

12 May 2015
[08–15]

Call for submissions – Proposal P1036

Code Revision – Consequential & Corrective Amendments

FSANZ has assessed a proposal to amend the version of the Code published following approval of Proposal P1025 to include variations to the existing Code made in A1092, A1096, P1022 and P1029 and to correct minor errors, and has prepared a draft food regulatory measure. Pursuant to section 61 of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act), FSANZ now calls for submissions to assist consideration of the draft food regulatory measure.

For information about making a submission, visit the FSANZ website at [information for submitters](#).

All submissions on applications and proposals will be published on our website. We will not publish material that is provided in-confidence, but will record that such information is held. In-confidence submissions may be subject to release under the provisions of the *Freedom of Information Act 1991*. Submissions will be published as soon as possible after the end of the public comment period. Where large numbers of documents are involved, FSANZ will make these available on CD, rather than on the website.

Under section 114 of the FSANZ Act, some information provided to FSANZ cannot be disclosed. More information about the disclosure of confidential commercial information is available on the FSANZ website at [information for submitters](#).

Submissions should be made in writing; be marked clearly with the word ‘Submission’ and quote the correct project number and name. While FSANZ accepts submissions in hard copy to our offices, it is more convenient and quicker to receive submissions electronically through the FSANZ website via the link on [documents for public comment](#). You can also email your submission directly to submissions@foodstandards.gov.au.

There is no need to send a hard copy of your submission if you have submitted it by email or via the FSANZ website. FSANZ endeavours to formally acknowledge receipt of submissions within 3 business days.

DEADLINE FOR SUBMISSIONS: 6pm (Canberra time) 26 May 2015

Submissions received after this date will not be considered unless an extension had been given before the closing date. Extensions will only be granted due to extraordinary circumstances during the submission period. Any agreed extension will be notified on the FSANZ website and will apply to all submitters.

Questions about making submissions or the application process can be sent to standards.management@foodstandards.gov.au.

Hard copy submissions may be sent to one of the following addresses:

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Executive summary

FSANZ has published a revision of the *Australia New Zealand Food Standards Code* (the P1025 Code). The P1025 Code will replace the current *Australia New Zealand Food Standards Code* (the existing Code) on 1 March 2016, when the existing Code will be repealed.

The P1025 Code, as published, does not contain all the variations that have been or will be made to the existing Code prior to 1 March 2016.

Consequently, the P1025 Code will remain inconsistent with the existing Code unless a draft variation is prepared and the P1025 Code will not reflect existing law on 1 March 2016. Any inconsistency may result in regulatory uncertainty and increased compliance costs to industry.

Proposal P1036 will amend the P1025 Code to include variations made to the existing Code by certain Applications and Proposals; and to correct minor errors in the P1025 Code.

The variations proposed in this Proposal do not include all variations to the P1025 Code that will be required before 1 March 2016. Further variations will be proposed in separate proposals during 2015, as the current Code is varied. In particular, a proposal will be prepared and finalised before the end of 2015 to update Schedule 20, which lists agricultural and veterinary chemical residue limits.

P1036 does not impose any new requirements and is being assessed under the minor procedure.

1 Introduction

1.1 The Proposal

The Board has approved a revision of the *Australia New Zealand Food Standards Code* (the P1025 Code). The P1025 Code will replace the current *Australia New Zealand Food Standards Code* (the existing Code) on 1 March 2016, when the existing Code will be repealed.

The P1025 Code does not contain all the variations that have been or will be made to the existing Code prior to 1 March 2016.

The P1025 Code also contains minor typographical errors and errors made when including the variations to the existing Code made by other applications and proposals which have been already published (for example, P1017, P1033, A1088 and A1091).

P1036 will amend the P1025 Code to include variations made to the existing Code in Proposals P1022, P1029 and Applications A1092 and A1096; and to correct the above-mentioned errors.

Further variations will be required to amend the P1025 Code, as and when the existing Code is varied, to ensure that the former is consistent with the latter on 1 March 2016.

1.3 The current Standard

The proposal amends various Standards and Schedules in the P1025 Code.

1.4 Reasons for preparing the Proposal

The Proposal was prepared because the amendments are essential so as to ensure that the P1025 Code is consistent with the existing Code when the P1025 Code commences on 1 March 2016.

1.5 Procedure for assessment

The Proposal is being assessed under the minor procedure.

2 Summary of the assessment

2.1 Communication

2.1.1 Consultation

Consultation is a key part of FSANZ's standards development process. This Proposal is being assessed under the minor procedure, which only requires consultation with government agencies on the proposed draft variations. However, as the amendments affect a wide range of FSANZ's stakeholders, the call for submissions will also be notified in FSANZ's Notification Circular to ensure all stakeholders can be included in the call for submissions.

2.4.2 World Trade Organization (WTO)

As members of the World Trade Organization (WTO), Australia and New Zealand are obliged to notify WTO members where proposed mandatory regulatory measures are inconsistent with any existing or imminent international standards and the proposed measure may have a significant effect on trade.

Amending the P1025 Code to include variations to the existing Code made in A1092, A1096, P1022 and P1029 (subject to their publication) and to correct the errors referred to in section 1.1 above is unlikely to have a significant effect on international trade as P1036 does not impose any new requirements. Therefore, a notification to the WTO under Australia's and New Zealand's obligations under the WTO Technical Barriers to Trade or Application of Sanitary and Phytosanitary Measures Agreement was not considered necessary.

2.5 FSANZ Act assessment requirements

When assessing this Proposal and the subsequent development of a food regulatory measure, FSANZ has had regard to the following matters in section 59 of the FSANZ Act:

2.5.1 Section 59

2.5.1.1 Cost benefit analysis

The direct and indirect benefits that would arise from a food regulatory measure varied as a result of the Proposal outweigh the costs to the community, Government or industry that would arise from the development or variation of the food regulatory measure.

It is expected that the draft variation would not impose costs to the community, Government or industry that are additional to the costs already borne by compliance with requirements imposed by the existing Code.

The P1025 Code will remain inconsistent with the existing Code if a draft variation is not prepared. That is, the P1025 Code will not reflect existing law, which may result in regulatory uncertainty and increased compliance costs to industry.

2.5.1.2 Other measures

There are no other measures (whether available to FSANZ or not) that would be more cost-effective than a food regulatory measure developed or varied as a result of the Proposal.

2.5.1.3 Any relevant New Zealand standards

Relevant New Zealand standards had been considered by the particular applications and proposals amending the existing Code, which are the subject of P1036.

2.5.1.4 Any other relevant matters

No other relevant matters have been identified.

2.5.2 Subsection 18(1)

FSANZ has also considered the three objectives in subsection 18(1) of the FSANZ Act during the assessment.

2.5.2.1 Protection of public health and safety

The purpose of P1036 is simply to incorporate amendments already approved by the Board in December 2014, which have since been published; and to correct minor errors.

Risk assessments had been conducted for P1025 and the relevant applications and proposals. FSANZ has already considered the protection of public health and safety in relation to those applications and Proposals.

The correction of minor typographical errors in the P1025 Code does not make any substantive change to the P1025 Code and, consequently, does not raise public health and safety issues for consideration.

2.5.2.2 The provision of adequate information relating to food to enable consumers to make informed choices

The P1025 Code will remain inconsistent with the existing Code if a draft variation is not prepared. That is, the P1025 Code will not reflect existing law unless the variations are made.

2.5.2.3 The prevention of misleading or deceptive conduct

No issues regarding the prevention of misleading and deceptive conduct have been identified in relation to P1036.

2.5.3 Subsection 18(2) considerations

FSANZ has also had regard to:

- **the need for standards to be based on risk analysis using the best available scientific evidence**

As stated above, risk assessments had been conducted for Proposal P1025; as well as for the relevant Applications and Proposals that either have been or are to be incorporated in the P1025 Code. Those assessments were based on risk analysis using the best available scientific evidence.

- **the promotion of consistency between domestic and international food standards**

Proposal P1036 does not raise any new issues regarding the promotion of consistency between domestic and international food standards.

By making the P1025 Code consistent with the existing Code, which aims to promote consistency between domestic and international food standards; the amendments proposed in P1036 would promote consistency between domestic and international food standards from 1 March 2016 when the P1025 Code commences.

Failure to be consistent with the existing Code would not promote consistency between domestic and international food standards.

- **the desirability of an efficient and internationally competitive food industry**

By promoting regulatory certainty and greater consistency between domestic and international food standards, Proposal P1036 would contribute towards supporting an efficient and internationally competitive food industry.

- **the promotion of fair trading in food**

Proposal P1036 does not raise any particular concerns regarding the promotion of fair trading in food.

Again, by promoting regulatory certainty and consistency between domestic and international food standards, Proposal P1036 would assist in promoting fair trading in food.

- **any written policy guidelines formulated by the Ministerial Council**¹

No relevant guidelines issued by the Ministerial Council specifically apply to Proposal 1036.

3 Draft variation

The draft variation is at Attachment A. The variation is intended to take effect on 1 March 2016.

A draft explanatory statement is at Attachment B. An explanatory statement is required to accompany an instrument if it is lodged on the Federal Register of Legislative Instruments.

4 Attachments

- A. Draft variation to the *Australia New Zealand Food Standards Code* (to commence on 1 March 2016)
- B. Explanatory Statement

¹ Now known as the Australia and New Zealand Ministerial Forum on Food Regulation (convening as the Australia and New Zealand Food Regulation Ministerial Council)

Attachment A – Draft variation to the *Australia New Zealand Food Standards Code* (to commence on 1 March 2016)



Food Standards (Proposal P1036 – Code Revision – Consequential & Corrective Amendments) Variation

The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The Standard commences on the date specified in clause 3 of this variation.

Dated [To be completed by Standards Management Officer]

Standards Management Officer
Delegate of the Board of Food Standards Australia New Zealand

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC **XX on XX Month 20XX**. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

1 Name

This instrument is the *Food Standards (Proposal P1036 – Code Revision – Consequentials & Corrective Amendments) Variation*.

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

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

3 Commencement

The variation commences on 1 March 2016

SCHEDULE

Standard 1.1.1—Structure of the Code and general provisions

[1] Subsection 1.1.1—2(2)

- (a) Omit:
- | | |
|----------------|--------------------------------|
| Standard 1.2.6 | Directions for use and storage |
|----------------|--------------------------------|
- Substitute:
- | | |
|----------------|---|
| Standard 1.2.6 | Information requirements—directions for use and storage |
|----------------|---|
- (b) Omit:
- | | |
|-----------------|---|
| Standard 1.2.10 | Characterising ingredients and components of food |
|-----------------|---|
- Substitute:
- | | |
|-----------------|--|
| Standard 1.2.10 | Information requirements—characterising ingredients and components of food |
|-----------------|--|
- (c) Omit:
- | | |
|-----------------|--|
| Standard 1.2.11 | Country of origin labelling requirements |
|-----------------|--|
- Substitute:
- | | |
|-----------------|--|
| Standard 1.2.11 | Information requirements—country of origin labelling |
|-----------------|--|
- (d) Omit:
- | | |
|----------------|---------------------------------|
| Standard 1.6.1 | Microbiological limits for food |
|----------------|---------------------------------|
- Substitute:
- | | |
|----------------|--------------------------------|
| Standard 1.6.1 | Microbiological limits in food |
|----------------|--------------------------------|
- (e) Omit:
- | | |
|----------------|--------|
| Standard 2.8.1 | Sugars |
|----------------|--------|
- Substitute:
- | | |
|----------------|--------------------------|
| Standard 2.8.1 | Sugar and sugar products |
|----------------|--------------------------|
- (f) Omit:
- | | |
|-------------|--|
| Schedule 14 | Technological purposes performed by food additives |
|-------------|--|
- Substitute:
- | | |
|-------------|---|
| Schedule 14 | Technological purposes performed by substances used as food additives |
|-------------|---|
- (g) Omit:
- | | |
|-------------|--|
| Schedule 16 | Definitions for certain types of substances that may be used as food additives |
|-------------|--|

- Substitute:
 Schedule 16 Types of substances that may be used as food additives
- (h) Omit:
 Schedule 27 Microbiological limits for foods
- Substitute:
 Schedule 27 Microbiological limits in food
- (i) Omit:
 Schedule 28 Composition of packaged water
- Substitute:
 Schedule 28 Formulated caffeinated beverages

[2] Subsection 1.1.1—13(2) (Note 1)

Omit '**Note 1**', substitute '**Note**'.

[3] Subsection 1.1.1—13(3) (First example)

Omit '**Example**', substitute '**Example 1**'.

Standard 1.1.2—Definitions used throughout the Code

[4] Section 1.1.2—7(2) (paragraph (a) in definition of *acute care hospital*)

Omit 'ailments,' substitute 'ailments'.

Standard 1.2.1—Requirements to have labels or otherwise provide information

[5] Subsection 1.2.1—6(3)

Omit '*individual portion pack', substitute 'individual portion pack'.

[6] Paragraph 1.2.1—16(3)(b)

Omit 'paragraph 1.2.1—8(1)(k)', substitute 'paragraph 1.2.1—8(1)(j)'.

[7] Section 1.2.1—17

Omit '*caterer' (second occurrence), substitute 'caterer'.

Standard 1.2.5—Information requirements—date marking of food for sale

[8] Subparagraph 1.2.5—3(1)(b)(i)

Omit 'best-before date', substitute '*best-before date'.

[9] Subsubparagraph 1.2.5—3(1)(b)(ii)(A)

Omit '*best-before date', substitute 'best-before date'.

Standard 1.2.7 – Nutrition, health and related claims

[10] Section 1.2.7—2 (Note 1, definition of *nutrient profiling score*)

Omit 'section 1.2.7—26', substitute 'section 1.2.7—25'.

- [11] **Subsections 1.2.7—4(1) and (2)**
Omit ‘*nutrition content claim’, substitute ‘nutrition content claim’.
- [12] **Subsections 1.2.7—12(2) and (3)**
Omit ‘*claim’, substitute ‘claim’.
- [13] **Subsections 1.2.7—12(5), (6) and (7)**
Omit ‘*nutrition content claim’, substitute ‘nutrition content claim’.
- [14] **Subsection 1.2.7—13(1)**
Omit ‘*nutrition content claim’, substitute ‘nutrition content claim’.
- [15] **Subsection 1.2.7—14(1)**
Omit ‘*nutrition content claim’, substitute ‘nutrition content claim’.
- [16] **Section 1.2.7—15**
Omit ‘*nutrition content claim’, substitute ‘nutrition content claim’.
- [17] **Section 1.2.7—16 (first (unnumbered) subsection)**
Substitute:
(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.
- [18] **Paragraph 1.2.7—18(1)(a)**
Omit ‘meets the NPSC’, substitute ‘*meets the NPSC’.

Standard 1.2.8 – Nutrition information requirements

- [19] **Section 1.2.8—2 (first Note)**
Omit ‘**Note**’, substitute ‘**Note 1**’.
- [20] **Section 1.2.8—4 (first Note)**
Omit ‘**Note**’, substitute ‘**Note 1**’.
- [21] **Paragraph 1.2.8—6(5)(b)**
Omit ‘*sugars’, substitute ‘sugars’.
- [22] **Subparagraph 1.2.8—6(9)(b)(ii)**
Omit ‘*available carbohydrate by difference’, substitute ‘available carbohydrate by difference’.

- [23] **Subsection 1.2.8—6(9)**
Omit 'nutrition information panel', substitute '*nutrition information panel'.

Standard 1.2.10 – Information requirements—characterising ingredients and components of food

- [24] **Subsection 1.2.10—3(2)**
Omit 'characterising ingredient', substitute '*characterising ingredient'.

Standard 1.2.11 – Information requirements—country of origin labelling

- 25] **Paragraph 1.2.11—3(1)(a)**
Omit '*fruit', substitute 'fruit'.

Standard 1.3.3 – Processing aids

- [26] **Paragraph 1.3.3—3(a)**
Omit 'processing aid', substitute 'a processing aid'.

Standard 1.4.1 – Contaminants and natural toxicants

- [27] **After section 1.4.1—3**
Insert the following section:

- 1.4.1—4 Exception relating to honey and comb honey**
- (1) Section 1.1.1—9 does not apply to honey and comb honey for the purposes of section 1.4.1—3.
 - (2) Despite section 1.4.1—3, honey and comb honey that was packaged for retail sale before the commencement of the *Food Standards (Proposal P1029 – Maximum Level for Tutin in Honey) Variation* is taken to comply with the level of Tutin listed in the table to section S19—6 if the product otherwise complied with the Code before that variation commenced.

Standard 1.5.2 – Food produced using gene technology

- [28] **Section 1.5.2—2 (first Note)**
Omit '**Note**', substitute '**Note 1**'.
- [29] **Section 1.5.2—4 (Note 3)**
Omit '*Note 3*Definitions', substitute '*Note 3* Definitions'.

Standard 1.5.3 – Irradiation of food

- [30] **Subsection 1.5.3—3(2) (table)**
Insert in the appropriate alphabetical positions:
- apple
 - apricot
 - cherry
 - honeydew
 - nectarine

peach
plum
rockmelon
scallopini
strawberry
table grape
zucchini (courgette)

Standard 1.6.1—Microbiological limits in food

- [31] **Section 1.6.1—1**
Omit ‘Microbiological limits for foods’, substitute ‘Microbiological limits in food’.
- [32] **Paragraph 1.6.1—2(a)**
Omit ‘S27—3’, substitute ‘S27—4’.
- [33] **Subsection 1.6.1—3(5)**
Omit ‘the Schedule’, substitute ‘the table to section S27—4’.
- [34] **Subsection 1.6.1—4(1)**
Omit ‘the Schedule’, substitute ‘the table to section S27—4’.
- [35] **Subsection 1.6.1—4(2)**
Omit ‘the Schedule’, substitute ‘the table to section S27—4’.

Standard 2.2.1—Meat and meat products

- [36] **Section 2.2.1—1 (heading)**
Substitute:

2.2.1—1 **Name**

Standard 2.6.2—Non-alcoholic beverages and brewed soft drinks

- [37] **Section 2.6.2—3 (Note at the end)**
Repeal the Note.

Standard 2.8.1—Sugar and sugar products

- [38] **Section 2.8.1—1**
Omit ‘— Sugars and honey’, substitute ‘— Sugar and sugar products’.

Standard 2.9.2 – Food for infants

- [39] **Paragraph 2.9.2—8(1)(b)**
Omit ‘more than of 3 g’, substitute ‘more than 3 g’.

Standard 2.9.3 – Formulated meal replacements and formulated supplementary foods

[40] Section 2.9.3—2 (Note 2)

Repeal the Note.

[41] Paragraph 2.9.3—8(3)(a)

Omit the paragraph, substitute:

- (a) the vitamin or mineral is listed in section S17—2, S17—3 or S29—15; and

Standard 2.9.4 – Formulated supplementary sports foods

[42] Paragraph 2.9.4—5(2)(a)

After '(expressed', insert 'as'.

[43] Paragraph 2.9.4—6(2)(a)

After '*RDI', insert 'or *ESADDI'.

Standard 2.9.5 – Food for special medical purposes

[44] Paragraph 2.9.5—3(a)

Omit 'or Standard 1.1A.2 (transitional standard for health claims)'.

Schedule 3 – Identity and purity

[45] Subparagraph S3—27(2)(b)(ii)

Omit 'campteranol', substitute 'campestanol'.

Schedule 14 – Technological purposes performed by substances used as food additives

[46] Section S14—2 (table) (definition of *firming agent*)

Omit 'interact', substitute 'interacts'.

[47] Section S14—2 (table) (definition of *raising agent*)

Omit 'increase', substitute 'increases'.

Schedule 15 – Substances that may be used as food additives

[48] Section S15—5 (table) (after item 5.2.2)

Insert the following item heading:

.... 5.3 **Not assigned**

[49] Section S15—5 (table) (item 9.4.1 (Canned abalone (paua)))

Insert in appropriate alphabetical position:

Sodium hydrosulphite

1 000

[50] Section S15—5 (table) (item 13.3 – heading)

Substitute:

.... 13.3 **Formulated meal replacements and formulated supplementary foods**

Schedule 17 – Vitamins and minerals

[51] Schedule Heading (Note 1)

Omit:

- lists vitamins and minerals for the definition of *claimable vitamin or mineral* in subsection 2.9.3—6(6) and subsection 2.9.3—8(7).

Substitute:

- lists vitamins and minerals for which claims may be made under subsections 2.9.3—6(3) and 2.9.3—8(3).

Schedule 18 – Processing aids

[52] Subsection S18—4(5) (table) (item *Aspergillopepsin I (EC 3.4.23.6)*)

Omit ‘Aspergillopepsin I (EC 3.4.23.6)’, substitute ‘Aspergillopepsin I (EC 3.4.23.18)’

[53] Subsection S18—4(5) (table)

Insert the following items in the appropriate alphabetical positions:

Endo-1,4-beta-xylanase (EC 3.2.1.8)	<i>Aspergillus niger</i>
	<i>Aspergillus oryzae</i>
	<i>Aspergillus oryzae</i> , containing the gene for Endo-1,4-beta-xylanase isolated from <i>Aspergillus aculeatus</i>
	<i>Aspergillus oryzae</i> , containing the gene for Endo-1,4-beta-xylanase isolated from <i>Thermomyces lanuginosus</i>
	<i>Bacillus amyloliquefaciens</i>
	<i>Bacillus subtilis</i>
	<i>Humicola insolens</i>
	<i>Trichoderma reesei</i>
Endo-1,4-beta-xylanase, protein engineered variant (EC 3.2.1.8)	<i>Bacillus licheniformis</i> , containing the gene for Endo-1,4-beta-xylanase isolated from <i>Bacillus licheniformis</i>

[54] Subsection S18—4(5) (table) (item *Hemicellulase endo-1,4-β-xylanase (EC 3.2.1.8)*)

Omit the item.

Schedule 19 – Maximum levels of contaminants and natural toxicants

[55] Section S19—2

Insert in the appropriate alphabetical position:

honey includes comb honey.

[56] Section S19—2

Add at the end the following Note:

Note In this Code (see section 1.1.2—3):

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.

[57] Subsection S19—6(2) (table)

Insert in the appropriate alphabetical position:

Tutin	Honey	0.7
-------	-------	-----

[58] Subsection S19—6(2)

Add at the end (after the table) the following Note:

Note The New Zealand *Food (Tutin in Honey) Standard 2010* also regulates beekeepers, packers and exporters of honey in New Zealand. It provides options for demonstrating compliance with the maximum level for tutin in honey set by section 1.4.1—3.

Schedule 27 – Microbiological limits in food

[59] Heading to the Schedule

Omit '*for foods*', substitute '*in food*'.

[60] Heading to the Schedule (Note 1)

Omit 'for foods', substitute 'in food'.

[61] Section S27—1

Omit '*for foods*', substitute '*in food*'.

[62] Section S27—4 (heading)

Omit '*for foods*', substitute '*in food*'.

[63] Section S27—4 (heading of table)

Omit '*for foods*' whenever occurring in the repeated table heading, substitute '*in food*'.

[64] Section S27—4 (table)

- (a) Omit the item '*Butter made from unpasteurised milk and/or unpasteurised milk products*'.
- (b) Omit the item '*All raw milk cheese (cheese made from milk not pasteurised or thermised)*'.
- (c) Omit the item '*Raw milk unripened cheeses (moisture content > 50% with pH > 5.0) mixed tart*'.
- (d) After the item '*All cheese*', insert the following item:

Raw milk cheese

<i>Salmonella</i>	5	0	not detected in 25 g
<i>Staphylococcal enterotoxins</i>	5	0	not detected in 25 g

- (e) Omit the item '*Unpasteurised milk for retail sale*', substitute the following item:

Unpasteurised milk for retail sale

<i>Campylobacter</i>	5	0	not detected in 25 mL	
Coliforms	5	1	10 ² /mL	10 ³ /mL
<i>Escherichia coli</i>	5	1	3/mL	9/mL
<i>Salmonella</i>	5	0	not detected in 25 mL	
SPC/mL	5	1	2.5x10 ⁴ /mL	2.5x10 ⁵ /mL

- (f) In the item '*Cooked crustacea*', omit 'SPC/g' and substitute 'SPC'.
- (g) In the item '*Ready-to-eat food in which the growth of Listeria monocytogenes can occur*', omit '10²cfu/g' and substitute 'not detected in 25 g'.
- (h) In the item '*Ready-to-eat food in which the growth of Listeria monocytogenes will not occur*', omit 'not detected in 25 g' and substitute '10²cfu/g'.
- (i) Omit the item '*Powdered infant formula products*' and substitute the following item:

Powdered infant formula products

<i>Bacillus cereus</i>	5	0	10 ² /g	
Coagulase-positive staphylococci	5	1	not detected in 1 g	10/g
Coliforms	5	2	less than 3/g	10/g
<i>Salmonella</i>	10	0	not detected in 25 g	
SPC	5	2	10 ³ /g	10 ⁴ /g

Schedule 29 – Special purpose foods

[65] Section S29—10

Omit subsection S27-10(3) and substitute:

- (3) It is recommended that the nutrition information table be set out in the format specified in the table to this section.

NUTRITION INFORMATION PANEL		
	Average amount per 100 mL made up formula (See Note 1)	Average amount per 100 g of powder (or per 100 mL for liquid concentrate) (see Note 2)
Energy	kJ	kJ
Protein	g	g
Fat	g	g
Carbohydrate	g	g
Vitamin A	µg	µg
Vitamin B ₆	µg	µg
Vitamin B ₁₂	µg	µg
Vitamin C	mg	mg
Vitamin D	µg	µg

Vitamin E	µg	µg
Vitamin K	µg	µg
Biotin	µg	µg
Niacin	mg	mg
Folate	µg	µg
Pantothenic acid	µg	µg
Riboflavin	µg	µg
Thiamin	µg	µg
Calcium	mg	mg
Copper	µg	µg
Iodine	µg	µg
Iron	mg	mg
Magnesium	mg	mg
Manganese	µg	µg
Phosphorus	mg	mg
Selenium	µg	µg
Zinc	mg	mg
Chloride	mg	mg
Potassium	mg	mg
Sodium	mg	mg
(insert any other substance used as a nutritive substance or inulin-type fructans and galacto-oligosaccharides to be declared)	g, mg, µg	g, mg, µg

Note 1 Delete the words 'made up formula' in the case of formulas sold in 'ready to drink' form.

Note 2 Delete this column in the case of formulas sold in 'ready to drink' form.

Attachment B – Draft Explanatory Statement

1. Authority

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) provides that the functions of Food Standards Australia New Zealand (the Authority) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the existing Code).

Division 2 of Part 3 of the FSANZ Act specifies that the Authority may prepare a proposal for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering a proposal for the development or variation of food regulatory measures.

FSANZ has published a revision of the existing Code (the P1025 Code). The P1025 Code will replace the existing Code on 1 March 2016, when the existing Code will be repealed.

FSANZ prepared Proposal P1036 to amend the P1025 Code to incorporate variations to the existing Code arising from A1092, A1096, P1022 and P1029 (subject to their publication) and to correct minor errors in the published P1025 Code. The Authority has considered the Proposal in accordance with Division 2 of Part 3 and has prepared a draft variation.

2. Purpose

The Authority has approved the draft variation to incorporate, into the P1025 Code, variations made to the existing Code that were previously approved by the Board in A1092, A1096, P1022 and P1029 and which have since been published; and to correct the following errors:

- minor typographical errors; and
- errors made in the previous incorporation, into the P1025 Code, of variations to the existing Code arising from Applications and Proposals other than those mentioned above.

3. Documents incorporated by reference

The variation to the P1025 Code does not incorporate any documents by reference not already incorporated into the existing Code.

4. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of P1036 will include one round of consultation with appropriate government agencies following an assessment and the preparation of a draft variation and associated report. Because the amendments affect a wide range of FSANZ's stakeholders, the call for submissions will also be notified in FSANZ's Notification Circular to ensure all stakeholders can be included in the call for submissions.

A Regulation Impact Statement was not required because the proposed variation to the P1025 Code is likely to have a minor impact on business and individuals. Proposal P1036 is considered to be an extension of the permission for the original code reform proposal P1025 (OBPR reference 14493).

5. Statement of compatibility with human rights

This instrument is exempt from the requirements for a statement of compatibility with human rights as it is a non-disallowable instrument under section 94 of the FSANZ Act.

6. Variation

Subsection 1.1.1—2(2)

Item [1] corrects references to the headings of the following Standards and Schedules, to correct transcription errors:

- Standard 1.2.6
- Standard 1.2.10
- Standard 1.2.11
- Standard 1.6.1
- Standard 2.8.1
- Schedule 14
- Schedule 16
- Schedule 27
- Schedule 28.

Subsection 1.1.1—13(2) (Note 1)

Item [2] replaces '**Note 1**' with '**Note**', to correct a numbering error.

Subsection 1.1.1—13(3) (First example)

Item [3] replaces '**Example**' with '**Example 1**', to correct a numbering error.

Paragraph 1.1.2—7(2)(a) (definition of acute care hospital)

Item [4] replaces 'ailments,' with 'ailments', to correct a typographical error.

Subsection 1.2.1—6(3)

Item [5] replaces '*individual portion pack' with 'individual portion pack', to correct a typographical error.

Paragraph 1.2.1—16(3)(b)

Item [6] replaces 'paragraph 1.2.1—8(1)(k)' with 'paragraph 1.2.1—8(1)(j)', to correct a typographical error.

Section 1.2.1—17

Item [7] replaces '*caterer' (second occurrence) with 'caterer', to correct a typographical error.

Subparagraph 1.2.5—3(1)(b)(i)

Item [8] replaces 'best-before date' with '*best-before date', to correct a typographical error.

Sub-subparagraph 1.2.5—3(1)(b)(ii)(A)

Item [9] replaces ‘*best-before date’ with ‘best-before date’, to correct a typographical error.

Section 1.2.7—2 (Note 1 - definition of nutrient profiling score)

Item [10] replaces ‘section 1.2.7—26’ with ‘section 1.2.7—25, to correct a typographical error’.

Subsections 1.2.7—4(1) and (2)

Item [11] replaces ‘*nutrition content claim’ with ‘nutrition content claim’, to correct a typographical error.

Subsections 1.2.7—12(2) and (3)

Item [12] replaces ‘*claim’ with ‘claim’, to correct a typographical error.

Subsections 1.2.7—12(5), (6) and (7)

Item [13] replaces ‘*nutrition content claim’ with ‘nutrition content claim’, to correct a typographical error.

Subsection 1.2.7—13(1)

Item [14] replaces ‘*nutrition content claim’ with ‘nutrition content claim’, to correct a typographical error.

Subsection 1.2.7—14(1)

Item [15] replaces ‘*nutrition content claim’ with ‘nutrition content claim’, to correct a typographical error.

Section 1.2.7—15

Item [16] replaces ‘*nutrition content claim’ with ‘nutrition content claim’, to correct a typographical error.

Section 1.2.7—16 (first unnumbered subsection)

Item [17] inserts a number to the first unnumbered subsection, to correct a numbering error.

Paragraph 1.2.7—18(1)(a)

Item [18] replaces ‘meets the NPSC’ with ‘*meets the NPSC’, to correct a typographical error.

Section 1.2.8—2 (first note)

Item [19] replaces ‘**Note**’ with ‘**Note 1**’, to correct a numbering error.

Section 1.2.8—4 (first note)

Item [20] replaces ‘**Note**’ with ‘**Note 1**’, to correct a numbering error.

Paragraph 1.2.8—6(5)(b)

Item [21] replaces ‘*sugars’ with ‘sugars’, to correct a typographical error.

Subparagraph 1.2.8—6(9)(b)(ii)

Item [22] replaces ‘*available carbohydrate by difference’ with ‘available carbohydrate by difference’, to correct a typographical error.

Subsection 1.2.8—6(9)

Item [23] replaces ‘nutrition information panel’, substitute ‘*nutrition information panel’, to correct a typographical error.

Subsection 1.2.10—3(2)

Item [24] replaces ‘characterising ingredient’ with ‘*characterising ingredient’, to correct a typographical error.

Paragraph 1.2.11—3(1)(a)

Item [25] replaces ‘*fruit’ with ‘fruit’, to correct a typographical error.

Paragraph 1.3.3—3(a)

Item [26] replaces ‘processing aid’ with ‘a processing aid’, to correct a typographical error.

New section 1.4.1—4

Item [27] inserts section 1.4.1—4 after section 1.4.1—3, to include in the Proposal P1025 Code the variations made in P1029.

Section 1.4.1—4 provides the following exceptions relating to honey and comb honey:

- (i) section 1.1.1—9 effect of variations to Code does not apply to honey and comb honey for the purposes of section 1.4.1—3 (levels of contaminants and natural toxicants in food); and
- (ii) despite section 1.4.1—3, honey and comb honey that was packaged for retail sale before the commencement of the *Food Standards (Proposal P1029 – Maximum Level for Tutin in Honey) Variation* is taken to comply with the level of Tutin listed in the table to section S19—6 if the product otherwise complied with the Code before that variation commenced.

Section 1.5.2—2 (first note)

Item [28] replaces ‘**Note**’ with ‘**Note 1**’, to correct a numbering error.

Item [29] inserts a space to correct a typographical error.

Table to subsection 1.5.3—3(2)

Item [30] inserts apple; apricot, cherry, honeydew, nectarine, peach, plum, rockmelon, scallopini, strawberry, table grape and zucchini (courgette) zucchini (courgette) into the table in alphabetical order, to include in the P1025 Code the variation made in A1092:

Section 1.6.1—1

Item [31] replaces 'Microbiological limits for foods' with 'Microbiological limits in food', to include in the P1025 Code the variation made in P1017.

Paragraph 1.6.1—2(a)

Item [32] replaces 'S27—3' with 'S27—4', to correct a referencing error.

Subsection 1.6.1—3(5)

Item [33] replaces 'the Schedule' with 'the table to section S27—4', to correct a referencing error.

Subsection 1.6.1—4(1)

Item [34] replaces 'the Schedule' with 'the table to section S27—4', to correct a referencing error.

Subsection 1.6.1—4(2)

Item [35] replaces 'the Schedule' with 'the table to section S27—4', to correct a referencing error.

Section 2.2.1—1

Item [36] replaces the heading to section 2.2.1—1 with '**Name**', to correct a transcription error.

Section 2.6.2—3

Item [37] repeals the Note at the end of section 2.6.2—3, to delete an unnecessary Note.

Section 2.8.1—1

Item [38] replaces '— Sugars and honey' with '— Sugar and sugar products', to correct a transcription error.

Paragraph 2.9.2—8(1)(b)

Item [39] replaces 'more than of 3 g' with 'more than 3 g', to include in the P1025 Code the variation made in P1033.

Section 2.9.3—2

Item [40] deletes a note that had been retained in the P1025 Code in error.

Subparagraph 2.9.3—8(3)(a)

Item [41] corrects a reference, using the terminology of the P1025 Code.

Paragraph 2.9.4—5(2)(a)

Item [42] inserts 'as' after '(expressed', to correct a typographical error.

Paragraph 2.9.4—6(2)(a)

Item [43] inserts 'or *ESADDI' after '*RDI', to correct an omission.

Paragraph 2.9.5—3(a)

Item [44] deletes 'or Standard 1.1A.2 (transitional standard for health claims)', to delete an unnecessary reference.

Schedule 3

Subparagraph S3—27(2)(b)(ii)

Item [45] replaces 'campsteranol' with 'campestanol', to correct a typographical error.

Schedule 14

Table to section S14—2

i. (definition of *firming agent*)

Item [46] replaces 'interact' with 'interacts', to correct a typographical error.

ii. (definition of raising agent)

Item [47] replaces 'increase' with 'increases', to correct a typographical error.

Schedule 15

Table to section S15—5

i. Item [48] inserts the following item heading after item 5.2.2, to correct a transcription error:

'.... 5.3 **Not assigned**'.

ii. Item [49] inserts the following food additive and its MPL into item 9.4.1 (Canned abalone (paua)), in alphabetical order, to include in the P1025 Code the variation made in A1088:

'Sodium hydrosulphite 1 000'.

iii. Item [50] replaces the heading for item 13.3 with the following, to include in the P1025 Code the variation made in P1033:

'.... 13.3 Formulated meal replacements and formulated supplementary foods'.

Schedule 17

Item [51] amends Note 1 to update a reference to certain vitamins and minerals, using the terminology of the P1025 Code.

Schedule 18

Table to subsection S18—4(5)

- i. Item [52] replaces the enzyme 'Aspergillopepsin I (EC 3.4.23.6)' with 'Aspergillopepsin I (EC 3.4.23.18)', to include in the P1025 Code the variation made in A1091.
- ii. Item [53] inserts two enzymes and their approved sources, in alphabetical order in the table, to include in the P1025 Code the variation made in A1096,
- iii. Item [54] deletes the enzyme '*Hemicellulase endo-1,4-β-xylanase (EC 3.2.1.8)*' and its sources, to include in the P1025 Code the variation made in A1096.

Schedule 19

Section S19—2

- i. Item [55] inserts the following definition into the section, to include in the P1025 Code the variation made in P1029:

'honey includes comb honey'.

- ii. Item [56] inserts the following Note at the end of the section, to include in the P1025 Code the variation made in P1029:

'Note In this Code (see section 1.1.2—3):

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.'

Table to subsection S19—6(2)

- i. Item [57] inserts the following entry, in alphabetical order, to include in the P1025 Code the variation made in P1029:

'Tutin Honey 0.7'

- ii. Item [58] inserts a note about the table, to include in the P1025 Code the variation made in P1029:

'Note The New Zealand *Food (Tutin in Honey) Standard 2010* also regulates beekeepers, packers and exporters of honey in New Zealand. It provides options for demonstrating compliance with the maximum level for tutin in honey set by section 1.4.1—3.'

Schedule 27

Heading to Schedule 27

Item [59] replaces '**for foods**' with '**in food**', to include in the P1025 Code the variation made in P1017.

Heading to Schedule 27– Note 1

Item [60] replaces ‘for foods’ with ‘in food’, to include in the P1025 Code the variation made in P1017.

Section S27—1

Item [61] replaces ‘for foods’ with ‘in food’, to include in the P1025 Code the variation made in P1017.

Heading to section S27—4

Item [62] replaces ‘for foods’ with ‘in food’, to include in the P1025 Code the variation made in P1017.

Heading to the table to section S27—4

Item [63] replaces ‘for foods’ whenever occurring in the repeated table heading with ‘in food’, to include in the P1025 Code the variation made in P1017.

Table to section S27—4

To include in the P1025 Code the variations made in P1022 (i and ii) and P1017 (iii – vii), item [64]:

- i. deletes the entire entries for the following foods in the table:
 - ‘Butter made from unpasteurised milk and/or unpasteurised milk products’
 - ‘All raw milk cheese (cheese made from milk not pasteurised or thermised)’
 - ‘Raw milk unripened cheeses (moisture content > 50% with pH > 5.0) mixed tart’.
- ii. inserts a new entry for ‘Raw milk cheese’
- iii. replaces the entry for the food ‘Unpasteurised milk for retail sale’ with:

Unpasteurised milk for retail sale

<i>Campylobacter</i>	5	0	not detected in 25 mL	
Coliforms	5	1	10^2 /mL	10^3 /mL
<i>Escherichia coli</i>	5	1	3/mL	9/mL
<i>Salmonella</i>	5	0	not detected in 25 mL	
SPC/mL	5	1	2.5×10^4 /mL	2.5×10^5 /mL

- iv. replaces ‘SPC/g’ with ‘SPC’ for the food ‘Cooked crustacea’
- v. replaces ‘ 10^2 cfu/g’ with ‘not detected in 25 g’ for the food ‘Ready-to-eat food in which the growth of *Listeria monocytogenes* can occur’
- vi. replaces ‘not detected in 25 g’ with ‘ 10^2 cfu/g’ for the food ‘Ready-to-eat food in which the growth of *Listeria monocytogenes* will not occur’

vii. replaces the entry for the food '*Powdered infant formula products*' with:

Powdered infant formula products

<i>Bacillus cereus</i>	5	0	$10^2/g$	
Coagulase-positive staphylococci	5	1	not detected in 1 g	10/g
Coliforms	5	2	less than 3/g	10/g
<i>Salmonella</i>	10	0	not detected in 25 g	
SPC	5	2	$10^3/g$	$10^4/g$

Schedule 29

Item [65] replaces the table in subsection S29—10(3) to correct typographical errors relating to units of measurement.