

AUSTRALIA AND NEW ZEALAND FOOD REGULATION MINISTERIAL COUNCIL

25 FEBRUARY 2008

FOOD MINISTERS REQUEST A REVIEW OF VARIATION TO STANDARD 1.2.1 – APPLICATION OF LABELLING AND OTHER INFORMATION REQUIREMENTS – THAT HAS RESULTED FROM PROPOSAL 272 – LABELLING REQUIREMENTS FOR FOOD FOR CATERING PURPOSES AND RETAIL SALE

The Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) has requested that Food Standards Australia New Zealand (FSANZ) review variation to Standard 1.2.1 – Application of labelling and other information requirements – that has resulted from Proposal 272 – Labelling requirements for food for catering purposes and retail sale.

Proposal 272 seeks to provide clarity and greater certainty on the interpretation and application of labelling and other information requirements by amending Standard 1.2.1 – Application of labelling and other information requirements.

The Criteria and Grounds for the review of variation to amend Standard 1.2.1 – Application of labelling and other information requirements are that:

- It is difficult to enforce and/or comply with in both practical and resource terms

The Food Standards Code has conflicting definitions, under Standard 1.2.5 a use-by-date is defined in relation to packaged food, yet the proposed variation to Standard 1.2.1 references a use-by-date for food displayed for retail sale other than in a package. Therefore it is difficult to enforce and/or comply with in both practical and resource terms.

- It places an unreasonable cost burden on industry or consumers

Because of the inability of the retailer to define the appropriate labelling of the product for which the retailer may be uncertain of the ingredients or the inability of the retailer to calculate the use-by-date, it may not provide consumers with accurate information and may mislead consumers with respect to food safety, it places an unreasonable cost burden on industry or consumers.

Concerns regarding the impact on delivered meals organisations cited in the first review request by the Ministerial Council have not been addressed.

FSANZ has 3 months to review the draft standard and re-affirm, re-affirm with amendments, or withdraw its approval of the draft standard.

The process for requesting a review

After Food Standards Australia New Zealand (FSANZ) notifies the Australia and New Zealand Food Regulation Ministerial Council (the Council) of a draft standard or variation the Council may request a review if any jurisdiction believes that one or more of the Criteria/Ground/s¹ set out in the Food Regulation Agreement 2000 (as amended in 2002) (the Agreement) or the Agreement between the Government of Australia and the Government of New Zealand concerning a Joint Food Standards System (the Treaty) applies. The Criteria / Ground/s set out in the Agreement and in the Treaty are:

- (i) it is not consistent with existing policy guidelines set by the Ministerial Council;
- (ii) it is not consistent with the objectives of the legislation which establishes FSANZ;
- (iii) it does not protect public health and safety;
- (iv) it does not promote consistency between domestic and international food standards where these are at variance;
- (v) it does not provide adequate information to enable informed choice;
- (vi) it is difficult to enforce or comply with in both practical or resource terms; and / or
- (vii) it places an unreasonable cost burden on industry or consumers.

In exercising this power the Council must comply with the Agreement and the Treaty. Under the Agreement the Council will request a review if any jurisdiction considers that one or more of the Criteria applies. The Council would also, at this point in the process, request a review if New Zealand notifies the Council of concerns that the standard would be inappropriate for New Zealand (Annex C(2) of the Treaty).

If such a review is undertaken and the Council receives notice from FSANZ that the draft standard or variation has been reaffirmed (either entirely or subject to amendments) the Council may request a second¹ review. In exercising this power the Council must comply with the Agreement. Under the Agreement the Ministerial Council will request FSANZ to review the draft standard or variation a second time if it is agreed, by a majority vote, that one or more of the Criteria applies.

¹ This part of the protocol will have to be updated once the 'Agreement between the Government of Australia and the Government of New Zealand Establishing a System for the Development of Joint Food Standards' (the Treaty) has been amended to reduce from two to one the number of occasions on which the Council may request the Authority to review a draft or a variation to a standard. This will harmonize it with the Food Standards Australia New Zealand Amendment Act 2007.