

Warning and Advisory Statements and Declarations

User Guide

to

**Standard 1.2.3 – Mandatory Warning and Advisory Statements and
Declarations**

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Background

Food Standards in Australia and New Zealand

The Australian and New Zealand food standards system is governed by legislation in the states, territories, New Zealand, and the Commonwealth of Australia; including the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act).

The FSANZ Act sets out how food regulatory measures are developed. It created FSANZ as the agency responsible for developing and maintaining the *Australia New Zealand Food Standards Code* (the Code).

Responsibility for enforcing the Code in Australia rests with authorities in the states and territories; the Commonwealth Department of Agriculture for imported food; and with the Ministry for Primary Industries in New Zealand.

Responsibility of food businesses

This User Guide is not a legally binding document. It is designed to assist interested parties understand provisions in the Code.

This User Guide reflects the views of FSANZ. However, the User Guide cannot be relied upon as stating the law. FSANZ is not responsible for enforcement of the Code or for providing advice on food compliance issues. In Australia, state or territory government agencies are responsible for enforcing and interpreting the Code. In New Zealand this is the responsibility of the Ministry for Primary Industries, public health units or local governments. Legal requirements may also change, for example, as government regulations are made or changed and as courts determine cases on food law in Australia and New Zealand.

Food businesses should obtain legal advice to ensure they are aware of developments in the law and any implications of such developments.

As well as complying with food standards requirements, food businesses must also continue to comply with other legislation.

In Australia, this legislation includes the *Competition and Consumer Act 2010*; the *Imported Food Control Act 1992*; and state and territory fair trading Acts and food Acts.

In New Zealand, this legislation includes the *Food Act 1981* and *Fair Trading Act 1986*.

Disclaimer

FSANZ disclaims any liability for any loss or injury directly or indirectly sustained by any person as a result of any reliance upon (including reading or using) this guide. Any person relying on this guide should seek independent legal advice in relation to any queries they may have regarding obligations imposed under the standards in the *Australia New Zealand Food Standards Code*.

Purpose of the User Guide

The purpose of this User Guide is to provide an overview for food businesses and other users of the Code on the requirements of Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations.

1. Introduction

1.1 What is the difference between mandatory warning statements, advisory statements and declarations?

For reasons of health and safety, the Code requires that you provide certain information about some foods. This information may be in the form of a warning statement, an advisory statement or a specific declaration depending on the degree of risk to the health and safety of consumers.

Mandatory warning statements

A warning statement is a prescribed labelling statement that you must express in the exact words and type size specified in the Code. Warning statements are defined in Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions. See section 2 for further information.

Mandatory advisory statements

Standard 1.2.3 requires mandatory advisory statements for certain foods or when certain substances are present in foods. The specific wording of advisory statements is not prescribed. See section 3 for further information.

Mandatory declarations of certain substances in food

You must declare certain substances listed in Standard 1.2.3 when present in a food as a food ingredient, an ingredient of a compound ingredient, a food additive or component of a food additive, and a processing aid or component of a processing aid. See section 5 for further information.

1.2 Other prescribed statements

There are various other statements prescribed in the Code that must be provided in relation to certain foods, including for the protection of public health and safety. These are outlined in the tables.

1.3 How should this information be provided?

When and how mandatory warning statements, advisory statements and declarations must be provided, depends on the purpose of the food, that is, whether or not the food is for retail sale or for catering purposes, and whether any exemptions apply from the requirement for the food to carry a label. The specific requirements are outlined in the following sections.

Code Definitions

Standard 1.2.1 – Application of Labelling and other Information Requirements

Food for Retail Sale

means food for sale to the public and includes food prior to retail sale which is –
(a) manufactured or otherwise prepared, or distributed, transported or stored; and
(b) not intended for further processing, packaging or labelling.

Food for catering purposes

includes food supplied to catering establishments, restaurants, canteens, schools, hospitals, and institutions where food is prepared or offered for immediate consumption.

1.4 Further information

For further information on the application of labelling and information requirements for different foods, including exemptions from the requirement to bear a label, readers are advised to familiarise themselves with Standard 1.2.1.

2. Mandatory warning statements

Warning statements are defined in Standard 1.1.1 (see the table in section 2.1 of this user guide). The exact wording and type size required is set out in the Code. You must always include these statements on the label attached to the food unless the food is exempt from the requirement to bear a label.

Where foods for retail sale are exempt from bearing a label (see subclause 2(1) of Standard 1.2.1), the warning statement must be displayed on or in connection with the display of the food.

Similarly, for foods that are sold from vending machines and are exempt from bearing a label, the warning statement must be displayed on or in connection with the food dispensed from the vending machine. This could be achieved through display on the outside of the vending machine, or in a leaflet, poster or brochure displayed in association with the food.

For foods for catering purposes that are exempt from bearing a label, the warning statement must be provided in documentation accompanying the food.

Clause 3 of Standard 1.2.9 – Legibility Requirements sets out the legibility requirements for warning statements on a label. Warning statements must be a minimum size of type of 3 mm and in the case of small packages, a minimum size of type of 1.5 mm. Clause 2 of Standard 1.1.1 defines a small package as a package with a surface area of less than 100 cm². The definition of 'label' in Standard 1.1.1 includes information that is 'used in connection with or accompanying any food or package'. This means that even where warning statements are provided in connection with the display of the food (but not necessarily on a label attached to the food), the requirements of Standard 1.2.9 apply. An example of this situation is where a warning statement in relation to unpackaged foods must be provided.

Currently, the only mandatory warning statement prescribed in Standard 1.2.3 (see the table to clause 3 in that Standard) that is applicable across the food supply, is for royal jelly when presented as a food or food containing royal jelly as an ingredient ('ingredient' is defined in Standard 1.2.4).

Other standards in the Code contain prescribed warning statements that are applicable only to specific foods. For example, clause 14 of Standard 2.9.1 – Infant Formula Products requires labels on packages of general infant formula product in powdered, concentrated and 'ready to drink' form to include specific warning statements. Clause 15 of Standard 2.9.1 sets out the size of type for warning statements on infant formula products. This clause states that the required warning statements must be in a minimum size of type of 3 mm where the package has a net weight of more than 500 g, and, where the package has a net weight of 500 g or less, the warning statements must be in a minimum size of type of 1.5 mm.

2.1 Which foods must have warning statements?

The following table sets out the foods and the warning statements that must accompany them.

Food	Reference in Code	Wording of mandatory warning statement
Royal jelly when presented as a food, or food	Standard 1.2.3 – <i>Mandatory Warning and Advisory</i>	'This product contains royal jelly which has been reported to cause severe allergic reactions and in rare cases, fatalities, especially in asthma and

Food	Reference in Code	Wording of mandatory warning statement
containing royal jelly as an ingredient	<i>Statements and Declarations</i> , Clause 3	allergy sufferers.'
Kava	Standard 2.6.3 – <i>Kava</i> , Clause 3	'Use in moderation.' 'May cause drowsiness.'
Infant formula products	Standard 2.9.1 – <i>Infant Formula Products</i> , Subclause 14(1)	For the label on a package of infant formula product in powdered form: 'Warning – follow instructions exactly. Prepare bottles and teats as directed. Do not change proportions of powder except on medical advice. Incorrect preparation can make your baby very ill.' For the label on a package of concentrated infant formula product: 'Warning – follow instructions exactly. Prepare bottles and teats as directed. Do not change proportions of concentrate except on medical advice. Incorrect preparation can make your baby very ill.' For the label on a package of 'ready to drink' infant formula product: 'Warning – follow instructions exactly. Prepare bottles and teats as directed. Do not dilute or add anything to this 'ready to drink' formula except on medical advice. Incorrect preparation can make your baby very ill.'
Infant formula products	Standard 2.9.1 – <i>Infant Formula Products</i> , Subclause 14(3)	For the label on a package of all infant formula product except infant formula products for metabolic, immunological, renal, hepatic or malabsorptive conditions: 'Breast milk is best for babies. Before you decide to use this product, consult your doctor or health worker for advice.' This statement must be under a heading that states 'Important notice' or any word or words having the same or similar effect.
Infant formula products	Standard 2.9.1 – <i>Infant Formula Products</i> , Subclause 26(1)	For the label on a package of pre-term formula: 'Suitable only for pre-term infants under specialist medical supervision.'
Infant foods	Standard 2.9.2 – <i>Foods for Infants</i> , Subparagraph 5(3)(c)	For the label on a package of infant foods, where the food is recommended for infants between the ages of 4–6 months: 'Not recommended for infants under the age of 4 months.'
Infant foods	Standard 2.9.2 – <i>Foods for Infants</i> , Subclause 6(2)	For the label on a package of infant foods, where a food for infants contains more than 3 g/100 kJ of protein: 'Not suitable for infants under the age of 6 months.'
Formulated supplementary sports foods	Standard 2.9.4 – <i>Formulated Supplementary Sports Foods</i> , Subclause 3(3)	For the label on a package of formulated supplementary sports food: 'Not suitable for children under 15 years of age or pregnant women: Should only be used under medical or dietetic supervision.'
Formulated supplementary sports foods	Standard 2.9.4 – <i>Formulated Supplementary Sports Foods</i> , Subclause 3(4)	If a formulated supplementary sports food contains added phenylalanine: 'Phenylketonurics: Contains phenylalanine'.

Food	Reference in Code	Wording of mandatory warning statement
Food for special medical purposes	Standard 2.9.5 – <i>Food for Special Medical Purposes</i> , subclause 10(4)	If a food for special medical purposes contains royal jelly as an ingredient: 'This product contains royal jelly which has been reported to cause severe allergic reactions and in rare cases, fatalities, especially in asthma and allergy sufferers.'

2.2 Bee pollen, propolis and royal jelly

The Code requires a warning statement on royal jelly when you present it as a food, and on food containing royal jelly as an ingredient as defined in Standard 1.2.4. Similarly, the Code requires advisory statements about bee pollen and propolis and foods containing bee pollen and propolis. Consumers can also obtain these substances as dietary supplements or complementary medicines and in these cases; any inquiries should be directed to authorities responsible for regulating these products.

3. Mandatory advisory statements

Clause 2 of Standard 1.2.3 requires you to provide mandatory advisory statements on certain foods or when certain substances are present in foods. You must always include these statements on the label on a package of food unless the food is exempt from the requirement to bear a label.

Where a food for retail sale is exempt from bearing a label, you must display the advisory statement on or in connection with the display of food or provide it to the purchaser upon request, either verbally or in writing.

For foods that are sold from vending machines and are exempt from bearing a label, the advisory statement must be displayed on or in connection with the food dispensed from the vending machine. For example, this could be achieved through display on the outside of the vending machine, or in a leaflet, poster or brochure displayed in association with the food.

For foods for catering purposes that are exempt from carrying a label (under subclause 5(2) of Standard 1.2.1), the advisory statement must be provided in documentation accompanying the food.

You may use your own words for these statements as long as they convey the intended effect. However clause 2 of Standard 1.2.9 requires that any statement prescribed to be contained on the label must be 'set out legibly and prominently such as to afford a distinct contrast to the background' and in the English language. Listing the relevant substance in the statement of ingredients may not of itself fulfil the requirements of clause 2 of Standard 1.2.3.

3.1 Mandatory advisory statements for foods containing polyols or polydextrose

Clause 5 of Standard 1.2.3 requires foods containing polyols or polydextrose above certain levels to include an advisory statement on the label where the food contains any of the substances listed below.

Group	Substance	Level	Advisory Statement
A	Lactitol, maltitol, maltitol syrup, xylitol, mannitol (alone or in combination)	≥ 10 g/100 g	Statement to the effect that excess consumption of the food containing these substances may have a laxative effect.
B	Sorbitol, erythritol, isomalt, polydextrose (alone or in combination)	≥ 25 g/100 g	
	Combination of any of the substances in Group A with any of the substances in Group B	≥ 10 g/100 g	

The above mandatory advisory statement is also required on the label on a package of food for special medical purposes where the food contains any of the substances listed above. This requirement is outlined in paragraph 10(3)(e) of Standard 2.9.5 – Food for Special Medical Purposes and are based on clause 5 of Standard 1.2.3.

Where a food for retail sale containing any of the substances listed above is exempt from the requirement to carry a label under subclause 2(1) of Standard 1.2.1, subclause 5(2) of Standard 1.2.3 requires that the advisory statement to the effect that excess consumption of

the food may have a laxative effect, be displayed on or in connection with the display of the food, or be provided to the purchaser upon request.

For food containing any of the substances listed above, which are dispensed from vending machines and are not required to carry a label, paragraph 5(2)(c) requires that the relevant advisory statement be displayed on in or connection with the dispensed food.

For foods for catering purposes containing any of the substances listed above, which are exempt from carrying a label under subclause 5(2) of Standard 1.2.1, the relevant advisory statement must be provided in documentation accompanying the food under subclause 6(3) of Standard 1.2.1.

4. Other prescribed statements

The following table outlines specific mandatory statements of an advisory nature that must accompany certain foods, as prescribed in other standards in the Code.

Food or substance in food	Reference in Code	Mandatory statement
Food product containing genetically modified food	Standard 1.5.2 – Food Processed Using Gene Technology, clauses 4 to 7	<p>The label must include the prescribed wording ‘genetically modified’ in conjunction with the name of that food or ingredient or processing aid. Additional information may need to be provided in relation to particular types of food in certain circumstances.</p> <p>Where an unpackaged food is sold for retail sale, and is therefore exempt from carrying a label, you must display this information on or in connection with the display of the food. Foods intended for immediate consumption that you prepare and sell from your food premises or vending vehicles do not require this statement on a label. For foods for catering purposes that are exempt from bearing a label, this statement must be provided in documentation accompanying the food.</p>
Irradiated food	Standard 1.5.3 – Irradiation of Food, clause 6	<p>The label on a package of irradiated food; or on a package of food containing irradiated food as an ingredient or component; must include a statement that the food, ingredient or component has been treated with ionising radiation, for example:</p> <ul style="list-style-type: none"> • ‘Treated with ionising radiation’ • ‘Irradiated (name of food)’. <p>Where the irradiated food; or a food containing irradiated food as an ingredient or component; is exempt from carrying a label, the statement must be displayed on or in connection with the display of food.</p>
Formulated caffeinated beverages	Standard 2.6.4 – Formulated Caffeinated Beverages, subclauses 3(3) and (5)	<p>The label on a package of formulated caffeinated beverage must include an advisory statement to the effect that the food contains caffeine; and is not recommended for children, pregnant or lactating women, or individuals sensitive to caffeine.</p> <p>Where a formulated caffeinated beverage is exempt from carrying a label, the statement must be displayed on or in connection with the display of food; or provided to the purchaser on request.</p>
Formulated caffeinated beverages	Standard 2.6.4 – Formulated Caffeinated Beverages,	Where the formulated caffeinated beverage includes one or more of the substances thiamin, riboflavin, niacin, vitamin B ₆ , vitamin B ₁₂ , pantothenic acid, taurine, glucuronolactone and

Food or substance in food	Reference in Code	Mandatory statement
	subclauses 3(4) and (5)	<p>inositol, the label on the package of formulated caffeine beverage must include an advisory statement to the effect that: 'Consume no more than [amount of one-day quantity (as cans, bottles or mL)] per day.'</p> <p>Where a formulated caffeinated beverage is exempt from carrying a label, the statement must be displayed on or in connection with the display of food; or provided to the purchaser on request.</p>
Infant formula products	Standard 2.9.1 – Infant Formula Products, subclause 14(5)	<p>The label on a package of infant formula product must contain statements indicating that:</p> <ul style="list-style-type: none"> a) the infant formula product may be used from birth, in the case of infant formula; and b) the infant formula product should not be used for infants aged under 6 months in the case of follow-on formula; and c) except in the case of packages of pre-term formula, it is recommended that infants over the age of 6 months should be offered foods in addition to the infant formula product.
Infant formula products	Standard 2.9.1 – Infant Formula Products, clause 18	<p>The label on a package of infant formula product must contain a statement of the specific source or sources of protein in the infant formula product. This statement must be located immediately adjacent to the name of the infant formula product.</p>
Infant formula products	Standard 2.9.1 – Infant Formula Products, clause 19	<p>If an infant formula product contains more than a specified amount of fluoride (refer to subclause 19(1)), the label on the package of infant formula product must contain statements:</p> <ul style="list-style-type: none"> a) indicating that consumption of the formula has the potential to cause dental fluorosis; and b) recommending that the risk of dental fluorosis should be discussed with a medical practitioner or other health professional.
Formulated meal replacement	Standard 2.9.3 – Formulated Meal Replacements and Formulated Supplementary Foods, subclause 3(4)	<p>The label on a package of formulated meal replacement must include a statement to the effect that the product must not be used as a total diet replacement.</p>
Formulated supplementary foods	Standard 2.9.3 – Formulated Meal Replacements and Formulated Supplementary Foods, subclause 5(3)	<p>The label on a package of formulated supplementary food must include a description of the role of the food as a supplement to a normal diet to address situations where intakes of energy and nutrients may not be adequate to meet an individual's requirements.</p>
Formulated	Standard 2.9.3 –	The label on a package of formulated

Food or substance in food	Reference in Code	Mandatory statement
supplementary foods (young children)	Formulated Meal Replacements and Formulated Supplementary Foods, subclause 7(3)	supplementary food for young children must include a description of the role of the food as a supplement to a normal diet to address situations where intakes of energy and nutrients may not be adequate to meet an individual's requirements.
Formulated supplementary sports foods	Standard 2.9.4 – Formulated Supplementary Sports Foods, subclause 3(1)	The label on a package of formulated supplementary sports food must include statements to the effect that: a) the food is not a sole source of nutrition and should be consumed in conjunction with a nutritious diet; and b) the food should be used in conjunction with an appropriate physical training or exercise program.
Formulated supplementary sports foods	Standard 2.9.4 – Formulated Supplementary Sports Foods, subclause 3(2)	The label on a package of formulated supplementary sports food must also include: a) directions stating the recommended quantity and frequency of intake of the food; and b) a statement of the recommended consumption in one day; and c) a nutrition information panel in accordance with Standard 1.2.8.
Particular Formulated supplementary sports foods	Standard 2.9.4 – Formulated Supplementary Sports Foods, subclauses 7(2), 8(2), 9(2), 9(3)	The label on a package of a high carbohydrate supplement, a protein energy supplement and an energy supplement must include statements to the effect that: a) in the case of high carbohydrate and energy supplements, if used during exercise, the food should be consumed in accordance with directions, to avoid the possibility of gastrointestinal upset; and the food must be consumed with an appropriate fluid intake; b) in the case of a protein energy supplement: the food must be consumed with an appropriate fluid intake; and c) in the case of energy supplements with more than 30% of the energy yield derived from fat: the product is a high fat food and should be used for special fat loading strategies rather than everyday use.
Food for special medical purposes	Standard 2.9.5 – Food for Special Medical Purposes, subclauses 10(1)-(3)	There are a number of mandatory statements required on the label of a package of food for special medical purposes – refer to clause 10 of Standard 2.9.5.

5. Mandatory declarations of certain substances in food

Medical experts recognise that certain substances frequently cause severe systemic reactions resulting in significant morbidity or mortality. Clause 4 of Standard 1.2.3 requires that you must declare these substances on labels when present in a food as:

- an ingredient
- an ingredient of a compound ingredient
- a food additive or component of a food additive
- a processing aid or component of a processing aid.

The Code requires these declarations to alert those consumers affected by these substances that the food products contain substances that may cause adverse reactions.

Where a food for retail sale is exempt from the requirement to bear a label (under subclause 2(1) of Standard 1.2.1), subclause 4(2) of Standard 1.2.3 requires the declaration of the information specified in the Table to clause 4 on or in connection with the display of the food, or be made to the purchaser verbally or in writing, upon request.

For all food sold from vending machines, the declaration must be provided on or in connection with the food dispensed from the vending machine. This could be achieved through display on the outside of the vending machine, or in a leaflet, poster or brochure displayed in association with the food.

For foods sold for catering purposes that are exempt from carrying a label (under subclause 5(2) of Standard 1.2.1) this information must be provided in documentation accompanying the food.

5.1 Which substances must be declared when they are present in food?

The Table to clause 4 in Standard 1.2.3 lists the following substances that you must declare when present in a food:

- added sulphites in concentrations of 10 mg/kg or more
- cereals containing gluten and their products, namely, wheat, rye, barley, oats and spelt and their hybridised strains (other than where the substances are present in beer and spirits standardised in Standards 2.7.2 and 2.7.5 respectively)
- crustacea and their products
- egg and egg products
- fish and fish products, except for isinglass derived from swim bladders and used as a clarifying agent in beer and wine
- milk and milk products
- peanuts and peanut products
- sesame seeds and sesame seed products
- soybeans and soybean products
- tree nuts and tree nut products other than coconut.

Including these substances in a statement of ingredients would fulfil the declaration requirements.

Where sulphites are added to food in concentrations of 10 mg/kg or more, they may be added as food additives numbered from 220 to 228 as identified in Schedule 2 of Standard 1.2.4, or added as part of compound ingredients or processing aids. Clause 8 of Standard 1.2.4 – Labelling of Ingredients sets out the requirements for the declaration of food additives.

Standard 1.2.7 – Nutrition, Health and Related Claims sets out the criteria for nutrition content claims about gluten.

Some terms in the Table to clause 4, such as ‘egg’ and ‘egg products’, are defined in the Code. For example, clause 2 of Standard 4.2.5 defines ‘egg’ as ‘an egg from any avian (bird) species, except ratites’; and clause 2 of Standard 1.1.1 states that ‘egg product’ means ‘the contents of an egg in any form including egg pulp, dried egg, liquid egg white and liquid egg yolk’.

In addition, Schedule 4 of Standard 1.4.2 *Maximum Residue Limits* sets out various foods and classes of foods, which may be of assistance. For example, according to Schedule 4 of Standard 1.4.2, ‘tree nuts’ include almonds, brazil nuts, cashews, chestnuts, hazelnuts, hickory nuts, macadamia nuts, pecans, pine nuts, pistachios and walnuts. Coconut is the fruit of the palm (*Cocos nucifera*). The scientific literature indicates that coconut is not associated with severe adverse reactions. Therefore, for the purposes of Standard 1.2.3, the presence of coconut in a food does not require mandatory declaration.

Mandatory declarations of the presence of certain substances in a food for special medical purposes are also required on the label on a package of a food for special medical purposes. These are outlined in clause 11 of Standard 2.9.5 – Food for Special Medical Purposes, and are based on clause 4 of Standard 1.2.3.

5.2 Declaration where there may be no detectable traces of the allergenic protein

You must declare any products of the substances listed in the Table to clause 4 of Standard 1.2.3 (except for specific exemptions provided within the Table) whenever they are present in the food, irrespective of the degree of refinement or modification of the substance. This declaration is necessary because there may be allergenic proteins present in the final product which may still cause adverse reactions in highly sensitive individuals.

Example:

Dextrose can be derived from sucrose, maize, potato or wheat and in its final form, dextrose produced from each of these sources is chemically indistinguishable and has no detectable presence of gluten. However, the declaration required by clause 4 of Standard 1.2.3 is for cereals containing gluten and their products, therefore, if dextrose derived from wheat is present in the final food, you must declare this as a statement on the label (e.g. ‘contains products from wheat’ or ‘wheat dextrose’).

5.3 Use of ‘may contain’ statements for substances that require mandatory declaration

It is noted that ‘may contain’ statements are sometimes used on labels. In the absence of a definitive declaration, the statement ‘may contain [‘X’ substance]’ is unlikely to meet the requirements of clause 4 of Standard 1.2.3, where the relevant substance is present as an ingredient, or an ingredient of a compound ingredient, or a food additive or component of a food additive, or a processing aid or component of a processing aid.

5.4 Mandatory declarations applicable to alcoholic beverages

For all alcoholic beverages, if any of the substances listed in the Table to clause 4 of Standard 1.2.3 are present in the final product (except for specific exemptions relating to cereals containing gluten in beer and spirits and isinglass used for beer and wine provided within the Table), then the substances must be declared.

Example:

Egg products and milk products are commonly used in the refining process of some alcoholic beverages. Where required, you must declare them on the label if they are present in the final product.

5.6 Legibility requirements for mandatory declarations

Although mandatory declarations of substances have no minimum size of type requirement, clause 2 of Standard 1.2.9 requires that any statement prescribed to be contained on the label must be 'set out legibly and prominently such as to afford a distinct contrast to the background' and in the English language. Note that clause 3 of Standard 1.2.9 prescribes the legibility requirements for mandatory warning statements.

Example:

Some manufacturers use a bold font to ensure that the mandatory declaration of certain substances stands out from other substances listed in the ingredient list.

Ingredients:

Ingredient 1, ingredient 2, ingredient 3, **peanuts**, ingredient 5.

5.7 Substitution of ingredients

Occasionally, you may substitute one ingredient with a similar ingredient within the same class of foods, for a range of reasons including seasonal availability and price of ingredients. If the substituted ingredient is a substance listed in the Table to clause 4 of Standard 1.2.3, you must declare this substance.

5.8 Additional labelling requirements set out in Standard 1.2.4 – Labelling of Ingredients

The Table to clause 4 in Standard 1.2.4 specifies conditions for the use of generic names of ingredients in the statement of ingredients, some of which relate to known allergens. These include:

- For the generic name 'cereals', where the cereal is wheat, rye, barley, oats or spelt or their hybridised strains – you must declare the specific name of the cereal.
- For the generic names 'fats' or 'oils', you must qualify whether the source is animal or vegetable; and where the source of the oil is peanut, soy bean or sesame – you must declare the specific source name. For dairy products, the source of animal fats or oils must be specifically declared. The generic name 'fats' or 'oils' must not be used for Diacylglycerol oil.
- For the generic name 'fish' and if the ingredient is crustacea – you must declare the specific name of the crustacea.
- For the generic name 'nuts' – you must declare the specific name of the nut.

- For the generic name 'starch', where the source of the starch is wheat, rye, barley, oats or spelt (or their hybridised strains) – you must declare the specific name of the cereal. The name 'starch' may be used for any unmodified starch or any starch which has been modified by either physical means or enzymes.

5.9 Labelling requirements for products exempt from the ingredient labelling requirements of the Code

Standard 1.2.4 provides a number of exemptions in relation to ingredient labelling (i.e., clauses 2, 3 and 6). These exemptions do not affect the mandatory declaration requirements under clause 4 of Standard 1.2.3. If a product contains any of the substances which require mandatory declaration under clause 4 of Standard 1.2.3, you must declare them regardless of an exemption to ingredient labelling under Standard 1.2.4 that may apply. You can declare the presence of these substances anywhere on the label, providing that you meet the legibility requirements of Standard 1.2.9.

Clause 6 of Standard 1.2.4 does not require you to list all the ingredients of a compound ingredient where that compound ingredient is declared and the compound ingredient makes up less than 5% of the final food. In this situation, the food additives performing a technological function in the final food are still required to be declared. However, if a compound ingredient contains any of the substances which require mandatory declaration under clause 4 of Standard 1.2.3, then the presence of these substances must be declared, irrespective of any exemptions in Standard 1.2.4. A statement such as 'contains X' could be sufficient to comply with Standard 1.2.3.

Example:

Clause 4 of Standard 1.2.3 requires that where a substance listed in the Table to clause 4 is present in a food, then the presence of the substance must be declared. Where yoghurt coated raisins are present at 4.5% of a breakfast cereal, options for declaring the substances in the Table to clause 4, in the ingredient list, could be:

Option 1

Ingredients:

Ingredient 1, Ingredient 2, **yoghurt coated raisins** [whey powder, yoghurt powder, emulsifier (soya lecithin)], Ingredient 4.

Option 2

Ingredients:

Ingredient 1, Ingredient 2, **yoghurt coated raisins**, Ingredient 4.

(With an additional statement) 'Contains milk and soy (lecithin) products'

6. Individual portion packs

Paragraph 2(1)(b) of Standard 1.2.1 provides that –

- (a) Food for retail sale that is ‘in an **inner package** not designed for individual sale’ is generally exempt from the requirement to bear a label setting out all the information required by the Code.

This exemption is designed for packages of food that are contained within an outer package, that would not normally be removed from, and stored or used separately from, that outer package, for example, a box of cracker biscuits where the biscuits are in cellophane wrap.

- (b) Food for retail sale sold in ‘**individual portion packs**’ with a surface area of 30 cm² or greater must bear a label containing:
- (i) relevant mandatory **warning statements** prescribed in clause 3 of Standard 1.2.3; and
 - (ii) the **mandatory declarations** of the presence of any substances listed in the Table to clause 4 of Standard 1.2.3.

This requirement is in addition to any statements or declarations made on the outer package of the food (see below). It ensures that the warning statements and declarations of certain substances remain available to the consumer in the event that an individual portion pack is separated from its outer package and stored or used in isolation from the outer package.

- (c) Individual portion packs with a surface area of *less* than 30 cm² are exempt from bearing a label containing the warning statements and declarations referred to in (b) above.

The Code does not define the term ‘individual portion packs’. However, it was intended that the term include single serve packages that would normally be removed from the outer package and consumed separately as an individual serve, for example: muesli bars, fruit bars, cheese sticks and single serve chocolates.

Food that paragraph 2(1)(b) of Standard 1.2.1 exempts from the labelling requirement must still comply with requirements imposed under subclause 2(2) of that Standard. These include the warning and advisory statements and declarations required under subclauses 2(2), 3(2), 4(2) and 5(2) of Standard 1.2.3.

Example:

If you sell individually wrapped muesli bars containing nuts in an outer package, you must label each muesli bar individually with a declaration of the presence of nuts even though the individual bars are not intended for retail sale.

Code reference

Paragraphs 2(1)(b) and 2(2)(b) of Standard 1.2.1

Where can I get more information?

Food Standards Australia New Zealand

Australia

www.foodstandards.gov.au

New Zealand

www.foodstandards.govt.nz

Other user guides to the Code on the FSANZ website

www.foodstandards.gov.au/code/userguide/Pages/default.aspx

Consumer protection legislation information

Australian Competition and Consumer Commission (ACCC)

www.accc.gov.au/content/index.phtml/itemId/142

Commerce Commission of New Zealand

www.comcom.govt.nz/

Trade measurement legislation information

Australia

www.measurement.gov.au/index.cfm?event=object.showContent&objectID=C3EB158B-BCD6-81AC-1DC5A41E29837C8C

New Zealand

www.consumeraffairs.govt.nz/measurement/businessinfo/index.html