

**OPERATING PROCEDURES
FOR THE
FOOD MINISTERS' MEETING**

***Incorporating Operating Procedures for the
Food Regulation Standing Committee and the
Food Regulation Secretariat***

**Endorsed by the Food Ministers' Meeting
on: 3 May 2024**

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1 : THE FOOD REGULATION SYSTEM OVERVIEW

1.1 Context

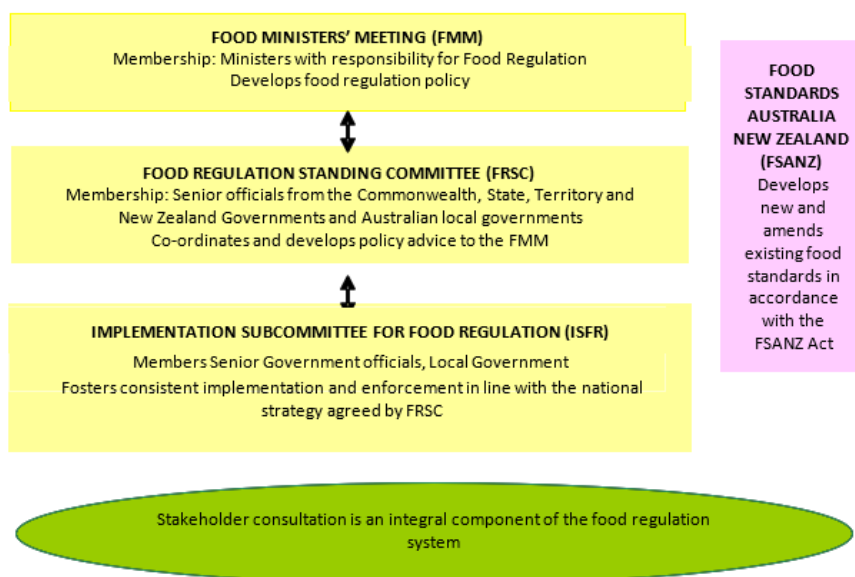
The food regulation system is a cooperative bi-national arrangement involving the Australian Government, states and territories and New Zealand. Food regulation in Australia involves all three levels of government. One of the most important features of the food regulatory system is the separation of policy decision making from the development of food standards.

The system is established through an intergovernmental agreement with the states and territories (Food Regulation Agreement) and a Treaty between Australia and New Zealand (*The Agreement between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System*).

The governance structures within the Food Regulation System are:

- the Food Ministers' Meeting (FMM);
- the Food Regulation Standing Committee (FRSC);
- an Implementation Subcommittee for Food Regulation (ISFR);
- a Food Regulation Secretariat that supports the FMM, FRSC and ISFR; and
- Food Standards Australia New Zealand (FSANZ). The *Food Standards Australia New Zealand Act 1991* established Food Standards Australia New Zealand (FSANZ). FSANZ is an independent statutory authority with responsibility for developing food standards that protect public health and safety, providing adequate information and preventing misleading conduct. In developing standards FSANZ must consider: the best available scientific evidence, consistency with international standards, the desirability of an efficient and internationally competitive food industry; the promotion of fair trade and policy guidelines set by the FMM. The Board of FSANZ approves all food standards.

Stakeholder consultation is an integral component of the food regulation system, and a number of processes have been established to ensure stakeholders are consulted at the various stages of policy and standards development.



1.2 Food Regulation Agreement (FRA)

The Food Regulation Agreement (FRA), including the Model Food Provisions contained in Annex A and Annex B, was signed by the Council of Australian Governments (COAG) in November 2000¹, and gave effect to a commitment by Australian Government, state and territory governments to a national approach to food regulation within Australia. The objectives of the system as set out in the FRA are:

- providing safe food controls for the purpose of protecting public health and safety;
- reducing the regulatory burden on the food sector;
- facilitating the harmonisation of Australia's domestic and export food standards and their harmonisation with international food standards;
- providing cost effective compliance and enforcement arrangements for industry, government and consumers;
- providing a consistent regulatory approach across Australia through nationally agreed policy, standards and enforcement procedures;
- recognising that responsibility for food safety encompasses all levels of government and a variety of portfolios; and
- supporting the joint Australia and New Zealand efforts to harmonise food standards.

The Australian Government and the states and territories agree that there is a need to ensure that all sectors in the food supply chain manage their food safety risks but recognise that the mechanisms for ensuring that this happens will vary from sector to sector.

1.3 The Food Treaty

The food regulatory system is strengthened through the partnership between Australia and New Zealand in the development of joint food standards. Although not a signatory to the FRA establishing the new system, New Zealand has joined the Australian System and has an integral involvement in the current food standards setting and policy development processes.

In 1995², the Governments of Australia and New Zealand formalised the Joint Food Standards System via the *Agreement between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System* (the Food Treaty).

The Food Treaty seeks to reduce unnecessary barriers to trade, to adopt a joint system of food standards, to provide for timely development, adoption and review of food standards and to facilitate sharing of information.

¹ The FRA has been amended several times since 2000.

² The Treaty was reviewed between January 2006 and October 2007. An amended Treaty was brought into force on 6 July 2010.

2 : FOOD MINISTERS' MEETING

The food regulation system is overseen by the Food Ministers' Meeting (FMM).

The FMM has responsibility for developing domestic food regulation policy, developing policy guidelines for setting domestic food standards, and the promotion of a consistent approach to compliance with, and enforcement of, food standards. The FMM also has the capacity to adopt, amend or reject food standards and to request that these be reviewed. The FMM also has a statutory decision-making function under the Trans-Tasman Mutual Recognition Arrangement (TTMRA), a non-treaty agreement between the Australian Government, State and Territory Governments and the Government of New Zealand to implement mutual recognition principles relating to the sale of goods and registration of occupations. The arrangement incorporates a Temporary Exemption mechanism giving particular jurisdictions the right to ban unilaterally, for 12 months, the sale of goods in their jurisdiction for health and safety reasons. Before such an Exemption expires, the relevant Council (in the case of food, the FMM) must determine whether a particular standard should apply to the good.

The FMM is supported by the Food Regulation Standing Committee (FRSC) which is responsible for coordinating and developing policy advice to the FMM and ensuring a nationally consistent approach to the implementation and enforcement of food standards.

FRSC has established the Implementation Subcommittee for Food Regulation (ISFR), which oversees a consistent approach to implementation and enforcement of food regulations and standards.

2.1 Terms of Reference

The Terms of Reference for the FMM, issued by the Council of Australian Governments (COAG) in September 2011, are provided as an Appendix.

2.2 Chair

The FMM is chaired by a Minister with responsibility for the Commonwealth Health Portfolio. A Deputy Chair may be appointed in the temporary absence of the Chair during a meeting, as decided by the Chair.

The FMM is to be supported by a Secretariat provided by the Chair's portfolio. The responsibilities of the Food Regulation Secretariat (the Secretariat) are described in Section 4.

2.3 Membership

Under the FRA, the FMM comprises one Minister or more representing each jurisdiction, being the Minister for Health of each Government and other Ministers nominated by that Government with prime responsibility for matters with which the FRA is concerned. Under the Food Treaty, the Government of New Zealand shall appoint one or more Ministers who have responsibility for matters with which the Food Regulation Agreement is concerned. Other Ministers may also participate, where nominated by their jurisdictions, where those Ministers have a responsibility for food matters.

Each jurisdiction has nominated a Lead Member. The Lead Member must represent a whole-of-jurisdiction view.

The Australian Local Government Association, or delegate, and the Chairperson and Chief Executive Officer of FSANZ are also invited to attend FMM as observers.

2.4 Conflict of interest

Members and supporting staff have a responsibility to disclose and take reasonable steps to avoid any conflict of interest, real or apparent in connection with their membership or support of the FMM or its subordinate bodies.

2.5 Role and responsibilities

2.5.1 Legislative instruments

The FMM has responsibilities under the following instruments:

- *Food Standards Australia New Zealand Act 1991*
- *Food Regulation Agreement 2000 (and Annexes A and B)*
- *Intergovernmental Agreement on Food Reforms 2010*
- *Agreement between the Government of Australia and the Government of New Zealand concerning a Joint Food Standards System 2011 (the Treaty)*
- *Australia New Zealand Closer Economic Relations Free Trade Agreement 1983*
- *Trans-Tasman Mutual Recognition Arrangement 1998*

2.5.2 Roles and responsibilities

Under the FRA and Food Treaty, the FMM is responsible for:

- the development of domestic food regulatory policy having regard to the [Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies](#);
- the development of policy guidelines for setting domestic food standards for Australia and New Zealand;
- the promotion of harmonised food standards within Australia between the Parties to the FRA (harmonisation of domestic standards between states and territories and of domestic standards with export standards) and with New Zealand under the Food Treaty, and consistency with Codex Alimentarius (consistency of domestic and export standards with international food standards set by Codex Alimentarius);
- the general oversight of the implementation of domestic food regulations and standards; and
- the promotion of a consistent approach to the compliance with, and enforcement of, food standards.

2.6 Costs

As a general principle, costs related to FMM and FRSC activities will be shared by the Australian Government, states, territories and New Zealand in an agreed ratio related to a particular initiative.

Resources required for a special project or strategy agreed to by the FMM and FRSC shall be on a population-based cost-shared formula, unless otherwise decided by the FRSC. This formula applies to project work only and will be negotiated among the parties on a case-by-case basis. This split is updated annually based on the most recent Australian Bureau of Statistics population estimates. Under this arrangement the Australian Government contributes 50% of agreed costs.

Individual jurisdictions meet the cost of their participation in the FMM and FRSC.

2.7 Meeting arrangements

2.7.1 Frequency, timing and location of meetings

The number of FMMs required per year will be determined by the business load to be managed; however the FMM shall hold a meeting at least once in each calendar year (FRA 3 (d) (viii)).

Where possible items that are:

- of strategic significance should be discussed at an in-session meeting

- of a technical or administrative nature, should be considered out-of-session by the FMM.

In-session meetings are to be set at least 6 months in advance where possible. Dates are to be determined around the availability of the Chair.

FMM meetings will be held a minimum of 6 weeks after FRSC meetings.

The FMM will aim to hold at least one face-to-face meeting per year with other meetings held via video conference.

2.7.2 Meetings costs

The Australian Government hosts face-to-face FMM meetings and is responsible for all the costs of the meeting including the venue, equipment and catering etc however not the accommodation and travel.

2.7.3 Quorum

A quorum for the purposes of the FMM meetings shall be consistent with the majority required for a decision, that is, a simple majority (equivalent to six members). A quorum includes proxies.

2.7.4 Proxies

If a FMM Member, including the Chair, is unable to attend a meeting, they may nominate a delegate to attend on their behalf. Further details are provided under Clause 3 (d) of the FRA. A template for appointing a proxy is available from the Secretariat.

2.8 Meeting agendas and agenda papers

2.8.1 Setting the agenda for face-to-face meetings

Agendas should focus on items of strategic national significance.

Where a Minister personally nominates an agenda item for the FMM's consideration, that Minister will be responsible for arranging with their agency to draft and submit the agenda paper to the Secretariat for circulation to FMM members.

Two months before the next FMM, the Secretariat will forward a draft agenda to the members of the FMM, members of FRSC, the Chairs of subordinate bodies and to relevant agencies, including FSANZ, and will also seek their nominations for items to include on the agenda.

The Chair of the FMM determines the final agenda for the meeting.

2.8.2 Late agenda items

If additional items are proposed for discussion after the agenda is finalised, the Chair will seek the views of jurisdictions prior to the inclusion of any proposed additional items.

These additional items may be included formally on the meeting agenda only if they are unable to be handled out-of-session and only following the agreement of a majority of members. No individual jurisdiction will have the power of veto.

2.8.3 Submission and dispatch of agenda papers

Submissions and agenda papers for consideration by the FMM are to be lodged with the Secretariat at least 25 working days prior to the meeting.

An agenda paper template is to be used when preparing papers for the meeting. The template is available from the Secretariat.

The agenda and accompanying papers will be electronically dispatched by the Secretariat to Members and Primary Contacts 15 working days prior to the scheduled meeting.

2.8.4 Late agenda papers

Any paper received late will only be accepted at the discretion of the Chair of the FMM and will be regarded as a low priority on the agenda, unless the Chair considers it otherwise.

If accepted, late papers will be sent out in batches when received by the Secretariat.

2.9 Decision-making

The FMM will seek to operate by consensus. On issues where consensus is not possible, a simple majority vote carries the decision. Each jurisdiction has one vote on the FMM. Lead Ministers for each jurisdiction must represent a whole of jurisdiction view.

A decision of the FMM may be made without a meeting being convened and held.

Clauses 3(d-i) of the FRA outlines the arrangements for voting on resolutions by the FMM.

2.9.1 Policy and guideline decision-making

Clauses 3(a)(i) and 3(a)(ii) of the FRA charge the FMM with responsibility for the development of domestic food regulatory policy and for the development of policy guidelines for setting domestic food standards.

FRSC is responsible for providing advice to the FMM in undertaking its policy development role.

All member jurisdictions will be able to initiate new policy proposals and/or have the opportunity to be involved in the development of all policy proposals at an early stage and throughout the process.

2.9.2 Food standards decision-making processes

Food standards are developed and approved by Food Standards Australia New Zealand (FSANZ).

Clause 3 and 4 of the FRA outline the process and procedures for decision making on Food Standards.

2.9.3 Trans-Tasman Mutual Recognition Arrangement (TTMRA) decision-making

The Trans-Tasman Mutual Recognition Arrangement (TTMRA) is a non-treaty agreement between the Australian Government, state and territory governments and the New Zealand Government, under the *Trans-Tasman Mutual Recognition Act 1997*. The TTMRA entered into force on 1 May 1998.

The purpose of the TTMRA is to implement mutual recognition principles relating to the sale of goods and the registration of occupations. These principles, with a few exceptions, state that:

- a good that may be legally sold in Australia may be sold in New Zealand, and a good that may be legally sold in New Zealand may be sold in Australia. This is regardless of differences in standards or other sale-related regulatory requirements between Australia and New Zealand; and
- a person registered to practice an occupation in Australia is entitled to practice an equivalent occupation in New Zealand, and vice versa, without the need for further testing or examination.

The TTMRA incorporates a Temporary Exemption mechanism giving participating jurisdictions the right to ban unilaterally, for 12 months, the sale of goods in their jurisdiction for health and safety reasons. Before the Temporary Exemption expires the Council responsible for the affected good (in the case of food, the FMM) is required to determine whether a particular standard should apply to the good, and if so, the appropriate standard. Councils' determinations, including the FMM's, are guided by COAG's Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standards-Setting Bodies.

The FMM may make decisions relating to standards proposed as a result of a jurisdiction invoking a Temporary Exemption or a referral under TTMRA.

If a Temporary Exemption is invoked, or a referral made, the FMM must endeavour to make a decision before the expiry of the Temporary Exemption or within 12 months of the referral.

When the FMM is considering TTMRA-related issues, determinations are made on a vote in favour by at least two-thirds of Participating Parties. This requirement, effective only for TTMRA issues, supersedes any existing voting arrangements of the FMM.

New Zealand will not vote on issues that are relevant to Australian jurisdictions only.

Any proposed standards or regulations considered under the TTMRA Temporary Exemption or referral provisions will be developed consistent with the COAG Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standards-Setting Bodies.

2.10 Meeting records - transparency and public accountability

2.10.1 *Communiqué*

A communiqué will be issued after a meeting of the FMM. The communiqué will be prepared by the Secretariat and cleared through all members, prior to being issued at the discretion of the Chair. All communiqués are posted on the Food Regulation website.

When matters require further consideration, any FMM announcements should not pre-empt this further consideration, particularly where matters involve financial implications that have not been settled by the FMM.

2.10.2 *Outcomes*

During in-session meetings of the FMM, the Secretariat will undertake live recording of the FMM's decisions and key outcomes. Minutes and outcomes will be circulated to the FMM for comment within 15 working days.

Comments on the minutes are required in writing within 15 working days of dispatch by the Secretariat. At the discretion of the FMM Chair, the Secretariat will provide the draft minutes to other bodies as required. The FMM will endorse the final minutes at its next meeting.

2.10.3 *Web presence*

The FMM will have a continued presence on the internet, with a web page that is updated regularly, and provides information about the FMM, including but not limited to:

- membership and chairing arrangements;
- scope of work;
- priority issues;
- outcomes of meetings and decisions (provided in the form of communiqués);
- contact details; and
- links to relevant documents and to the COAG website.

2.10.4 *Out-of-session decisions of the FMM in relation to draft Standards notified*

Under clause 3 (d) of the FRA, the FMM has approved the process specified below for making and recording out-of-session resolutions by the FMM in respect of draft standards notified by FSANZ.

- (a) If a lead Minister on the FMM notifies the Secretariat that one or more criteria/grounds for review applies to a draft standard or a variation of a standard or an urgent standard or an urgent variation of a standard then that Minister must provide to the Secretariat:

- a statement of each of the criteria or grounds that is considered applicable (Statement of Criteria/Grounds);
 - a statement of the reasons (Statement of Reasons) as to why it is considered that each of the criteria/grounds applies; and
 - a short summary of those reasons for publication (Summary of Reasons).
- (b) In the event the FMM requests FSANZ to review a draft standard or a variation of a standard or an urgent standard or an urgent variation of a standard the Secretariat will, at the same time as it prepares the FMM notification to FSANZ, prepare a Notice for Publication (the Notice) set the date for the publication of the Notice 14 business days after FSANZ has been notified of the FMM's request for review (Date of Publication).
- (c) The Notice will specify the criteria or grounds considered applicable to request the review and the Summary of Reasons provided by the Ministers as to why each of the criteria/grounds applies. The Statement of Reasons will not be included in the Notice.
- (d) A confidential and embargoed copy of the Notice will be circulated to all jurisdictions, Ministers and FSANZ at the same time as the notification from the FMM is forwarded to FSANZ.
- (e) The Secretariat will publish the Notice on the Food Regulation website on the date of publication.

2.11 Regulatory impact assessment

The *Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies* is designed to ensure that regulatory processes at the national level, including Impact Analysis (IAs), are consistent with the principles of best practice agreed by National Cabinet. The FMM will ensure that an IA is prepared for all regulatory proposals which would affect business or impact on competition.

The FMM must also seek to achieve consistency with New Zealand Government guidelines on regulatory impact assessment.

2.12 Dispute resolution

Clause 35 of the FRA requires that, where there is a dispute (other than a dispute in connection with the contents of a food standard or variation of a food standard), Members must first attempt to resolve the dispute. If this fails, the dispute may be referred to National Cabinet to seek a resolution.

2.13 Consultative mechanism

For the development of food regulation policy and to seek input and advice from stakeholders, the FMM has in place a flexible approach to consultation.

Under clause 9 of the FRA, the Consultative Mechanism shall:

- provide for the views of stakeholders to be considered by the FMM when setting food regulation policy guidelines;
- inform the policy guideline development process;
- provide for increased accountability and transparency in decision making on policy guidelines;
- enhance stakeholder confidence in the food regulatory system and build relationships with those developing policy; and
- accommodate the diversity of stakeholders across Australia and New Zealand including primary production, processed food, food retail, food service, consumers, public health professionals; and small business.

The Consultation Mechanism is separate from and additional to the statutory consultation requirements that FSANZ must fulfil as part of its processes during the development of food standards.

2.14 Confidentiality and release of information

All documents prepared for the FMM should be treated as sensitive, unless otherwise agreed by the FMM, and only distributed on a strict need-to-know basis.

All FMM papers and reports shall be treated as confidential documents with circulation limited to FMM members and FRSC members and bodies unless otherwise directed by the FMM. All such papers should include an appropriate security designation.

If a Member of the FMM receives a request for a document to be made public (either through a Freedom of Information request, a request under the *Official Information Act 1982* (NZ), a request from a Royal Commission or some other avenue), all Members should be consulted regarding the release of the document.

2.15 Liaison between Councils

When considering intergovernmental matters which the FMM considers have implications beyond the areas of responsibility of the FMM, the FMM should consult other relevant Councils through liaison between the Chairs and Secretariats as appropriate.

Issues that have major cross-portfolio or whole-of-government implications are to be referred to National Cabinet. Where there is a need for policy development outside the scope of the FMM's governing instruments, the work could be allocated by National Cabinet to the relevant Standing or Select Council.

If a Ministerial Council determines the need to escalate issues (outside National Cabinet tasking) for National Cabinet's attention, the Chair should write to the Prime Minister requesting National Cabinet consideration of the issue. Escalation should be made with agreement of a majority of members but may be initiated by the Chair in exceptional circumstances. Where an item is escalated, Ministerial Councils should identify clear options on courses of action to ensure that National Cabinet can adequately consider the issue. The progression of a matter to National Cabinet will ultimately be a decision of National Cabinet. State and Territory Ministers should inform their First Minister of the proposed escalation.

2.16 Review provisions

In accordance with the [Guidance for Intergovernmental Meetings](#), the FMM should undertake a regular review of terms of reference and administrative arrangements to ensure they remain relevant and fit-for-purpose.

3 : FOOD REGULATION STANDING COMMITTEE

3.1 Chair

The Food Regulation Agreement (FRA) states that the Chair of the Food Regulation Standing Committee (FRSC) is the Secretary of the Department for which the Chair of the Food Ministers' Meeting (FMM) has portfolio responsibility, that is, the Secretary of the Australian Government Department of Health and Aged Care or their delegate.

A Deputy Chair may be appointed.

The FRSC is to be supported by the Food Regulation Secretariat (the Secretariat). The responsibilities of the Secretariat are described in Section 4.

3.2 Membership

The FRA states that the membership of FRSC reflects the membership of the FMM. In addition, the FRA states that FRSC Members shall invite the Australian Local Government Association to be a full participating member of the FRSC.

The Chief Executive Officer of Food Standards Australia New Zealand (FSANZ) will be asked to attend as an observer.

FRSC members are required to reflect a 'whole-of-jurisdiction' view and to have the authority to make decisions on behalf of their jurisdictions.

3.3 Conflicts of interest

Members and supporting staff have a responsibility to disclose and take reasonable steps to avoid any conflict of interest, real or apparent in connection with their membership of FRSC or support of the FMM or its subordinate bodies.

3.4 Roles and responsibilities

FRSC is responsible for:

- coordinating policy advice to the FMM including coordinating the agenda for its meetings;
- ensuring a nationally consistent approach to the implementation and enforcement of food standards; and
- advising the FMM on the initiation, review and development of FRSC activities.

3.4.1 *Work program*

FRSC will develop its own program of work for the financial year in response to direction from the FMM and will report to the FMM on progress towards implementation of that program. The first meeting of each year will include an agenda item on planning FRSC activities for the coming year.

3.5 Costs

As a general principle, costs related to FMM and FRSC activities will be shared by the Australian Government, states, territories and New Zealand in an agreed ratio related to a particular initiative.

Individual jurisdictions will meet the cost of their participation for FRSC, including costs associated with travel to meetings.

Resources required for a special project or strategy agreed to by the FMM and FRSC shall be on a population-based cost-share formula, unless otherwise decided by the FRSC. This formula applies to project work only and will be negotiated among the parties on a case-by-case basis. This split is updated annually based on the most recent Australian Bureau of Statistics population estimates. Under this arrangement the Australian Government contributes 50% of agreed costs.

3.6 Meeting arrangements

3.6.1 *Frequency, timing and location of meetings*

The number of FRSC meetings required each year will be determined by the business load to be managed. FRSC meetings will be held a minimum of 6 weeks before FMM meetings.

Where feasible, in-session meetings are to be scheduled at least 6 months in advance. Meeting dates are to be determined around the availability of the Chair.

FRSC will aim to hold at least one face-to-face meeting per year with other meetings held via video conference.

3.6.2 *Meeting costs*

The jurisdiction hosting the FRSC meeting will be responsible for all of the costs of the meeting including the venue, equipment and catering, and excluding accommodation and travel.

The Australian Government does not fund ISFR or FRSC meetings, but funds all FMM meetings. FRSC Roundtables and stakeholder engagement forums are to be funded using the population-based cost-share formula, and held in a central location, based on the availability of direct flights to the venue.

3.7 Meeting agendas and agenda papers

3.7.1 *Setting the agenda*

Two months before the next FRSC meeting, the Secretariat will forward a draft agenda to FRSC Members and Primary Contacts, in addition to the Chairs of subordinate bodies and to relevant agencies including FSANZ, and will also seek their nominations for items to include on the agenda.

To maximise allocation of discussion time on decision and strategic agenda items during a meeting, items that are unlikely to require discussion will be noted on the agenda using an asterisk (*). Asterisk items are not allocated any discussion time during a meeting and are only to be discussed by exception.

The Chair of FRSC determines the final agenda for the meeting.

3.7.2 *Late agenda items*

If additional items are proposed for discussion after the agenda is finalised, the Chair will seek the views of jurisdictions prior to the inclusion of any proposed additional items.

These additional items may be included formally on the meeting agenda only if they are unable to be handled out-of-session and only following the agreement of a majority of members. No individual jurisdiction will have the power of veto.

3.7.3 *Submission and dispatch of agenda papers*

Submissions and papers for consideration by FRSC are to be lodged with the Secretariat at least 20 working days prior to the meeting.

An agenda paper template is to be used when preparing papers for the meeting. The template is available from the Secretariat.

The Secretariat will electronically distribute papers to FRSC Members and Primary Contacts 15 working days prior to the scheduled meeting.

3.7.4 *Late agenda papers*

Any papers received late will only be accepted at the discretion of the FRSC Chair. Late papers will be regarded as a low priority on the agenda, unless the Chair considers it otherwise.

If accepted, late papers will be distributed when received by the Secretariat.

3.8 Decision-making

FRSC will seek to reach decisions by consensus. FRSC members are required to reflect a 'whole-of-jurisdiction' view and to have the authority to make decisions on behalf of their jurisdictions.

FRSC agreed at its first meeting to adopt a collegiate approach to performing its functions under the FRA and affirmed the autonomy of its decision making to nominate members to serve on its subordinate bodies and Working Groups.

FRSC will establish appropriate mechanisms, comprised of all interested jurisdictions, to enable the development of policy and full and proper consideration of policy issues and options.

All member jurisdictions will be able to initiate new policy proposals and/or have the opportunity to be involved in the development of all policy proposals at an early stage.

3.9 Meeting records

During in-session meetings of the FRSC, the Secretariat will undertake live recording of the FRSC decisions and key outcomes. Draft minutes and outcomes will be circulated to FRSC Members and Primary Contacts for comment within 10 working days of the meeting. Comments on the minutes are required in writing within 10 working days of dispatch by the Secretariat. Minutes are then endorsed by the Chair prior to distribution as final.

Additional discussion is only to be included in the minutes where there is a point of divergence, at the request of a member that a statement be recorded during the meeting and if clarification is required.

The draft minutes are to be circulated out-of-session to Members for comment.

3.10 Regulation Impact Assessment

The *Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies* is designed to ensure that regulatory processes at the national level, including Impact Analysis (IAs), are consistent with the principles of best practice agreed by National Cabinet.

In its role to co-ordinating policy advice to the FMM, FRSC must subject any regulatory options under consideration to a regulatory impact assessment process through the preparation of an Impact Analysis.

FRSC must also seek to achieve consistency with New Zealand Government guidelines on regulatory impact assessment.

Early advice should be sought from the Office of Impact Analysis within the Australian Government Department of the Prime Minister and Cabinet.

3.11 Consultative mechanism

For the development of food regulation policy and to seek input and advice from stakeholders, the FMM has in place a flexible approach to consultation. Under Clause 9 of the FRA, the Consultative Mechanism shall:

- provide for the views of stakeholders to be considered by the FMM when setting food regulation policy guidelines;
- inform the policy guideline development process;
- provide for increased accountability and transparency in decision making on policy guidelines;
- enhance stakeholder confidence in the food regulatory system and build relationships with those developing policy; and

- accommodate the diversity of stakeholders across Australia and New Zealand including primary production, processed food, food retail, food service, consumers, public health professionals; and small business.

3.12 Confidentiality and release of information

All documents prepared for FRSC should be treated as sensitive, unless otherwise agreed by FRSC, and only distributed on a strict need to know basis.

All FRSC papers and reports shall be treated as confidential documents with circulation limited to FRSC Members and bodies unless otherwise directed by FRSC. All such papers should include an appropriate security designation.

If a FRSC Member receives a request for a document to be made public (either through a Freedom of Information request, a request under the Official Information Act 1982 (NZ), a request from a Royal Commission or some other avenue), all Members should be consulted regarding the release of the document.

3.13 Liaison with other senior officials committees

FRSC will identify the issues that should be shared with other committees and liaise as required.

4 : FOOD REGULATION SECRETARIAT

4.1 Secretariat support

In accordance with the FRA the FMM Chair's portfolio, that is, the Australian Government Department of Health and Aged Care, is responsible for providing secretariat services to the high-level committees that govern the Food Regulation System.

The Food Regulation Secretariat (the Secretariat) will be available to manage and support the operations of the FMM, FRSC and ISFR.

4.2 Independence and fairness

The Secretariat should be fair and impartial towards all member jurisdictions, regardless of its location.

4.3 Funding

The activities of the Secretariat are funded by the portfolio in which the Secretariat is based, namely, the Australian Government Department of Health and Aged Care.

4.4 Operational principles

The [Guidance for Ministerial Councils](#) provides the following general principles to govern how secretariats should best operate and provide strategic support:

Ministerial Councils can establish secretariats if required, while aiming to keep administrative and bureaucratic processes to a minimum. The secretariat should be in the same jurisdiction as the Ministerial Council Chair, unless otherwise agreed by the Ministerial Council.

A senior official supporting is required to work with the Chair, Secretariat and jurisdictional counterparts to:

- oversee the commissioning and development of papers when required
- report on progress of items at meetings,
- coordinate and provide advice on cross-portfolio priorities that intersect with the Ministerial Council's strategic priorities, and
- maintain a list of matters previously dealt with.

Secretariat arrangements can be reviewed on an annual or two-yearly basis as determined by each Ministerial Council.

4.5 Jurisdictional primary contacts

Each party to the Food Regulation Agreement (FRA) and New Zealand will appoint an appropriate senior officer from their agency who will be the Primary Contact for that agency/authority with whom the Secretariat will deal on all FMM, FRSC and ISFR business.

The Primary Contact will deal with relevant officers within their agency to coordinate the development of responses to agenda papers circulated for out-of-session consideration by the FMM, FRSC or ISFR.

4.6 Roles and responsibilities

The Secretariat provides timely and effective organisational support to the FMM, FRSC and ISFR. Responsibilities of the Secretariat are to:

- organise in-session meetings;
- coordinate out-of-session business;

- coordinate the drafting of agenda papers and their circulation to members
- arrange clearance of draft meeting records and circulate final meeting records to members;
- maintain a record of final papers; and
- manage the FMM response to FSANZ notifications.

The Secretariat has no policy role and will not be substantively involved in writing policy papers. However, the Secretariat will provide advice on the substantive content of proposed agenda items and will brief the chair on process and governance issues.

The Secretariat also provides strategic support in establishing and monitoring work programs for the FMM and FRSC, and is responsible for having procedures in place to track the implementation of decisions by the FMM and FRSC.

The Secretariat develops agenda paper templates for the FMM, FRSC and ISFR.

4.6.1 Food Ministers' Meeting

In developing the draft agenda, the Secretariat should assist the FMM and FRSC to remain focused on issues of the most strategic importance, by applying the following structure to the agenda:

- priorities of national significance – major work priorities for the FMM;
- items for special consideration – items with the need for focused discussion and thorough consideration by the FMM to ensure current priorities and activities are driven to successful conclusions; and
- implementation, performance and accountability – to address progress reports on implementation and delivery, ensuring FMM follow through.

Two months before the next FMM meeting, the Secretariat will forward a draft agenda to the members of the FMM, FRSC (and Primary Contacts), the Chairs of subordinate bodies and to relevant agencies, including FSANZ, and will also seek their nominations for items to include on the agenda.

The Secretariat will electronically dispatch the final agenda and accompanying papers FMM members and Primary Contacts 15 working days prior to the scheduled meeting.

4.6.2 Food Regulation Standing Committee

Two months before the next FRSC meeting, the Secretariat will forward a draft agenda to FRSC Members (and Primary Contacts), in addition to the Chairs of subordinate bodies and to relevant agencies including FSANZ, and will also seek their nominations for items to include on the agenda.

The Secretariat will electronically dispatch the final agenda and accompanying papers for FRSC members and Primary Contacts 15 working days prior to the scheduled meeting.

4.7 Meeting arrangements

4.7.1 Meeting schedules

The Secretariat will develop an annual meeting schedule for consideration by the FMM, FRSC and ISFR. In line with this the Secretariat will establish a rotational hosting system for meetings of the FMM, FRSC and ISFR.

4.7.2 Venue and equipment

The Secretariat is responsible for liaising with the jurisdictions hosting the meeting to determine potential meeting venues.

4.8 Meetings records

During in-session meetings of the FMM and FRSC, the Secretariat will undertake live recording of the FMM's decisions and key outcomes.

Following on from this, the Secretariat will prepare draft minutes and outcomes within 12 working days and subject to the approval of the Chair (as delegated), will dispatch to all Members and Primary Contacts for consideration. At the discretion of the Chair, the Secretariat will provide the draft minutes to other bodies as required. Members of the FRSC may provide comments on the draft minutes within 10 days of receipt. The FRSC Chair may then endorse the minutes as final, out-of-session. The FMM will endorse their final minutes at their next meeting.

4.9 Meeting actions arising

Arising from meetings of the FMM, FRSC and ISFR, the Secretariat will prepare a list of items requiring action for distribution with the draft minutes. The Secretariat will monitor the completion of each action item.

Members are responsible for implementing actions agreed by them in the minutes.

4.10 Communiqués

During in-session meetings of the FMM, the Secretariat will provide a draft communiqué for FMM consideration and endorsement prior to meeting close.

The Secretariat will arrange the publication of the communiqué on the Food Regulation website and email advice to stakeholders.

4.11 Notification of decisions to FSANZ

As soon as practical after each meeting of the FMM, the Secretariat is responsible for coordinating the formal notification to FSANZ of decisions by the FMM that are applicable to the work of FSANZ, including the endorsement or policy guidelines, requests for review of a standard, and other key decisions.

4.12 Transparency and accountability

The Secretariat will ensure that the FMM has a continued presence on the internet, with a web page that is updated regularly, and provides information about the FMM, including but not limited to:

- membership and chairing arrangements;
- scope of work;
- priority issues;
- outcomes of meetings and decisions (provided in the form of communiqués);
- contact details; and
- links to relevant documents and to the COAG website.

4.13 Confidentiality and release of information

4.13.1 Confidentiality

Agenda papers, draft minutes, action lists and endorsed minutes of the FMM, FRSC and ISFR meetings are not to be released for public access.

The Secretariat must ensure that all agenda papers and minutes for the FMM, FRSC and ISFR are marked with the appropriate government security classification.

4.13.2 Release of information

As a general principle, where there is an expectation that a document prepared for the FMM, FRSC or ISFR will be made public, the Secretariat will ensure that all Members are advised early in the preparation of the document.

The communiqué that is released following each FMM meeting is publicly available on the Food Regulation website and is emailed to stakeholder contacts.

If the Secretariat receives a request for a document to be made public (either through a Freedom of Information request, a request from a Royal Commission or some other avenue), the Secretariat will advise all Members of the FMM, FRSC and ISFR (as applicable).

4.13.3 Providing data

The FMM has responsibilities for providing data in a timely way in relation to National Agreements, some National Partnership Agreements and the Report of Government Services (ROGS). The Secretariat has a role in assisting and ensuring that the FMM fulfils its data reporting responsibilities expeditiously and efficiently.

4.14 Out-of-session business

“For information” items and any requiring urgent attention will be circulated to Members of the FMM, FRSC or ISFR (as well as Jurisdictional Primary Contacts) as soon as they are received by the Secretariat.

4.15 Regulation Impact Assessment

The FMM will prepare an Impact Analysis for all regulatory proposals which would affect business or impact on competition. The Office of Impact Analysis within the Australian Government Department of Prime Minister and Cabinet should be consulted early.

4.16 Record keeping

The Secretariat is responsible for meeting the recordkeeping and archives legislation that applies in the jurisdiction in which it is based, namely the Australian Government. The Secretariat must ensure that there is an appropriate record of the activities of the FMM, FRSC and ISFR.

4.17 Liaison with other Ministerial Council secretariats

When considering intergovernmental matters which have implications beyond the areas of responsibility of the FMM, other relevant Councils should be consulted. The Secretariat is responsible for coordinating this contact and the additional referral of such issues to National Cabinet where there are major cross-portfolio or whole-of-government implications.

Appendix – Australia and New Zealand Ministerial Forum on Food Regulation (Forum)

Terms of Reference

COAG Legislative and Governance Fora are established to oversee significant collective responsibilities for Ministers set out in legislation, intergovernmental agreements, and treaties, which are outside the scope of Standing Councils.

- Chair** The Member who represents the Commonwealth with responsibility for health matters.
- Membership** Ministers with responsibility for food regulation matters from jurisdictions signatory to the legislative and governance instruments overseen by this Forum. Where a jurisdiction is represented by more than one Member, the jurisdiction shall nominate a lead Member.

Legislative and Governance Responsibilities

Responsibilities under the following instruments:

- *Food Standards Australia New Zealand Act 1991 (Cth)*
- Intergovernmental Agreement for Food Reforms 2010
- Intergovernmental Agreement on Food Regulation 2000
- Trans-Tasman Mutual Recognition Arrangement 1998
- Agreement between the Government of Australia and the Government of New Zealand concerning a Joint Food Standards System (the Food Treaty) 1995
- Australia New Zealand Closer Economic Relations Free Trade Agreement 1983.

The Forum commits that by July 2016, specific references to the former Ministerial Council in the above governing instruments will be changed to refer instead to the 'Ministers responsible for [.....]'.

- Other** The Forum will consider a response to the recommendations of the Food Labelling Review (Labelling Logic) and report to COAG by early 2012.
- Operations** Subject to any rules in the relevant governing instruments, Fora should not generally require more than two face to face meetings a year. Meetings of Councils and officials will utilise the Telepresence network as much as possible to meet and to transact business, to minimise environmental impacts and meeting and travel costs. Other operational arrangements are to be made by the Forum and do not require COAG endorsement.
- Decision-Making** Subject to any specific voting rules included in relevant governing instrument(s):
- the Forum will make decisions on the basis of consensus wherever possible; and
 - where necessary, the principle of one vote per jurisdiction will apply.
- Reporting** The Forum will provide COAG with an annual overview of decisions taken as a result of its legislative or governance responsibilities and changes made to legislation or agreements.