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Amendment No. 250

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Food Standards (Application A1334 – 2'-FL from GM *Corynebacterium glutamicum* (gene donor: *Corynebacterium urealyticum*) in infant formula products) Variation

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

Dated 28 May 2026



Christel Leemhuis
Delegate of the Board of Food Standards Australia New Zealand

Note: This variation will be published in the Commonwealth of Australia Gazette No. FSC 190 on 9 June 2026. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

1 Name

This instrument is the *Food Standards (Application A1334 – 2'-FL from GM Corynebacterium glutamicum (gene donor: Corynebacterium urealyticum) in infant formula products) Variation*.

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

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

3 Commencement

The variation commences on the date of gazettal.

Schedule

Schedule 3—Identity and purity

[1] Subsection S3—2(2) (table item dealing with 2'-fucosyllactose sourced from *Corynebacterium glutamicum*)

Repeal the item, substitute:

2'-fucosyllactose sourced from *Corynebacterium glutamicum* containing the gene for alpha-1,2-fucosyltransferase from either *Corynebacterium urealyticum* or *Pseudopedobacter saltans* section S3—51

[2] Section S3—51 (Section heading)

Repeal the section heading, substitute:

S3—51 Specification for 2'-fucosyllactose sourced from *Corynebacterium glutamicum*

[3] Section S3—51

Omit “sourced from *Corynebacterium glutamicum*,” substitute:

“sourced from *Corynebacterium glutamicum* containing the gene for alpha-1,2-fucosyltransferase from either *Corynebacterium urealyticum* or *Pseudopedobacter saltans*,”

Schedule 26—Genetically modified food

[4] Subsection S26—3(7) (table item 1)

Insert:

(g) *Corynebacterium glutamicum* containing the gene for alpha-1,2-fucosyltransferase from *Corynebacterium urealyticum*

1. May only be added to infant formula products.
2. During the exclusive use period, may only be sold under the brand XINFU 2'-FL.
3. For the purposes of condition 2 above, **exclusive use period** means the period commencing on the date of gazettal of the *Food Standards (Application A1334 – 2'-FL from GM Corynebacterium glutamicum (gene donor: Corynebacterium urealyticum) in infant formula products) Variation* and ending 15 months after that date.

Food Standards (Proposal P1056 – Caffeine review) Variation

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

Dated 26 May 2026



Matthew O'Mullane
Delegate of the Board of Food Standards Australia New Zealand

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC 190 on 9 June 2026. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

1 Name

This instrument is the *Food Standards (Proposal P1056 – Caffeine review) Variation*.

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

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

3 Commencement

The variation commences on the date of gazettal.

4. Transitional arrangements

- (1) Section 1.1.1—9 of Standard 1.1.1 does not apply to the variations made by this instrument.
- (2) During the transition period, a food product may be sold if the product complies with one of the following:
 - (a) the Code as in force without the variations made by this instrument; or
 - (b) the Code as amended by the variations made by this instrument.
- (3) For the purposes of this clause, the transition period means the period commencing on the date of commencement of this instrument and ending 24 months after that date of commencement.

Schedule

Standard 1.1.1 Structure of the Code and general provisions

[1] Paragraph 1.1.1—10(5)(g)

Repeal the paragraph, substitute:

- (g) if the food is for retail sale—a *prescribed caffeine product.

[2] Paragraph 1.1.1—10(6)(j)

Repeal the paragraph, substitute:

- (j) raw apricot kernels;
- (k) if the food is for retail sale—caffeine from any source.

Example A food for retail sale that contains caffeine as an ingredient or component as a result of the addition of caffeine (1,3,7-trimethylxanthine) or of a plant extract including but not limited to guarana extract.

[3] After subsection 1.1.1—10(7)

Insert:

Examples Caffeine present in a food for sale, or in an ingredient of a food for sale, as a result of the addition of cocoa, chocolate, coffee or tea; is caffeine that is in the food for sale or the ingredient by natural occurrence. The caffeine occurs naturally in the cocoa, chocolate, coffee or tea.

Caffeine present in a food for sale, or in an ingredient of a food for sale, as a result of the addition of caffeine (1,3,7-trimethylxanthine) is not caffeine in the food for sale or the ingredient by natural occurrence.

- (7A) Subsection (7) does not apply to caffeine present in a food for sale, or in an ingredient of a food for sale, as a result of the addition of guarana extract.

Standard 1.1.2 Definitions used throughout the Code

[4] Subsection 1.1.2—2(3) (paragraph (e) of the definition of *warning statement*)

Repeal the paragraph, substitute:

- (e) subparagraph 2.9.4—4(1)(a)(iii), sub-subparagraph 2.9.4—4(1)(a)(iv)(B) or subparagraph 2.9.4—4(1)(a)(v) (warning statements for formulated supplementary sports food).

[5] Subsection 1.1.2—2(3)

Insert:

prescribed caffeine product means any of the following:

- (a) caffeine (1,3,7-trimethylxanthine);
- (b) guarana extract.

[6] Subsection 1.1.2—3(2)

Insert:

guarana extract means a product that:

- (a) is produced from guarana seeds by use of an extraction process; and
- (b) contains caffeine at a concentration of:
 - (i) 5% or more—if the product is in a solid or semi-solid form; or
 - (ii) 1% or more—if the product is in a liquid form.

[7] Subsection 1.1.2—3(2)

Insert:

high caffeine coffee beverage means a food for retail sale that:

- (a) is a beverage; and
- (b) is in a package; and
- (c) *bears a label with a *nutrition information panel; and
- (d) contains coffee; and
- (e) contains no less than 200 mg caffeine per serving; and
- (f) is not one of the following:
 - (i) a formulated caffeinated beverage;
 - (ii) a formulated supplementary sports food.

Standard 1.2.1 Requirements to have labels or otherwise provide information

[8] Paragraph 1.2.1—8(1)(za)

Repeal the paragraph, substitute:

- (za) for *prescribed beverages—an energy statement (see section 2.7.1—4A);
- (zb) for high caffeine coffee beverages:
 - (i) declarations of *average quantities (see subsection 2.10.4—3A(1)); and
 - (ii) advisory statements (see subsection 2.10.4—3A(2)).

[9] Subsection 1.2.1—8(3)

Repeal the subsection, substitute:

- (3) For subsection 1.2.1—6(3), the information is:
 - (a) *warning statements and declarations in accordance with sections 1.2.3—3 and 1.2.3—4; and
 - (b) advisory statements in accordance with subsection 2.10.4—3A(2).

Standard 1.5.1 Novel foods

[10] At the end of section 1.5.1—3

Add:

- (3) Despite any other provision of this Code, a food for retail sale must not have as an ingredient or component, caffeine from a novel food unless:
 - (a) the novel food is listed in the table to section S25—2; and

- (b) any conditions of use specified in the corresponding row of that table are complied with.

Standard 2.9.4 Formulated supplementary sports foods

[11] Subparagraph 2.9.4—3(1)(c)(ii)

Repeal the subparagraph, substitute:

- (ii) the amount of the substance added is no more than the amount specified in relation to that substance in Column 2 of the table; and
- (d) caffeine.

[12] Paragraph 2.9.4—3(2)(b)

Repeal the paragraph, substitute:

- (b) 95 mmol potassium; or
- (c) 200 mg caffeine in total, from any source.

[13] At the end of section 2.9.4—3

Add:

- (3) Subject to paragraph 2.9.4—3(2)(c), formulated supplementary sports food must not contain caffeine in total, from any source, at a concentration of:
 - (a) 5% or more—if the food is in a powdered form; and
 - (b) 1% or more—if the food is in a liquid form.

[14] Subparagraphs 2.9.4—4(1)(a)(iii) and (iv)

Repeal the subparagraphs, substitute:

- (iii) if the food is a food to which subsection (3) applies—the *warning statement 'Not suitable for children under 15 years of age or pregnant women: Should only be used under medical or dietetic supervision'; and
- (iv) if the food is a food to which subsection (4) applies:
 - (A) an advisory statement to the effect that the food contains caffeine; and
 - (B) the warning statement 'Not suitable for children under 15 years of age, or pregnant or breastfeeding women: Should only be used under medical or dietetic supervision'; and
- (v) if the food contains added phenylalanine—the warning statement 'Phenylketonurics: Contains phenylalanine'; and

[15] After subsection 2.9.4—4(2)

Add:

- (3) This subsection applies to the following foods:
 - (a) a formulated supplementary sports food that does not contain caffeine;
 - (b) a formulated supplementary sports food that contains caffeine only from any of the following:
 - (i) cocoa;
 - (ii) chocolate;
 - (iii) decaffeinated coffee containing no more than 1 g/kg of anhydrous caffeine on a dry basis;
 - (iv) decaffeinated tea containing no more than 4 g/kg of anhydrous caffeine on a dry basis;
 - (v) decaffeinated instant coffee containing no more than 3 g/kg of anhydrous caffeine on a dry basis;

- (vi) decaffeinated instant tea containing no more than 3 g/kg of anhydrous caffeine on a dry basis.
- (4) This subsection applies to a formulated supplementary sports food that contains caffeine other than caffeine from any of the following.
- (a) cocoa;
 - (b) chocolate;
 - (c) decaffeinated coffee containing no more than 1 g/kg of anhydrous caffeine on a dry basis;
 - (d) decaffeinated tea containing no more than 4 g/kg of anhydrous caffeine on a dry basis;
 - (e) decaffeinated instant coffee containing no more than 3 g/kg of anhydrous caffeine on a dry basis;
 - (f) decaffeinated instant tea containing no more than 3 g/kg of anhydrous caffeine on a dry basis.

[16] After section 2.9.4—10

Add:

2.9.4—11 Formulated supplementary sports food containing caffeine – nutrition information panel

- (1) Subject to subsection (2), this section applies to a formulated supplementary sports food that contains caffeine.
- (2) This section does not apply to a formulated supplementary sports food that contains caffeine only from any of the following:
 - (a) cocoa;
 - (b) chocolate;
 - (c) decaffeinated coffee containing no more than 1 g/kg of anhydrous caffeine on a dry basis;
 - (d) decaffeinated tea containing no more than 4 g/kg of anhydrous caffeine on a dry basis;
 - (e) decaffeinated instant coffee containing no more than 3 g/kg of anhydrous caffeine on a dry basis;
 - (f) decaffeinated instant tea containing no more than 3 g/kg of anhydrous caffeine on a dry basis.
- (3) The nutrition information panel for the formulated supplementary sports food must state the *average quantity of caffeine from any source in:
 - (a) a serving of the food; and
 - (b) a *unit quantity of the food.
- (4) The information required in subsection (3) must be set out in the nutrition information panel:
 - (a) below the information about sodium required by subparagraph 1.2.8—6(1)(d)(iii); and
 - (b) above the information about any other nutrient or *biologically active substance required by subparagraph 1.2.8—6(1)(d)(iv).

2.9.4—12 Formulated supplementary sports food containing caffeine in a multi-pack

- (1) Subject to subsection (2), this section applies to a formulated supplementary sports food that:

- (a) contains more than 200 mg caffeine in total, from any source; and
- (b) is sold in packaging that includes individual portions of the food; and
- (c) any of the individual portions:
 - (i) are in a solid or semi-solid form (excluding powders); and
 - (ii) are not designed for individual sale; and
 - (iii) do not require further preparation before consumption.

Example: A formulated supplementary sports food sold in the form of bars, chewables or dissolvable strips

- (2) This section does not apply to a formulated supplementary sports food that contains caffeine only from any of the following:
 - (a) cocoa;
 - (b) chocolate;
 - (c) decaffeinated coffee containing no more than 1 g/kg of anhydrous caffeine on a dry basis;
 - (d) decaffeinated tea containing no more than 4 g/kg of anhydrous caffeine on a dry basis;
 - (e) decaffeinated instant coffee containing no more than 3 g/kg of anhydrous caffeine on a dry basis;
 - (f) decaffeinated instant tea containing no more than 3 g/kg of anhydrous caffeine on a dry basis.
- (3) The advisory statement required by sub-subparagraph 2.9.4—4(1)(a)(iv)(A) must be on a label on the outer package of the formulated supplementary sports food.
- (4) Each individual portion must be separately packaged.
- (5) Each individual portion must not contain more than 200 mg caffeine in total, from any source.
- (6) Each individual portion with a surface area of 30 cm² or greater must *bear a label, with an advisory statement to the effect that the food contains caffeine.
- (7) In this section, **each individual portion** means an individual portion referred to in paragraph (1)(c).

Standard 2.10.4 Miscellaneous standards for other foods

[17] Note to section 2.10.4—2

Insert:

high caffeine coffee beverage means a food for retail sale that:

- (a) is a beverage; and
- (b) is in a package; and
- (c) *bears a label with a *nutrition information panel; and
- (d) contains coffee; and
- (e) contains no less than 200 mg caffeine per serving; and
- (f) is not one of the following:
 - (i) a formulated caffeinated beverage;
 - (ii) a formulated supplementary sports food.

[18] After section 2.10.4—3

Add:

2.10.4—3A Labelling requirements—high caffeine coffee beverages

Required declarations

- (1) For the labelling provisions, the required declaration of *average quantity is a declaration in the *nutrition information panel of the average quantity of caffeine from any source, expressed in milligrams, in:

- (a) a serving of the food; and
- (b) a *unit quantity of the food.

Note The labelling provisions are set out in Standard 1.2.1.

Required advisory statements

- (2) For the labelling provisions, the required advisory statements are statements to the effect that:

- (a) the food is high in caffeine; and
- (b) the food is not suitable for:
 - (i) children under 15 years of age; or
 - (ii) pregnant or breastfeeding women.

Note The labelling provisions are set out in Standard 1.2.1.