

## Standard 1.4.4 Prohibited and restricted plants and fungi

- Note 1** This instrument is a standard under the *Food Standards Australia New Zealand Act 1991* (Cth). The standards together make up the *Australia New Zealand Food Standards Code*. See also section 1.1.1—3.
- Note 2** The provisions of the Code that apply in New Zealand are incorporated in, or adopted under, the *Food Act 2014* (NZ). See also section 1.1.1—3.
- Note 3** Paragraphs 1.1.1—10(5)(a) and (6)(e) provide that a food for sale must not consist of, or have as an ingredient or a component, a prohibited or restricted plant or fungus, or coca bush, unless expressly permitted by this Code. This Standard contains the relevant permissions.

### 1.4.4—1 Name

This Standard is *Australia New Zealand Food Standards Code – Standard 1.4.4 – Prohibited and restricted plants and fungi*.

**Note** Commencement:  
This Standard commences on 1 March 2016, being the date specified as the commencement date in notices in the *Gazette* and the *New Zealand Gazette* under section 92 of the *Food Standards Australia New Zealand Act 1991* (Cth). See also section 93 of that Act.

### 1.4.4—2 Definitions

#### To be omitted on 12 November 2017

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

**coca bush** means:

- (a) *Eurythroxylum coca*; or
- (b) a substance derived from *Eurythroxylum coca*.

**prohibited plant or fungus** means:

- (a) a plant or fungus listed in Schedule 23; or
- (b) a part or a derivative of such a plant or fungus; or
- (c) a substance derived from a plant, fungus, part or derivative referred to in paragraph (a) or (b).

**restricted plant or fungus** means:

- (a) a plant or fungus listed in Schedule 24; or
- (b) a part or a derivative of such a plant or fungus; or
- (c) a substance derived from a plant, fungus, part or derivative referred to in paragraph (a) or (b).

#### To take effect on 12 November 2017

**Note 1** In this Code (see sections 1.1.2—2 and 1.1.2—3):

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

**coca bush** means:

- (a) *Eurythroxylum coca*; or
- (b) a substance derived from *Eurythroxylum coca*.

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

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

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

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

- (a) is attached to the food or is a part of or attached to its packaging; or
- (b) accompanies and is provided to the purchaser with the food; or

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

**prohibited plant or fungus** means:

- (a) a plant or fungus listed in Schedule 23; or
- (b) a part or a derivative of such a plant or fungus; or
- (c) a substance derived from a plant, fungus, part or derivative referred to in paragraph (a) or (b).

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

**restricted plant or fungus** means:

- (a) a plant or fungus listed in Schedule 24; or
- (b) a part or a derivative of such a plant or fungus; or
- (c) a substance derived from a plant, fungus, part or derivative referred to in paragraph (a) or (b).

**Note 2**

Section 1.1.2—9 (Definition of **nutrition content claim**) provides as follows:

(1) In this Code:

**nutrition content claim** means a claim that:

- (a) is about:
  - (i) the presence or absence of any of the following:
    - (A) a biologically active substance;
    - (B) dietary fibre;
    - (C) energy;
    - (D) minerals;
    - (E) potassium;
    - (F) protein;
    - (G) carbohydrate;
    - (H) fat;
    - (I) the components of any one of protein, carbohydrate or fat;
    - (J) salt;
    - (K) sodium;
    - (L) vitamins; or
  - (ii) glycaemic index or glycaemic load; and
- (b) does not refer to the presence or absence of alcohol; and
- (c) is not a health claim.

**Note** See also subsections 1.1.2—9(2) to (4), 2.6.2—5(4) and 2.10.2—8(3).

**Note 3**

Standard 1.2.7 prescribes requirements for making health claims and nutrition content claims.

### 1.4.4—3 Exception to prohibition relating to restricted plants and fungi

A restricted plant or fungus may be used as an ingredient in a food only if it complies with the requirements for natural toxicants in section 1.4.1—3 and subsection S19—6(1).

### 1.4.4—4 Exception relating to coca bush

Coca bush may be used as an ingredient in a food if the cocaine has been removed.

### 1.4.4—5 Exception relating to raw apricot kernels

Raw apricot kernels may be used as an ingredient in a food for sale if the kernels have been or will be subject to processing or a treatment that renders them safe for human consumption.

#### To take effect on 12 November 2017

### 1.4.4—6 Exception relating to *Cannabis sativa* seeds and seed products

- (1) *Cannabis sativa* seeds may be a food for sale or used as an ingredient in a food for sale if:
  - (a) the seeds:

- (i) are seeds of low THC *Cannabis sativa*; and
  - (ii) contain not more than 5 mg/kg of total THC; and
  - (iii) if the food is for retail sale – are non-viable and hulled; and
  - (b) the only cannabinoids in or on the seeds are naturally present.
- (2) Subject to subsection (3), all or any of the following seed products may be a food for sale or used as an ingredient in a food for sale:
- (a) oil extracted from seeds of low THC *Cannabis sativa* if the oil contains not more than 10 mg/kg of total THC;
  - (b) a beverage derived from seeds of low THC *Cannabis sativa* if the beverage contains not more than 0.2 mg/kg of total THC;
  - (c) any other product that is extracted or derived from seeds of low THC *Cannabis sativa* and contains not more than 5 mg/kg of total THC.
- (3) The only cannabinoids in the product must be those that were naturally present in or on the seeds from which the product was extracted or derived.
- (4) In subsection (2):
- seeds of low THC Cannabis sativa** includes viable and unhulled seeds.
- (5) In this section:
- hulled seeds** means seeds from which the outer coat or hull of seeds has been removed.
- low THC Cannabis sativa** has the meaning given by subsection (6).
- non-viable seeds** means seeds that are not able to germinate.
- seeds** includes a part of a seed.
- total THC** means the total amount of delta 9-tetrahydrocannabinol and delta 9-tetrahydrocannabinolic acid.
- (6) *Cannabis sativa* is low THC *Cannabis sativa* if the leaves and flowering heads of the *Cannabis sativa* do not contain more than 1% delta 9-tetrahydrocannabinol.

#### 1.4.4—7

##### **Restriction on claims and representations about foods that are or which contain hemp food products**

- (1) This section applies to a food for sale that consists of, or has as an ingredient, a hemp food product.
- (2) The food for sale must not be labelled or otherwise presented for sale in a form which expressly or by implication suggests that the product has a psychoactive effect.
- (3) The label for the food for sale must not include:
- (a) a nutrition content claim about cannabidiol; or
  - (b) a \*health claim about cannabidiol; or
  - (c) an image or representation of any part of the *Cannabis sativa* plant (including the leaf of that plant) other than the seed; or
  - (d) the words 'cannabis', 'marijuana' or words of similar meaning.
- (4) The label for the food for sale may include the word 'hemp'.
- (5) In this section:
- Hemp food product** means *Cannabis sativa* seeds and/or a seed product that are permitted by section 1.4.4—6 to be a food for sale or used as an ingredient in a food for sale.

***Psychoactive effect*** means:

- (a) stimulation or depression of a person's central nervous system, resulting in hallucinations or in a significant disturbance in, or significant change to, motor function, thinking, behaviour, perception, awareness or mood; or
- (b) causing a state of dependence, including physical or psychological addiction.

**1.4.4—8**

**Level of cannabidiol in food for sale**

Cannabidiol must not be present in any food for sale at a level greater than 75 mg/kg.

