

FOOD TECHNOLOGY ASSOCIATION OF AUSTRALIA

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SUBMISSION

Attention: **Manager P1025**
Food Standards Australia New Zealand
Box 7186,
Canberra BC,
ACT, Australia, 2610.

Re: Code Revision

FTA Australia has reviewed this [Proposal](#) and endorses the following comments of the Technical Sub Committee:

The Committee reviewed this document and has made many comments as per the following table. Specific comments are shown below in the table using the new Code numbering system for reference. However some general comments follow directly:

1. The whole document is considered overly wordy with repetition of the same clauses under different headings. Some examples will be included in the table below.
2. Some definitions use the term to be defined within the definition itself, which does not create a meaningful explanation.
3. Format is inconsistent; e.g. one part of the new Code discusses some of the restrictions/requirements pertinent to the regulation of a specific food and then there are more restrictions/requirements in another part of the code, sometime a 100 or more pages away from the original.
4. Cross referencing is too frequent and would mean that when using an electronic version several pages would have to be open at the one time or when using a hard copy of the new Code, insertion of several place markers and continual back and forth flicking open of relevant pages.
5. An example, is that Nutrition Information Requirements are in Chapter 1, Part 3, Division 8 and the actual format of a Nutrition Information panel is in Schedule 12.
6. Another example is in 2.122 the specification is partly provided and the rest (Vitamins and Minerals) is to be found over 200 pages away in S30.3.

7. Are ALL the Notes and Examples that appear throughout the Code actually part of the legal instrument and convey legally approved interpretation or are these Notes and Examples just explanatory information that have no legal meaning? In either scenario there should be an explanation as to the status of these Notes and Examples placed at the beginning under Part 1 – Preliminary. An example is Notes 1 and 2 under Section 1.01.
8. In some cases the definitions of certain foods contain compositional requirements, such as ‘chocolate’ and ‘sweet cassava’. There should be a consistent approach.
9. It is strongly suggested that definitions in the draft code require to be addressed for consistency, conformance with accepted practices and should not include compositional requirements, which should be placed in the relevant sections.
10. Accessibility within the Draft Code is a major concern, with definitions separated from compositional requirements, etc.
11. Quick identity of various individual “Standards” is lost with the numbering system adopted. For a particular “Standard” without all the attendant Standards that are applicable, there is a need to know the Part No., the Division No. and the paragraph number; i.e. 3 pieces of information whereas in the current ANZFSC only one identity is required. An example is that currently the Standard for Food Additives is 1.3.1 whereas to obtain the same information the draft code requires a user to know Part 4, Division 1 and Division 2, Schedules 15 and 16, etc.

[REDACTED]

We would appreciate being maintained on the circulation list for any changes in this matter and to receiving notification of the next step concerning this [Proposal](#).

Yours sincerely,

Jeroen Rens
PRESIDENT – FTA AUSTRALIA

Section	Comment
1.06	Under Definitions, ‘ <i>application act</i> ’ there appears an extra word “or” (after “an”).
	An example of possibly unnecessary cross- referencing: Under Definitions, “ <i>available carbohydrate</i> ” refers to section 1.71 and 1.71 refers to section S11.02. This means 3 pages have to be read before the actual definition becomes available (pun intended).
	There is no definition of “ <i>substance</i> ” anywhere in the Code and yet this term is used extensively throughout the Code. Is a “substance” a single chemical, physical or biological entity or may a substance be a mixture, etc?
	Under the definition of “ <i>chocolate</i> ” as the compositional requirements are included, the question arises about other related products, such as White Chocolate” and hence permission for the addition of permitted Food Additives, etc.
	The definition for “ <i>coffee</i> ” does not include a botanical name for coffee beans, c.f. “ <i>tea</i> ”.
	The definition of “ <i>GMP</i> ” in paragraph (b) (ii) concerning reducing the quantity of the substance states “is not intended to accomplish any physical or other technical effect in the food itself. The question is begged as to why add the substance in the first place if it is to have no effect? Alternatively where does this definition leave the use of some Food Additives such as Flavours, Gums, Acids, Preservatives, etc.
	The definition of “ <i>hamper</i> ” should read ‘contains two or more’. One food would be just one food and would not comprise a “hamper” in the usually understood sense.
	The definition of “ <i>inulin-derived substance</i> ” includes Fructo-oligosaccharides derived only from Inulin. There should be a definition, elsewhere for those products also known as Fructo-oligosaccharides derived from sucrose.
	In the definition of “ <i>lot</i> ” it is suggested that the term “, for example” be removed and possibly be replaced by “and includes”.
	In the definition of “ <i>lot identification</i> ” replace subparagraph (b) with “the lot of the food product”.
	The definition of “ <i>sugars</i> ” is very confusing as in 1.71 includes only mono and disaccharides whilst 2.75 includes a confused list of mono and disaccharides and other sweeteners. See comments on 2.75. For a NIP, the sugars must include the definition in 1.71 but will also include some of products listed in 2.75 (i.e. all the mono and disaccharides).
	There is no cross-reference for products such as coffee, tea, chocolate, cocoa, etc., as listed under Part 10, Division 4, Sections 2.168 and 2.170.
	Peanut Butter is not listed at all in these definitions with or without a cross-reference but Peanut Butter appears at 2.169.
	Re ‘ <i>sweet cassava</i> ’ it is suggested that natural toxicant statement be placed in Schedule 19 with the appropriate cross-reference.
1.15	Is Note 1 part of the Code?
	Should the full name of the particular application Act be identified, as there are many possible application Acts (i.e. see Division 2 – Basic Requirements (3))?
	The full description of the Model Food Provisions should be given.
	Do the Model Food Provisions have a legal basis? Otherwise remove the second paragraph of Note 1.
1.16	The term “consumer” requires a definition. Does consumer include a retailer and/or a wholesaler or only a person who intends for the food to be ingested after purchase, etc?
	Paragraph (b) appears to be too complex.
	“Traditional Process” requires a definition.
	Does “sold” also include “food intended for sale” (see Food Act)? Also “offered for sale” or “in possession for sale” are included in various associated Acts, etc. “Sold” appears to be too narrow and reduces the effect of the application of requirements. New Zealand has a much broader definition of “sell” – including “when any food is sold or offered or exposed for sale”.
	From a food manufacturer perspective what would constitute “a representation that the food is suitable for human consumption”?
1.17	Is clause 1(b) a repetition of clause 1 (a) (ii)?
	In the Example the phrase “or foods used as processing aids” appears contrary as by definition all

	processing aids are foods and if this phrase means something else then the term “foods used as processing aids” requires definition or clarification.
	Clause 2 – for clarity and to obviate use of the same term to define itself, change the last word from “ingredients” to “substances”.
	Does the example following Clause 1(i) would “foods used as processing aids” mean that these foods have to be included in the Ingredient list even if they are processing aids – see Section 1.59 where processing aids do not have to be listed.
	Re “ingredient”, definition should be as uncomplicated as possible and in plain English.
1.18	Is there a real difference between “ingredient” and “component”? The definition needs to demonstrate the difference.
	The example of Sodium Bicarbonate is a poor choice as Carbon Dioxide is not a component of Sodium Bicarbonate but a by-product after a chemical reaction. If it is a true component of the final food, then should the Ingredient list include “Sodium Bicarbonate” or Carbon Dioxide” plus also listing the salts.
	“Component” has a mandatory requirement of “that can be identified”, by whom, how and why?
1.19	Clause (2) (c) could include many other substances such as a flavouring, colour, biologically active substance, etc.
1.21	In the Tables to subsection 3 and 4 in column 2, certain Provisions have been omitted and replaced by “0”.
	In the Note below (Clause 1) appears to offer a different definition for “food product” compared to 1.16 by the use of terms such as “offered for sale to a consumer or with a representation that it is suitable for sale to a consumer”.
	Clause 3 appears to omit the requirement of the current Standard 1.4.2 regarded no detectable residue of metabolites of an agvet chemical. Also “can be identified” and “no detectable” are completely opposite in meaning.
1.22	In Clause 2 (a) and (b) it is considered to be consistent that when “food” is used in these clauses that the correct term should be “food product”.
1.23	Clause 1 – without examples it is difficult to interpret what is meant by “specified name”. Has this term the same meaning as “prescribed name”? i.e. Also does “quotation marks” mean single quotation marks (i.e. ‘...’) or double quotation marks) i.e. “...”? Under 2.68 there are several types of ‘beer’ listed, are these examples of what is required? Also in 2.07 ‘sausage’, 2.08 ‘meat pie’ and 2.09 ‘offal’ –are these examples? What is the definition of products such as ‘Bratwurst’ or ‘Mortadella’, etc when the term sausage is not used as part of the name? Do these requirements apply to foods that do not have their names in quotation marks?
1.28	The term “Catering Sale” could be interpreted in ways other, such as sales by caterers of services connected to food. Suggest change wording to “Sales of food products to caterers”.
1.31	Clauses 1 and 2 should be reversed as the exemption (current clause 1) should follow the rule as per the heading
	Clause 4 should not start with “However” as clause 4 is NOT an exception to Clause 3 but a separate clause and should start with “If”.
1.37	Clause 1 should follow Clauses 2 and 3 as the exemption (current clause 1) should follow the rule as per the heading.
1.51	For the sake of clarity, it should be stated that a warning statement be all in capital letters and hence any numbers will have also be the correct size OR state that the minimum type size applies to the smallest character.
1.61	In clause 4, “Y”, amend to read “that is removed or the amount that is used...”
	Remove the comma after “weight of the water...”
	In clause 6 there appears to be some wording omitted between “..in parenthesis, of:...” and (a) the compound ingredient comprises...”.
	Clause 8 – include the word standardized before the second mention of “alcoholic beverage”.
1.63	Clause 3 appears to permit an added enzyme to be not listed as an Ingredient. Replace sub clause (a) with “it must be listed as ‘enzyme’; but”.
1.71	“Nutrient” must be defined.

	In sub clause (b) of “ endorsing body ” the term ‘supplier’ requires clarification or definition. Also change the wording to read “permits a supplier of food for sale to make an endorsement”
	In the definition of ‘ vegetable ’ sub clause (b) should be consistent with Schedule S5.03 (1) and also include “seeds” before the parentheses for easier reading.
1.72	Clause 1 (ix) should read “any of the components of protein, carbohydrate or fat”
	The statement “that does not refer to the presence of or absence of alcohol....” Should be a separate paragraph or at least start with “but” and not “that”.
	The two statements that commence “ <i>Inclusion of mandatory /voluntary information...</i> ” are printed in italics. Are these statements a legal part of the Standards or are they the same/different to Notes and Examples?
	In the statement using the term “ <i>voluntary information</i> ” it states “might” which is indefinite and impossible to interpret. It should be clarified with examples, for and against.
	Clause 3(b) (i) the phrase “- dietary fibre” is not required.
	Clause 4 – why is this clause necessary? All mandatory information in a NIP for any food is NOT a nutrition information claim.
1.73	The title requires to be explicit, e.g. “Nutrition Content Claims or Health Claims not to be made for Kava, Alcoholic Beverages and Infant Formula Product”.
	Clause 1 (b) contains an explicit total ban and Clause 2 dilutes that prohibition. Perhaps (b) should include (2) or make some immediate reference to Clause 2.
1.77	In sub clause (b) the term “therapeutic” should be defined even if only with reference to TGA definition. Also does this clause include “prophylactic use”?
1.101	Clause 1(d) (ii) - why has Saturated Fat been omitted for all other foods. See Schedule 12.01 for consistency.
	Should the subheadings in <i>italics</i> be printed in bold ? i.e. “ <i>Claims in respect of..</i> ” etc.
	Should the expression “etc” be used in a Standard
	Clause 3 (c) – should saturated fats be included?
	Clause 4 (a) include “dietary” before fibre
	Clause 6 the statement “the nutrition information panel may..” should be changed to “the nutrition information panel must..”
	Clause 7 – define “unavailable carbohydrate”.
1.110	Clause 3 – This clause is strictly for the corporate lawyers – food chemists and technologists would require legal training to interpret. This one section where a Note would be handy.
1.121	Clause (a) states “not normally consumed” – however all Food Additives, Vitamins and Minerals, etc are in fact consumed as part of other food products. It is just these substances are “not normally consumed” without dilution and the wording should be changed.
	What does normally mean? Definition required. Many Food Additives, V & M, Food Chemicals (i.e. Citric Acid, Sodium Bicarbonate), Flavours, Baking Powders, Yeast, Pectin, etc.
1.122	Clause 2(b) (iii) – if this clause is to have an real meaning then it must be fully described as to what ingredient are not used as an ingredient by consumers (undefined). A consumer can be a manufacturer.
	The term “technological function” is not used and when replaced by “technological purpose” will create some confusion as Processing Aids use “technological purpose” also. This change in usage will create interpretation concerns, especially as some Food Additives can be used as Processing Aids.
1.123	Clause 1(b) and (c) may be in conflict as (b) discusses restrictions on quantity used and in contrast (c) permits GMP levels. Perhaps (c) could be modified by the addition of “where permitted” after “GMP”.
1.144	Clause 2 mentions “portion of foods” which although the current terminology, it is considered that the term “part” would be a better descriptor as portion could be interpreted as meaning a proportion of the whole food rather than a specific physical section of the whole food. “Part” would be a better descriptor as “portion” could be interpreted as meaning a proportion of the whole food rather than a specific physical section of the whole food. This is the terminology used in other Australian Standards, i.e. TGA.

1.159	The internationally accepted microbiological terms m, M, N, C should be maintained. There are no valid reasons for their omission. The replacement of these terms with “column1” etc will create interpretation concerns and the need to relearn a new system for no perceived advantage.
2.08	There should be a definition and a description of a “pie”.
2.44	The definitions for formulated beverage (no quotation marks) are presented but compositional requirements are in 2.54 – why cannot (as an example
	Does the qualification “sold on the basis of a representation” also apply to this product?
	As a formulated beverage is “water-based”, why is “water” one of the alternative ingredients? If water was removed then the definition could be amended to read, in part, as “prepared with one or more...”.
2.49	Clause 2 – definition required for “mineralized water”.
2.51	The Note after Clause 3 – is circular and serves no purpose. The question is begged as to why not include this type of note after every section. The cross reference in 1.06 is sufficient.
2.63	Clause 1 (b) change “less” to “more”, otherwise Ginger Beer and Root Beer etc will require an alcohol content statement.
	Clause 1 (c) is clumsily worded - the intent would be clearer using positive terms rather than two negatives; i.e. “a beverage that contains more than 0.5% but less than 1.15% alcohol by volume”. Also see consistency with Clause (b).
2.73	Clause 2 – is circular nonsense. A better definition might be “A food that is sold on the basis of a representation that it is a liqueur must conform to the definition of a liqueur”.
	The definition of ‘Icing’ should be changed to “Icing Mixture” (its long-time commercial name) as when the term “Icing Sugar” is used it means pure sucrose. The definition for “Icing Sugar” should be placed at 2.78 and the nonsense circular definition currently shown should be dissolved (pun intended). Also “Icing Sugar” contains the word “Icing” but in this case “Icing” means unadulterated sucrose. Therefore inclusion of the term “Icing” in “Icing Sugar” could lead to unforeseen consequences.
2.75	The list of “sugars” requires refining (pun intended). For instance (a) (i) should include “Icing Sugar”. “Brown Sugar”, “Invert Sugar”, “Glucose Syrups”. All of these products also conform to the definition of sugars in 1.71 and would be counted as “sugars” for a NIP.
	Clause (b) contains all the polyols except Erythritol – why?
2.76	All the above discussion about Sugar/Sugars still leaves unresolved the question about ‘no added sugar’ claims. It is assumed that “No added Sugar” would include 2.76 products only and “no added sugars” would include the products in 1.71 and 2.75 (which by definition includes all of 2.76).
	As Nutrition Information requirements (Division 8 of Part 3) also requires the use of “sugars” in a NIP, then this requirement will be fulfilled by the products in 1.71, 2.75 and 2.76.
S15	In the Table to S15.04 the foods are classified using the JECFA numbering system (in part) and not numbered according to the numbering system of these new Standards, i.e. if seeking Non-alcoholic beverages look for Section 6 instead of Section 15. The current numbering system is not user friendly and the current numbering system does not bear any relationship with the rest of the Standards.
	Where are Cordials (concentrated drink bases with or without fruit juice) defined?
S15.01	In the Example 5.3.4.1 does not exist.
S15.01	The term “higher-level” is confusing and the Example requires to be reworded to be clearer.
S15.04	Re section 15.2.1The wording used in this section may be ambiguous, e.g. “Additives permitted at GMP” could be interpreted as “All additives are permitted at GMP” whereas probably the intention is to state “Those additives that are permitted at GMP”. Rewording should be considered.
S16.01	Clause 2 FEMA is updated to Edition 26.
S18.01	Clause 2 appears to have removed the currently permitted silicates: INS554 Sodium Aluminosilicate, INS 552 Calcium Silicate, INS Magnesium Silicate, INS55 Potassium Aluminium Silicate, INS556 Calcium Aluminium Silicate, etc. For reference see Standard 1.3.3 and those silicates permitted by Monograph specifications in Clauses 2 & 3 of Standard 1.3.4.
	Clause 2, does “includes” mean “Includes and is limited to” or could it mean “Includes but not limited to”?

S30.09	Clause 1, for the sake of simplicity, list the Vitamins and Minerals in the same order as the Nutrition Information Panel at Clause 3.