more than 3550 kJ/L; and

(b) a protein content of no less than 0.45 g/100kJ and no more than 1.3 g/100 kJ; and

(c) a fat content of no less than 1.05 g/100kJ and no more than 1.5 g/100 kJ; and

(d) a potential renal solute load value of no more than 8 mOsm/100 kJ.

2.89 Infant formula and follow-on formula—protein

(1) The L-amino acids listed in the table to section S30.05 in Schedule 30 must be present in infant formula and follow-on formula at a level no less than the corresponding minimum level specified in the table.

(2) Infant formula or follow-on formula must provide no less than:

(a) 6 mg of cysteine, cystine or combined cysteine and cystine/100 kJ; and

(b) 17 mg phenylalanine/100 kJ.

(3) Despite subsection (1), L-amino acids listed in the table to section S30.05 in Schedule 30 may be added to infant formula or follow-on formula only in an amount necessary to meet the minimum amino acid requirements.

2.90 Infant formula and follow-on formula—fat

(1) The fats in infant formula and follow-on formula:

(a) may contain medium chain triglycerides only if the medium chain triglyceride is present as the result of its being:

(i) a natural constituent of a milk-based ingredient of that formula; or

(ii) for a fat soluble vitamin that is specified in the table to section S30.07 in Schedule 30—a substance that was used as a processing aid in the preparation of that permitted fat soluble vitamin for use in the formula; and

(b) must have a ratio of linoleic acid to α-linolenic acid of no less than 5 to 1 and no more than 15 to 1; and

(c) must have a ratio of total long chain omega 6 series fatty acids (C>= 20) to total long chain omega 3 series fatty acids (C>= 20) that is not less than 1 in an infant formula or follow-on formula which contains those fatty acids; and

(d) for any long chain polyunsaturated fatty acids that are present—must have an eicosapentaenoic acid (20:5 n-3) content of no more than the docosahexaenoic acid (22:6 n-3) content; and

(e) for a fat that is listed in the table to section S30.07 in Schedule 30—must comply with the limits (if any) specified in the table.

2.91 Infant formula and follow-on formula—vitamins, minerals and electrolytes

(1) Infant formula and follow-on formula must contain the vitamins, minerals and electrolytes specified in column 1 of the table to section S30.08 in Schedule 30 in an amount that is:

(a) no less than the minimum amount specified in column 2 of the table; and

(b) no more than the maximum amount (if any) specified in column 3 of the table.

(2) Any vitamins, minerals or electrolytes that are used as nutritive substances must be in a permitted form as listed in the table to section S30.06 in Schedule 30.

(3) Infant formula and follow-on formula must contain no less than 0.5 mg of Vitamin E/g of polyunsaturated fatty acids.

(4) The ratio of calcium to phosphorus in infant formula and follow-on formula must be no less than 1.2 to 1 and no more than 2 to 1.

(5) The ratio of zinc to copper must be:

(a) for infant formula—no more than 15 to 1; and

(b) for follow-on formula—no more than 20 to 1.

Subdivision D—Infant formula products for special dietary use

2.92 Products formulated for premature or low birthweight infants

(1) A compositional requirement of this Division does not apply to the extent that it would prevent the sale of an infant formula product that

has been specifically formulated for premature or low birthweight infants.

(2) If an infant formula product would not comply with this Division apart from this section, then for the labelling provisions:

(a) the following warning statement is required: 'Suitable only for pre-term infants under specialist medical supervision'; and

(b) the name of food must include the words 'pre-term'.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

2.93 Products for metabolic, immunological, renal, hepatic and malabsorptive conditions

(1) A compositional requirement of this Division does not apply to the extent that it would prevent the sale of an infant formula product that is specifically formulated to satisfy particular metabolic, immunological, renal, hepatic or malabsorptive conditions.

(2) If:

(a) an infant formula product would not comply with this Division apart from this section; and

(b) the label contains a claim that the infant formula product is suitable for infants with metabolic, immunological, renal, hepatic or malabsorptive conditions;

then for the labelling provisions, a statement indicating the following is required:

(c) that the product is not suitable for general use and should be used under medical supervision; and

(d) the condition, disease or disorder for which the product has been specially formulated; and

(e) the nutritional modifications, if any, which have been made to the product.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

Special requirements for food represented as lactose free and low lactose formulas

(3) A compositional requirement of this Division that relates to lactose content does not apply to an infant formula product that is represented as lactose free formula or low lactose formula.

(4) If the formula is represented as lactose free, it must contain no detectable lactose.

(5) If the formula is represented as low lactose, it must contain no more than 0.3 g lactose/100 mL of infant formula product.

(6) For the labelling provisions, if a label contains a claim that the infant formula product is lactose free, low lactose or words of similar import:

(a) the name of food must include the following:

(i) for a formula represented as lactose free—the words 'lactose free'; and

(ii) for a formula represented as low lactose—the words 'low lactose'; and

(b) the following statements are required:

(i) the amount of lactose expressed in g/100 mL; and

(ii) the amount of galactose expressed in g/100 mL.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

2.94 Products for special dietary use based on a protein substitute

(1) The protein content of an infant formula product based on a protein substitute may be in the form of a protein substitute.

(2) Such infant formula must:

(a) have an energy content of:

(i) for an infant formula—no less than 2500 kJ/L and no more than 3150 kJ/L; and

(ii) for a follow-on formula—no less than 2500 kJ/L and no more than 3550 kJ/L; and

(b) have a potential renal solute load of no more than 8 mOsm/100 kJ; and

(c) have a protein content of no less than 0.45 g/100 kJ and no more than 1.4 g/100 kJ; and

(d) have a fat content of no less than 0.93 g/100 kJ and no more than 1.5 g/100 kJ; and

(e) contain:

(i) chromium in an amount of no less than 0.35 μg/100 kJ and no more than 2.0 μg/100 kJ; and

(ii) molybdenum in an amount of no less than 0.36 μg/100 kJ and no more than 3.0 μg/100 kJ.

(3) Section 2.89 applies to such infant formula product as if it were infant formula.

(4) Such infant formula product may contain added medium chain triglycerides.

Subdivision E—Labelling and packaging requirements

2.95 Representations about food as an infant formula product

A food may only be represented as an infant formula product if it complies with this Division.

2.96 Prescribed names

The following are prescribed names:

(a) 'Infant formula'; and

(b) 'Follow-on formula'.

2.97 Requirement for measuring scoop

(1) A package of infant formula product in a powdered form must contain a scoop to enable the use of the infant formula product in accordance with the directions contained in the label on the package.

(2) Subsection (1) does not apply to single serve sachets, or packages containing single serve sachets, of an infant formula product in a powdered form.

2.98 Requirement for warning statements and directions

(1) For the labelling provisions, the following warning statements are required:

(a) for infant formula product in powered form—'Warning – follow instructions exactly. Prepare bottles and teats as directed. Do not change proportions of powder except on medical advice. Incorrect preparation can make your baby very ill';

(b) for concentrated infant formula product—'Warning – follow instructions exactly. Prepare bottles and teats as directed. Do not change proportions of concentrate except on medical advice. Incorrect preparation can make your baby very ill';

(c) for ready-to-drink infant formula product—'Warning – follow instructions exactly. Prepare bottles and teats as directed. Do not dilute or add anything to this 'ready to drink' formula except on medical advice. Incorrect preparation can make your baby very ill';

(d) subject to subsection (2), a heading that states 'Important Notice', with under it the warning statement—'Breast milk is best for babies. Before you decide to use this product, consult your doctor or health worker for advice'.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(2) Paragraph (1)(d) does not apply to infant formula products for metabolic, immunological, renal, hepatic or malabsorptive conditions.

(3) For the labelling provisions, directions (in words or pictures) for the preparation and use of the infant formula product are required, which instruct that:

(a) each bottle should be prepared individually; and

(b) if a bottle of made up formula is to be stored prior to use, it must be refrigerated and used within 24 hours; and

(c) potable, previously boiled water should be used; and

(d) if a package contains a measuring scoop—only the enclosed scoop should be used; and

(e) formula left in the bottle after a feed must be discarded.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(4) For the labelling provisions, the required statements are ones indicating that:

(a) for infant formula—the infant formula product may be used from birth; and

(b) for follow-on formula—the infant formula product should not be used for infants aged under 6 months; and

(c) subject to subsection (5), it is recommended that infants over the age of 6 months should be offered foods in addition to the infant formula product.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(5) Paragraph (4)(c) does not apply to packages of pre-term formula.

2.99 Print size

The statements required by subsections 2.98(1) and 2.92(2) must be in a size of type of at least:

(a) if the package of infant formula product has a net weight of more than 500 g—3 mm;

(b) if the package of infant formula has net weight of 500 g or less—1.5 mm.

2.100 Declaration of nutrition information

(1) For the labelling provisions, the following nutrition information is required:

(a) for 'ready to drink' infant formula product, and for powdered or concentrated infant formula product:

(i) the average energy content expressed in kJ/100 mL; and

(ii) the average amount of protein, fat and carbohydrate expressed in g/100 mL; and

(iii) the average amount, whether added or naturally occurring, of each vitamin, mineral and any other substance used as a

nutritive substance permitted by this Division expressed in weight/100 mL; and

(iv) if added, the average amount of the following, expressed in weight/100 mL:
(A) inulin-derived substances; or
(B) galacto-oligosaccharides; or
(C) a combination of inulin-derived substances and galacto-oligosaccharides; and

(b) for a powdered or concentrated form of infant formula product, additionally, a declaration of:
(i) the proportion of powder or concentrate required to reconstitute the formula according to directions; and
(ii) for powdered infant formula product—the weight of one scoop.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(2) For a powdered or concentrated form of infant formula product, the information mentioned in subsection (1) must be expressed in terms of the product as reconstituted according to directions on the package.

(3) The information required by this section may be expressed in the form of a table.

Note: For an example of how the nutrition information may be presented, see the guidelines set out in section S30.09 of Schedule 30.

2.101 Date marking and storage instructions

(1) Infant formula product that complies with this Division does not need to be date marked in accordance with subsection 1.66(2).

(2) For the labelling provisions, the storage instructions must cover the period after the package is opened.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

2.102 Statements of protein source and dental fluorosis

(1) For the labelling provisions, the required statements include:
(a) a statement of the specific source, or sources, of protein in the product, immediately adjacent to the name of the product; and
(b) if the infant formula product is one to which subsection (2) applies:
(i) a statement to the effect that consumption of the formula has the potential to cause dental fluorosis; and
(ii) a statement recommending that the risk of dental fluorosis should be discussed with a medical practitioner or other health professional.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(2) This subsection applies to an infant formula product that contains:
  (a) for a powdered or concentrated infant formula product—more than 17 μg of fluoride/100 kJ prior to reconstitution; or
  (b) for a ready-to-drink formula—more than 0.15 mg of fluoride/100 mL.

2.103 Prohibited representations

(1) The label on a package of infant formula product must not contain:
  (a) a picture of an infant; or
  (b) a picture that idealises the use of infant formula product; or
  (c) the word 'humanised' or 'maternalised' or any word or words having the same or similar effect; or
  (d) words claiming that the formula is suitable for all infants; or
  (e) information relating to the nutritional content of human milk; or
  (f) subject to subsection 2.93(2), a reference to the presence of any nutrient or substance used as a nutritive substance, except for a reference to a nutrient or substance required by:
    (i) subsection 2.93(6); or
    (ii) Division 4 of Part 3 of Chapter 1; or
    (iii) section 2.100; or
  (g) subject to Subdivision D, a representation that the food is suitable for a particular condition, disease or disorder.

(2) Subject to subsection 2.93(2), the label on a package of infant formula product must not contain a reference to inulin-derived substances or galacto-oligosaccharides except for a reference in:
  (a) a statement of ingredients; or
  (b) the declaration of nutrition information under section 2.100.

Subdivision F—Guidelines

2.104 Guidelines for infant formula product

Guidelines for infant formula product are set out in section S30.09 of Schedule 30.

Division 2—Food for infants

2.105 Definitions

In this Code:

cereal-based food means food for infants that is based on cereal.

food for infants:

(a) means a food that is intended or represented for use as a source of nourishment for infants; and

(b) does not include:

(i) infant formula products; or

(ii) formulated meal replacements; or

(iii) formulated supplementary foods; or

(iv) unprocessed fruit and vegetables.

fruit-based food means food for infants that is based on fruit.

2.106 Food for infants—general compositional requirements

(1) Food for infants must not contain:

(a) for a cereal-based food—more than 50 mg/100 g of total iron on a moisture free basis; or

(b) honey, unless it has been treated to inactivate *Clostridium botulinum* spores; or

(c) more than the following amount of sodium:

(i) for rusks—350 mg/100 g; or

(ii) for biscuits—300 mg/100 g; or

(iii) for flours, pasta, ready-to-eat foods for infants (including cereal-based foods other than rusks and biscuits)—100 mg/100 g; or

(iv) for vegetable juices and ready-to-eat fruit-based foods including, fruit drinks—100 mg/100 g; or

(d) if the food consists of fruit drink or vegetable juice, or is a ready-to-eat product that is based on fruit—added salt; or

(e) for vegetable juice, fruit drink or a non-alcoholic beverage—a total monosaccharide and disaccharide content of more than 4 g/100 g.

(2) If inulin-derived substances or galacto-oligosaccharides are added to food for infants, the total amount of those substances in the food (including the amount added and the amount naturally occurring) must not be greater than 0.8 g/100 g, based on the product as consumed.

(3) Food for infants may have as an ingredient lactic acid producing microorganisms.

(4) If food for infants is intended for infants under the age of 6 months, it must:

(a) be formulated and manufactured to a consistency that minimises the risk of choking; and

(b) for a food other than rusks—have a texture that is soft and free of lumps.

2.107 Additional compositional requirements for cereal-based food for infants over the age of 6 months

(1) This section applies to cereal-based food for infants that:

(a) contains more than 70% cereal, on a moisture free basis; and

(b) is promoted as suitable for infants over the age of 6 months.

(2) The food must contain at least 20 mg iron/100 g on a moisture free basis.

(3) The food may contain:

(a) added iron in the following forms:

(i) electrolytic iron; or

(ii) reduced iron; or

(iii) in the permitted forms set out in the table to section S30.06 of Schedule 30; and

(b) added thiamin, niacin, vitamin B_6, vitamin C, folate, magnesium in permitted forms set out in the table to section S30.06 of Schedule 30; and

(c) added vitamin C to a maximum level of 90 mg/100 g on a moisture free basis.

2.108 Additional compositional requirements for cereal-based foods for infants over the age of 4 months

(1) This section applies to cereal-based food for infants that:

(a) contains more than 70% cereal, on a moisture free basis; and

(b) is promoted as suitable for infants from 4 months of age.

(2) The food may contain:

(a) added iron in the following forms:

(i) electrolytic iron; or

(ii) reduced iron; or

(iii) in a permitted form as set out in the table to section S30.06 of Schedule 30; and

(b) added vitamin C in the forms permitted in the table to section S30.06 of Schedule 30 to a maximum level of 90 mg/100g on a moisture free basis.

2.109 Additional compositional requirements for non-cereal-based food for infants

(1) This section applies to food for infants other than cereal-based food.

(2) If the food consists of vegetable juice, fruit drink or gel, it must contain no less than 25 mg/100 g of vitamin C.

(3) If the food is a fruit-based food, it may contain vitamin C or folate or both in the permitted forms set out in the table to section S30.06 of Schedule 30.

2.110 Labelling

(1) This section does not apply to packaged water.

(2) The label on a package of food for infants must not include a recommendation, whether express or implied, that the food is suitable for infants less than 4 months old.

(3) For the labelling provisions, the required information relating to composition is:

(a) a statement indicating the consistency of the food; and

(b) a statement indicating the minimum age, expressed in numbers, of the infants for whom the food is recommended; and

(c) if the food is recommended for infants between the ages of 4-6 months, in association with the statement required by paragraph (b), the words ‘Not recommended for infants under the age of 4 months’; and

(d) if the monosaccharide and disaccharide content of added sugars and honey is more than 4 g/100 g—the word ‘sweetened’; and

(e) if honey has been used as an ingredient—in association with the word ‘honey’, the word ‘sterilised’.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

2.111 Additional labelling requirements relating to specific nutrients and energy information

(1) For the labelling provisions, the required information relating to composition is:

(a) if a reference is made in the label (including in the name of the food) to milk, eggs, cheese, fish, meat (including poultry), nuts or legumes—the percentage of that ingredient in the final food; and

(b) if the food contains more than of 3 g/100 kJ of protein—the words ‘Not suitable for infants under the age of 6 months’.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(2) A claim must not be made, whether express or implied, that a food for infants is a source of protein unless at least 12% of the average energy content of the food is derived from protein.

2.112 Representations

(1) A food must not be represented as being the sole or principal source of nutrition for infants.

(2) The label on a package of food for infants must not include a recommendation that the food can be added to bottle feeds of an infant formula product.

2.113 Claims about vitamins and minerals

(1) A claim must not be made, whether express or implied, in relation to food for infants comparing the vitamin or mineral content of the food with that of any other food unless such a claim is expressly permitted elsewhere in this Division.

(2) A claim, either express or implied, as to the presence of a vitamin or mineral in food for infants may be made if the food contains in a normal serve at least 10% of the RDI or ESADDI, as appropriate, for that vitamin or mineral.

(3) A claim, either express or implied, that food for infants is a good source of a vitamin or mineral may be made if a reference quantity of the food contains at least 25% of the RDI or ESADDI, as appropriate, for that vitamin or mineral.

(4) A claim, whether express or implied, must not be made in relation to a fruit-based food for infants that the food contains more than:

(a) 60 mg/100 g of vitamin C; or

(b) 150 μg/100 g of folate.

(5) If a vitamin or mineral has been used as a nutritive substance in a cereal-based food for infants, a claim must not be made that a normal serve of the food contains that vitamin or mineral in a quantity greater than that specified in relation to that vitamin or mineral in the table to section S30.10 of Schedule 30.

2.114 Nutrition information

(1) Food for infants need not comply with:

(a) the requirement to include the average quantity of saturated fat on a nutrition information panel (subparagraph 1.101(1)(d)(ii)); or

(b) subsections 1.101(3), 1.101(4) or 1.102(1); or

(c) sections 1.103, 1.106 or 1.109.

(2) Food for infants need not comply with the requirement in Division 7 of Part 3 of Chapter 1 to indicate the potassium content of a food in the nutrition information panel.

(3) The nutrition information panel for food for infants must be set out in the format set out in section S12.05 of Schedule 12.

2.115 Food in dehydrated or concentrated form

(1) This section applies to food for infants that is in dehydrated or concentrated form.

(2) For the labelling provisions, directions are required for how the food should be reconstituted.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(3) The particulars set out in each column of the nutrition information panel must be expressed as a proportion of the food as reconstituted according to those directions.

(4) If more than one fluid for preparing the food is nominated in the label:

(a) the particulars set out in the column should be adjusted according to the first liquid nominated; and

(b) the name of this liquid must be included in the nutrition information panel.

2.116 Storage requirements

For the labelling provisions, the storage instructions must cover the period after the package is opened.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

Division 3—Formulated meal replacements and formulated supplementary foods

Subdivision A—Interpretation

2.117 Interpretation

In this Division:

serving means a quantity of the food which constitutes one normal serving when prepared according to manufacturer's directions or when the food requires no further preparation before consumption, and in the case of a formulated meal replacement is equivalent to one meal.

Subdivision B—Formulated meal replacements

2.118 Meaning of formulated meal replacement

In this Code:

formulated meal replacement means a food that:

(a) has been specifically formulated as a replacement for one or more meals of the day, but not as a total diet replacement; and

(b) is represented as a formulated meal replacement.

2.119 Compositional requirements for formulated meal replacements

(1) A formulated meal replacement must contain in a serving no less than:

(a) 12 g protein; and

(b) 850 kJ; and

(c) 25% of the RDI of each vitamin and mineral listed in column 1 of the table to section S30.11 of Schedule 30.

(2) A vitamin or mineral may be used as a nutritive substance in a formulated meal replacement if:

(a) the vitamin or mineral is listed in column 1 of:

(i) the table to section S30.11 of Schedule 30; or

(ii) the table to section S30.12 of Schedule 30; and

(b) the total of the naturally occurring and added vitamin or mineral in a serving is not greater than the quantity, if any, specified in relation to that vitamin or mineral in column 2 of the relevant table; and

(c) the vitamin or mineral is in a permitted form specified in:

(i) the table in section S17.01 or S17.02 of Schedule 17; or

(ii) the table to section S30.16 of Schedule 30.

2.120 Labelling of formulated meal replacements

(1) The nutrition information panel on the label on a package of formulated meal replacement must include a declaration of the average quantities of the vitamins and minerals that:

(a) in the case of vitamins and minerals listed in the table in section S30.11 of Schedule 30—are present in the food; and

(b) in the case of vitamins and minerals listed in table in section S30.12 of Schedule 30—have been used as a nutritive substance in the food.

(2) A claim as to the presence in a formulated meal replacement of a vitamin or mineral listed in the table to section S30.11 or S30.12 of Schedule 30 may be made on the label on a package of formulated meal replacement only if:

(a) no less than 10% of the RDI or ESADDI of that vitamin or mineral is present in a serving of the food; and

(b) for a vitamin or mineral that has been used as a nutritive substance in the food—the claimed quantity of that vitamin or mineral in a serving is no more than the quantity set out in column 3 of the

table to section S30.11 or S30.12 of Schedule 30, as relevant.

Note: If such a claim is made, the subparagraph 1.101(1)(d)(iv) might apply.

(3) A claim, either express or implied, that a formulated meal replacement is a good source of a vitamin or mineral may be made if:

(a) the vitamin or mineral is listed in column 1 of the table to section S30.11 or S30.12 of Schedule 30; and

(b) a serving of the food contains at least 25% of the RDI or ESADDI of that vitamin or mineral; and

(c) where the vitamin or mineral has been used as a nutritive substance in the food, the claimed quantity of that vitamin or mineral in a serving is no more than the quantity set out in column 3 of the table to section S30.11 or S30.12 of Schedule 30.

(4) ‘Formulated meal replacement’ is a prescribed name.

(5) For the labelling provisions, the required statement is words to the effect that the product must not be used as a total diet replacement.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

Subdivision C—Formulated supplementary foods

2.121 Meaning of formulated supplementary food

In this Code:

formulated supplementary food means a food specifically formulated as, and sold on the basis that it is, a supplement to a normal diet to address situations where intakes of energy and nutrients may not be adequate to meet an individual's requirements.

2.122 Compositional requirements for formulated supplementary foods

(1) A formulated supplementary food must contain in a serving no less than:

(a) 8 g protein; and

(b) 550 kJ; and

(c) 20% of the RDI of at least 1 vitamin or mineral listed in column 1 of the table to S30.13 of Schedule 30.

(2) A vitamin or mineral may be used as a nutritive substance in a formulated supplementary food if:

(a) the vitamin or mineral is listed in column 1 of the table to S30.13 of Schedule 30; and

(b) the total of the naturally occurring and added quantity of each vitamin or mineral in a serving is not more than the quantity, if any, set out in relation to that vitamin or mineral in column 2 of the table; and

(c) the vitamin or mineral is in a permitted form specified in:

(i) the table in section S17.01 or S17.02 of Schedule 17; or

(ii) the table to section S30.16 of Schedule 30.

2.123 Labelling of formulated supplementary foods

(1) The nutrition information panel on the label on a package of formulated supplementary food must include a declaration of the average quantities of any vitamin or mineral that:

(a) is listed in column 1 of the table to S30.13 of Schedule 30; and

(b) has been used as a nutritive substance in the food.

(2) A claim as to the presence in a formulated supplementary food of a claimable vitamin or mineral may be made on the label on a package of formulated supplementary food if:

(a) no less than 10% of the RDI or ESADDI, as appropriate, of the vitamin or mineral listed in column 1 of the table to section S30.13 of Schedule 30 is in a serving of the food; and

(b) for a vitamin or mineral that has been used as a nutritive substance in the food, the claimed quantity in a serving of the food is no more than the quantity set out in column 3 of the table.

(3) A claim, either express or implied, that a formulated supplementary food is a good source of a vitamin or mineral may be made if:

(a) the vitamin or mineral is a claimable vitamin or mineral; and

(b) a serving of the food contains at least 25% of the RDI or ESADDI of that vitamin or mineral; and

(c) where the vitamin or mineral has been used as a nutritive substance in the food, the claimed quantity of that vitamin or mineral in a serving is no more than the quantity set out in column 3 of the table to section S30.13 of Schedule 30.

(4) For the labelling provisions, the required information is a description of the role of the food as a supplement to a normal diet to address situations where intakes of energy and nutrients may not be adequate to meet an individual's requirements.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(5) 'Formulated supplementary food' is a prescribed name.

(6) In this section:

claimable vitamin or mineral means a vitamin or mineral that is listed in:

(a) section S17.01 or S17.02 of Schedule 17; or

(b) section S30.13 of Schedule 30.

Subdivision D—Formulated supplementary foods for young children

2.124 Meaning of *formulated supplementary food for young children*

In this Code:

formulated supplementary food for young children means a formulated supplementary food for children aged 1 to 3 years.

2.125 Compositional requirements for formulated supplementary foods for young children

(1) A formulated supplementary food for young children must contain in a serving no less than:

(a) 2.5 g protein; and

(b) 330 kJ; and

(c) 20% of the RDI of at least 1 vitamin or mineral listed in column 1 of the table to section S30.14 in Schedule 30.

(2) A vitamin or mineral may be used as a nutritive substance in a formulated supplementary food for young children if:

(a) the vitamin or mineral is listed in column 1 of the table to section S30.14 in Schedule 30; and

(b) the total of the naturally occurring and added quantity of each vitamin or mineral in a serving is not more than the quantity, if any, set out in relation to that vitamin or mineral in column 2 of the table; and

(c) the vitamin or mineral is in a permitted form specified in:

(i) the table in section S17.01 or S17.02 of Schedule 17; or

(ii) the table to section S30.16 of Schedule 30.

(3) If inulin-derived substances or galacto-oligosaccharides are added to a formulated supplementary food for young children, the total amount of those substances, both added and naturally occurring, must not be more than 1.6 g/serving.

(4) Lutein may be added to a formulated supplementary food for young children only if:

(a) the lutein is derived from *Tagetes erecta L.*; and

(b) the total amount of lutein, both added and naturally occurring, is not more than 100 µg/serving.

2.126 Labelling of formulated supplementary foods for young children

(1) The nutrition information panel on the label on a package of formulated supplementary foods for young children must include a declaration of the average quantity of any vitamin or mineral that:

(a) is listed in column 1 of the table to section S30.14 in Schedule 30; and

(b) has been used as a nutritive substance in the food.

(2) A claim as to the presence in a formulated supplementary food for young children of a claimable vitamin or mineral may be made on the label on a package of formulated supplementary food if:

(a) no less than 10% of the RDI or ESADDI, as appropriate, of the vitamin or mineral listed in column 1 of the table is present in a serving of the food; and

(b) for a vitamin or mineral that has been used as a nutritive substance in the food, the claimed quantity of that vitamin or mineral in a serving of the food is no more than the quantity set out in column 3 of the table.

(3) A claim, either express or implied, that a formulated supplementary food for young children is a good source of a vitamin or mineral may be made if:

(a) the vitamin or mineral is a claimable vitamin or mineral; and

(b) a serving of the food contains at least 25% of the RDI or ESADDI of that vitamin or mineral; and

(c) where the vitamin or mineral has been used as a nutritive substance in the food, the claimed quantity of that vitamin or mineral in a serving is no more than the quantity set out in column 3 of the table to section S30.14 in Schedule 30.

(4) For the labelling provisions, the required information is a description of the role of the food as a supplement to a normal diet to address situations where intakes of energy and nutrients may not be adequate to meet an individual's requirements.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(5) 'Formulated supplementary food for young children' is a prescribed name.

(6) The label on a package of formulated supplementary food for young children must not include any words indicating, or any other indication, that the product contains lutein unless the total amount of lutein is no less than 30 µg/serving.

(7) In this section:

claimable vitamin or mineral means a vitamin or mineral that is listed in:

(a) section S17.01 or S17.02 of Schedule 17; or

(b) section S30.14 of Schedule 30.

Division 4—Formulated supplementary sports foods

Subdivision A—Formulated supplementary sports foods generally

2.127 Definitions

In this Code:

formulated supplementary sports food means a product that is specifically formulated to assist sports people in achieving specific nutritional or performance goals.

one-day quantity in relation to formulated supplementary sports food, means the amount of that food which is to be consumed in one day in accordance with directions specified in the label.

2.128 Composition of formulated supplementary sports foods

(1) Formulated supplementary sports food may contain:

(a) a vitamin or mineral if:

(i) the vitamin or mineral is listed in the table to section S30.15 in Schedule 30; and

(ii) for a vitamin or mineral that is used as a nutritive substance—it is added in a permitted form specified in:

(A) section S17.01 or section S17.02 of Schedule 17; or

(B) column 2 of the table to section S30.16 in Schedule 30; and

(iii) the amount of the vitamin or mineral in the food is no more than the amount, if any, specified in column 2 of the table in section S30.15 of Schedule 30; and

(b) an amino acid that is used as a nutritive substance, if:

(i) the amino acid is listed in the table to section S30.17 in Schedule 30; and

(ii) the amount of the amino acid added is no more than the amount specified in column 2 of the table; and

(c) any other substance that is used as a nutritive substance, if:

(i) the substance is listed in the table to section S30.18 of Schedule 30; and

(ii) the amount of the substance added is no more than the amount specified in relation to that ingredient in column 2 of the table.

(2) Formulated supplementary sports food must not contain, in a one-day quantity, more than:

(a) 70 mmol sodium; or

(b) 95 mmol potassium.

2.129 Labelling information

(1) For the labelling provisions:

(a) the required statements are:

(i) a statement to the effect that the food is not a sole source of nutrition and should be consumed in conjunction with a nutritious diet; and

(ii) a statement to the effect that the food should be used in conjunction with an appropriate physical training or exercise program; and

(iii) the statement 'Not suitable for children under 15 years of age or pregnant women: Should only be used under medical or dietetic supervision'; and

(iv) if the food contains added phenylalanine—the statement 'Phenylketonurics: Contains phenylalanine'; and

(b) the required information is:

(i) directions stating the recommended quantity and frequency of intake of the food; and

(ii) a statement of the recommended consumption in one day; and

(iii) a nutrition information panel.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(2) 'Formulated supplementary sports food' is a prescribed name.

2.130 Nutritive substance claims

(1) This section applies in relation to a package of formulated supplementary sports food if:

(a) the label on the package includes a statement referring to the presence of a substance that is used as a nutritive substance in the food; and

(b) the substance is not a vitamin or a mineral; and

(c) the statement is not required by another provision of this Code.

(2) The label must either:

(a) state the amount by weight (expressed /100 g food or as a percentage) of the substance, either:

(i) immediately after the statement referring to the presence of the substance; or

(ii) immediately following the name of the substance in the statement of ingredients; or

(b) list, in the nutrition information panel, the substance and the average quantity by weight of the substance in:

(i) a serving of the food; and

(ii) a unit quantity of the food.

2.131 Vitamin and mineral claims

(1) The label on a package of formulated supplementary sports food must not claim the presence of a vitamin or mineral unless:

(a) the reference is required elsewhere in this Code; or

(b) the reference is specifically permitted by this section.

(2) The label on a package of formulated supplementary sports food may claim the presence of a vitamin or mineral in the food only if:

(a) a serving of the food contains:

(i) at least 10% of the RDI for that vitamin or mineral specified in column 3 of the table to section S1.01 or S1.02 of Schedule 1, as appropriate; or

(ii) at least 10% of the amount specified in column 3 of the table to section S30.16 of Schedule 30 for that vitamin or mineral; and

(b) the amount claimed is no more than the amount specified in column 3 of the table to section S30.15 of Schedule 30 for that vitamin or mineral.

2.132 Prohibition on representations

Unless specific permission is given in Subdivision B, the label on a package of formulated supplementary sports food must not include an express or implied representation that relates to any property or proposed use of the food to enhanced athletic performance or beneficial physiological effects.

Subdivision B—Particular formulated supplementary sports foods

2.133 High carbohydrate supplement

(1) For the labelling provisions, for a package of high carbohydrate supplement, the following statements are required:

(a) a statement to the effect that, if used during exercise, the food should be consumed in accordance with directions, to avoid the possibility of gastro-intestinal upset; and

(b) a statement to the effect that the food must be consumed with an appropriate fluid intake.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(2) The label on a package of a high carbohydrate supplement may include statements to the effect that:

(a) the product is useful before, during, or after sustained strenuous exercise; and

(b) appropriate usage may assist in the provision of energy in the form of carbohydrates.

(3) In this section:

high carbohydrate supplement means a formulated supplementary sports food for which:

(a) not less than 90% of the average energy content of the product is derived from carbohydrate; and

(b) more than 15% of the product by weight is carbohydrate when prepared as directed.

2.134 Protein energy supplement

(1) For the labelling provisions, for a package of protein energy supplement, a statement to the effect that the food must be consumed with an appropriate fluid intake is required.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(2) The label on a package of protein energy supplement may include statements to the effect that:

(a) the product may assist in providing a low-bulk diet as may be required during training; and

(b) the product may assist in supplementing the diet with a high energy source as may be required during training; and

(c) usage as directed may assist in the development of muscle bulk; and

(d) the product is useful before, during, or after sustained strenuous exercise.

(3) In this section:

protein energy supplement means a formulated supplementary sports food for which:

(a) not more than 30% and not less than 15% of the average energy content of the product is derived from protein; and

(b) not more than 25% of the average energy content of the product is derived from fat; and

(c) not more than 70% of the average energy content of the product is derived from carbohydrate.

2.135 Energy supplement

(1) For the labelling provisions, for a package of energy supplement, the following statements are required:

(a) a statement to the effect that, if used during exercise, the food should be consumed in accordance with directions, to avoid the possibility of gastro-intestinal upset; and

(b) a statement to the effect that the food must be consumed with an appropriate fluid intake; and

(c) if more than 30% of the average energy content of the food is derived from fat—a statement to the effect that the product is a high fat food and should be used for special fat loading strategies rather than everyday use.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

(2) The label on a package of energy supplement may include statements to the effect that:

(a) the product may assist in supplementing the diet with an energy source as may be required during training; and

(b) the product is useful before, during or after sustained strenuous exercise.

(3) In this section:

energy supplement means a formulated supplementary sports food for which not more than 20% of the average energy content of the food is derived from protein.

Division 5—Food for special medical purposes

Subdivision A—Preliminary

2.136 Meaning of *food for special medical purposes*

(1) In this Code:

food for special medical purposes means a food that is:

(a) specially formulated for the dietary management of individuals:

(i) by way of exclusive or partial feeding, who have special medically determined nutrient requirements or whose capacity is limited or impaired to take, digest, absorb, metabolise or excrete ordinary food or certain nutrients in ordinary food; and

(ii) whose dietary management cannot be completely achieved without the use of the food; and

(b) intended to be used under medical supervision; and

(c) represented as being:

(i) a food for special medical purposes; or

(ii) for the dietary management of a disease, disorder or medical condition.

(2) Despite subsection (1), a food is not ***food for special medical purposes*** if it is:

(a) formulated and represented as being for the dietary management of obesity or overweight; or

(b) an infant formula product.

2.137 Definitions

(1) In this Division:

inner package, in relation to a food for special medical purposes, means an individual package of the food that:

(a) is contained and sold within another package that is labelled in accordance with section 2.144; and

(b) is not designed for individual sale, other than a sale by a responsible institution to a patient or resident of the responsible institution.

Example: An example of an inner package is an individual sachet (or sachets) of a powdered food contained within a box that is fully labelled, being a box available for retail sale.

responsible institution means a hospital, hospice, aged care facility, disability facility, prison, boarding school or similar institution that is responsible for the welfare of its patients or residents and provides food to them.

(2) In this Division, a reference to a ***package*** does not include a reference to a plate, cup, tray or other food container in or on which food for special medical purposes is served by a responsible institution to a patient or resident of the responsible institution, whether the plate, cup, tray or food container is uncovered, or is covered in whole or in part.

2.138 Application of other Standards

The following provisions do not apply to food for special medical purposes:

(a) Division 7 of Part 3 of Chapter 1 (nutrition, health and related claims) or Standard 1.1A.2 (transitional standard for health claims);

(b) unless the contrary intention appears, Part 3 of Chapter 1 (labelling and other information requirements);

(c) Division 3 or Division 8 of Part 4 of Chapter 1 (vitamins and minerals, novel foods);

(d) Division 2, Division 3 or Division 4 of Part 9 of Chapter 2 (food for infants, formulated meal replacements and formulated supplementary foods, formulated supplementary sports foods).

2.139 Claims must not be therapeutic in nature

A claim in relation to food for special medical purposes must not:

(a) refer to the prevention, diagnosis, cure or alleviation of a disease, disorder or condition; or

(b) compare the food with a good that is:

(i) represented in any way to be for therapeutic use; or

(ii) likely to be taken to be for therapeutic use, whether because of the way in which the good is presented or for any other reason.

Subdivision B—Sale of food for special medical purposes

2.140 Restriction on the persons by whom, and the premises at which, food for special medical purposes may be sold

(1) A food for special medical purposes must not be sold to a consumer, other than from or by:

(a) a medical practitioner or dietitian; or

(b) a medical practice, pharmacy or responsible institution; or

(c) a majority seller of that food for special medical purposes.

(2) In this section:

medical practitioner means a person registered or licensed as a medical practitioner under legislation in Australia or New Zealand, as the case requires, for the registration or licensing of medical practitioners.

majority seller: a person is a ***majority seller*** of a food for special medical purposes during any 24 month period if:

(a) during the period, the person sold that food for special medical purposes to medical practitioners, dietitians, medical practices, pharmacies or responsible institutions; and

(b) the sales mentioned in paragraph (a) represent more than one half of the total quantity of that food for special medical purposes sold by the person during the period.

Subdivision C—Composition

2.141 Permitted forms of particular substances

(1) The following substances may be added to food for special medical purposes:

(a) a substance that is listed in column 1 of the table to section S30.19 in Schedule 30 and that is in a corresponding form listed in column 2 of that table;

(b) a substance that is listed in column 1 of the table to section S30.06 in Schedule 30 and that is in a corresponding form listed in column 2 of that table;

(c) any other substance, regardless of its form, that is permitted under this Code to be added to a food, if that substance is added in accordance with any applicable requirement of this Code.

(2) If a provision of this Code limits the amount of a substance referred to in paragraph (1)(a) or (b) that may be added to a food, that limit does not apply in relation to food for special medical purposes.

2.142 Compositional requirements for food represented as being suitable for use as sole source of nutrition

(1) If food for special medical purposes is represented as being suitable for use as a sole source of nutrition, the food must contain:

(a) not less than the minimum amount, as prescribed in column 2 of the table to section S30.20 in Schedule 30, of each vitamin, mineral and electrolyte contained in column 1 of that table; and

(b) if applicable, not more than the maximum amount, as specified in column 3 of that table, of each vitamin and mineral contained in column 1.

(2) However, the food is not required to comply with subsection (1) to the extent that:

(a) a variation from a maximum or minimum amount is required for a particular medical purpose; and

(b) the labelling complies with subparagraph 2.145(1)(g)(ii).

Subdivision D—Labelling

2.143 Labelling and related requirements

(1) If a food product consisting of food for special medical purposes is not in a package:

(a) the food product must either bear a label, or have labelling that is displayed in connection with its sale, with the information relating to irradiated foods (see section 1.167); and

(b) there is no other labelling requirement under this Code.

(2) If the food product is in a package, it is required to bear a label that complies with section 2.144.

(3) If the food product is in an inner package:

(a) the inner package is required to bear a label that complies with section 2.151; and

(b) there is no labelling requirement under this Code for any other packaging associated with the food product.

(4) If the food product is in a transportation outer:

(a) the transportation outer or package containing the food product is required to bear a label that complies with section 2.152; and

(b) there is no labelling requirement under this Code for any other packaging associated with the food product.

2.144 Mandatory labelling information

(1) Subject to this section, the label that is required for food for special medical purposes must state the following information in accordance with the provision indicated:

(a) a name or description sufficient to indicate the true nature of the food;

(b) lot identification;

(c) if the sale of the food product is one to which Subdivision B or Subdivision C of Division 1 of Part 3 of Chapter 1 applies—information relating to irradiated food (see section 1.167);

(d) any required advisory, warning and other statements (see section 2.145);

(e) information relating to ingredients (see section 2.146);

(f) date marking information (see section 2.147);

(g) directions for the use or the storage of the food, if the food is of such a nature to require such directions for health or safety reasons;

(h) nutrition information (see section 2.148);

(i) if appropriate, the information required by subsection 2.149(4) or 2.150(5).

(2) The label must comply with Subdivision F of Division 1 of Part 3 of Chapter 1.

2.145 Advisory and warning statements—food for special medical purposes

(1) For paragraph 2.144(1)(d), the following statements are required:

(a) a statement to the effect that the food must be used under medical supervision;

(b) a statement indicating, if applicable, any precautions and contraindications associated with consumption of the food;

(c) a statement indicating the medical purpose of the food, which may include a disease, disorder or medical condition for which the food has been formulated;

(d) a statement describing the properties or characteristics which make the food appropriate for the medical purpose indicated in paragraph (c);

(e) if the food has been formulated for a specific age group—a statement to the effect that the food is intended for persons within the specified age group;

(f) a statement indicating whether or not the food is suitable for use as a sole source of nutrition;

(g) if the food is represented as being suitable for use as a sole source of nutrition:

(i) a statement to the effect that the food is not for parenteral use; and

(ii) if the food has been modified to vary from the compositional requirements of section 2.142 such that the content of one or more nutrients falls short of the prescribed minimum, or exceeds the prescribed maximum (if applicable):

(A) a statement indicating the nutrient or nutrients which have been modified; and

(B) unless provided in other documentation about the food—a statement indicating whether each modified nutrient has been increased, decreased, or eliminated from the food, as appropriate.

(2) For paragraph 2.144(1)(d), the required advisory and other statements are any that are required by:

(a) items 1, 5, 7 or 11 of the table in Schedule 9; or
(b) subsection 1.55(2); or
(c) section 1.57.

(3) For paragraph 2.144(1)(d), the warning statement referred to in section 1.56, if applicable, is required.

2.146 Information relating to ingredients—food for special medical purposes

For paragraph 2.144(1)(e), the information relating to ingredients is:
(a) a statement of ingredients; or
(b) information that complies with Article 6, Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs; or
(c) information that complies with 21 CFR § 101.4.

2.147 Date marking information—food for special medical purposes

(1) For paragraph 2.144(1)(f), the required date marking information is date marking information in accordance with Division 5 or Part 3 of Chapter 1.

(2) Despite subsection (1), for subparagraph 1.68(2)(a)(ii), the words 'Expiry Date', or similar words, may be used on the label.

2.148 Nutrition information—food for special medical purposes

For paragraph 2.144(1)(h), the nutrition information is the following, expressed per given quantity of the food:
(a) the minimum or average energy content; and
(b) the minimum or average quantity of:
(i) protein, fat and carbohydrate; and
(ii) any vitamin, mineral or electrolyte that has been used as a nutritive substance in the food; and
(iii) any substance listed in the table to section S30.19 in Schedule 30 that has been used as a nutritive substance in the food; and
(iv) subject to paragraph 2.144(1)(i), any other substance in respect of which a nutrition content claim has been made.

2.149 Claims in relation to lactose content

(1) A claim to the effect that a food for special medical purposes is lactose free may be made if the food product contains no detectable lactose.

(2) A claim to the effect that a food for special medical purposes is low lactose may be made if the food contains not more than 0.3 g of lactose per 100 g of the food.

(3) A claim to the effect that a food for special medical purposes is lactose reduced must be accompanied by a declaration of the proportion by which the lactose content of the food has been reduced.

(4) If a claim in relation to the lactose content of a food for special medical purposes is made, the information required is the average quantity of the lactose and galactose in the food, expressed per given quantity of the food.

Note: See paragraph 2.144(1)(i).

2.150 Claims in relation to gluten content

(1) A claim in relation to the gluten content of a food for special medical purposes is prohibited unless expressly permitted by this section.

(2) A claim to the effect that a food for special medical purposes is gluten free may be made if the food contains:

(a) no detectable gluten; and

(b) no oats or oat products; and

(c) no cereals containing gluten that have been malted, or products of such cereals.

(3) A claim to the effect that a food for special medical purposes has a low gluten content may be made if the food contains no more than 20 mg gluten per 100 g of the food.

(4) A claim to the effect that a food for special medical purposes contains gluten or is high in gluten may be made.

(5) If a claim is made in relation to the gluten content of a food for special medical purposes, the information required is the average quantity of the gluten in the food, expressed per given quantity of the food.

Note: See paragraph 2.144(1)(i).

2.151 Labelling requirement—food for special medical purposes in inner package

(1) The label on an inner package that contains food for special medical purposes must state the following information in accordance with the provision indicated:

(a) a name or description sufficient to indicate the true nature of the food;

(b) lot identification;

(c) any declaration that is required by section 1.57;
(d) date marking information (see section 2.147).

(2) The label must comply with Subdivision F of Division 1 of Part 3 of Chapter 1.

(3) To avoid doubt, this section continues to apply to the label on the inner package if a responsible institution subsequently supplies the inner package to a patient or resident of the responsible institution.

2.152 Labelling requirement—food for special medical purposes in transportation outer

(1) If packages of food for special medical purposes are contained in a transportation outer, the information specified in subsection (2) must be:
(a) contained in a label on the transportation outer; or
(b) contained in a label on a package of the food product, and clearly discernable through the transportation outer.

(2) For subsection (1), the information is:
(a) a name or description sufficient to indicate the true nature of the food; and
(b) lot identification; and
(c) unless it is provided in accompanying documentation—the name and address of supplier (see section 1.54).

Division 6—Transitional standard for special purpose foods (including amino acid modified foods)

Note: This Standard incorporates the provisions of regulations 237 and 239A of the former New Zealand *Food Regulations (1984)*, in so far as they relate to special purpose foods and amino acid modified foods. It is anticipated that this Division will be repealed upon the development of standards regulating medical foods and food type dietary supplements. This Division operates solely in relation to food sold or imported into New Zealand.

2.153 Meaning of amino acid modified food and special purpose food

(1) In this Division:

amino acid modified food means a special purpose food if, in the preparation of the food:

(a) there is a restriction in the use of ingredients containing one or more particular amino acids; or

(b) there is a reduction of the content of one or more particular amino acids in any of the ingredients of the food.

special purpose food means a food specially processed or formulated to satisfy particular dietary requirements that exist because of:

(a) a particular physical or physiological condition; or

(b) a specific disease or disorder; or

(c) both such a condition and a disease or disorder;

and are presented as such.

(2) Other than in Subdivision B of Division 3 of Part 9 of Chapter 2 (Formulated meal replacements), a reference in this Code to a special purpose food is taken to be a reference to formulated meal replacement.

Note The effect of subsection (2) is that additives permitted in formulated meal replacements are permitted in special purpose foods. Subsection (2) exempts special purpose foods from the requirements for minimum levels for protein, kJ; and the minimum and maximum levels for vitamins and minerals. The definition of formulated meal replacements is not intended to be taken literally in relation to special purpose foods. i.e. special purpose foods are not necessarily intended as a meal replacement.

2.154 Application

(1) This Division applies in relation to food produced in, or imported into, New Zealand.

(2) Despite subsection (1), this Division does not apply to food produced in, or imported into, Australia.

(3) This Division ceases to have effect 2 years after the commencement of any alternative applicable provisions elsewhere in this Code.

2.155 Composition

A special purpose food may contain any of the vitamins and minerals specified in column 1 of the table to section S30.11 or S30.12 of Schedule 30.

2.156 Labelling of special purpose foods

For the labelling provisions, the required information for special purpose foods is a statement of the special purpose of the food.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

2.157 Labelling of amino acid modified foods

For the labelling provisions, the required information for amino acid modified foods is:

(a) one or more of the following:
  (i) the words ‘amino acid modified food’;
  (ii) the name of the amino acid or amino acids that have been restricted;
  (iii) the name of the disease, or a name describing the condition of the group of people, for which the product is intended;
  (iv) the words ‘low protein’, where applicable; and

(b) in the nutrition information panel, a statement of each of the following:
  (i) the quantity of carbohydrate, protein, and fat in the food, expressed in g;
  (ii) the energy content of the food, expressed in kJ;
  (iii) the quantity of sodium, and of potassium, in the food, expressed in mg;
  (iv) the quantity of the particular amino acid or protein present in the food, or both, as appropriate for the intended use of the food; and

(c) in the principal display panel, in 3 mm lettering, the words ‘Take only on medical advice’.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

Part 10—Standards for other foods

Division 1—Vinegar and related products

2.158 Compositional requirement for vinegar and imitation vinegar

(1) A food that is sold on the basis of a representation that it is 'imitation vinegar' or 'vinegar' must:

(a) consist of imitation vinegar or vinegar, as appropriate; and

(b) contain no less than 40 g/kg of acetic acid.

(2) In this section:

imitation vinegar means the product prepared by mixing water and acetic acid.

vinegar means the sour liquid prepared by acetous fermentation, with or without alcoholic fermentation, of any suitable foodstuff, and includes blends and mixtures of vinegar.

Note: Under section 1.06, ***imitation vinegar*** and ***vinegar*** are defined for the rest of this Code as a food that may be sold as imitation vinegar or vinegar under this section.

Division 2—Salt and salt products

Subdivision A—Compositional requirements

2.159 Compositional requirement for salt

(1) A food that is sold on the basis of a representation that it is 'salt' must:

(a) consist of salt; and

(b) contain no less than 970 g/kg sodium chloride on a dry basis, exclusive of permitted additives; and

(c) contain not more than:

(i) 0.5 mg/kg of arsenic; and

(ii) 2 mg/kg of lead; and

(iii) 0.5 mg/kg of cadmium; and

(iv) 0.1 mg/kg of mercury.

(2) In this section:

salt means the crystalline product consisting predominantly of sodium chloride, that is obtained from the sea, underground rock salt deposits or from natural brine.

Note: Under section 1.06, ***salt*** is defined for the rest of this Code as a food that may be sold as salt under this section.

2.160 Compositional requirement for reduced sodium salt mixture

(1) A food that is sold on the basis of a representation that it is a 'reduced sodium salt mixture' must:

(a) consist of a reduced sodium salt mixture; and

(b) contain no more than:

(i) 200 g/kg of sodium; and

(ii) 400 g/kg of potassium.

(2) A food that is sold on the basis of a representation that it is an iodised reduced sodium salt mixture must contain potassium iodide or iodate, or sodium iodide or iodate equivalent to:

(a) no less than 25 mg/kg of iodine; and

(b) no more than 65 mg/kg of iodine.

(3) In this section:

reduced sodium salt mixture means a product prepared from a mixture of sodium chloride and potassium chloride.

Note: Under section 1.06, ***reduced sodium salt mixture*** is defined for the rest of this Code as a food that may be sold as reduced sodium salt mixture under this section.

2.161 Compositional requirement for salt substitute

(1) A food that is sold on the basis of a representation that it is a 'salt substitute' must:

(a) consist of salt substitute; and

(b) contain no more than 1.2 g/kg of sodium.

(2) In this section:

salt substitute means a food made as a substitute for salt consisting of substances that may be used as food additives in relation to salt substitute in accordance with this Code (see item 13 of the table to Schedule 15).

Note: Under section 1.06, ***salt substitute*** is defined for the rest of this Code as a food that may be sold as salt substitute under this section.

2.162 Compositional requirement for iodised salt

(1) A food that is sold on the basis of a representation that it is 'iodised salt' must:

(a) consist of iodised salt; and

(b) contain potassium iodide or iodate, or sodium iodine or iodate equivalent to:

(i) no less than 25 mg/kg of iodine; and

(ii) no more than 65 mg/kg of iodine.

(2) In this section:

iodised salt means a mixture of salt and:

(a) potassium iodide or potassium iodate; or

(b) sodium iodide or sodium iodate.

Note: Under section 1.06, ***iodised salt*** is defined for the rest of this Code as a food that may be sold as iodised salt under this section.

Subdivision B—Labelling requirements

2.163 Labelling requirement for reduced sodium salt mixtures and salt substitutes

(1) For the labelling provisions, the required information is a declaration of the sodium and potassium content, expressed per 100 g.

(2) The label may include a declaration of the percentage reduction of sodium in the food, relative to salt.

(3) Such a declaration is not a nutrition content claim or a health claim.

Note: The labelling provisions are set out in Division 1 of Part 3 of Chapter 1.

Division 3—Chewing gum

2.164 Meaning of *releasable calcium*

In this Division:

releasable calcium, Ca_R, means the amount of calcium, in mg/g of chewing gum, released into the mouth during 20 minutes of chewing that is calculated using the following formula:

$$Ca_R = \frac{(Ca_O \times W_O) - (Ca_C \times W_C)}{W_O}$$

where:

Ca_O is the original calcium concentration in the chewing gum in mg/g of chewing gum.

W_O is the weight of the original chewing gum in g.

Ca_C is the residual calcium in the gum after it has been chewed for 20 minutes in mg/g of chewing gum.

W_C is the weight of the chewed gum in g.

2.165 Addition of calcium to chewing gum

Calcium may be added to chewing gum only if:

(a) the chewing gum contains no more than 0.2% residual sugars; and

(b) the calcium is in a permitted form specified in section S17.02 of Schedule 17.

2.166 Claims about the presence of calcium in chewing gum

(1) Despite subsection 1.81(1), a claim to the effect that chewing gum is a good source of releasable calcium must not be made.

Note: Subsection 1.81(1) and the table to section S4.01 of Schedule 4 regulate when nutrition content claims may be made, including nutrition content claims about a food being a good source of vitamins or minerals.

(2) A claim about the presence of releasable calcium in chewing gum may be made only if:

(a) the chewing gum contains no more than 0.2% residual sugars; and

(b) the chewing gum contains no less than 80 mg (10% of the RDI) of releasable calcium per serve; and

(c) the maximum quantity claimed is no more than 200 mg (25% of the RDI) of releasable calcium per serve; and

(d) the supplier who makes the claim or includes it on a label or in an advertisement:

(i) has records that substantiate the matters listed in paragraphs (b) and (c); and

(ii) makes the records available to the relevant authority upon request.

2.167 Labelling requirements

(1) If a claim is made in accordance with section 2.166, the nutrition information panel must include:

(a) for chewing gum in a small package:

(i) the average quantity of releasable calcium per serve; and

(ii) the serving size; and

(b) for chewing gum other than in a small package—the average quantity of releasable calcium per serve and per 100 g; and

(c) in any case:

(i) the proportion of the RDI (for calcium) of releasable calcium per serve; and

(ii) a statement to the effect that the average quantity of calcium is released during 20 minutes of chewing.

(2) For chewing gum in a small package:

(a) the nutrition information need not be set out in a nutrition information panel; and

(b) to avoid doubt, paragraph 1.109(1)(b) does not apply in relation to a claim made in accordance with section 2.166.

(3) For chewing gum other than in a small package, the nutrition information panel may be set out in the form specified in section S12.06 in Schedule 12.

Division 4—Miscellaneous standards for other foods

2.168 Compositional requirements for tea and coffee

Food that is sold on the basis of a representation that it is a product listed in column 1 of the table to this section must satisfy the corresponding compositional requirement in column 2:

Column 1	Column 2
If food is sold on the basis that it is	*the food must consist of*
'coffee'	coffee
'decaffeinated coffee'	decaffeinated coffee
'decaffeinated instant coffee' or 'decaffeinated soluble coffee'	instant coffee that contains no more than 3 g/kg of anhydrous caffeine on a dry basis.
'decaffeinated instant tea' 'decaffeinated soluble tea'	instant tea that contains no more than 3 g/kg of anhydrous caffeine on a dry basis.
'decaffeinated tea'	decaffeinated tea
'instant coffee' or 'soluble coffee'	instant coffee
'instant tea' or 'soluble tea'	instant tea
'tea'	tea

Note: The terms ***coffee***, ***decaffeinated coffee***, ***decaffeinated tea***, ***instant coffee***, ***instant tea*** and ***tea*** are defined in section 1.06.

2.169 Compositional requirement for peanut butter

Food that is sold on the basis of a representation that it is 'peanut butter' must:

(a) consist of a peanut-based spread; and

(b) contain not less than 850 g/kg of peanuts.

2.170 Miscellaneous compositional requirements

A food that is sold on the basis that it is a product listed in column 1 of the table to this section must consist of the substance listed in the corresponding row of column 2:

Column 1	Column 2
'chocolate'	chocolate
'cocoa'	cocoa
'gelatine'	gelatine

Note: The terms ***cocoa***, ***chocolate*** and ***gelatine*** are defined in section 1.06.

Chapter 3—Food safety standards (Australia only)

3.01 Incorporation by reference of other Standards

The following standards are taken to be part of this Code:

(a) Standard 3.1.1—Interpretation and Application;

(b) Standard 3.2.1—Food Safety Programs;

(c) Standard 3.2.2—Food Safety Practices and General Requirements;

(d) Standard 3.2.3—Food Premises and Equipment;

(e) Standard 3.3.1—Food Safety Programs for Food Service to Vulnerable Persons.

Chapter 4—Primary production standards (Australia only)

4.01 Incorporation by reference of other Standards

The following standards are taken to be part of this Code:

(a) Standard 4.1.1—Primary Production and Processing Standards – Preliminary Provisions;

(b) Standard 4.2.1—Primary Production and Processing Standard for Seafood;

(c) Standard 4.2.2—Primary Production and Processing Standard for Poultry Meat;

(d) Standard 4.2.3—Primary Production and Processing Standard for Meat;

(e) Standard 4.2.4—Primary Production and Processing Standard for Dairy Products;

(f) Standard 4.2.4A—Primary Production and Processing Standard for Specific Cheeses;

(g) Standard 4.2.5—Primary Production and Processing Standard for Eggs and Egg Product;

(h) Standard 4.2.6—Production and Processing Standard for Seed Sprouts;

(i) Standard 4.5.1—Wine Production Requirements.

Chapter 5—Revocation, transitionals etc

Part 1—Revocation

5.01 Revocation of standards

The following standards are revoked:

(a) Standard 1.1.1—Preliminary Provisions - Application, Interpretation and General Prohibitions;

(b) Standard 1.1.2—Supplementary Definitions for Foods;

(c) Standard 1.1A.6—Transitional Standard for Special purposes Foods (including Amino Acid Modified Foods) (New Zealand Only);

(d) Standard 1.2.1—Application of Labelling and Other Information Requirements;

(e) Standard 1.2.2—Food Identification Requirements;

(f) Standard 1.2.3—Mandatory Warning and Advisory Statements and Declarations;

(g) Standard 1.2.4—Labelling of Ingredients;

(h) Standard 1.2.5—Date Marking of Packaged Food;

(i) Standard 1.2.6—Directions for Use and Storage;

(j) Standard 1.2.7—Nutrition and Health Claims;

(k) Standard 1.2.8—Nutrition Information Requirements;

(l) Standard 1.2.9—Legibility Requirements;

(m) Standard 1.2.10—Characterising Ingredients and Components of Food;

(n) Standard 1.2.11—Country of Origin Requirements;

(o) Standard 1.3.1—Food Additives;

(p) Standard 1.3.2—Vitamins and Minerals;

(q) Standard 1.3.3—Processing Aids;

(r) Standard 1.3.4—Identity and Purity;

(s) Standard 1.4.1—Contaminants and Natural Toxicants;

(t) Standard 1.4.2—Maximum Residue Limits (Australia Only);

(u) Standard 1.4.3—Articles and Materials in Contact with Food;

(v) Standard 1.4.4—Prohibited and Restricted Plants and Fungi;

(w) Standard 1.5.1—Novel Foods;

(x) Standard 1.5.2—Food Produced Using Gene Technology;

(y) Standard 1.5.3—Irradiation of Food;

(z) Standard 1.6.1—Microbiological Limits for Food;

(aa) Standard 1.6.2—Processing Requirements (Australia Only);

(bb) Standard 2.1.1—Cereals and Cereal Products;

(cc) Standard 2.2.1—Meat and Meat Products;

(dd) Standard 2.2.2—Egg and Egg Products;
(ee) Standard 2.2.3—Fish and Fish Products;
(ff) Standard 2.3.1—Fruit and Vegetables;
(gg) Standard 2.3.2—Jam;
(hh) Standard 2.4.1—Edible Oils;
(ii) Standard 2.4.2—Edible Oils Spreads;
(jj) Standard 2.5.1—Milk;
(kk) Standard 2.5.2—Cream;
(ll) Standard 2.5.3—Fermented Milk Products;
(mm) Standard 2.5.4—Cheese;
(nn) Standard 2.5.5—Butter;
(oo) Standard 2.5.6—Ice Cream;
(pp) Standard 2.5.7—Dried Milks, Evaporated Milks and Condensed Milks;
(qq) Standard 2.6.1—Fruit Juice and Vegetable Juice;
(rr) Standard 2.6.2—Non-Alcoholic Beverages and Brewed Soft Drinks;
(ss) Standard 2.6.3—Kava;
(tt) Standard 2.6.4—Formulated Caffeinated Beverages;
(uu) Standard 2.7.1—Labelling of Alcoholic Beverages and Food Containing Alcohol;
(vv) Standard 2.7.2—Beer;
(ww) Standard 2.7.3—Fruit Wine and Vegetable Wine;
(xx) Standard 2.7.4—Wine and Wine Product;
(yy) Standard 2.7.5—Spirits;
(zz) Standard 2.8.1—Sugars;
(aaa) Standard 2.8.2—Honey;
(bbb) Standard 2.9.1—Infant Formula Products;
(ccc) Standard 2.9.2—Foods for Infants;
(ddd) Standard 2.9.3—Formulated Meal Replacements and Formulated Supplementary Foods;
(eee) Standard 2.9.4—Formulated Supplementary Sports Foods:
(fff) Standard 2.9.5—Food for Special Medical Purposes;
(ggg) Standard 2.10.1—Vinegar and Related Products;
(hhh) Standard 2.10.2—Salt and Salt Products;
(iii) Standard 2.10.3—Chewing Gum.

Part 2—Transitional provisions

5.02 Transitional provisions for repeal of Standard 1.1A.2—Transitional Standard for Health Claims

[general transitional provision to be included, possibly based on s 1.15, including transitionals for Health Claims standard]